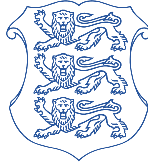

Heli Kaer
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27.06.2022 nr 7-8/212135/2203456

Inspection visit to Saaremaa Valss Care Home

Dear Mrs Heli Kaer,

On 11 November 2021, advisers to the Chancellor of Justice carried out an unannounced visit to inspect the activities of Saaremaa Valss Care Home Foundation (hereinafter 'the care home').

The indoor space of the care home leaves a cosy impression. Sanitary facilities are clean and modern. The building has the necessary assistive devices (handrails, a hoist, rollators, shower trolleys/stretchers, and the like). Residents can keep their personal belongings in locked cupboards. The care home has a spacious dining room where it is also possible to organise concerts and joint activities. People's health is monitored by nurses. The building is also accessible to people with challenged mobility.

A problem is shortage of staff. The care home should have more staff so as to be able to take proper care of the residents. Health protection requirements should be taken into account when accommodating people. Care plans for residents of the home should be reviewed at least once every six months.

Criticism can be expressed about the fact that residents with profound multiple disability are being dealt with by activity supervisors who have not completed the mandatory in-service training. Nor should untrained assistant carers be left to work alone without the guiding support of a carer. Staff call equipment should be installed by each bedside. The requirements for administering and handling medication must be complied with.

Saaremaa Valss Care Home has the capacity to offer the general care service to 100 people (during the inspection visit 81 people were receiving the general care service). 25 people receive the 24-hour special care service (the care home has 16 places for persons needing the 24-hour special care service and 9 places for people with profound multiple disability needing the 24-hour special care service). Residents are accommodated in bedrooms located on four floors. The care home employs three nurses, two of them part-time (a nurse is present on working days, for a total of 80 hours a week).

The Chancellor's advisers together with a healthcare expert carried out a tour of the care home rooms, examined documents and interviewed staff and residents.

1. Living conditions and quality of service

The rooms at the care home are modern and equipped with the necessary assistive devices. Washrooms are spacious, enabling use of shower trolleys to wash bedridden residents. The building is accessible to people with challenged mobility: there are adjusted ramps, disabled toilets, and handrails in corridors. Moving around is also facilitated by the absence of door thresholds in bedrooms and washrooms. However, the threshold on the exterior door leading to the outdoor area caught the eye since crossing it may require an effort from a wheelchair user. The exterior door opens automatically by pressing a button. The building has two lifts. The larger one also fits a stretcher/bed and it can be used to reach up to the third floor.

Bedrooms are single- to quadruple-occupancy. As a rule, preference for single- or double-occupancy rooms must be given when accommodating care home residents. In the special care department, accommodating up to two persons of the same sex receiving the special care service is allowed in one bedroom. On the fourth floor was a pass-through bedroom (room No 407) where two men and two women had been accommodated. Accommodating persons receiving the special care service in a quadruple-occupancy bedroom is not compatible with the health protection requirements. As a rule, people of the same sex may live in the same room. Although the men's and women's area in the room was separable by a folding door, the kind of solution where a person must pass through another bedroom to reach their own room is not appropriate.[1]

The Chancellor asks that, while accommodating people, it should be kept in mind that a care home is the actual home of the people living there. A pass-through bedroom might not ensure sufficient privacy for its residents. The need to ensure privacy has also been stressed in the special care service quality guidelines.

A positive example is the use of partition curtains in the rooms, enabling people more privacy (in particular when using a commode chair and carrying out hygiene procedures, as well as changing diapers). However, partition curtains are not used in all the rooms, so the Chancellor asks that it should also be ensured that people in these rooms can carry out hygiene procedures in privacy (e.g. by using a screen if necessary).

Documents showed that residents who are unable to wash themselves are washed, as a rule, once a week. At the same time, it was found that on several occasions people had been washed after ten days or even after a longer period (in the special care department). This is not sufficient. In addition to everyday hygiene procedures, residents of the care home must be given a whole-body wash at least once a week. This helps to avoid infections of the skin and dermis. According to health protection requirements, bedclothes must be changed with the same frequency.

