



**SIVILOMBUDSMANNEN**  
Norwegian Parliamentary Ombudsman

## VISIT REPORT

# Alta Youth Centre

26–29 September 2017



National Preventive Mechanism against  
Torture and Ill-Treatment



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## 1 The Parliamentary Ombudsman's prevention mandate

As a result of Norway's ratification of the Optional Protocol to the UN Convention against Torture in 2013, the Parliamentary Ombudsman was issued with a special mandate to prevent torture and other cruel, inhuman or degrading treatment or punishment.<sup>1</sup> The Parliamentary Ombudsman has established its own National Preventive Mechanism (NPM) in order to fulfil this mandate.

The NPM regularly visits locations where people are deprived of their liberty, such as prisons, police custody facilities, mental health care institutions and child welfare institutions. The visits can be both announced and unannounced.

The Parliamentary Ombudsman has right of access to all places of detention and the right to speak in private with people who have been deprived of their liberty. The Parliamentary Ombudsman also has right of access to all necessary information that is relevant to the conditions for people deprived of their liberty.

The risk of torture or ill-treatment occurring is influenced by factors such as legal and institutional frameworks, physical conditions, training, resources, management and institutional culture.<sup>2</sup> Effective prevention work therefore requires a broad approach that does not exclusively focus on whether the situation complies with Norwegian law.

The Parliamentary Ombudsman's consideration of factors that constitute a risk of torture and ill-treatment is based on a wide range of sources. During its visits, the Ombudsman examines the conditions at the institution through its own observations, interviews and a review of documentation. Private interviews with those who are deprived of their liberty are a particularly important source of information, because they have first-hand knowledge of the conditions at the institution in question. They are in a particularly vulnerable situation and have a special need for protection. Interviews are also conducted with the staff, management and other relevant parties. Documentation is also obtained to elucidate the conditions at the institution, such as local guidelines, administrative decisions on the use of force, logs and health documentation.

After each visit, the Parliamentary Ombudsman writes a report describing its findings and recommendations for preventing torture and other cruel, inhuman or degrading treatment or punishment.

The reports are published on the Parliamentary Ombudsman's website and the institutions visited are given a deadline for informing the Ombudsman about their follow-up of the recommendations. These letters are also published.

In its endeavours to fulfil the prevention mandate, the Parliamentary Ombudsman also engages in extensive dialogue with national authorities, control and supervisory bodies in the public administration, civil society and international human rights bodies.

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<sup>1</sup> Section 3 a of the Parliamentary Ombudsman Act.

<sup>2</sup> See the UN Subcommittee on Prevention of Torture (SPT), The approach of the Subcommittee on Prevention of Torture to the concept of prevention of torture and other cruel, inhuman or degrading treatment or punishment under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 30 December 2010 CAT/OP/30/6.

## 2 Summary

The Parliamentary Ombudsman's National Prevention Mechanism (NPM) visited Alta Youth Centre in September 2017. Alta Youth Centre is an emergency institution for adolescents between the ages of 13 and 18 who are in need of immediate placement outside their home. The centre received adolescents from Finnmark, Troms and Nordland counties.

Alta Youth Centre was approved for placement without consent.

The institution is owned by the Office for Children, Youth and Family Affairs – Region North and has spacious and pleasant premises.

It was found during the visit that the centre very rarely used force in connection with admission. It was emphasised that invasive coercive measures would not contribute to making the adolescents feel safe while in such a vulnerable phase, and that there are stringent requirements for using force. There must be concrete grounds for suspicion, and the management pointed out that previous substance abuse or the child welfare service's descriptions given in the administrative decision are not deemed to be sufficient grounds.

Alta Youth Centre had only rarely asked the police to assist in various tasks in the institution. When they had done so, it had mainly been when adolescents had run away from the institution, and in some cases where an adolescent had needed medical attention and had objected to this. In addition to this, Alta Youth Centre had also sometimes admitted adolescents accompanied by the police and wearing restraints such as handcuffs.

Alta Youth Centre had procedures for when and how the police should be notified if a resident runs away, but there was no separate procedure in place for other forms of cooperation with the police. Nor did the institution have a fixed procedure for documenting whether the adolescents arrived with the police or whether coercive measures had been used during transport. The police itself had no systematic overview of the use of coercive measures on such assignments. This means that it is difficult to gain a complete overview of the use of force a young person is subjected to.

Alta Youth Centre had generally made few administrative decisions on the use of force in recent years and seemed to be consciously working to avoid the use of force. The centre had also developed a *milieu therapy approach* vis-à-vis the adolescents. The approach was concerned with the individual needs and challenges of the adolescents, and how the milieu therapy could be adapted. The institution also prepared safety plans that described observed risks and how the staff should behave in given situations. Difficult situations, risks and challenges were the topics of conversations between the staff and the adolescents.

Force is not just physical force. It emerged during the visit that Alta Youth Centre very rarely used force that involved restricting the residents' freedom of movement. The institution made active endeavours to use other means to make the residents feel safe. For example, they made agreements with the residents to phone or meet up with a staff member at given times. Alta Youth Centre found that being followed up too closely could be a trigger for many of the adolescents, making them retreat more.

A review of protocols and records during the visit gave the impression that Alta Youth Centre was thorough in its log keeping and that both logs and use-of-force records provided concrete and individual descriptions. In general, the records contained thorough descriptions of the situations and it was possible for external parties to gain an impression of the staff's experience of and reasoning in the situations. There were also examples of the adolescents' assessment of the records being included as separate comments. The Parliamentary Ombudsman sees this as a good practice.

Alta Youth Centre had good cooperation agreements in place regarding access to health services and school. The institution had a local cooperation agreement with the Centre for Child and Adolescent Psychiatry in Alta (BUP Alta). During the visit, it was found that the management and staff felt that it had become easier to schedule appointments for the residents at BUP, even if they were only staying in the institution for a short time. Alta municipality also had a cooperation agreement with Finnmark county authority to ensure that children and young people in child welfare institutions in Alta municipality receive the education they are entitled to at all times, and that the education commences without undue delay. Through this agreement, the residents at Alta Youth Centre were quickly offered adapted education at lower secondary school. The institution also collaborated closely with Alta upper secondary school, where the residents could be visiting students.

