

The rights of children in youth care.

Brochure for parents and adults with
responsibility for the upbringing of minors.

Dear Parents,

We all have to deal with small or bigger problems from time to time. Your children are no exception to that. They usually solve those problems themselves by talking with you, with friends or with someone they trust. Sometimes, however, that is not enough. Sometimes they can do with professional help. That kind of help, or “youth care”, is offered by hundreds of organisations in Flanders. When facing difficulties, you and your child can turn to those organisations for help.

The Decree on the legal status of minors in integrated youth care sets out the rights of children in youth care. Knowing your rights makes you feel stronger. There are two brochures where young people can read about their rights themselves: one is for those under 12 and the other for children over 12 years of age.

Because we want you, too, to know the rights of your children in youth care. We therefore prepared this brochure especially for you, the parents or adults with responsibility for the upbringing of minors. Knowing the whats and whatnots in youth care will enable you to better support your children.

I hope that this brochure may serve as a practical guide.



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What do you find in this brochure?

Are you a parent or an adult with responsibility for the upbringing of children and young people, i.e. a step parent, a grandparent or a foster parent? If you are, you will find useful information in this brochure about the rights of minors in youth care, and what they mean for you as an adult.

You will find answers to the following questions:

- What rights does my child have in social counselling?
- What does that mean for the care providers?
- How does that affect me, as a parent or adult responsible for the upbringing of children?



- If my child receives help, what is my role as a parent or as an adult responsible for the child's upbringing?
- How can I help to safeguard my child's rights?
- What if I disagree with my child or if it makes choices I disagree with?

The Legal Status Decree is a legal text. Consequently, this brochure will contain many legal terms or jargon. Those words are marked with *.

A **glossary** containing additional explanation has been added to this brochure on page 32, as well as a list of organisations in the **integrated youth care** in Flanders.

Your child or your family is getting help

Anyone who ends up in social counselling has to partly surrender control of his own life. Minors* are more vulnerable in that process than adults. For that reason, it is crucial that minors have rights. The moment a minor or his/her family receives professional help, the Legal Status Decree comes into play. Just a few examples to illustrate this:

Examples

- Your 14-year-old son Joeri is being bullied at school. Worried about this situation you contact the Centrum voor Leerlingenbegeleiding CLB (Pupil Guidance Centre).
- Myriam has been feeling depressed for some time and often hurts

herself with pieces of broken glass. Her friend is worried and takes her to the Centrum Geestelijke Gezondheidszorg (Centre for Mental Health Care).

- Mohamed has lost his friend in a traffic accident and becomes depressed. He asks for help from a psychotherapist at a Centrum voor Levens- en Gezinsvragen (Centre for Questions on Life and Family).
- Femke is in a wheelchair and needs special guidance that you aren't always able to provide. You ask for help from a Centrum voor Ontwikkelingsstoornissen (Centre for Development Disorders).

- Arne often starts trouble in class and consequently has problems at school. The class master suspects that Arne is feeling down and asks the CLB (Pupil Guidance Centre) to invite Arne for a talk.
- Wendy has fled from home, taking her 5-year-old twins, and is admitted to a women's relief centre.
- The juvenile court places Cynthia in an observation and treatment centre of the Vlaams Agentschap voor Personen met een Handicap (Flemish Agency for Disabled People).
- Your son Jasper tries drugs at a party and slowly develops into a drug user. A teacher suspects something is the matter and contacts the CLB (Pupil Guidance Centre).
- André is regularly cutting class and hangs out in the streets. The youth police contacts his school's CLB (Pupil Guidance Centre).
- Your 16-year-old daughter Aysha wants to leave home. She argues with you a lot. She wants to have more pocket money and go out at weekends more frequently. In fact she is depressed. She turns to the JAC (Youth Advice Centre) to ask what she is allowed to do and what not.
- 13-year-old Inge is unhappy about her brother touching her. She doesn't really know what to do about it. She finds information and a phone number of the Vertrouwenscentrum Kindermishandeling (Confidential Centre for Child Abuse) on the internet and makes an anonymous call.
- Giovanni is fed up living at home now that his mother has a new relationship again and he doesn't get along with his stepfather. He prefers to live in a facility and contacts the Comité Bijzondere Jeugdzorg CBJ (Committee for Special Youth Care).
- During gym class the teacher notices that Wilfried often has bruises on his body. He talks to the school physician who in turn contacts the Vertrouwenscentrum Kindermishandeling (Confidential Centre for Child Abuse).

The rights described in the Legal Status Decree apply to every child that receives help – even if you are not aware of such help being given. Care providers must always inform the minor about his/her rights. Parents* and adults with responsibility for the upbringing of a minor are required to always support that minor in any way they can to make sure those rights are respected. This brochure lists the eleven rights of minors.

The minor's interests

Raising children means having to make choices all the time. Making decisions is not always easy, especially when problems arise. The pros and cons need to be carefully weighed and the consequences are not always clear right from the start. For this reason, the Legal Status Decree specifies that the “interests of a minor” must always predominate the choices made by parents and care providers.