It is positive that a staff call system to summon assistance has been installed on the first, second and third floors. The call system was noticeably not installed by each bedside and some of the equipment was not in working order (a broken or removed cord). An effective assistance call system helps to ensure that a person's need for help is noticed in time. In the interests of safety of

[1] In an e-mail sent on 11 April 2022, the head of the care home explained that two persons living in room 402 had been accommodated in another bedroom.

residents, it would be good if the call system were in working order and the call equipment were available in all departments and by every bed.

On the first floor, often no care staff are present. A carer from the third floor checks up on the residents living there. For this reason, the existence of a staff call system is particularly necessary on that floor in order to notify a need for assistance. When the call system is used, a light comes on and a call signal sounds on the wall console in the first-floor corridor. On other floors, the call signal sounds quietly. If no staff are present on the same floor, carers might not notice the call and respond in time. Carers might also not always hear shouting from a resident, especially in the evenings and at nights when staff numbers on premises are smaller. In the interests of residents' security, it would be good if calls from first-floor residents could be monitored more effectively.

Care plans have been drawn up for general care service recipients and activity plans for 24-hour special care service recipients. It is commendable that everyone essential for residents has been involved in preparing the plans: next of kin, medical staff, activity supervisors, carers, etc. Under § 21(5) of the Social Welfare Act, care plans must be reviewed and a person's condition assessed at least once every six months. Care plans of several people had not been reviewed as required even though the deadline for renewal of the plans had already passed.

The Chancellor asks that more attention be paid to review of care plans. Additionally, the Chancellor asks that it be ensured that care plans and activity plans are accessible to carers and activity supervisors. During the inspection visit, not all staff were able to say whether they had examined the plans or where the plans could be found.

The care home has drawn up a weekly schedule of hobby activities based on which activities are planned. Residents in the special care service department are dealt with by the activity supervisors from that department. Recipients of the general care service are under the care of two activity supervisors whose task is to offer the residents possibilities for meaningful activities, train residents' cognitive skills and help them walk, do gymnastic exercises with them and organise larger events. Every week a singing group and a speaking group meet and gymnastics take place. Ball games, drawing, board games and joint newspaper readings are also organised. Joint outdoor visits are also organised but, according to residents, this has been reduced because there are no longer so many staff who would assist people with going outdoors. The care home also has a small library.

Organisation of hobby activities left a good impression. People participating in hobby activities also praised the possibilities offered by the care home. Yet it was noticeable that many residents were not interested in joint activities. More efforts could be made to involve them. There is little activity interesting for men, as well as dynamic activity and activity helping to develop working skills. Some recipients of the special care service used possibilities for sheltered employment.

No regular physical exercise is undertaken with bedridden residents. Regular physical exercise is extremely important for bedridden people: this helps to maintain the mobility of the joints and muscle strength and prevents complications caused by long-term lying down. To prevent problems caused by lack of movement, people with restricted mobility should also be activated more.

It is more complicated to find activities for residents in the special care department. The department has many residents needing an individual approach and who are not always able to participate in group activities. The room for joint activities is also not very large. It would be good if hobby and therapeutic activities could also be offered either individually or in a smaller group.

The inspection visit left a suspicion that some people had been restrained in a wheelchair with a strap so as to prevent them from wandering off. In the event of a need to support someone while sitting, special aids may be used for this (i.e. special body straps or restraining vests). Mechanical restraint, as well as restricting the range of movement, of a person residing in a general care home is not allowed even when a wide support belt is used for this. In the event of a risk that a person may wander off in a state of confusion, they should be ensured assistance and supervision corresponding to their need.

Information collected during the inspection visit revealed that a ban on communication had been imposed on at least one resident. This means that not all visitors are allowed to see them and not all telephone calls are connected. The care home had also deposited the person's mobile phone without their consent.