It was found that there had been situations at Alta Youth Centre where residents had been subject to different forms of harassment or bullying by other residents. The institution is responsible for ensuring that residents are not subjected to bullying, exploitation or harassment from other residents. This is an area with great potential risk. The institution had adopted procedures and physical safety measures and maintained a focus on the issue at meetings and in preparedness exercises. The Parliamentary Ombudsman emphasises the importance of Alta Youth Centre continuing to work systematically to prevent harassment and abuse between residents, thereby ensuring the adolescents' safety.

## Recommendations

### Documentation of injuries

- Alta Youth Centre should ensure that it has good procedures for what to do if the staff discover that a young person has injuries on arrival.

### Police assistance

- Alta Youth Centre should prepare a separate procedure for cooperation with the police and for documentation of situations in which the adolescents have been in contact with the police.

### Security

- Alta Youth Centre should continue its efforts on systematic prevention of harassment and abuse among residents.

### 3 Children's rights when they are deprived of their liberty

Deprivation of liberty is a serious intervention, and requires a basis in national law pursuant to Article 5 of the European Convention on Human Rights. The Convention permits the deprivation of children's liberty in some cases, and placement in child welfare institutions without consent is one such case according to international and Norwegian law.<sup>3</sup>

In his report of 2015, the UN Special Rapporteur on Torture emphasised that children and young people who are deprived of their liberty are particularly vulnerable in relation to human rights violation, and that they are therefore entitled to more protection than adults.<sup>4</sup> This is also the reason why the UN Convention on the Rights of the Child stipulates the following:

'Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age.'<sup>5</sup>

In addition, children are protected by the general convention obligations by which Norway is bound, including protection against torture or other cruel, inhuman or degrading treatment or punishment in accordance with the UN Convention against Torture. Article 37 of the UN Convention on the Rights of the Child also states that the States Parties shall ensure that no child is subjected to torture or other inhuman treatment.<sup>6</sup>

Several international bodies, including the Human Rights Committee and the European Court of Human Rights, have highlighted the need for all states to afford a special protection to children's personal liberty and rights.<sup>7</sup> The UN has also developed separate rules for the protection of juveniles deprived of their liberty (the Havana Rules).<sup>8</sup>

As regards the child welfare sector, Article 20 of the UN Convention on the Rights of the Child states that children and young people in public care are entitled to special protection and assistance provided by the State.

The Child Welfare Act regulates the rights of children in the child welfare system.<sup>9</sup> The purpose of the Act is to ensure that children are given proper care and grow up in a secure environment. The Child Welfare Act applies to children under the age of 18, in some cases until the age of 23. The principle regarding the child's best interests has been directly implemented in the Norwegian Child Welfare

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<sup>3</sup> See Norwegian Official Report NOU 2016:16 *Ny barnevernslov. Sikring av barnets rett til omsorg og beskyttelse* (New Child Welfare Act. Securing children's right to care and protection – in Norwegian only), page 167.

<sup>4</sup> Juan Mendez (2015): A/HRC/28/68.

<sup>5</sup> The UN Convention on the Rights of the Child Article 37 (c)

<sup>6</sup> The UN Convention on the Rights of the Child Article 37 (a)

<sup>7</sup> The UN Human Rights Committee, General Comment No 17, paragraph 1 and No 35, paragraph 62. The European Court of Human Rights, *Z and Others v. the United Kingdom*, paragraphs 74–75.

<sup>8</sup> The UN Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules). Among other things, the Havana Rules contain rules on admission, physical environment, activities, personnel, health services, contact with the outside world, the use of force and the right of appeal.

<sup>9</sup> A new Child Welfare Act is being prepared, NOU 2016:16 *Ny barnevernslov. Sikring av barnets rett til omsorg og beskyttelse* (New Child Welfare Act. Securing children's right to care and protection – in Norwegian only). Chapter 4 discusses the child welfare service and human rights.



Act and is intended to be a guiding principle in all the child welfare service's activities. The principle of the child's right to be heard is also set out in the Act and must form a part of all the child welfare service's decisions, also at institutions.<sup>10</sup>

The right to place children and young people in an institution without their consent is provided for in Section 4-24 of the Child Welfare Act. The Act requires that the child must have shown 'serious behavioural problems' in the form of serious or repeated criminality or persistent abuse of intoxicants or drugs or in other ways. In the cases where this requirement is met, an order to use force can be made pursuant to Section 4-24 for children and young people between the ages of 12 and 18. Section 4-25 second paragraph provides for issuing an interim order for placement without the child's own consent.

If a child with serious behavioural problems has reached the age of 15 and gives their consent, they can be placed in an institution pursuant to Section 4-26. If the child has not reached the age of 15, the consent of those who have parental responsibility for the child is also required to place the child in an institution pursuant to Section 4-26. Even if the child is staying in the institution voluntarily, they may be retained in the institution for up to three weeks after their consent has been expressly withdrawn.

When a child is placed in an institution, their personal freedom and right to autonomy are limited. This entails a right to impose restrictions on their freedom of movement and encroachments on their personal integrity. These freedoms and rights are protected by human rights and can only be restricted if the encroaching measure is necessary, proportionate and regulated by an act or regulation.

The Child Welfare Act is further specified in the Regulations relating to rights and the use of force in child welfare institutions (the Rights Regulations). Among other things, the Regulations regulate the institutions' right to use various forms of force and measures that restrict children's integrity, and safeguard due process protection by stipulating rules on case processing and the right to complain.

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<sup>10</sup> The Child Welfare Act Sections 4-1, 6-3.



## 4 How the visit was conducted

The Parliamentary Ombudsman's National Preventive Mechanism (NPM) visited Alta Youth Centre on 26–29 September 2017. In June 2017, the NPM notified the institution that the visit would take place in the period between September and November 2017. The date of the visit was not given. Posters and brochures were sent with information about the visit.

Prior to the visit, the NPM received the information it had requested from Alta Youth Centre, and had a phone meeting with the County Governor of Finnmark. The Parliamentary Ombudsman had also previously received inspection reports for the years 2015 and 2016, and the report following the annual quality control for 2016. Documentation was also obtained after the visit.

During the visit, the NPM carried out an inspection of the institution. There were six residents at the institution during the visit. All of them were offered interviews, and several of them were subsequently interviewed.