In order to develop without difficulties and irrespective of the circumstances, minors are always entitled to:

- special care;
- a safe environment;
- the chance to a stable life;
- the opportunity to develop themselves;
- an interest in who they are;
- respect;
- security, support and understanding from at least one adult;
- a supportive flexible structure;
- safety;
- sufficient good examples they can follow;
- education;
- contact with people in the same age group;
- knowledge about their past;
- contact with people from their past;

What exactly is “in the interest of the minor”, often depends on the situation. For instance: is living at home the best solution for a teenager or not? It is something teenagers can disagree about with their parents or with care providers, who in turn can disagree about it between them as well, a situation that can sometimes lead to a full-scale conflict. In such cases, the care provider must make a choice in the best interest of the minor. That decision must be checked against the following:

- the minor's competence, age and maturity;
- is an emergency at hand?
- the minor's opinion;
- the opinion of his/her parent(s);
- the minor's interest versus the interest of the adults who raise him/her;

If the care provider takes a decision contrary to the minor's opinion, (s)he will have to account for that decision in the file.

Your parental rights

According to the Legal Status Decree every minor is a fully fledged partner in the counselling process. That doesn't mean, however, that their parents lose their rights or duties – those are laid down in the Civil Code.

The purpose of parental authority is for children to grow up into independent adults. As they grow up, minors become increasingly emancipated. They start taking their own decisions, a right they are given by the legislator. The parents' right to take all decisions therewith gradually decreases.

When children receive help, their parents usually are a partner in the counselling process. The Civil Code prescribes that parents and children must respect each other at any given age. The Code also determines that parents

- have the right and duty to raise their children and take care of them;
- are entitled to get information about the upbringing of their child;
- decide on the upbringing of their children and the language used therein;
- have the right to keep their children with them (right to custody);
- manage the goods of their minor children;
- legally represent their children, for instance before the court, and make sure that their rights are respected, particularly when the children are unable to do so themselves.

As partners in youth care, parents are also entitled to privacy, to freedom of speech and to file complaints.

Your rights as the person with responsibility for the upbringing*

Children are sometimes raised by someone other than their own parents, for instance a stepparent, a grandparent, a foster parent or another adult assigned with that task. People with this kind of upbringing responsibility don't have a clear legal status at present, yet they too, have rights in the counselling practice; they have the right

- to respect for their own values and their own style of upbringing;
- to be heard on decisions about their foster child in their capacity as foster parents;
- to privacy, to freedom of speech and to file complaints.

Foster parents never carry full authority of the child they are raising. Important decisions such as choice of school remain with the parents. The daily care of the foster child is always a shared responsibility between the foster parents and a foster care service. The foster service supports the child as well as the foster parents and the parents. Separate legislation exists for this issue. You can inquire after it at the relevant foster service.

Rights to facilitate a dialogue

Minors are taken seriously in counselling. The fact that they have rights doesn't mean that from the very start they are right or put in the right. Parents too, have rights, yet they too, aren't put in the right without questioning. Although parents and children often agree on how to best approach their problems,

they can disagree as well, in which case the rights and duties must be weighed against each other. The best way to go about that is in a dialogue between parents, those responsible for the upbringing, the minor and the care providers. Counselling is by no means a "one fits all" process. Although the best solution will be sought in all different situations, the interest of the minor will have to prevail without fail.



A list of eleven rights

Each minor has the following rights in the counselling process:

- The right to help
- The right to assistance
- The right to clear information
- The right to approve of the help
- The right to respect for family life
- The case file
- The right to have a say and to participate
- The right to privacy
- The right to decent treatment
- The right to pocket money
- The right to file a complaint

These rights apply to each and every minor. Minors may not be discriminated on the basis of age, gender, race, skin colour, language, religion, disability, income, health, residential statute, or for any other reason.

All these rights are equally important and form one inseparable unity. One right cannot exist without the other. What good would it do to be able to file a complaint, for instance, if you weren't properly informed about it?

These rights always apply, irrespective of whether the minor

- seeks help him/herself or has been sent by (a) parent(s), a teacher, a doctor, etc.

- lives at home or with someone else, or in a facility;
- gets help that was imposed by a judge or not;
- gets help for a short or a long period, in which case it may be more intensive

1. The right to get help

Minors in need of help must receive that help in order to advance their health and further development. They retain all other rights during the counselling process. For instance, they have to be able to continue to go to school and to spend their free time fruitfully. Any care provider who does not feel capable to offer the proper assistance, must find someone with the necessary capacities. In those cases where young persons are not able to seek help themselves, their parent(s) or the adult responsible for their upbringing can do it for them. You can also turn to youth care if you feel that it is necessary for your child.

Examples

- A child that has problems sleeping or eating can be taken to Kind en Gezin (Child and Family).
- If you are worried about your teenager, who insists that everything is fine, you can ask for help at a Centrum Algemeen Welzijnswerk CAW (General Welfare Centre).

The right to help only applies when that help is available. Adequate help is not always within reach. Not all services have offices all over Flanders. Some organisations are full and carry waiting lists. Anyone seeking help has to bear that in mind.