If an item is taken and deposited against a person's will, this amounts to restriction of the right to property laid down by § 32 of the Constitution of the Republic of Estonia. The Social Welfare Act does not authorise a general care service provider to take an item from someone against their will and deposit it. According to the explanatory memorandum to the Social Welfare Act, the Riigikogu consciously did not wish to grant a service provider this right.[2] So a care home resident's phone may not be taken and deposited without their consent.[3] A care home may lay down rules for visits and phone calls in their internal rules.[4] However, a general care service provider is not entitled to restrict the range of people with whom a resident wishes to communicate because this interferes with the person's right to inviolability of private life (§ 26 Estonian Constitution). Only a resident themselves is entitled to refuse to meet a visitor or accept a phone call.

The care home has different assistive devices in order not to endanger the health of staff due to regular lifting of people. The inspection visit revealed that the care home also has a hoist but in smaller rooms there is not enough space to operate it. The staff have been trained to use the hoist but it cannot be used with all the residents. The staff were missing a smaller hoist that could be used daily even in smaller rooms in order to help people get up from bed.

2. Staff numbers and qualifications

In order to ensure the requisite service (§ 100 subs. (1) and (2), § 20 subs. (1) and (2) Social Welfare Act), a care home providing the special care service and the general care service must maintain sufficient staffing levels.

If the special care service is provided to people with profound multiple disability suffering from a mental disorder[5], the service provider must ensure that at least one activity supervisor is available to deal with every 15 service recipients (§ 104(2) Social Welfare Act). For other people receiving the 24-hour special care service, the presence of one activity supervisor for 30 care home residents must be ensured (§ 104(1) Social Welfare Act). Under the law, depending on people's needs, at

[2] See the explanatory memorandum 98 SE to the Social Welfare Act, pp 13–14.
[3] See also the Chancellor's inspection visit of 2 November 2017 to Kose Home of the South-Estonian Care Centre (page 8).
[4] See also the Chancellor's follow-up inspection visit of 4 November 2021 to Kohtla-Järve Care Home of OÜ Häcke (page 3).
[5] As of 8 May 2022, the service is termed '24-hour special care service for persons with an extreme need for assistance and support'.

least one more activity supervisor must be on duty outside night hours. However, the law only lays down the minimum requirement; when planning staff numbers, a service provider must proceed from people's actual need for supervision and guidance.

During the daytime, more than the minimum statutorily required staff are in the special care department on the fourth floor of the care home. Usually, three or four activity supervisors are on duty. In view of the care home working arrangements, the specific nature of residents with an enhanced need for care and attention as well as constant supervision, a suspicion still remained whether the existing staffing levels are sufficient.

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment is of the opinion[6] that low staffing levels mean that staff suffer from excessive tension, which may endanger their health as well as affect the well-being of people under their care. Residents in the special care department need a great deal of attention and an individual approach, resulting in a heavy workload for staff. This is so in particular on the days when only three activity supervisors are on duty. More activity supervisors are needed in order to offer all the people at the special care department a service appropriate for their needs and involve as many residents as possible in activities which help to improve and maintain their ability to cope independently. Activity supervisors lack the time to individually deal with residents (guide them in practising working skills, taking care of themselves, maintaining and learning everyday life skills) while also ensuring the security and well-being of all residents. For instance, if plans are made to go outdoors with some residents, there must be enough staff to accompany those going outdoors as well as to supervise those remaining in the department. People living in the special care department cannot be left to their own devices as this is unsafe.

In the evenings and at nights (depending on the schedule, either from 18.00 or 19.00), usually only one activity supervisor remains at the special care department. This means that 25 care home residents (including 9 people with profound multiple disability) are supervised by one activity supervisor, meaning a failure to comply with the minimum requirement for provision of the 24-hour special care service as laid down by § 104(2) of the Social Welfare Act. In the evenings and at nights, there should also be at least two activity supervisors on duty at the department.