Interviews were also held with milieu staff, the person responsible for the methodological work, unit managers and the head of the centre. The visit team conducted a review of administrative decisions on the use of force with records for 2016 and 2017, log entries in the BIRK reporting system, admission notes, plans etc.

The following people participated in the visit:

- Aage Thor Falkanger, (Parliamentary Ombudsman)
- Helga Fastrup Ervik (head of the NPM, legal adviser)
- Mette Jansen Wannerstedt (senior adviser, sociologist)
- Caroline Klæth Eriksen (adviser, social scientist)
- Christian Ranheim (senior adviser, legal adviser)
- Harald Aasen (external expert, specialist psychologist).

## 5 About Alta Youth Centre

Alta Youth Centre is an emergency institution that accepts young people between the ages of 13 and 18 who are placed there pursuant to Sections 4-6 and 4-17 of the Child Welfare Act, cf. Sections 4-12 and 4-25. Alta Youth Centre is charged with caring for young people who are in a crisis and need immediate placement outside their home. The centre accepts adolescents from all of Finnmark, Troms and Nordland counties. If there is spare capacity, the centre also help other regions.

### 5.1 Physical conditions

It is important that institutions that accommodate minors are adapted to their needs. Among other things, the European Committee for the Prevention of Torture (CPT) emphasises the need to maintain a positive and personal atmosphere in places where minors are deprived of their liberty:

‘In addition to being of an adequate size, well-lit and ventilated, juveniles' sleeping and living areas should be properly furnished, well-decorated and offer appropriate visual stimuli.’<sup>11</sup>

A child welfare institution should, as a minimum, live up to this standard.

Alta Youth Centre comprises several buildings right by the sea and the premises generally had a pleasant atmosphere. They were furnished with normal furniture, had pictures on the walls etc.

The centre had two units: the Utsikten unit for three residents, and the Sjøtun unit for five residents. Neither of the units had locked doors, and the residents had free access to the kitchen. The residents' rooms were furnished with a bed, bedside table, a desk and a chair, and all the rooms had their own bathroom with shower. The centre also had an apartment adapted to wheelchair users.

In addition to the units and the administration building, the centre had an activity building and a visiting apartment. There were also several interview rooms and meeting rooms.

The buildings are owned by Statsbygg, which is responsible for their maintenance, including repairs as required in communal areas, resident rooms and in the institution in general. In 2016, at the request of the Office for Children, Youth and Family Affairs, the centre developed a special procedure for maintenance and renovations.

### 5.2 Qualification requirement

The Havana Rules emphasise that staff at institutions where children/young people are deprived of their liberty should be qualified.<sup>12</sup> Alta Youth Centre's objective was for 70% of the staff to have a bachelor's degree in health and social care.

The institution plan from May 2017 states that, at the time, 62% of the staff (unit managers and milieu therapists) had a degree in child care, social care or other relevant higher education. The Sjøtun unit had the most staff with such education.

Alta Youth Centre had a least one specially trained milieu therapist at each unit who had special responsibility for supervising and following up the milieu staff in their day-to-day work. In addition, the centre had employed a person who, together with the management, had overall

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<sup>11</sup> The 9th General Report on the CPTs activities [CPT/Inf (99) 12], paragraph 29.

<sup>12</sup> United Nations Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules), Rule 81.

responsibility for developing, evaluating and running the methodological work at the institution.<sup>13</sup>

The centre also had a school adviser and a health adviser. Both units had their own rota system with two shifts and an awake night shift.

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<sup>13</sup> This person has special responsibility for ensuring continuous training of staff and maintaining expertise, including the Rights Regulations, cognitive-behavioural therapy work, trauma-informed care etc.

## 6 Arrival at the institution

The way in which adolescents are met when they arrive at an institution is very important for the rest of their stay and the safeguarding of their rights. Among other things, it is particularly important in the initial period that they are informed about their rights and rules and procedures, and that they are cared for and feel safe.<sup>14</sup>

### 6.1 Admission and information

Updated and adapted information is a precondition for the residents at an institution to be able to use their right to complain, and to participate and influence their own everyday lives. Good and easy-to-understand information can increase their sense of security and prevent both frustration and the risk of ill-treatment. For this reason, information must be provided in a manner that is easy to understand and repeated if necessary.

Alta Youth Centre stated that their admission procedures are based on the *Faglig veileder for akuttarbeid i institusjon og beredskapshjem* (Guidelines for emergency work in institutions and emergency foster homes – in Norwegian only). The procedures describe how to carry out admissions, what information adolescents should be provided with and what to talk about during the admission interview. During the visit, Alta Youth Centre appeared to have good procedures in place and a good practice for attending to the adolescents when they arrived at the institution. They centre gave and received information about health, interests, possible triggers and how the person thinks these can be handled, and gave an introduction to the unit. The adolescents were encouraged to participate at meetings concerning their own case. The Parliamentary Ombudsman has seen several examples of admission notes and minutes of clarification meetings that substantiate this.

### 6.2 Medical examination upon admission

Children and young people who are deprived of their liberty shall be placed under conditions that take full account of their particular needs, including their physical and mental health.<sup>15</sup> That is why children and young people in emergency placement shall be examined by a doctor as soon as possible after admission or and not later than during the first 24 hours after admission.<sup>16</sup>

The visit and the documentation obtained confirmed that this was the case. It was also found that the adolescents were not forced to go through a medical examination if they did not want to.

### 6.3 Documentation of injuries

During the visit it was found that the staff and management rarely experienced that adolescents arrived with bruises or other injuries. However, the risk of this may increase when adolescents are placed in an emergency institution. Alta Youth Centre had no procedure for how the staff should follow up the matter if they discovered that an adolescent had injuries upon admission.

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<sup>14</sup> United Nations Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules), Rule 24. The Rights Regulations Section 7, the Norwegian Directorate for Children, Youth and Family Affairs (Bufdir) 10/2015: *Faglig veileder for akuttarbeid i institusjon og beredskapshjem* (Guidelines for emergency work in institutions and emergency foster homes – in Norwegian only).

<sup>15</sup> The Havana Rules Article 28

<sup>16</sup> The Rights Regulations Section 8

**Recommendation**

- Alta Youth Centre should ensure that it has good procedures for what to do if the staff discover that an adolescent has injuries on arrival.

