

New report documents huge legal security issues for people with disabilities

All alarms flash red in the new report from “the civil service” and the Lawyer community regarding the legal security of people with disabilities in the social area. The report documents that far fewer people with development disabilities are prone to complain than other disability groups – however the extent of incorrect decisions are the same. County chairman of Lev believes that It shows a legal security issue, which is completely unsustainable.

The analysis by “the civil service” documents the critical situation that the legal security for people with disabilities in the social field currently is in. It shows that the development has gradually worsened since 2013, where the National Board of Social Appeals began to publicise their statistic on the outcome of the appeals that the Board handles. The number of decisions by the municipalities in the disability area that the National Board of Social Appeal has redone (whether by returning the case back to the municipality for reconsideration or by completely changing the decision of the municipality) has increased from 29 percent in 2013 to an alarming 42 percent on 2019.

The very high alteration rates is a very serious problem for the concerned citizens and their families, who must be dragged through lengthy and tiring complaints processes – and which in too many cases must without help and benefits that they always have been eligible for.

People with development disabilities rarely complain

The report also states that the National Board of Social Services complaint statistic covers a great dark figure – the many municipal social decisions, where the citizens do not complain. The number of mistakes in these – non-complained – decisions are probably at the same level as the cases, where the citizen complains. It is benefits to people with extensive mental difficulties, cognitive development disabilities etc., where the amount of complaint cases are however low:

Only approx. 1% of all receivers of companion schemes, abuse treatment, employment offers, and housing offer had in 2018 a complaint case in the National Board of Social Appeals. Conversely children cases, where the parents receive the decision, and recipients of Citizen controlled Personal Assistance (BPA) and cash grants. A number of citizens, who have a complaint case in the National Board of Social Appeals (page 10).

There are thus exceedingly fewer people with development disability, who complain about the decision in their case and are thereby included in the statistic of the National Board of Social Appeals on alterations. But the proportion of mistakes in these decisions are at least as great as the other cases. For example, the National Board of Social Appeals overturned a full 56 percent of decisions by the municipalities on protected employment and activity offer – and 61 percent of the decisions regarding housing offer.

The number are sadly not surprising, the chairman of Lev believes, but it once again underpins the concern for legal security of people with development disabilities, the chairman of Lev, Anni Sørensen believes:

- Lev has for years pointed out the high conversion rates covers an even bigger problem, namely, the situation of the vast majority who never complain. They are due to their development disability in a fully extraordinary vulnerable situation, and too many do not have anyone to help them through the complaint

system. The consequence is that thousands live with illegal decisions and with worse help than they are entitled to. It stands bent in neon in this report

The solution is about something other than the Appeal system

In the report from "the Civil service" there are several suggestions that must meet the increasing legal security issues at the disability area. One of the suggestions are about the establishment of a legal security fund, which must be financed by the municipalities that receive a financial gain from having many errors in the decisions. County chairman of Lev is a supporter of the idea of a legal security fund because it will affect economic incentives of the municipalities to make correct decisions. But, at the same time she stresses that the fund is unlikely to have much effect compared to the many people with developmental disabilities who never complain.

- The many mistakes and deficiencies in decisions are a problem for anyone with a disability. Both for them who complain and for those, who do not. And it is generally a great problem for the trust between vulnerable citizens and municipal authorities. It calls for new solutions than what has already been tried. Here a legal security fund can be relevant, because a huge part of the errors certainly is also about attempt of the municipalities on implementing savings.

- For me there is no way around also looking at financial incentives of the municipalities in relation to these areas, where the citizens very rarely complain. Here, there is a need for an impartial authority to look at the municipality over the shoulder, whether there is complained or not. Otherwise, we will never come to terms with the massive inequality of legal security, Anni Sørensen says.