During the daytime, three carers are on duty in the general care departments on the third and fourth floors of the care home. Also present are an assistant carer/cleaner who, among other duties, also helps people with eating and changing bedclothes. In the evenings and at nights (usually 19.00–07.00), one carer is on duty on both the second and third floors. On working days, two activity supervisors also deal with people receiving the general care service. The law does not prescribe how many staff care homes providing the general care service must have, but care homes must take into account that carers should be able to carry out all the care procedures set out in a care plan and also offer other necessary assistance to care home residents.

When determining the staffing level, factors to be taken into account include the number of service places in a care home, residents' need for assistance as well as the specific nature of the buildings, the grounds, and other specifics of the institution. Staff numbers must be sufficient so that no resident is left without assistance and so that care procedures and guided activities can be carried out in line with residents' needs. The inspection visit revealed that staff shortage could be felt when it was necessary to escort someone outside the departments (including outdoors). As well as when residents are being washed, and in the evening and at night when a carer is alone in the

[6] See the CPT's report on the 2020 visit to Bulgaria, para. 31, the report on the 2015 visit to Serbia, para. 201, the report on the 2004 visit to Serbia and Montenegro, para. 186.

department. Carers do not have enough time to do exercises with bed-ridden residents or help residents in need of more assistance to go for a walk outdoors.

A large number of residents in the general care department need assistance with washing and other hygiene procedures. Many of the residents use diapers. Staff would need extra labour to cope more easily with caring for bed-ridden residents. For instance, it is easier for two persons than one to lift a resident. For this reason, in the departments on the second and third floors, more care staff could also be on duty in the evenings and at nights.

On the first floor, there is no constant staff presence, and residents on that floor are taken care of by staff from the third floor. During the inspection visit, five people were living on the first floor. Although, according to the staff, people with better coping ability have been accommodated on the first floor, these are still people in need of assistance. The general care service is intended for people who are unable to cope independently at home (§ 20(1) Social Welfare Act). For a staff member located in a separate unit (e.g. on another floor), it is complicated to be responsible for the safety of residents left without supervision. This should also be taken into account when planning staffing levels.

Special training requirements for care home staff have been established in view of the interests of care home residents and the specific nature of care and assistance needed by people suffering from mental disorders. The staff explained that acquiring education is considered important and many employees have indeed received the necessary training. However, according to the data in the register of economic activities, not all activity supervisors at the care home special care department held professional qualifications complying with the requirements laid down by or on the basis of § 86 of the Social Welfare Act because only five activity supervisors had completed the training required for work with people with profound multiple disability (§ 86(6) of the Social Welfare Act in force at the time of the inspection visit, as of 1 May 2022 § 2 subsection (4) of the Minister of Social Protection regulation). For this reason, in the evenings and at nights even those activity supervisors who have not completed the required further training had been left to care for people with profound multiple disability (e.g. the shifts on 1 November 2021, 3 November 2021, 6 November 2021, 7 November 2021, 9 November 2021).

Care workers at the care home comply with the professional training requirements laid down by § 22(4) of the Social Welfare Act. It is in the interests of the care home residents and staff that all the workers have the required training as this significantly facilitates offering a high-quality care service. On several occasions, an assistant care worker without the necessary training had been burdened with more responsibility in fulfilling working duties than allowed by law. An assistant care worker must be supervised by a care worker (§ 22(3) Social Welfare Act). However, based on duty rotas, it could be concluded that sometimes an assistant care worker was alone on their floor in the evening and at night (e.g. the shifts on 23 October 2021, 18 November 2021). This should not be so because a care worker should always directly supervise an assistant care worker in carrying out working duties. The Riigikogu has also seen the duties of an assistant care worker in the same way.[7] An assistant care worker has not fulfilled the training requirements of a care worker. Therefore, such working arrangements also affect the quality of the care service.