**6.4 Body searches and searches of belongings upon admission**

A search, especially if it involves the full removal of clothing, is an invasive measure, and can, according to the European Court of Human Rights (ECtHR)<sup>17</sup> and the European Committee for the Prevention of Torture (CPT), result in human rights violations.<sup>18</sup> The Convention on the Rights of the Child emphasises that no child shall be subjected to arbitrary or unlawful interference with his or her privacy.<sup>19</sup>

Alta Youth Centre seemed to have a high threshold for carrying out body searches and searches of belongings upon admission. None of the young people the NMP talked to during the visit had been searched or had their belongings searched when they arrived at the institution. The management and staff emphasised that invasive coercive measures would not contribute to making the young people feel safe while in such a vulnerable phase, and that there are stringent requirements for using this type of force. There must be concrete grounds for suspicion, and it was pointed out that previous substance abuse or the child welfare service's descriptions in the administrative decision were not deemed to be sufficient grounds. The centre had made one administrative decision to carry out a body search in the period 2016–2017. According to the use-of-force records, the body search was conducted while the person was dressed (also see chapter 10, *Use of force at institutions*).

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<sup>17</sup> See, *inter alia*, the ECtHR's judgments in *Valasinas v. Lithuania* 24 July 2001, Application No 44558/98; *Lorse and others v. the Netherlands*, 4 February 2003, Application No 52750/99; *Van der Ven v. the Netherlands*, 4 February 2003, Application No 50901/99.

<sup>18</sup> See, *inter alia*, the CPT's visit to the Netherlands in 1997, [CPT/Inf (98) 15] pages 32–33, paragraphs 67–69; to Slovakia in 2000 [CPT/Inf (2001) 29] page 29, paragraph 51, and to the UK in 1994 [CPT/Inf (96) 11] page 41, paragraph 93.

<sup>19</sup> The Convention on the Rights of the Child Article 16.

## 7 Police assistance

The head of the child welfare administration can submit a request for police assistance, among other things to execute decisions/orders under the Child Welfare Act.<sup>20</sup> When assisting the child welfare service, the police shall consider how to provide their assistance on a case-to-case basis.<sup>21</sup> The police stipulate the time, place, means and method. What resources the police offer and how they provide assistance will vary depending on the nature of the assignment and the situation in general. A request for police assistance pursuant to Section 6-8 of the Child Welfare Act must therefore contain the information the police need to assess the way they should provide the assistance. A request for assistance must contain the information the police need to assess whether to implement any measures pursuant to the police's own legal authorities and, if so, how to proceed.<sup>22</sup> However, the child welfare service is always responsible for implementing the administrative decisions they make and shall always be present during police assistance.<sup>23</sup>

The police have no guidelines for the police's use of force against minors.

### 7.1 Arrival accompanied by the police

Many of the adolescents who come to Alta Youth Centre have a long way to travel and can arrive both by car and plane. Many are also accompanied by the police. In such cases, it is the child welfare service or child welfare emergency unit in the adolescent's residential municipality that requests police assistance. During the visit it was found that the management and staff at the centre in some cases had wondered whether police transport had been necessary. Good risk assessments by both the child welfare service and the police are an important precondition for preventing children and young people being subjected to unnecessary invasive measures.

The UN Special Rapporteur on Torture points out that children are particularly vulnerable during police transport as there is a particularly high risk of force being used.<sup>24</sup> The police have access to coercive measures, such as handcuffs, that are inaccessible to a child welfare institution.

During the visit it was found that the police were usually dressed in civilian clothes when assisting in plane transport. The staff meet the adolescent at the airport or at the institution. The staff wanted the police to leave as quickly as possible, but on some occasions the police had accompanied the adolescent all the way to the meeting room where the admission was carried out. Some of the adolescents the Parliamentary Ombudsman spoke to had arrived at the centre accompanied by the police, but none of them had worn handcuffs or similar.

<sup>20</sup> The Child Welfare Act Section 6-8 – Police assistance. Letter from the Norwegian Directorate for Children, Youth and Family Affairs to the County Governor of Aust-Agder.

<sup>21</sup> Cf. the General Service Instructions for the Police Section 13-5 first paragraph.

<sup>22</sup> The Norwegian Directorate for Children, Youth and Family Affairs (Bufdir) and the Norwegian Police Directorate (2016): *Når barn rømmer fra barnevernsinstitusjon. Retningslinjer om oppgave- og ansvarsfordeling mellom barnevernsinstitusjon, kommunal barneverntjeneste og politi* (When children run away from child welfare institutions. Guidelines for the distribution of tasks and responsibilities between the child welfare institution, the municipal child welfare service and the police – in Norwegian only).

<sup>23</sup> Inspection report of 19 September 2016: *'Dei forsto meg ikkje* (They didn't understand me – in Norwegian only). The County Governors of Hordaland, Rogaland and Troms, pp 35–36.

<sup>24</sup> Juan Mendez (2015): A/HRC/28/68, paragraph 40.

### 7.1.1 Use of coercive measures

Alta Youth Centre had experienced residents wearing handcuffs/strips and foot cuffs both in connection with admission and when being returned after running away. There had also been cases where adolescents had to wear handcuffs for several hours while being transported to Alta Youth Centre by the police.

Using such coercive measures when transporting children and adolescents is perceived as very invasive. It entails a great potential for harm, it can be humiliating and stigmatising and entails a risk of inhuman and degrading treatment.

*The Havana Rules emphasise that the use of coercive measures on children should be prohibited except in exceptional cases where all other control methods have been exhausted and failed.*

United Nations Rules for the Protection of Juveniles Deprived of their Liberty, Rule 63 and 64.

Alta Youth Centre had procedures for when and how the police should be notified if a resident runs away, but there is no separate procedure in place for other forms of contact with the police. Nor did the institution have a fixed procedure for documenting whether the young people arrived with the police or whether coercive measures had been used during transport. The police itself had no systematic overview of the use of coercive measures on such assignments. This means that it was difficult to gain a complete overview of the use of force a young person is subjected to.

## 7.2 Assistance for the institution

An institution cannot use the police to solve its own tasks.<sup>25</sup> Based on the information provided by the centre and the police, it seems that the institution has rarely asked for police assistance to solve tasks on the institution's premises. The document review showed that there had been one such situation in the past two years, where the police had come to search a room.