2. The right to assistance

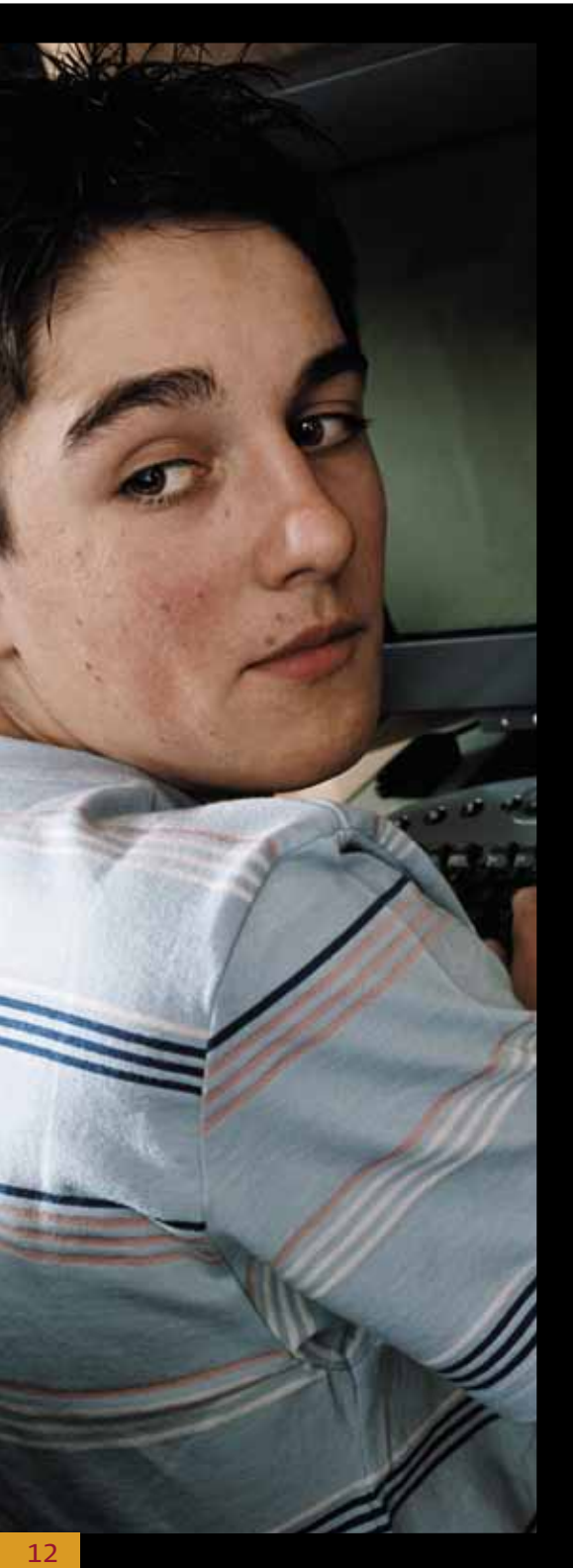
Minors in search of help may always ask to be assisted by someone they choose and trust. They are entitled to assistance from someone else in those cases. Not everyone may offer assistance to a minor. The minor's choice for such a person is limited to

- a teacher from school;
- someone bound to professional secrecy, such as a lawyer or the GP;
- someone employed in social counselling, but not involved in the minor's case.

Example

You contact the Centrum voor Levens en Gezinsvragen (Centre for Questions on Life and Family) about your son's pot smoking habit. The psychologist approaches your son on the issue. Your son is entitled to assistance during that conversation.





The person assisting your child can help to find a solution, but that person can never take decisions in your stead.

3. The right to clear information

Minors who seek help are entitled to receive clear information. Care providers must offer that information spontaneously, without the minor having to ask for it. All information must be available and clear so that young persons can understand it. Clear communication takes account of the minor's age, development level, mental state, personality and past experiences. A conversation with a toddler obviously differs from that with a teenager. Children that speak a foreign language are entitled to receive information in their own language.

Minors who seek help are entitled to receive information on

- the nature and the probable duration of the help;
- a diagnosis of the problem;
- agreements and rules;
- the costs;
- their rights and duties;
- the care provider's rights and duties;
- possible contacts between care providers and parents or family.

Example

Children placed in a facility are entitled to an explanation why they are better

off there than at home. They must be told how long it is going to take, whether they are allowed visitors, how much pocket money they will receive, who will guide them, whether they can choose a counsellor, which school they can attend, what is expected of them, what their foster home looks like, how to file a complaint, etc.

The care provider may decide that the minor need not know everything, for instance because it would hurt or unnecessarily confuse the minor. Under the condition that a motivated explanation is added to the case file, the care provider may temporarily withhold such information in the interest of the minor. The care provider is required, however, to pass that particular information to the person assisting the child.

Examples

- Jasper becomes depressed after the death of his mother. His father takes him to the Centrum voor Geestelijke Gezondheidszorg (Centre for Mental Health Care). The psychologist finds out that the deceased was not the child's biological mother. He may decide that such information is not in the immediate interest of the mourning child.
- Liesbeth and her father don't see eye to eye. The care provider finds out that the father has served a prison sentence a long time ago. Because that is really a thing of the past and

irrelevant in the current conflict, he decides that disclosure of that piece of information to the daughter would make matters worse. Should Liesbeth receive assistance from an intermediary, however, the care provider has an obligation to pass the information to that person.

Parents must always be able to exercise their parental authority and to take decisions concerning the upbringing of their child. Consequently, they are entitled to clear information (in their own language) about:

- the help extended to their child;
- the possibilities available to them;
- what is expected of them.

This does not imply that care providers share everything they are told by children with their parents. They are bound by professional secrecy*. Confidential information may only be passed on when your child is not 'competent', when it is in the 'best interest of the child' and when it is necessary for the upbringing of your child (cf. also the frame on page 21).

Example

When your child is in danger, for instance because it is threatening to commit suicide, the care provider may judge that it is in the child's best interest to address you on the issue. The care provider must however, discuss this with the child and tell it what (s)he is going to discuss with you.

4. The right to agree with the help

Minors that receive help and are competent have to agree to that help. Nobody (but a judge) can force them to accept help. It is imperative that minors are clearly informed about the help they will receive at all times. Substantiated agreement with or denial of the help offered can only occur when the person in question is well-informed.