The data of not all the care workers at the care home had been recorded in the register of economic activities (the data of about ten care workers were missing). A service provider must ensure that

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[7] See the explanatory memorandum 98 SE to the Social Welfare Act, pp 25–26, and the initial explanatory memorandum to the same Draft Act, p 23.

the register reflects correct data (§ 30(5) General Part of the Economic Activities Code Act) and that the data are submitted to the registrar at the first opportunity and on time.

The Chancellor asks that it be ensured that at all times the care home has a sufficient number of carers and activity supervisors on duty, so that procedures meeting the needs of all residents can be carried out and timely assistance provided. The Chancellor acknowledges support provided for training of care workers and activity supervisors and recommends that training opportunities should also be provided in the future.

3. Handling and administration of medicines

Prescription medicines are distributed by nurses into drug dispensers, based on the treatment scheme. A pharmacy personal packaging service is also used. This way, medicines for residents are sent in pre-packed doses according to the treatment scheme. Residents are assisted in taking medicines by activity supervisors and carers. Sometimes activity supervisors and carers must also decide on administering a prescription drug prescribed to a restless resident to be administered if necessity arises. For example, medicine cupboards on the second, third and the fourth floors contained medicines to be administered in case of need (Valocordin Diazepam, Haloperidol, Kventiax). On some of the medicines, an instruction “in case of agitation” had been written.

Administration of medicines given in case of need is documented both in the department’s information exchange journals as well as people’s health cards, but not always. This means that it is not always clear who decided that administering the medicine was justified. Additionally, medicines had been prepared for administration in case of need with a person’s name written on them but which were not included in these people’s treatment schemes (Valocordin Diazepam, Haloperidol, Kventiax, Tramadol). Administration of Valocordin Diazepami to residents for whom it had not been prescribed by a doctor had also been documented.

The right to protection of life and health under §§ 16 and 28 of the Constitution also means that a decision on administering prescription medicines must be made by a properly trained specialist. Medicines – especially prescription medicines – if used ineptly (including due to their combined and side effects) may endanger a person’s life and health. Consequently, administration of prescription medicines must be decided by a specially trained healthcare professional (e.g. a nurse) who is also responsible for ensuring that taking the medicine is justified. In a care home, a prescription medicine may only be given if prescribed by a doctor.

If a person does not have to take a medicine regularly but a doctor has prescribed it only in case of necessity (e.g. in case of deterioration of an illness), two factors need to be taken into account. First, it must be possible to check whether administering the medicine was justified. A healthcare provider (e.g. a nurse) must ensure that the doctor could also retrospectively check administration of the medicine if necessary (e.g. to verify the circumstances due to which the medicine had to be administered). Proper documentation helps to prevent the risk that a person is administered medication without medical necessity for another (inadmissible) purpose (such as restraint). Second, only a healthcare professional (e.g. a nurse), but not a carer or an activity supervisor, may decide on administering prescription medication. A carer and an activity supervisor may distribute medication included in the treatment scheme prescribed by a doctor and where distribution does not require every time assessing the need for administering the medication.

The Chancellor asks the care home to ensure that records are kept about medicines to be administered 'in case of need', so that it is clear according to what treatment scheme the medicine was given to a person and who decided to do so and for what reason. A decision on the need to administer prescription medication must be made by a specially trained healthcare professional and the decision must be documented so that it is possible to retrospectively check the activities of a healthcare professional who is not a doctor.

The medicine cupboard in the nurses' working room contained a medicine (Valocordin Diazepam) without a person's name on it. According to the nurse, it had been prescribed for a resident who had left the care home. Medicine cupboards on the second and third floors also contained medicines with packaging where a person's name had been crossed out and another name written on it (Haloperidol, Valocordin Diazepam). One medicine package contained an instruction that it may also be given to other residents. The medicine cupboard on the third floor had a cup with a note "unused medicines" containing pills whose origin and purpose the carers were unable to explain. Some of them may have been medicines that had not been given to residents.

