

know your rights

children and family development

UNDER THE CHILD, FAMILY AND COMMUNITY SERVICE ACT

a guide for young people in care

contents

- What does it mean to come into care?
- Your rights under the Child, Family and Community Service Act
- If you are in custody under the Young Offenders Act
- If you are admitted to hospital under the Mental Health Act
- You and your Worker
- What is the Federation of B.C. Youth in Care Networks?
- If you have a complaint
- Sample letter to write if you have a complaint

▶ introduction

All young people in the care of the Ministry of Children and Family Development have rights. These rights are set out in a law called the *Child, Family and Community Service Act*. This information explains your rights under the act, and how they affect you. It also tells you what you can do if you feel your rights are not being respected.

▶ what does it mean to come into care?

Coming into care means the ministry is responsible for your well being. Your worker is a person who talks with and listens to you, while also working with your caregivers to ensure you are being properly looked after, and that your plan of care is being fulfilled. The plan includes things like where you live, the school you go to, the sports and activities you take part in, and other day-to-day needs.

If you are removed from home because of concerns about your safety, there will be a court hearing very shortly afterwards. At the hearing, the ministry presents an interim plan for your care. This is a short-term plan explaining how you will be looked

It is important that you understand your rights. If there is anything in this material that is not clear, discuss it with your worker, caregiver, or someone else you trust.

If you come into care by agreement, you will be included in preparing the agreement and your plan of care.



BRITISH COLUMBIA

Ministry of
Children and Family
Development

know your rights

UNDER THE CHILD, FAMILY AND COMMUNITY SERVICE ACT

Young people come into care for different reasons. It is important that you understand why you came into care.

Ask your worker if you are not sure.

after until the court decides whether you need protection. If you do need protection, the ministry brings together the people involved in your care to develop another plan for the long term. This is called a comprehensive plan of care, which will be developed within six months. Your plan of care is reviewed with you and updated at least once per year.

You have a right to take part in the meetings where your plan of care is drawn up and reviewed. It is really important that you have a voice in planning, because your views and opinions help to determine what is in your best interests.

Your best interests include:

- your safety
- your physical and emotional needs and level of development - *this means things like your health and education*
- the importance of continuity in your care - *this means things like going to the same school as before, having the same friends, or staying in the same placement*
- the quality of your relationships with parents or other people, and the importance of maintaining these ties - *this means staying in touch with people you are close to*
- your language, your cultural, racial, and religious heritage and - if you are aboriginal - the importance of preserving your cultural identity
- your views and opinions
- the effect on you if there is a delay in making a decision - *usually, it is best if decisions are made as quickly as possible.*

▶ your rights under the *Child, Family and Community Service Act*

These are your rights while you are in the care of the ministry. They apply whether you are in care under an agreement between your family and the ministry, or under a court order. And they apply no matter what ministry-approved caregiver you live with or what resource you are placed in. Read your rights carefully. If there is anything you do not understand, ask your caregiver or your worker to explain.

- You have the right to live in a caring, secure and nurturing environment where you are properly fed, clothed and looked after.
- You have the right to be told what is in your plan of care.

Your plan of care describes your needs and how they will be met. You are entitled to take part in the planning process, along with someone of your choice, and to say what you think you need. Other people who take part in planning include your worker, your caregivers and their worker and, if you are aboriginal, a representative of your community. The group may also include your teacher, your doctor, or some other person who plays a significant part in your life. Even if you do not participate in the planning process, you are entitled to have the plan explained to you and to receive a copy.

know your rights

UNDER THE CHILD, FAMILY AND COMMUNITY SERVICE ACT

- You have the right to be consulted and to express your views, according to your abilities, about important decisions that affect you.

Your plan of care can change. It is reviewed regularly and updated in response to changes in your needs and development. If there is something in your plan that you have a problem with, or disagree with, talk to your worker or caregiver. It is your right to ask questions and be informed if you are unsure of something or need advice.

- You have the right to reasonable privacy and to have your own personal belongings.

Provided your safety and well-being are not at risk, you are entitled to receive mail unopened, and to have reasonable privacy when using bathroom facilities, dressing, and when you use the phone.