The institution stated that, when required, they ask for police assistance when a resident has run away or in cases where an adolescent who needs medical attention at the accident and emergency department<sup>26</sup> objects to this. The police had also provided assistance in connection with transport to and from mental health care institutions in Tromsø. The police confirmed that most of the assignments from Alta Youth Centre in the present year concerned assistance regarding residents running away. There had also been instances where the accident and emergency unit had refused to treat adolescents without the police present.

In relation to run-aways, the centre stated that the local police could not always help them, since the residents in some cases ran away to places outside Alta. It is the institution's responsibility to notify the police in cases where they consider it to be necessary. The guidelines *Når barn rømmer fra barneverninstitusjon* ('When children run away from child welfare institutions') state that it is not necessary to notify the police if the institution knows where the child is and that the child wants to return to the institution. The same applies in cases where the child is willing to be retrieved by the institution. If the child's whereabouts is unknown and there is a suspicion that the child has

<sup>25</sup> Circular Q-19/2012 Guidelines to the Regulations of 15 November 2011 relating to rights and the use of force in child welfare institutions (the Rights Regulations).

<sup>26</sup> In connection with self-harm or suicide risk.



disappeared/is missing, the institution shall submit a formal missing report to ensure that the child is reported as missing nationally and, if relevant, internationally.

After speaking with both the management of Alta Youth Centre and the police station in Alta, it appeared that they had different perceptions of what type of assistance the institution requests and wants if an adolescent fails to appear or runs away. Alta Youth Centre had a meeting with the police in Alta around three years ago, but they have had no subsequent dialogue or arena for meeting.

**Recommendation**

- Alta Youth Centre should prepare a separate procedure for cooperation with the police and for documentation of situations in which the adolescents have been in contact with the police.

## 8 The right to be heard and to participate

Pursuant to Article 12 of the UN Convention on the Rights of the Child, children have the right to express their views in all matters affecting them. The child's views shall be given due weight in accordance with the age and maturity of the child. This right also entails the right not to make a statement or participate. The European Court of Human Rights has specified that children have a right to be heard, directly or through legal or other appropriate assistance, in relation to any decision regarding deprivation of liberty. It is also emphasised that the procedures employed should be child-appropriate.<sup>27</sup>

*In the inspection report 'Dei forsto meg ikkje' ('They didn't understand me'), it was emphasised that many children experience not being heard, understood and listened to, even when they talk about what is important to them. Participation means that the child's opinions shall be heard and taken account of in the assessment of what constitutes the child's best interests. It also involves explaining to the child what has been emphasised if the outcome is not what the child wants. If children are not allowed to participate and their needs are not perceived or understood, it will be impossible to give them the right type of help.*

Inspection report of 19 September 2016: Dei forsto meg ikkje ('They didn't understand me'). The County Governors of Hordaland, Rogaland and Troms.

Section 7 of the Rights Regulations emphasises the right to participate in deciding personal matters and in the structuring of everyday life in the institution and in other decisions that affect the residents. Being able to express your views and being heard are basic preconditions for maintaining your own integrity.<sup>28</sup>

Alta Youth Centre stated that they wanted the young people to influence their own stay and what happens next in their lives as much as possible. The residents the NPM spoke to largely confirmed this.

It appeared during the visit that the residents were encouraged to participate at all meetings concerning their case, and

that they were allowed to partake in decisions relating to activities, education, job and other everyday life decisions at the centre. It also seemed that the centre made sound efforts to involve the young people in the work of preparing action plans and week plans, and that the adolescents and their main contact person had regular structured conversations. After the stay, an evaluation interview was held in which *the child's impression of having influenced his or her stay* was one of the topics.

Alta Youth Centre had a special procedure for user participation and stated that they regularly organised user surveys where participation was one of the topics. The results of the surveys were used in the institution's development work. Alta Youth Centre had low scores on predictability in relation to the young people's own case.

Several of the children the NPM spoke to stated that it was frustrating to not know what would happen next, where they were going after their stay and when. At times, young people had stayed at

<sup>27</sup> The UN Human Rights Committee, General Comment No 35 (CCPR/C/GC/35, paragraph 62).

<sup>28</sup> Circular Q-19/2012 Guidelines to the Regulations of 15 November 2011 relating to rights and the use of force in child welfare institutions (the Rights Regulations).

the centre for longer than the recommended six weeks that apply to emergency placement institutions.<sup>29</sup> In 2016, the institution prepared guidelines for how to contribute to ensuring that the young people experience the highest possible degree of predictability and that their stay in the emergency placement institution is as short as possible. They have also engaged in a dialogue with the County Governor about this.

Some of the young people had been moved between institutions several times. In the inspection report *Dei forsto meg ikkje* (*They didn't understand me*) it is emphasised that moving entails breaking up the relationships the young people have forged with their caregivers and network, which can often be very distressing.

‘For children who are not used to being able to trust adults, stability is particularly important. It takes time to learn and build good relationships and trust in others.’<sup>30</sup>

Providing information about their situation and ensuring predictability are emphasised as important factors in the work with children and young people in crisis. This is not just the responsibility of the institution where the child is placed, but is also very much about follow-up from the child welfare service and admission unit. The child welfare service is obliged to follow up young people they have placed in institutions, cf. Sections 4-5, 4-16 and 4-28 of the Child Welfare Act.

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<sup>29</sup> Bufdir 2015: *Faglig veileder for akuttarbeid i institusjon og beredskapshjem* (*Guidelines for emergency work in institutions and emergency foster homes* – in Norwegian only).

<sup>30</sup> Inspection report of 19 September 2016: *Dei forsto meg ikkje* (*‘They didn't understand me’* – in Norwegian only). The County Governors of Hordaland, Rogaland and Troms.

## 9 Use of force at institutions

In a report from 2015, the UN Special Rapporteur on Torture emphasises that inhuman and degrading treatment of children and young people can also take place in situations where the intention behind intervening in the child's life is to prevent precisely this.

The basic principle for all child welfare institutions is that it is not permitted to use force against children. However, the Act and Regulations allow this in special situations.<sup>31</sup>

The Rights Regulations stipulate the types of force that can be permissible, but also state that force cannot be used more than necessary, and that other means must be tried first.<sup>32</sup>

### 9.1 Preventing the use of force

Encroachments on personal integrity must only take place if strictly necessary and other methods must have been tried first. This means that the institutions must work systematically to prevent situations that can lead to the use of force.<sup>33</sup>

All child welfare institutions are obliged to prevent the use of force.<sup>34</sup> It is important that both the management and staff continuously focus on reducing and preventing the use of force.