To ensure safety, it is advisable to make a note on each medicine pack indicating for whom it is intended. In the case of each prescription medicine, it must be possible to identify for whom it was prescribed. Handling of medicines at the welfare centre must also comply with the requirements laid down by the Minister of Social Affairs Regulation No 20 of 17 February 2005 on "The rules for keeping records of medicinal products in the provision of healthcare or veterinary services and in social welfare institutions". A medicine prescribed by a doctor may only be administered to the person for whom it was prescribed. Medicines without a marking indicating the person's name may cause a risk of misuse of medicines.

Unnecessary medication (e.g. medicines of a resident who has left the care home or leftover medicines due to a change in the treatment scheme) must be properly destroyed. Accumulating leftover medicines is not justified as this may also lead to a risk of misuse of medicines.

The Chancellor asks that it be ensured that records be kept about so-called 'in case of need' medicines. This way, it is clear according to which treatment scheme a person was administered the medicine and who decided to do so and for what reason. A decision on the need to administer prescription medication must be made by a specially trained healthcare professional and the decision must be documented so that it is possible to retrospectively check the activities of a healthcare professional who is not a doctor. Medicines must be properly handled.

4. Combating the spread of the coronavirus

The care home has had good cooperation with an infection counsellor at the local hospital with whom the necessary precautionary measures for combating the spread of SARS-CoV-2 have been discussed, and the staff are aware of the guidelines for action. The care home also has experience obtained from combating an outbreak of infection. Many employees and most residents are vaccinated.

The staff know how to create different zones within a building in the event of a risk of infection. A stock of personal protective equipment is available, which the staff have been trained to use. As a preventive measure, the staff were tested for coronavirus on a weekly basis.

Visiting possibilities at the care home had been restricted. Advance registration for a visit was required and the visiting time was up to 30 minutes (up to two visitors at a time). Use of personal protective equipment was required and meetings with next of kin could take place in the outdoor area or in the care home lobby. In exceptional cases, possibilities for a visit were discussed with the head of the care home (e.g. for a visit with a bedridden resident). Filling out a health declaration was also required. It is positive that next of kin can easily find information on visiting arrangements on the care home website.

Parcels may be sent to residents. People can call their next of kin by using the telephone at the department, but several residents also have a personal telephone. If necessary, carers help people with charging mobile phones. The contact phones of the departments are available on the website.

The care home also offered a possibility of online calls via Skype but interest in it was small. The care home has a tablet and, if a resident wishes it, the staff help them to contact next of kin via an online call.

Although visits to a social welfare institution by next of kin may somewhat increase the risk of spread of the coronavirus (for instance, problems have occurred with next of kin ignoring the duty to wear a mask), care home residents consider the possibility of communicating with their loved ones extremely important. This is particularly important in a situation where visiting opportunities have been restricted for a longer period and it is not known when the situation might significantly improve. In this situation, a care home has a greater responsibility than before to create possibilities for residents to communicate with next of kin. The longer the restrictions on meetings with next of kin are maintained, the more alternative possibilities for communication should be offered (see also the summary of an inspection visit to the Viljandi Hospital Welfare Centre, section 8). It is positive that Saaremaa Valss care home has taken this into account and, by observing precautionary measures, has enabled people to meet with their next of kin.

5. Assessment by the healthcare expert

A copy of the assessment by the healthcare expert involved in the inspection visit is appended to this letter. I ask the care home to form a position regarding the observations and recommendations contained in the healthcare expert's opinion and send it to the Chancellor of Justice together with replies to the observations in the letter.

I expect your opinion by 1 August 2022 at the latest.

Yours sincerely,

/signed digitally/

Ülle Madise

Appendix: Healthcare expert's opinion on 5 pages
Copy: Ministry of Social Affairs, the Social Insurance Board, the State Agency of Medicines, Saaremaa Rural Municipality Government

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