You are also entitled to have your own possessions, and a safe place to keep them. But this right is subject to criminal law. That means you cannot have things that could harm you or someone else, like drugs or weapons. And you cannot receive or possess anything illegal, like stolen property.

- You have the right not to be punished physically or in any other abusive way.

This includes not being spanked, hit, locked up or deprived of your basic needs. If any of these things happen to you, tell your worker or another adult you trust right away.

- You have the right to be told how your caregivers expect you to behave, and what will happen if you do not meet their expectations.

You must respect the rules of your placement, unless they breach your rights. Your caregivers may expect you to share household duties, for instance, or to tell them when you are going to be late. If you feel these rules violate your rights, speak to your caregivers and your worker.

- You have the right to receive medical and dental care when you need it.

It is important that you keep appointments with your doctor and dentist.

- You have the right to take part in social and recreational activities if they are available in the community, and suited to your interest and abilities.

These things are part of your plan of care. Tell your worker about sports and hobbies that interest you - maybe you would like to take dance classes, learn how to play a musical instrument, or work out at a gym.

- You have the right to receive religious instruction and to take part in the religious activities of your choice.

It may not be possible to place you with caregivers who have the same religious beliefs as you. But you are entitled to learn about your religion, to take part in ceremonies, and to attend a place of worship, if you wish.

- You have the right to receive guidance and encouragement to maintain your cultural heritage.

Your culture is an important part of who you are. Your plan of care looks at your needs in this area, and how they can be met.

know your rights

UNDER THE CHILD, FAMILY AND COMMUNITY SERVICE ACT

- You have the right to an interpreter if language or disability prevents you from getting involved in plans for your care or custody.

You can have someone help you say what you are thinking or feeling.

- You have the right to talk privately with members of your family unless a court order restricts your right to have contact with someone.

A judge may decide, for instance, that for safety reasons your worker or caregiver must be present when you meet with your mom or dad.

- You have the right to privacy during discussions with a lawyer, the Child, Youth and Family Advocate, the Ombudsman, a member of British Columbia's Legislative Assembly (MLA) or a Member of Parliament (MP).
- You have the right to be informed about the Child, Youth and Family Advocate, and to have someone help you get in touch with them.

The advocate can help you if you feel the ministry is not taking your views seriously, or providing the services you need.

- You have the right to be told about your rights under the Child, Family and Community Service Act, and how to enforce them.

Your worker or your caregiver will explain your rights. If there is anything you do not understand, ask for help.

▶ if you are in custody under the *Young Offenders Act*

If you are remanded (held in custody while awaiting a court decision), or sentenced to a term of custody as the result of a criminal offence, you do not have the same rights as children or youth in foster or group home care. You may not have the same involvement in decisions affecting your daily life. And you should not expect the same privacy as you would have in foster care. The amount of personal belongings you can have will be severely restricted, and you can be searched from time to time. In exceptional circumstances you may also be physically restrained or segregated if your behaviour requires this.

While in custody you have the right:

- Not to be abused by staff or other residents.
- To be provided with basic needs including meals (breakfast, lunch, supper, and an evening snack), bedding, towels, items of clothing and toiletries.
- To receive medical and dental care when you need it.
- To have input into, and be informed about, your case management plan if you are sentenced to custody. Your worker, probation officer, and the centre's probation officer/case management co-ordinator will also be involved.
- To be told about the rules of the centre. You are given written rules and expectations, and a formal daily routine outlining activity blocks from wake-up to lights-out.
- To speak to the director of the centre, if you choose.