When asked how Alta Youth Centre works to prevent the use of force, the management stated that, in their view, they used less force than before. The staff had received training in Handlekraft<sup>35</sup> and Terapeutisk mestring av vold (TVM) (therapeutic mastery of violence). The management stated that the focus on trauma-informed care had had a significant effect on the way the staff viewed the young people and approached different situations.

*'Many situations where force is used against children and young people who are living in child welfare institutions are seen as degrading and frightening, and are clearly seen as an encroachment on an individual's personal integrity. This particularly applies in connection with the use of force in situations of acute danger, but body searches, the collection of urine samples and restrictions on the freedom to move around within the institution's area and on leaving it can also be experienced as a loss of freedom, self-determination and control of one's own life. Confiscations of mobile phones and other electronic means of communication, or significant restrictions on the use of such equipment, are also seen as a loss of self-determination and freedom.'*

Ulset and Tjelflaat (2012): *Tvang i barnevernsinstitusjoner – Ungdommens perspektiver (Force in Child Welfare Institutions – Young People's Perspectives)*. NTNU samfunnsforskning (NTNU Social Research).

<sup>31</sup> Cf. the Child Welfare Act Section 5-9 and the Rights Regulations Section 13.

<sup>32</sup> More details on these provisions are provided in Circular Q-19/2012 *Guidelines to the Regulations of 15 November 2011 relating to rights and the use of force in child welfare institutions (the Rights Regulations)*.

<sup>33</sup> Circular Q-19/2012 *Guidelines to the Regulations of 15 November 2011 relating to rights and the use of force in child welfare institutions (the Rights Regulations)*.

<sup>34</sup> The Rights Regulations Section 12

<sup>35</sup> A competence programme on trauma-informed care for employees in state-owned and private child welfare institutions.

Alta Youth Centre had developed *milieu therapy approaches* for all the adolescents who were staying in the institution during the visit. This was a document available to all staff members that described the needs of the individual resident, how to organise the milieu therapy and how to handle special challenges. The institution also prepared safety plans for the residents as required. This gave particular attention to any risks observed relating to the individual resident, for example what types of situations could lead to them acting out or to suicide risk, and how the staff should behave in such situations.

The guidelines for emergency work<sup>36</sup> emphasises the importance of cooperating with the child on preventing the use of force. It was unclear whether the adolescents participated in the preparation of the plan for the milieu therapy approach and safety plan, but it was found in the documentation reviewed by the Parliamentary Ombudsman that the staff had conversations with the young people about difficult situations and how to handle them. Examples include: how should the staff react to threats of suicide, how a resident wants to be woken up, that a resident need to be left alone in his/her room if he/she is angry.

It was also found during the visit that Alta Youth Centre made efforts to avoid limiting the young people's freedom of movement.<sup>37</sup> For example, they made agreements with the residents to phone or meet up with a staff member at given times. The person responsible for the methodological work at Alta Youth Centre stressed that being followed up too closely could be a trigger for many of the adolescents, making them retreat more.

## 9.2 Use of force

Force often entails a serious encroachment on personal integrity and can lead to serious violations of the person concerned. Human rights therefore stipulate strict requirements for the use of force.<sup>38</sup>

Deciding what is within the duty to provide care and what is not can be difficult. In the report *Grenseløs omsorg* ('Endless care'), the Ombudsman for Children points out that encroachments on the personal integrity of children is an area that is subject to poor regulation.<sup>39</sup> It was found during

### The best interests of the child

*The principle regarding the child's best interests is set out in Article 3 (1) of the UN Convention on the Rights of the Child which states that the best interests of the child shall be a primary consideration in all cases concerning children. When using force against a child, an individual assessment shall always be made of the best interests of the child. Assessments must also be made at group level, for example of whether regulations relating to the use of force and the practising of such regulations are in line with the principle of the best interests of the child.*

The Ombudsman for Children (2015): *Grenseløs omsorg – om bruk av tvang mot barn i barnevern og psykisk helsevern* (Endless care – on the use of force in relation to children under the care of the child welfare service and mental health care).

<sup>36</sup> Bufdir (2015): *Faglig veileder for akuttarbeid i institusjon og beredskapshjem* (Guidelines for emergency work in institutions and emergency foster homes – in Norwegian only).

<sup>37</sup> Cf. the Rights Regulations Section 22

<sup>38</sup> The Ombudsman for Children (2015): *Grenseløs omsorg – om bruk av tvang mot barn i barnevern og psykisk helsevern* (Endless care – on the use of force in relation to children under the care of the child welfare service and mental health care – in Norwegian only) page 15.

<sup>39</sup> Ibid.

the visit that the centre is working to establish a cooperation with other institutions in Alta on training staff in the Rights Regulations. They have previously asked the Office for Children, Youth and Family Affairs for assistance in training staff in the Rights Regulations, but their request was denied.

In 2016, Alta Youth Centre made a total of 37 administrative decisions on the use of force. Three were based on Section 14 (force in situations of acute danger), 15 were based on Section 16 (searches of rooms and belongings), and 15 were based on Section 17 (confiscation). A total of 28 young people had stayed in the institution in 2016.<sup>40</sup>

As of 29 September 2017, the centre had made a total of 21 administrative decisions on the use of force, eight of which were based on Section 14 (force in situations of acute danger), four concerned searches of rooms and belongings, three confiscations, two returns after escapes and four restrictions on the freedom of movement. As of 29 September 2017, a total of 32 young people had stayed at Alta Youth Centre. See Text box 1 Sections on the use of force in the Rights Regulations.

It was found during the visit and the review of the documentation that Alta Youth Centre had a high threshold for using force. Both the management and the staff emphasised that they needed very concrete reasons for making an administrative decision on the use of force. A history of substance abuse, for example, would not be sufficient grounds to conduct a body search upon admission (See also Chapter 7 *Arrival at the institution*). Compared with other emergency placement institutions the Parliamentary Ombudsman had visited, Alta Youth Centre made little use of measures such as body searches and restrictions on the freedom of movement. In the cases where an administrative decision restricting the freedom of movement had been made, it did not, as opposed to most of the other institutions the Parliamentary Ombudsman has visited, apply for the maximum period of 14 days.