The right to agreement is subject to a number of exceptions, in which case the minor may not decide for himself whether or not to accept help.

- Help imposed by a judge *must* be accepted by the minor.

Examples

- Peter and Ann's mom has been admitted to hospital. The family has been under stress for some time and the father can no longer manage the care for his children all by himself. The juvenile court decides that the children are temporarily placed elsewhere.
- Kimberley's parents have separated and frequently argue about the visiting rights. The judge decides that the right to visit will be exercised in a neutral visiting area. Kimberley must go there every fourteen days to see her father.
- The minor must observe the legal limits.

Example

(s)he can only turn to the CLB (Pupil Guidance Centre) connected with his/her school.

- If no options exist – no choice can be made.

Example

If the minor lives in a family group in a facility with two counsellors, (s)he may choose whom to seek help from. If there is only one single counsellor per family group, that is obviously not an option.

- A care provider is required to act when the minor's safety is at stake. (S)he can then offer help him/herself or call in someone else, even if the minor has not asked for it.

Example

A badly bruised child tells the psychologist at the Centrum Algemeen Welzijnswerk CAW (General Welfare Centre) that it is often beaten up by its stepfather. The psychologist need not immediately involve the law. (S)he must, however, help the child by contacting the parents or a Vertrouwenscentrum Kindermishandeling (Confidential Centre for Child Abuse), for instance.

Parents who decide for their children must always observe the child's interest. Before they agree to receive help, they must avail of all the necessary information to enable them to make a choice.

Minors are always competent to exercise their rights, with three exceptions:

Minors usually exercise their rights by doing something. For instance by giving their opinion or contacting their family. The Legal Status Decree stipulates that minors can exercise their rights at all times and are “competent” to know what is best for them.

The care provider must assess that competence in three cases:

- the right to agree with the help the minor receives;
- the minor’s right to continue to live at home with his/her parents;
- the right to access his/her case file.

How can a care provider assess a minor’s ‘competence’? The Decree determines that minors are competent to exercise their rights when they have reached the age of 12. Any adult doubting

such competence will have to prove the incompetence and include a motivation in the case file. Children under the age of 12 are not considered competent to exercise these three rights, unless they can demonstrate the contrary.

Competence is not a matter of all or nothing. Important aspects therein are whether the minor:

- understands important information;
- understands which information is applicable to his/her situation and which isn’t;
- can weigh the pros and cons of a decision;
- is able to put his/her choices into words.

The minor’s life experience, capacity and personality also play a role.

Whether minors understand certain things often depends on which information they’re given and how. It goes without saying that care providers assessing a minor’s competence must take that into account.

Example

Your child is mentally disabled and needs special care. The child is unable to take that decision himself. You are now entitled to all information

available on schools, organisations, therapies, methods, etc., in order to make the best choice for your child.

5. The right to respect for family life

Minors always have the right to live with their parents, unless this is not in their best interest.

- Raising children can be too hard for parents sometimes. In such cases, they can request that the children be placed in a foster home or a facility. The parents remain the first persons

responsible for the upbringing of their child.

- Some parents neglect or maltreat their children. Living at home is not always ‘in the interest of the child’ in those cases.

‘Competent’ minors (cf. frame on page 15) must agree to a placement*. They cannot be separated from their family



without their permission, unless so decided by the juvenile court.

Minors staying at a foster home or a facility are entitled to personal contact with their parents, their brothers and sisters and their friends. Foster children always have the right to know how their parents and brothers and sisters are doing and even when they no longer live with their foster

parents, they are still entitled to visit with them. Minors living in Belgium without their parents are entitled to support to search for their families.

The right to personal contact is not an indisputable right. Care providers can deny a minor the right to interact with someone if they feel that this is in the best interest of the child.



Example

Marco shows no interest whatsoever in the group discussions in the facility. He does however, want his brother in arms Jakke to come and visit. The counsellor denies that right from the viewpoint that Marco should break with his gang past and motivates this opinion in Marco's file.

Right to respect for family life also implies that as a parent, you are entitled to support and guidance. The same applies when your child is placed elsewhere. After all: you remain the first person responsible for the upbringing of your child.



6. The case file

Any minor receiving help is entitled to a securely kept and safely stored file. The case file is composed by the care provider(s). It is a working instrument. Anyone involved in counselling – be it the minor, his/her parents or foster parents, care providers, people offering assistance, etc. - is always allowed to know what happens to the case file. They are entitled to clarity with respect to:

- the information entered into the case file;
- what happens to the file;
- where the file is kept and for how long;
- who has access to the case file;
- who is entitled to peruse the case file or parts of it;
- how the care providers exchange information between them.

6.1. What is in the case file?

The case file can contain information about

- the minor
- the help extended to the minor;
- the minor's family;
- other people involved in the minor's case.

Examples

- The case file of a minor staying in a foster family will also contain information about his/her family, the foster parents and the visiting arrangement.
- Before the Comité voor Bijzondere Jeugdzorg (Committee for Special

Youth Care) takes a decision on which counselling is best, a counsellor will collect information about the minor, his/her family, school or employment, the rest of his/her surroundings and about the help extended to him/her in the past.

Care providers are only allowed to make entries to the case file that are relevant for the counselling process. Outdated information and anything that has lost its importance must be removed. Anyone mentioned in the case file is entitled to have their data corrected. As such, the minor may always request that a care provider adapt his/her case file and (s)he is entitled to add to the case file as well.

