



## Children & Young People's Guide

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## Closing a Children's Home





## **Some Questions You May Have ...**

### **What is this about?**

This is a guide for children and young people explaining what your rights are should your council decide to close the children's home you are living in.

### **Why would the local authority want to close my children's home?**

They might not, and we do not want to worry you about this. However, all councils are being asked to save a lot of money, and some might think that closing children's homes is one way to do this.

### **Can they do that?**

Yes, but the law says that they must do certain things before they can. For example, they must ask your views and take them into account in deciding whether or not to close the home.

### **What will happen to me if the home is closed?**

Your social worker, independent reviewing officer and others will have to look to find you somewhere else to live. They should include you in choosing where that should be. For some it may mean going home or leaving care or moving to another placement, but it should always be whatever is best for you.

### **What about staff, what will happen to them?**

You may be understandably worried about what might happen to staff if your children's home is closed. They will have the support of their union to help them fight losing their jobs or get them a good deal if they do.

### **What if I've settled really well in my children's home and don't want it to close?**

You might be able to challenge the closure if your council hasn't bothered to ask you for your views.



## What the law has to say about closing a children's home

- The child care law in this country says that councils should seek your views on all decisions that might affect you (i.e. Sect. 22(4) of the Children Act 1989).
- The administrative law (which tells councils how they must do things) says that you must be asked about decisions like closing your children's home. Something called the "Wednesbury Principles" means that you could take your council to court if they do not listen properly to your wishes and concerns.
- The administrative law also says that councils must consider what effect closing a children's home might have for each and every child living there.
- If the children's home is run by a voluntary organisation, but it gets help in managing it from the council, then the law says that two years notice must (or may) be given in writing before it can be closed (Sections 56 & 57 of the Children Act 1989). If it is the voluntary organisation wanting to close the home then they must give two years notice. If it is the local authority then they may give two years notice, but would need to have pretty good reasons for closing a voluntary-run children's home without giving adequate notice.

## What to do if you are not happy with the decision to close your home

Councils are allowed to close a children's home, but they must go about it in the right way. If they do not, such as they don't bother to ask your views, you could see a solicitor about whether you could apply for what is called a "judicial review". This is where you ask a court to look at the decision again because you do not think that it has been made properly or fairly in the first place.

This is the most effective way of challenging a decision to close a children's home.

## What a court might do

The court might agree with you and decide that the decision has not been taken properly. There are a number of cases already where children in care have succeeded in challenging a closure of their children's home (Bell v Hammersmith (1983); C, H & other (minors by their Next Friend) v Solihull MBC (1984); R v Avon (1984) and Liddle v Sunderland MBC (1983) are four of the earliest examples).



If a court were to decide that the council's decision had not been a proper one, it could then overturn that decision meaning that the council could not close the home until it had acted how the law requires.

### **What's the point?**

You may think that there is no point because the council could simply go back and make a proper decision to close the home. However, because this is a decision about saving money the council would need to think very hard about the costs to them if you, or other children, were able to take them to court.

For that reason, most applications for judicial review never get to court. Councils are very keen to reach agreement before things get that far, and that could put you in a very strong position when it comes to planning what happens next for you.

### **Could my children's home be closed without consulting me?**

Yes, it could be closed in an emergency if for some reason it wasn't safe for you to stay there.

Also Ofsted, the people who inspect children's homes, could exceptionally decide to close it if it was a really bad children's home.

### **Who can I talk to more about this if I need to?**

#### **Children's Legal Centre**

(Tel: 01206 872 466, website: [www.childrenslegalcentre.com](http://www.childrenslegalcentre.com))

#### **Office of the Children's Rights Director**

(Tel: 0800 528 0731, website: [www.rights4me.org](http://www.rights4me.org))

**A local solicitor might be able to give you free legal advice and act for you.**

**REMEMBER: You can also ask your local children's rights or advocacy team for advice.**