

## IMPORTANT

- The information we provide on our rights4children website is for general guidance. It is not legal advice.
- If you need legal advice, please contact an independent advocate or a solicitor.
- Article 39 tries its best to make sure information is accurate and up-to-date. However, we cannot guarantee this. We'd appreciate you letting us know if you notice any errors or out-of-date information: [info@article39.org.uk](mailto:info@article39.org.uk)

## Moving in an emergency

- + Moving in an emergency can be very frightening and unsettling, especially if you don't know where you are going.
- + If you have had to move many times, it's understandable if you feel angry and upset. Everyone needs to feel settled, however old we are. Having to move a lot as a child is very difficult. It takes courage and strength.



When you live in a group setting – a children's home, boarding or residential school, hospital or prison – any moves you have should be planned. You should know: why and when you are leaving; where you are going; and who you will be living with (for example, how old the other young people are).

Unfortunately, sometimes children and young people have to move in an emergency. This might be because of illness or worries about your own or other people's safety.

If things haven't worked out where you are now, please don't be hard on yourself. There are many different reasons why children and young people have to move. **It is never because you are a bad person.**

If you ever have to move in an emergency, the people looking after you should give you as much information as possible. They should try and answer any questions you have. Your parents should be given all the information they need so they can continue visiting you.

The people looking after you should understand that moving in an emergency can be scary and frustrating. They should give you plenty of space to talk about your feelings. They should understand that feeling scared and worried can show itself in children and young people's behaviour.

Wherever you live, the people who look after you must protect your welfare.<sup>1</sup>

This includes when decisions are being made about where you should live.

You have the right to be properly involved in decisions about where you will live, including when you have to move to a new place quickly. You should be listened to carefully.

You should be able to say goodbye to people you care about – adults as well as other children and young people. Only rarely should this not be possible.

You should usually be able to take all of your belongings with you when you have to move in an emergency. If this is not possible, you should be able to take items that are very special to you – cuddly toys, photographs, letters and favourite clothes, for example.

For many years, children and young people in care have rightly complained when their belongings are moved in a bin bag. We think this is very disrespectful. The people looking after you should show respect to you by making sure you have a suitcase or other suitable bag.

## Your rights – extra

This section gives you information about your extra rights in different places.

Words in “quotation marks” come from laws and legal rules. Laws and legal rules must be followed by the people who look after you.

### Children’s home

If you live in a children’s home you will have an independent reviewing officer (IRO).

Your independent reviewing officer has a very important job when it comes to you being moved in an emergency. **The law says you cannot be moved from your children’s home without your IRO first reviewing your needs and your care unless:**

- + You are at immediate risk of serious harm, OR
- + Others need to be protected from serious injury.

This is a very important rule to make sure you only move when this is best for you.<sup>2</sup>

If you do have to move in an emergency because you are at risk of immediate serious harm, or to protect others from serious injury, your council must tell your IRO as soon as possible.<sup>3</sup> This is so your IRO can take action to help you if this is necessary.

There is another legal right you have which is very important. If you are in Key Stage 4 at school (which means you'll be in either Year 10 or 11 and aged between 14 and 16), and you have to move in an emergency, your council must take action to make sure you can do well in your education as soon as possible after your move.<sup>4</sup>

## Hospital or other health place

If you are in hospital, the people looking after you must give you care that is person-centred.

The law says the care and treatment you receive in hospital (no matter why you are there) must:

- + Be correct for you.
- + Meet your needs.
- + Be in line with your choices.

You must be involved in making decisions about your care and treatment as much as possible.<sup>5</sup> This should include being told and asked your views about moving to a different hospital, ward or unit.

If you are in hospital for mental health reasons, there is a special duty on the hospital to make sure the environment you are staying in is suitable, taking into account your age and needs.<sup>6</sup>

## Immigration detention

The law says that people involved in your care and detention must always give special attention to what's best for you.<sup>7</sup> This duty applies to all decisions made about you, including whether you will be made to leave the country. You should always be given information about any plans to move you, and you have the right to help from a lawyer if you want to question and challenge decisions.

## Prison

If you are living in a **young offender institution** or a **secure training centre**, the law says the person in charge of your prison must give special attention to what's best for you and other children and young people.<sup>8</sup> This duty applies to all decisions made about you, including whether you have to move to another prison in an emergency.

You must always be given information about any plans to move you, and be given the chance to contact a family member or friend.<sup>9</sup> If you have a social worker, they should be told too. Please get help from an advocate if you want to challenge a decision to move you.