A case file often also contains information about the minor's health. Such information is usually entered by a doctor, a psychiatrist or a health care provider. Such information is kept separately. It falls under the wet Patiëntenrechten (Patients Rights Act) (cf. also the frame on page 30). Medical information on a minor's health may only be reported by someone who is bound to professional secrecy.

6.2. Who has access to the case file

Anyone mentioned in the case file shall have access to it. For privacy's sake, only one's own data can be viewed, not someone else's.

- Minors are entitled to know what is in their case file at all times. When they are competent, they will have access to the case file themselves. If not, their parents will have access. When the minor asks to view the file, the care provider must arrange that this takes place within 15 days.
- Parents are always entitled to view the file of their incompetent child. Their request to view their child's case file must be honoured within fifteen days. A viewing of the case file of their competent child is not granted automatically. The parents' right to access can be terminated in the event of a conflict. In that case the person offering assistance to their child acquires access to the case file.
- Care providers who compose the case file and guide the minor always retain access to the entire case file.
- A juvenile court required to make a decision always has access to the entire case file.

6 3 'Access' to the case file is not the same as 'perusal'.

The Privacy Act (see also the frame on page 30) determines that everyone is entitled to know what is written about them at all times. That means that everyone has access to his/her own file. That does not mean that everyone is always allowed to simply read their entire file, or to receive a copy or view it on a computer screen. After all, not

everyone has a right to "view" his/her case file.

The care provider decides how someone gets access to the case file.

- Anyone who acquires the right to fully or partly view a case file can read the documents him/herself. The care provider makes a selection of the data for anyone who does have access to the case file but is not allowed to view all information. and explains it orally or delivers it in a report.
- Parents and competent minors may read their medical information. but they are not allowed to view the doctor's personal notes. Another doctor may however, read those personal notes and explain them to the parents and the minors.

A minor is always allowed to request a copy of the documents in the case file that he may view. If the minor is not competent to view his/her file, parents may do that instead. However, they may only view the information about the child and about themselves. Information on other people may be of a confidential nature.

Example

A couple is getting a divorce and argues about the guardianship of their ten year old son. Both parents are allowed to view their child's case file, but only the parts concerning their own person. For instance, if the father were to learn

about heavy fights between the mother and the child, he might misuse that in the divorce procedure.

The person providing assistance to the minor will be entitled to view the file in the event of a conflict between parents and the child. (S)he can also view the file when the parents are unable to exercise their rights, for instance because they are in a psychiatric facility, in prison or abroad.

6 4. The judicial file

A mediator judge or a juvenile court may forward a minor to counselling services. Two files exist in that case: the counselling file and the judicial file. These files include the social services documents and those of the juvenile court.

Judicial files are subject to separate rules. The Youth Protection Act entitles all parties involved to view the minor's judicial file.

Documents concerning the personality and the background of the minor involved can be viewed only by the lawyer and the parents.

All other documents, e.g. the official police reports, can be viewed by the minor irrespective of his/her age.

Professional secrecy and confidential information

Every care provider is bound by professional secrecy*. Minors are thus ensured that what they disclose is not shared or viewed by just anyone. However, the care provider also talks to others mentioned in the file: parents, teachers, other young people, etc. (S)he often has to weigh what someone else may know and/or view.

For proper treatment of confidential information, the care provider must

- always take the minor's interest as a starting point;
- weigh which information must remain confidential at all cost, and what others are allowed to know;
- tell the minor and others involved what (s)he discloses or makes available for viewing and to whom.

Example

Family guidance includes guidance of both the minor and the family. Adequate help often involves a clash of opinions. The minor and other family members are not always prepared to say things to each other directly. If the care provider does, (s)he must inform those involved. Any care provider talking to colleagues is allowed to disclose only that

information which is necessary for the counselling process.

Example

- The Centra Geestelijke Gezondheidszorg (Centres for Mental Health Care), the Centra voor Leerlingenbegeleiding (Pupil Guidance Centres), the Centra voor Kinderzorg en Gezinsondersteuning (Centres for Child Care and Family Support) and the Vertrouwenscentra Kindermishandeling (Confidential Centres for Child Abuse) all operate on the basis of team work.
- If the counsellor at the Comité Bijzondere Jeugdzorg (Committee for Special Youth Care) refers a family to the Pleegzorg (Foster Care service), (s)he must also pass on information about the problems in the family.

A competent minor may ask that the care provider does not disclose confidential information to his/her parents.

Example

Fourteen year old Els fears that she is pregnant. She wants to have a confidential talk with someone and turns to the CLB (Pupil Guidance Centre). Els does not want her parents to know about the situation. May parents expect that the Pupil Guidance Centre informs them about their daughter's problem? The answer to that question depends on the care provider's assessment of the situation. The

fact that Els took the initiative to contact the Pupil Guidance Centre may be a sign that she is able to look after herself. The care provider can discuss the situation with Els, give her information about safe contraceptives or about her options in the event of an unwanted pregnancy, etc. In addition, (s)he can discuss Els' choice not to talk to her parents.

The care provider takes a decision after consultation with the team from the Pupil Guidance Centre.

(S)he may decide that: despite her young age, Els is capable to decide for herself whether she wants to inform her parents.

- (S)he can also decide to contact the parents, despite the fact that Els is over 12 years old and therefore competent.
- (S)he may feel however, that at her age, Els' situation involves assault, a situation for which she lacks handling capacity. In that case the care provider has to explain to Els why (s)he will inform the parents.