*Text box 1 Sections on the use of force in the Rights Regulations*

**Chapter 3**

Section 14 Force in situations of acute danger

Section 15 Body searches

Section 16 Searching rooms and belongings

Section 17 Confiscation, destruction and disclosure to the police

Section 18 Control of correspondence

Section 19 Collection of urine samples with consent

Section 20 Return after escape

**Chapter 4 (Can only be used for placement pursuant to Section 4-24, 4-25 second paragraph and Section 4-26):**

Section 22 Restrictions on leaving the institution's area (limited freedom of movement)

Section 23 Restrictions on visits in the institution

Section 24 Control of electronic means of communication

Section 25 Collection of urine samples without consent

<sup>40</sup> Some of these young people had been admitted in 2015.

### 9.3 Documentation of the use of force

Good information in the administrative decisions on the use of force (use-of-force records) enables the young person him/herself, the supervisory authorities and, if relevant, others to familiarise themselves with the background and grounds for the use of force. It should also be possible to see what other measures have been attempted prior to the use of force and whether the adolescents' rights have been safeguarded during the process. The adolescent shall be informed about his/her right to complain both verbally and in writing. Documentation of the use of force is a basic precondition for securing the young person's right to complain.<sup>41</sup>

A review of records<sup>42</sup> and logs during the visit<sup>43</sup> showed that Alta Youth Centre was thorough in its log keeping and that both logs and use-of-force records provided concrete and individual descriptions. In general, the use-of-force records contained thorough descriptions of the situations and it was possible for external parties to gain an impression of the staff's experience of and reasoning in the situations. There were also examples of the adolescents' assessment of the records being included as separate comments. The Parliamentary Ombudsman sees this as a good practice. The Parliamentary Ombudsman also found examples of Alta Youth Centre documenting what is known as less invasive force in its records system.<sup>44</sup>

The Parliamentary Ombudsman also noted that the staff consistently referred to the young people with respect and care both verbally and in writing.

### 9.4 Follow-up after a decision on the use of force

The documentation showed that the institution made every effort to review the records together with the residents, also in cases where the young person in question had moved elsewhere.

Reviewing the use-of-force records together with the young people is an important measure in ensuring that their due process protection is safeguarded.

Alta Youth Centre also had a special template for follow-up of staff and evaluation after episodes where force had been used.

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<sup>41</sup> All decisions pursuant to Sections 14, 15, 16, 17, 18, 22, 23 and 24 are deemed to be individual decisions pursuant to the Public Administration Act. These decisions shall be entered in the records and presented to the supervisory authorities.

<sup>42</sup> 2016 and 2017.

<sup>43</sup> For young people who were staying at Alta Youth Centre at the time of the visit.

<sup>44</sup> Cf. the Rights Regulations Section 13.



## 10 Right to health services

According to the Convention on the Rights of the Child, children have the right to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.<sup>45</sup>

Children and young people in child welfare institutions have the same right to health care as other children and young people.<sup>46</sup> The institutions' responsibility to provide care includes an obligation to ensure that the residents have access to necessary health care, assistance and medical supervision.<sup>47</sup>

To ensure that children and young people receive necessary health care, each institution shall have a health adviser.<sup>48</sup> Alta Youth Centre had a health adviser who had overall responsibility for following up the adolescents' right to health care. They also had a special procedure for medical supervision and treatment.<sup>49</sup> The adolescents who lived at Alta Youth Centre during the visit had a special plan for health follow-up. The plans appeared to be individual and concerned both physical and mental health. Alta Youth Centre also had special procedures for handling suicide risk.

Alta Youth Centre's institution plan stated that not everyone is assigned a GP during their stay, but that the institution cooperates closely with Alta health centre (the accident and emergency unit). The centre appeared to have a low threshold for contacting the accident and emergency unit when help was required.

It was found during the visit and in the documentation that Alta Youth Centre, on some occasions, had not received the help they needed from the health service in emergency situations, but that this was not related to the accident and emergency unit in Alta.

### 10.1 Collaboration with the specialist health service

In the Ombudsman for Children's report 'Grenseløs omsorg' ('Endless care'), it is stated that the services often do not collaborate well enough in cases where children require help from both the mental health care service and the child welfare service. It is a serious matter that mentally ill children in child welfare institutions are subjected to unnecessary force because the child welfare institutions do not have the mental health expertise required.<sup>50</sup> The inspection report 'Dei forsto meg ikkje' ('They didn't understand me') emphasises the importance of a good and close

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<sup>45</sup> The UN Convention on the Rights of the Child Article 24.1

<sup>46</sup> The right to necessary health care is set out in Sections 2-1 a and 2-1 b of the Patient and User Rights Act.

<sup>47</sup> Institutions are covered by Chapter 5 and 5A of the Child Welfare Act and must provide the residents with proper care and treatment.

<sup>48</sup> Bufdir (2016): *Retningslinjer om helseansvarlig i barneverninstitusjoner og omsorgssenter for enslige mindreårige asylsøkere* (Guidelines relating to health advisers at child welfare institutions and care centres for unaccompanied minors applying for asylum – in Norwegian only).

<sup>49</sup> All child welfare institutions shall have such a procedure that is adapted to their target group, cf. Section 8 of the Rights Regulations

<sup>50</sup> The Ombudsman for Children (2015): *Grenseløs omsorg – om bruk av tvang mot barn i barnevern og psykisk helsevern* (Endless care – on the use of force in relation to children under the care of the child welfare service and mental health care – in Norwegian only).

collaboration between the child welfare service and mental health care service in order for children and young people to receive the help they need.

Alta Youth Centre had a local cooperation agreement with the Centre for Child and Adolescent Psychiatry in Alta (BUP Alta). The agreement was entered into based on an overriding collaboration agreement between Northern Norway Regional Health Authority and the Office for Children, Youth and Family Affairs – Region North. Among other things, the agreement sets out how Alta Youth Centre and BUP Alta shall cooperate on safeguarding children and young people's right to health care, including in an emergency placement institution.

It emerged during the visit that Alta Youth Centre found it had become easier to schedule appointments for the residents at BUP, even if they were only staying in the institution for a brief time. Several of the adolescents who were staying at Alta Youth Centre at the time of the visit had been offered follow-up at BUP.