know your rights

UNDER THE CHILD, FAMILY AND COMMUNITY SERVICE ACT

- To be searched by someone of the same gender as you. Female youth can only be searched by female officers, and male youth by male officers.
- To receive a written receipt for any item of property taken from you.
- To have your confinement reviewed every four hours, if you are confined or segregated. (You cannot be restrained or segregated for more than 72 hours at a time.)
- To continue a school program.
- To send and receive mail. Correspondence with your lawyer, MLA, MP, the Child, Youth and Family Advocate, or the Ombudsman is not monitored. But other mail may be opened and checked for items not allowed or for unacceptable content.
- To have visitors - parents, brothers, sisters, other relatives - subject to rules set out by the centre. (Friends are not permitted to visit.)
- To be given reasonable opportunities to phone your parents, worker, or lawyer.
- To spend at least one hour each day in recreational activities.
- To privacy during discussions with your lawyer, MLA, MP, the Child, Youth and Family Advocate, or the Ombudsman.
- To have decisions affecting your daily life, case management and program explained to you.
- To file a complaint with the director of the centre, the Ministry of Children and Family Development regional complaint resolution manager or the Ombudsman.
- To apply for a temporary absence (a home visit, for example) if you are sentenced to custody.
- To apply to the court for a transfer from secure custody to open custody, or for early release from custody, if you are sentenced.
- To have a lawyer represent you in youth court proceedings.

▶ if you are admitted to hospital under the *Mental Health Act*

You have various rights under this act, and the hospital must tell you about them. They include:

- the right to be told why you were admitted, and why you are being kept in hospital
- the right to contact a lawyer right away
- the right to ask for a hearing by a review panel or a court

If you believe you are well enough to leave hospital and your doctor refuses to discharge you, you can ask for a panel to review your case. Courts can also decide whether you are well enough to be discharged from hospital. But court proceedings are more formal than review panels, and usually take longer.

The *Mental Health Act* does not address issues like the right to keep personal possessions, have private communications, or complain about hospital services. Hospitals usually have their own policies to deal with such concerns.

know your rights

UNDER THE CHILD, FAMILY AND COMMUNITY SERVICE ACT

Federation of BC Youth in Care Networks

270-550 Sixth St.
New Westminster B.C.
V3L 3B7

Tel: 1-800-565-8055

Email:
fbcyicn@intergate.ca

Web site:
www.fbcyicn.ca

The *Freedom of Information and Protection of Privacy Act* allows you to see your medical file unless doing so might harm your health or safety or anyone else's.

▶ you and your worker

Your worker plays a key role in your care, from planning to placement to support. They assist your caregivers and your own family. But their main job is to work with and for you. Your worker is there to hear your concerns, and to make sure you know what to do if you need information or help.

For instance, your worker will tell you about:

- your rights
- your choices and options
- services available to you from the ministry and in the community
- how to call a worker 24 hours a day (remember that if you phone outside regular office hours, it may not be your own worker you speak to)
- the ministry's complaint resolution process
- how to get in touch with other people who can help you, like the Child, Youth and Family Advocate; the Ombudsman; your MLA or MP; or the Federation of B.C. Youth in Care Networks.

▶ what is the Federation of BC Youth in Care Networks?

It is a provincial organization run by young people in and from care to help other young people in and from care. The federation is made up of many local groups, or networks, across B.C. Anyone aged 14 to 24 who is, or has been, in care can join. Membership gives you a chance to meet other young people in and from care, to exchange ideas, share common problems and explore options.

The federation also gives youth in and from care a collective voice to address issues at the provincial level. The Ministry of Children and Family Development recognizes that young people have a right to provide input into policies and programs that affect them, to present their ideas and issues, and to be listened to and heard. The federation works with the ministry to help improve conditions for young people in care by promoting their views and concerns.

To find out about the local network closest to you, call the federation at 1-800-565-8055. This number is toll-free. You can use it from anywhere in B.C.

know your rights

UNDER THE CHILD, FAMILY AND COMMUNITY SERVICE ACT

Child, Youth and Family Advocate

Box 6, Suite 600
595 Howe St.
Vancouver B.C.
V6C 2T5

Tel: (604) 775-3203 or
1-800-476-3933

Fax: (604) 775-3205
TTY: (604) 775-3680

Email:
info@advokids.org

Web site:
www.advokids.org

Office of the Ombudsman

PO Box 9039
Stn Prov Govt
Victoria B.C. V8W 9A5

Tel: (250) 387-5855
Victoria Fax:
(250) 387-0198

Or

200-1111 Melville Street
Vancouver B.C. V6E 3V6

From anywhere in BC
1-800-567-3247

TTY from anywhere in BC
1-800-667-1303

Vancouver Fax:
(604) 660-1691

Web site:
www.ombudsman.bc.ca

if you have a complaint?