Sometimes the identity of the person disclosing the information is confidential rather than the information itself.

Example

Someone reports a case of child assault to a Confidential Centre. The person in question does not mind that the information reaches the person involved, however does not want them to know the source.

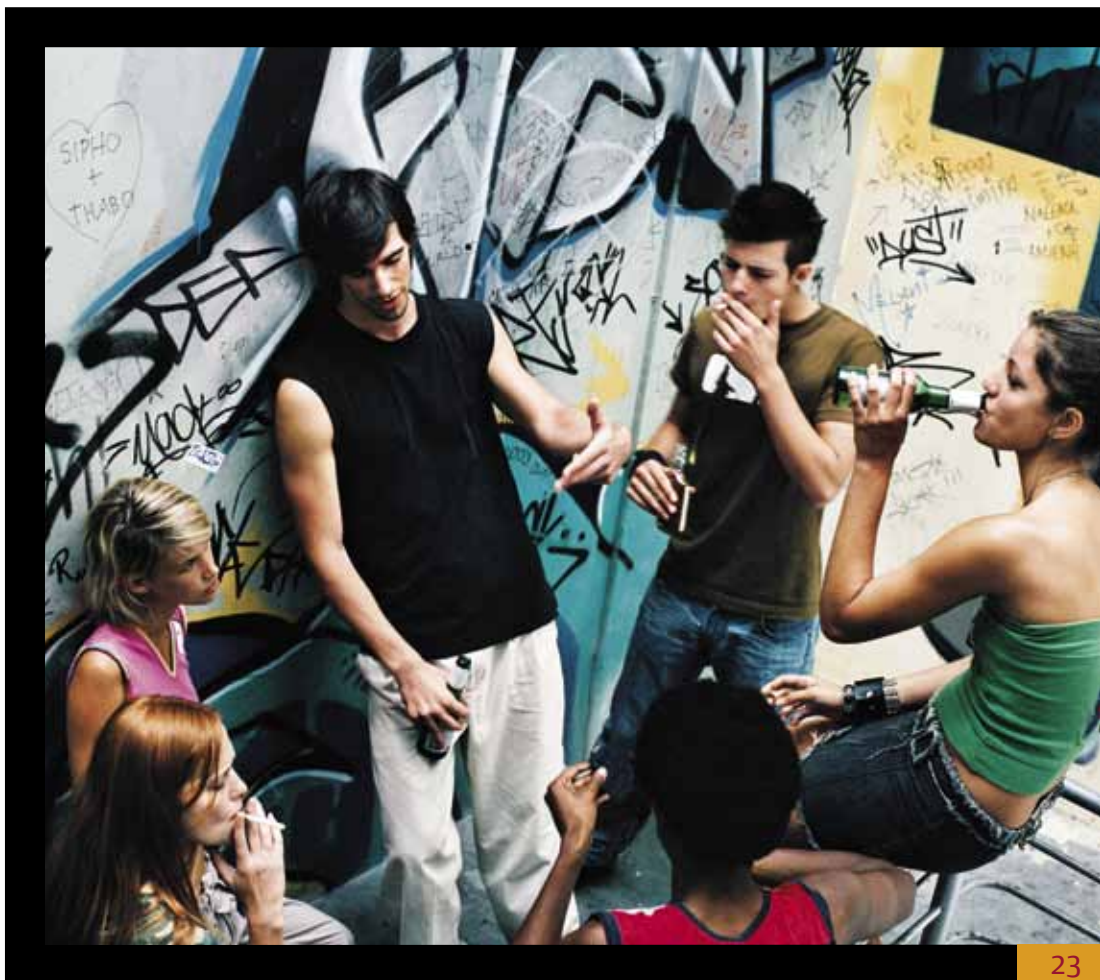
7. The right to have a say and to participation

All minors getting help are entitled to have their say. The more they are involved in help extended to them, the better.

- Minors may give their opinion about the help extended to them at all times. They may also take part in the decisions and ask for adjustment of the process.

- A minor living in a facility is entitled to have a say about the operational organisation, such as the rules of the house or the agreements made in the family group.
- Minors unable to formulate their opinion must be given assistance to do so.

Care providers are required to listen to the minor. Each facility must have a “have your say” procedure. The minor’s opinion must always be “properly followed up” within the scope of the





available possibilities. Not granting a minor's opinion is subject to adequate motivation. Parents, too, are entitled to have their say and to participation in the counselling process. When your child is placed elsewhere, you are entitled to have your say in the upbringing, the visiting arrangement and in the placement process. If your child is unable to exercise its right to have a say, you may exercise that right in its place in your capacity as a parent. This also entitles you to all information necessary to take decisions about your child's upbringing.

8. The right to privacy

Every minor is entitled to:

- their own political, ideological or religious beliefs;
- their own sexual orientation;
- a space to withdraw to.

Care providers and parents must respect the minor's private life at all times.

- Parents are not allowed to interfere with their children's lives without a reason. They may only do that when they suspect something is wrong. For instance when they think their child is using drugs or hanging out with the wrong people; then they may and must act.
- All of a minor's personal data* must be treated confidentially. Nobody is allowed to read his/her letters,

diaries, text messages or emails without permission, unless it is "in the minor's interest". So if for example you fear that your daughter is receiving email from a paedophile, you are allowed to check without permission. Reading her mail out of mere curiosity is not allowed.