However, it was found that the cooperation with the Adolescent Psychiatry Section at the University Hospital of Northern Norway in Tromsø (UPS) was more problematic. It was the management and staff's experience that young people with problems relating to self-harm or suicide could end up being sent back and forth through the system. The long travel time to UPS Tromsø was also seen as problematic. In some cases, the travel back and forth required assistance from the police and use of force.

#### **Mental health**

*Research has documented a high incidence of mental illness in children in child welfare institutions and foster homes. A research project on the mental health of children in child welfare institutions was carried out by NTNU/ RKBU of Central Norway in the period 2010–2015. The surveyed children were between 12 and 20 years old. A total of 400 children participated from all over the country. A high incident of mental illness was found in the past three months among young people in child welfare institutions (76 per cent).*

*Kayed, Nanna S. et al., (2015): Mental health in children and adolescents in child welfare institutions, Norwegian University of Science and Technology (NTNU) / Regional Centre for Child and Youth Mental Health and Child Welfare (RKBU) of Central Norway.*

## 11 Safety and security

There had been situations at Alta Youth Centre where residents had been subject to harassment or bullying by other residents. An institution is responsible for ensuring that residents are not subjected to bullying, exploitation or harassment from other residents.<sup>51</sup> This is an area with great potential risk. It is important that the management facilitates regular reflection and discussions about how to make efforts to ensure the young people's safety. It is also important to talk to the residents about these problems.

At Alta Youth Centre, all the residents could lock the door to their room. The doors had spring locks, and only the staff had keys. The residents could unlock the door from the inside. At night, a staff member was always supposed to be present in the hallway outside the residents' rooms. The rooms were also inspected during the night. The staff and management also specified that a staff member was present outside the residents' rooms during the day, if there was more than one resident present.

The management stated that the issue had also been raised at staff meetings and workshops, and that the staff had contributed to finding measures that ensure the residents' safety. The institution also had preparedness exercises two or three times a year, the last of which dealt with the problem of sexual advances between adolescents.

Alta Youth Centre had a procedure for preventing and handling suspicions of physical and sexual abuse of and inappropriate behaviour towards children and young people in state-owned child welfare institutions (*'Rutine for forebygging og håndtering av mistanke om fysiske og seksuelle overgrep og grenseoverskridende atferd mot barn og unge i statlige barneverninstitusjoner'* – in Norwegian only). One of the topics was: *dealing with suspicions of physical and sexual abuse committed by children/young people against other children/young people in child welfare institutions*. Among other things, the procedure stated that the institutions (represented by the manager) have a special responsibility to:

- 'Ensure that the children/young people are familiar with what forms of interaction are accepted between residents in the institution (how to be a good friend or buddy).
- Ensure that the children/young people are familiar with the types of behaviour that are not accepted at the institution, for example violence, sexually inappropriate behaviour, sexual harassment (verbal or physical) and other behaviour that violates the other residents' personal integrity.'

The extent to which the centre had an established procedure for talking with the young people about these topics was not clear.

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<sup>51</sup> Circular Q-19/2012 *Guidelines to the Regulations of 15 November 2011 relating to rights and the use of force in child welfare institutions (the Rights Regulations)*, p.15.

Alta Youth Centre had prepared special rules for interaction based on the Office for Children, Youth and Family Affairs' guidelines for handling inappropriate behaviour. The purpose of the rules is defined in the following:

‘in order to contribute to safety and well-being, it is important that the institution has a warm, supportive and trauma-sensitive environment. The young people who come here may have poorly integrated boundaries and need to learn rules for interaction to be able to function in a safe and beneficial manner later in life. As a milieu therapy tool, it is therefore important that the staff has clear rules for interaction. The rules are intended to prevent inappropriate behaviour.’

The institution also had procedures for how to follow up suspicions and incidents. Among other things, these procedures described how the institution should prevent and deal with abuse of children/young people committed by a member of staff.

#### **Recommendation**

- Alta Youth Centre should continue its efforts on systematic prevention of harassment and abuse among residents.

## 12 The right to education and leisure activities

Education is fundamental to all development. National and international rules and guidelines give children and young people staying in child welfare institutions the same right to education as other children.<sup>52</sup> Education should be adapted to the needs of the individual and the young person should be able to continue his/her education after leaving the institution. The Havana Rules emphasise that education should mainly be provided outside the institutions in community schools. If this is not possible, the school at the institution must have qualified teachers and comply with the education provided in the public education system.

Children also have the right to leisure and recreational activities.<sup>53</sup> This possibility is important to the quality of childhood, to children's entitlement to optimum development, to the promotion of resilience and to the realisation of other rights.<sup>54</sup>

Alta municipality had a cooperation agreement with Finnmark county authority to ensure that children and young people in child welfare institutions in Alta municipality receive the education they are entitled to, and that the education commences without undue delay. The agreement stipulated that there should be two full-time teacher positions affiliated to lower secondary schools in the municipalities designated to working with the adolescents from the child welfare institutions. After the visit, the agreement was evaluated and continued. The Parliamentary Ombudsman finds it very positive that the adolescents' education is secured through this agreement.

The school adviser stated that children of primary and lower secondary school age were mostly offered adapted education at a school a few days after arriving at the centre.

The Parliamentary Ombudsman's impression during the visit was that the young people quickly started school. The documentation included several examples of young people being offered a place at a school only a few days after arriving at the centre.

Alta Youth Centre also stated that it collaborated closely with Alta upper secondary school, where the residents could be visiting students. It was also found during the visit that if any of the young people did not have a school place, Alta Youth Centre would help them find work or work placement. The interviews also confirmed Alta Youth Centre's work on finding activities for the young people.

It also seemed that the young people had good opportunities for engaging in various recreational activities, and that they had a say in deciding what they wanted to do.

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<sup>52</sup> The UN Convention on the Rights of the Child Article 28, United Nations Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules) Rule 38, the Education Act Sections 2-1 and 3-1, the Rights Regulations Section 1.

<sup>53</sup> The UN Convention on the Rights of the Child Article 31

<sup>54</sup> The UN Committee on the Rights of the Child : General Comment No 17 (2013) CRC/C/GC/17, paragraph 8.

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