## School

Whether you live in a **boarding school** or a **residential special school**, your teachers and carers will keep your care and education under regular review. You have the right to be involved in any meetings about your care and education, including meetings to discuss whether you should move.<sup>10</sup>

If you are living in a school and you are in care, you will have an independent reviewing officer (IRO).

Your independent reviewing officer has a very important job when it comes to you being moved in an emergency. **The law says you cannot be moved without your IRO first reviewing your needs and your care unless:**

- + You are at immediate risk of serious harm, OR
- + Others need to be protected from serious injury.

This is a very important rule to make sure you only move when this is best for you.<sup>11</sup>

If you do have to move in an emergency, because you are at risk of immediate serious harm, or to protect others from serious injury, your council must tell your IRO as soon as possible.<sup>12</sup> This is so your IRO can take action to help you if this is necessary.

There is another legal right you have which is very important. If you are in Key Stage 4 at school (which means you'll be in either Year 10 or 11 and aged between 14 and 16), and you have to move in an emergency, your council must take action to make sure you can do well in your education as soon as possible after your move.<sup>13</sup>

## Secure children's home

As you probably know, children and young people live in secure children's homes through two different paths:

1. They are suspected of committing a crime, or they have committed a crime  
OR
2. They are in care and there are serious concerns about their safety.

### **PATH 1 (CRIME)**

The law says the person in charge of your secure children's home must give special attention to what's best for you and other children and young people.<sup>14</sup> This duty applies to all decisions made about you, including whether you have to move in an emergency.

You must always be given information about any plans to move you, and be given the chance to contact a family member or friend.<sup>15</sup> If you have a social worker, they

should be told too. Please get help from an advocate if you want to challenge a decision about being moved.

## **PATH 2 (CONCERNS ABOUT YOUR SAFETY)**

If you live in a children's home because of concerns about your safety, you will be in care. This means you will have an independent reviewing officer.

Your independent reviewing officer (IRO) has a very important job when it comes to you being moved in an emergency. **The law says you cannot be moved from your children's home without your IRO first reviewing your needs and your care unless:**

- + You are at immediate risk of serious harm, OR
- + Others need to be protected from serious injury.

This is a very important rule to make sure you only move when this is best for you.<sup>16</sup>

If you do have to move in an emergency - because you are at risk of immediate serious harm, or to protect others from serious injury – your council must tell your IRO as soon as possible.<sup>17</sup> This is so your IRO can take action to help you if this is necessary.

There is another legal right you have which is very important. If you are in Key Stage 4 at school (which means you'll be in either Year 10 or 11 and aged between 14 and 16), and you have to move in an emergency, your council must take action to make sure you can do well in your education as soon as possible after your move.<sup>18</sup>

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<sup>1</sup> Children's homes and secure children's homes – Regulations 6, 10 and 13, The Children's Homes (England) Regulations 2015; schools (residential and boarding) – The Education (Independent School Standards) Regulations 2014 and The Non-Maintained Special Schools (England) Regulations 2015; hospitals and prisons – Section 11, Children Act 2004; immigration detention – Section 55, Borders, Citizenship and Immigration Act 2009.

<sup>2</sup> Regulation 14, The Care Planning, Placement and Case Review (England) Regulations 2010.

<sup>3</sup> Regulation 14(3), The Care Planning, Placement and Case Review (England) Regulations 2010.

<sup>4</sup> Regulation 10(3) The Care Planning, Placement and Case Review (England) Regulations 2010.

<sup>5</sup> Regulation 9, The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014. See also NHS (2015) The NHS Constitution.

<sup>6</sup> Section 131A, Mental Health Act 1983.

<sup>7</sup> Section 55, Borders, Citizenship and Immigration Act 2009.

<sup>8</sup> Section 11, Children Act 2004.

<sup>9</sup> Prison Service Instruction 08/2012.

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<sup>10</sup> Articles 6 and 8, European Convention on Human Rights; Article 12, UN Convention on the Rights of the Child.

<sup>11</sup> Regulation 14, The Care Planning, Placement and Case Review (England) Regulations 2010.

<sup>12</sup> Regulation 14(3), The Care Planning, Placement and Case Review (England) Regulations 2010.

<sup>13</sup> Regulation 10(3) The Care Planning, Placement and Case Review (England) Regulations 2010.

<sup>14</sup> Section 11, Children Act 2004.

<sup>15</sup> Prison Service Instruction 08/2012.

<sup>16</sup> Regulation 14, The Care Planning, Placement and Case Review (England) Regulations 2010.

<sup>17</sup> Regulation 14(3), The Care Planning, Placement and Case Review (England) Regulations 2010.

<sup>18</sup> Regulation 10(3) The Care Planning, Placement and Case Review (England) Regulations 2010.