- A care provider may not impose any belief upon a minor.
- Minors living in a facility may choose their visitors and who they want to socialise with. No one but a judge can deny that right.

9. The right to decent treatment

Minors may never be treated cruelly or humiliated. Any form of violence is strictly prohibited. That includes:

- assault, such as beating, kicking, shaking, pinching, biting, pulling by the hair, etc.
- psychological violence such as scolding, belittling, insulting, threatening, ridiculing, rejecting, discriminating, isolating;
- physical or emotional neglect;
- denial of visits as a form of punishment – the judge is the only one who may deny visits;
- sexual abuse.

Care providers and parents may punish their children if necessary. Punishment is allowed towards anyone breaking the rules, for instance by staying away at night or getting caught with drugs.

That punishment must

- be in line with the minor's personality;
- be in proportion with the gravity of the facts;
- always be to the advancement of the upbringing;
- never be traumatising.

Temporary isolation or freedom deprivation is sometimes imposed on minors in a facility. Punishments of that nature must be an exception and may strictly only be enforced when the minor forms a danger to him/herself or to others, or destroys things.

A procedure for temporary isolation or freedom deprivation must exist in every facility. It must form part of the house rules or the code of order. Parents and minors must receive clear information on the issue.

10. The right to pocket money

Any minor living in a facility or in a foster home is entitled to pocket money. It is paid by the Flemish government.

The amounts of pocket money are not fixed. They can vary per family group, facility and age. Information about the applicable rules can be obtained from the relevant facility. The amounts are fixed only for the Bijzondere Jeugdzorg (Special Youth Care).

Example

The pocket money amounts for young people placed in guidance homes, family homes, welcome, orientation and observation centres and the Foster care services were revised on 1 October 2006.

Monthly pocket money as per 1-10-2006

age	in euros
from 6 to 8	5.15
from 8 to 12	10.26
from 12 to 14	20.52
from 14 to 16	30.78
from 16 to 18	41.04
from 18 to 20	51.35

Minors falling under Special Youth Care and living independently, or with monthly net wages over 169.35 euros, are not entitled to pocket money.

11. The right to file a complaint

All minors have the right to file a complaint about

- the help extended to them;
- the living circumstances in a facility;
- the fact that their rights are not observed.

Parents may also file complaints on these subjects.

Step 1

Minors who have complaints can address

- their care provider;
- a colleague of their care provider;
- their care provider's supervisor.

Step 2

When no follow up is given to Step 1, the rules on complaints at the relevant help organisation can be put to use. Many organisations have installed their own complaints arrangement. Facilities and Pupil Guidance Centres are required to have one. Ask them about it.

Step 3

When the internal complaints arrangement is not satisfactory, the minor can turn to an external complaints service or an ombuds service. The various services are listed in the frame opposite. You can phone them or send them an email at all times.

Complaints services

Kind en Gezin (Child and Family)

Complaints service Kind en gezin (Child and Family)

tel: 02 533 14 14

email:

klachtendienst@kindengezin.be

Centra Geestelijke Gezondheidszorg (Centres for Mental Health Care)

Interplatform Steunpunt Ombudsfunctie (Inter-platform Support Centre Ombuds Function)

Patrick Claeys, ombudsperson

tel: 0473 56 37 86

email: patrick.claeys@ombudsfunctie

ggz.be

Bijzondere Jeugdbijstand (Special Youth Assistance)

Jo-lijn (Youth Line), the information and complaints line of the Bijzondere Jeugdbijstand (Special Youth Assistance)

tel: 0800 9 00 33 (calls are anonymous and free of charge)

email: jolijn@vlaanderen.be

Vlaams Agentschap voor Personen met een Handicap (Flemish Agency

for Disabled People) Information and complaint Service

tel: 02 225 85 97

email: informatie@vaph.be

CAW Centra Algemeen Welzijnswerk (General Welfare Centre)

CLB Centra voor Leerlingenbegeleiding (Pupil Guidance Centre)

These services always deal with complaints themselves. If a solution can't be found, a minor can contact the Kinderrechtencommissariaat (Commissioner's Office for Children's Rights)

Ombuds Service tel. 02 552 98 00

email:

kinderrechten@vlaamsparlement.be

Anyone who can't turn elsewhere can always go there.

Integrated Youth Care

The Legal Status Decree determines the rights of minors in the "integrated youth care". Below is a list of the services involved.

Kind en Gezin (Child and Family)

- Centra voor Kinderzorg en Gezinsondersteuning (Centres for Child Care and Family Support)



- Vertrouwenscentra Kindermishandeling (Confidential Centre for Child Abuse)
- Diensten voor Gezinsondersteunende Pleegzorg (Services for Foster care in support of families)
- Preventieve Gezinsondersteuning (Preventive family support) (consultation offices and “call in” teams)
- Projects in the scope of youth counselling of Kind en Gezin (Child And Family)

Bijzondere Jeugdbijstand (Special Youth Assistance)

- Mediation committees for special youth assistance
- Comités voor Bijzondere Jeugdzorg (CBJ) (Committees for Special Youth Care)
- Social services of the Flemish Community to the juvenile courts
- Community organisations
- Day centres
- Services for home guidance
- Services for foster care
- Welcome, observation and information centres
- Assisted independent living
- Family homes
- Guidance homes
- Projects in the scope of the special youth assistance

Vlaams Agentschap voor Personen met een Handicap (Flemish Agency for Disabled People)

- Services for home guidance

- Services for placement in families
- Semi-boarding schools
- Boarding schools
- Observation and treatment centres
- Short stay homes
- Centres for development disorders
- Provinciale evaluatiecommissie (Provincial assessment committee)

Centra Algemeen Welzijnswerk (CAW) (General Welfare Centres)

- Visiting areas
- Jongeren advies centra (JAC) (Youth Advice Centres)
- Refuge homes
- Women’s relief centres
- Men’s relief centres
- Emergency relief centres
- Diensten Begeleid Wonen (Services for assisted living)
- Relief centres for young adults
- Centra voor Levens- en Gezinsvragen (CLGs) (Centres for Questions on Life and Family)
- Victim help services
- Legal welfare work services
- Services for specific target groups (prostitutes, asylum seekers, minors without guidance, etc.)