You have the right to complain if you think something that happens while you are in care is unfair. Nobody can discipline you for complaining. This section tells you how to make a complaint, and who can help you if you want to challenge a decision or action by the ministry.

The Child, Youth and Family Advocate

It is best when you speak for yourself, but you can also have someone advocate for you. That means having someone to help you say what you want to say, and make sure your voice is heard. If you need help stating your case, call the Office of the Child, Youth and Family Advocate. They can give you information, suggest ways of dealing with a problem, talk to your worker, or otherwise make sure your opinions are listened to when a decision is being made about you.

Ministry of Children and Family Development

The ministry has a formal process for dealing with complaints. Begin by speaking to your worker. If they cannot help, ask to speak with your worker's supervisor. If you are still not satisfied, you can phone, write or visit your local ministry office and tell them you are making a formal complaint. It will be passed along to the regional Complaint's Manager. This is someone who has no direct connection to the staff or services you are complaining about. The manager may phone you for more information, or suggest that you discuss things face-to-face. They may also review files or interview ministry staff.

When all the information has been gathered and considered, the manager will write and tell you the outcome. You might get an apology from the ministry, for instance, or the decision you challenged could be changed. If the manager disagrees with your complaint, the letter will tell you why.

The ministry will try to resolve your complaint quickly and fairly, but if the matter is not settled within 30 working days, or if you disagree with the outcome, you can ask for a further review by the Ombudsman.

The Ombudsman

The Ombudsman can investigate complaints from youth about unfairness by the ministry, custody centres, probation, alcohol and drug services, schools, the Insurance Corporation of British Columbia, the Children's Commission and the Public Trustee. The Ombudsman is independent from all of government. When you phone, you will be asked about your complaint and what steps you have taken to resolve it. If the Ombudsman decides to investigate your complaint, an officer will contact you for details, listen to your concerns, and tell you what can be done. Your call is confidential. You and the service that you complained about will be told the outcome when the investigation is over. Anyone can contact the Ombudsman and they cannot be punished for making a complaint. Visit the Ombudsman web site: www.ombudsman.bc.ca

know your rights

UNDER THE CHILD, FAMILY AND COMMUNITY SERVICE ACT

Your MP or MLA

Your MP is your elected representative in the Parliament of Canada. To call them, check the Government of Canada blue pages in your phone book under Members of Parliament. Your MLA is your elected representative in the Legislative Assembly of British Columbia. To call your MLA, see the provincial blue pages under Members of the Legislative Assembly. If you are not sure who your MLA is, call Elections B.C. toll-free at 1-800-661-8683 and tell them where you live.

To call your MLA at no charge, phone Enquiry B.C.; In Victoria dial (250)387-6121; in Vancouver dial (604)660-2421; from elsewhere in B.C. call 1-800-663-7867 toll-free, and ask them to put your call through.

▶ sample letter to write if you have a complaint

In most cases, you can make a complaint by phone. If you prefer to put your complaint in writing, here are some suggestions. Use blank paper and take as much space as you need to explain your problem, and what you would like to see done about it.

Your letter should include the following information:

Today's date
Your address
Your phone number

Dear.....
(fill in the name of the person you are writing to.)

My name is I am a youth in care. My worker is
..... Their phone number is

I am having a problem with
(explain what is happening, how long it has been going on, who is involved,
and anything that has been done to try to solve the problem.)

I would like to suggest.....
(you may have some ideas about how the situation should be handled. If so,
tell the person you are writing to.)

I would like to sit down and talk with you about this. (If you want an
advocate or someone else you trust to be with you, you could add the next
sentence.) I would like..... (name) who is my advocate,
to join us for the meeting.

Please contact me as soon as possible. (You may prefer a phone call to a
letter; if so, ask the person to phone you as soon as possible.)

Yours sincerely,
Sign your name