Centra Geestelijke Gezondheidszorg (GGZ) (Centres for Mental Health Care)

Centra voor Integrale Gezinszorg (CIG) (Centres for Integrated Family Care)

Centra voor Leerlingenbegeleiding (CLB) (Pupil Guidance Centres)

Laws and Decrees granting rights to minors

The Legal Status Decree grants rights to minors in youth counselling.* The Decree lists the rights of minors who seek help. The rights in question are not new and they build on a long tradition of rights for minors. For instance, they can also be found in the “International Convention on the Rights of the Child” and in the “Privacy Act”. The Legal Status Decree makes the rights more tangible. The new Decree ensures equal rights for all young people, irrespective of the organisation that extending help. In the event of differences between Belgian laws and Flemish decrees, the rule that is most favourable for the youth shall apply.

Youth Protection Act (1965)

Among other things this law regulates access to the judicial file.

The International Convention on the Rights of the Child (1989)

The following are a few of the rights granted to children by the Convention:

- the right to care, such as health care and education,
- the right to protection, for instance against all kinds of violence,

- the right to participation and to have a say, among which are the rights to information and to a religious belief.

Privacy Act (1998)

The Privacy Act determines that personal data in a database or in file may only be collected, stored or distributed when the person involved is informed thereof and only for a purpose set forth beforehand. Everyone is entitled to know what is written about them at all times (right to access). This does not imply, however, that everyone can receive a copy or can view a file on a computer screen (not a right of perusal). Anyone with access but no viewing rights will be informed orally.

Patients Rights Act (2002)

The Patients Rights Act regulates the relationship between the patient and the physician, the nurse or the care provider in the health sector. According to this act, patients have a right to view their file and are entitled to quality, freedom of choice, information, help from a trusted person, consent to the care and to privacy. The act also entitles them to file a complaint at all times.



Glossary

Professional secrecy

No one is allowed to disclose confidential information received in the course of his profession. Professional secrecy applies to physicians, surgeons, pharmacists, midwives, psychologists, lawyers, counsellors, social workers, educators, therapists, etc.

Youth counselling

Minors who are having problems can apply for professional help. Very often such help extends to others than the youth as well, such as the parents, the people who raise him/her, and other people close to him. Youth counselling includes everything involved in that help, such as making acquaintance with and welcome by the care provider, relief, information and advice, mediation in conflicts, care, guidance, etc. Youth counselling also includes a temporary stay in a facility, from admission to release, plus after care.

Minor

Any child between 0 and 18 years old.

People responsible for upbringing

This includes all persons, with the exception of the parents, who are responsible for the upbringing of a child, e.g. grandparents, stepparents, foster parents, etc. Persons with whom the minor is placed by the Comité voor

Bijzondere Jeugdzorg (Committee for Special Youth Care), Kind en Gezin (Child and Family), the Vlaams Agentschap voor Personen met een Handicap (Flemish Agency for Disabled People) or the juvenile court also fall under the term “responsible for upbringing”. A facility where a minor is placed does not fall under this description.

Parental authority

Every parent has the right *and* duty to raise and take care of his or her child. The parental authority enables them to decide on the upbringing of their children and the language in which they are raised. They manage the goods of their minor children and act as their legal representatives, etc. Parents must always act in the child’s best interest.

Parents

Adults exercising the parental authority over a minor. These would usually be the biological father and mother, even if they are not living together or are married. Adoptive parents are considered to be parents as well.

Personal data

Information on a natural person including name, address, telephone number, email, the help extended to the minor, living conditions of his/her family, etc.

Want to find out more?

Placement

The decision consigning the custody, the supervision and the upbringing of the minor to a private person, a foster family or a recognised relief facility. The decision is taken by the juvenile court, the Comité Bijzondere Jeugdzorg (Committee for Special Youth Care) or, in the case of young disabled people, by the Provinciale Evaluatiecommissie (Provincial Assessment Committee).

Do you have questions about the help extended to your child? Do you want to find out more about your child's rights in the organisation where he lives? Ask the care provider for answers to your questions! Surf to www.rechtspositie.be for more information about minors' rights in the integrated youth care. The organisations below can provide more information about children's rights:

Children's Rights Centre Ghent

Hoogstraat 81, B-9000 Gent

tel 070 21 00 71

info@kinderrechtswinkel.be

www.kinderrechtswinkel.be

Kinderrechtencommissariaat (Commissioner's Office for Children's Rights)

Leuvenseweg 86, B-1000. Brussels

tel 02 552 98 00, fax 02 552 98 01

kinderrechten@vlaamsparlement.be

www.kinderrechtencommissariaat.be



Colophon

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Integrale Jeugdhulp



Gezinsbond

Met steun van de
Vlaamse overheid





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Vlaamse overheid

