

My right to protection from harm

Chapter 4



4.1 Adequate care and protection

Do I have a right to be protected from abuse?

Yes. No matter what age you are, you have the right to be protected from all forms of abuse, violence and exploitation. It can be hard to recognise some types of abuse. It can be difficult but talking to someone about what is going on is a good first step.

The State has a legal duty to look after your safety and welfare. There are laws and organisations in Ireland that work to protect children from abuse, exploitation and to investigate and punish abusers. The Gardaí and Director of Public Prosecutions may have a role to play in prosecuting people that cause harm to children and young people.

What is abuse?

There are four types of child abuse:

- neglect
- emotional
- physical
- sexual.

You may experience one or more forms of abuse at any given time.

Neglect is when an adult fails to take care of you, and this causes you significant harm or stops you developing properly. Neglect may include:

- not being properly fed, kept warm or clothed
- not being kept safe
- not getting attention and affection from adults
- not bringing you to school
- not getting medical care for you, if you need it.

Neglect is something that happens over time and not just at one specific point.

Emotional abuse

Emotional abuse usually happens when an adult:

- is not affectionate or does not support you
- acts in a controlling way to you
- frequently speaks to you in a way that is not respectful
- is critical of you
- frequently makes you feel unsafe.

This form of abuse is more about the kind of relationship you have with an adult rather than particular incidents that take place. It can result in you feeling insecure, unhappy, having low self-esteem and underachieving in school or in other aspects of your life.

Physical abuse

Physical abuse happens when an adult causes you harm through physical punishment or by failing to take action to stop you from being physically hurt when it is possible to do so.

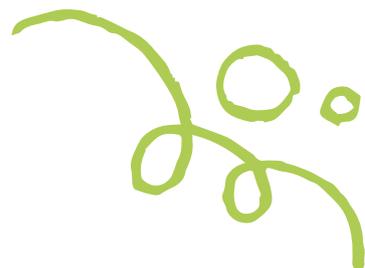
This type of abuse includes severe physical punishment or deliberately hurting you. It can include, but is not limited to:

- slapping
- hitting
- pinching
- watching someone else hurt you and not stopping it
- terrorising you with threats.

Sexual abuse

Sexual abuse or exploitation happens when an adult uses you for sexual purposes. This may include:

- touching you in a wrong way
- having sex with you
- forcing you to watch an adult engage in a sexual act
- showing you material of a sexual nature
- wrongful sexual relationships between you and an adult
- trafficking and being exploited for prostitution.



What should I do if I feel that I am being treated badly, do not feel safe or have been abused?

You have a right to be protected from all forms of abuse. The most important thing, if you experience any kind of abuse at home, school or anywhere else, is that you tell an adult that you trust so they can help and support you.

Then you or an adult you trust should contact your local social worker in Tusla. To find out their contact details see the [Tusla website](#).

If you need help in an emergency or outside office hours (9am to 5pm Monday to Friday), you, or an adult you trust can contact your nearest Garda station or ring the emergency phone line, either 999 or 112.

If you are worried about yourself, a person you know or a friend, you can talk to Childline. You can talk to Childline for free by calling 1800 66 66 66, texting 50101 or chatting online at www.childline.ie. You can also call the Rape Crisis Helpline on 1800 77 8888. See chapter 10 'where can I go for help' for other support organisations.

Will the person I tell be able to keep it confidential?

Certain professionals like counsellors, teachers and doctors by law have to tell Tusla if you tell them that you have been harmed or are at risk of being harmed. If you would like to talk more about this, you can talk to Childline for free:

- phone 1800 66 66 66
- text 50101
- chat online at www.childline.ie



What is Tusla?

The Child and Family Agency, also known as Tusla, is the national organisation that is responsible for the safety and welfare of children in Ireland. If you cannot live with your family, Tusla is responsible for making sure you have a place to live and adults to look after you.

What is the role of a social worker?

Social workers are part of a service that is provided by Tusla. They help and support children who may be at risk of harm or who are not safe. It is the job of social workers to protect and support you if you are feeling unsafe at home or in your life.

How do I contact a social worker?

Social workers are available from 9am to 5pm, Monday to Friday. There are social workers across Ireland. To contact a social worker in your area, you will need to contact your local Tusla social work duty service. You can do this by phone, email or by calling into the office.

You can get contact details for social workers by ringing your local social work office (the number is on the [Tusla website](#)).

What is the role of An Garda Síochána?

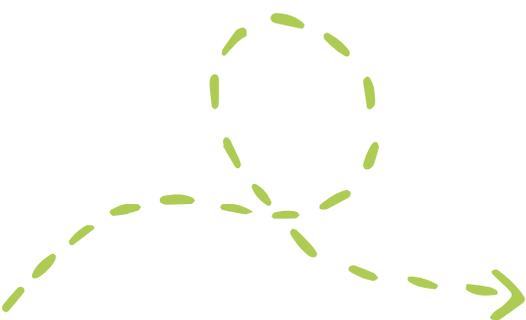
An Garda Síochána is the national police service in Ireland. It is their job to make sure you are safe and do not come to any harm. There are local Garda stations across Ireland. The free, emergency Garda phone numbers are 999 or 112. The Gardaí are available 24 hours a day.

What kind of family supports are available to help me and my family?

Family support services are available to help you and your family deal with difficult situations like:

- conflict in the family
- access to education
- separation
- the death of someone close to you
- addictions.

These supports may include counselling, support groups, social worker visits or working with family support workers. The support services will do all they can to make sure that you can stay with your family, if they think that is the best thing for you. You can get more information on these supports through Tusla. For more information see their website.



What should I do if I suspect a child is getting inadequate care, protection or being abused?

Contact the social worker on duty in Tusla in the child's local area (see previous pages for how to contact a social worker). If it is outside office hours, and you feel the child is in immediate danger, you should contact the Gardaí on 999 or 112.

You can find out more information about child abuse and how to respond to it by reading the Children First National Guidance for the Protection and Welfare of Children, available on [Tusla's website](#).

What can I do to protect my child from harm within the home?

You can apply to the court for an order to protect you and your child from domestic violence. A court can make a Protection Order, which prevents someone from threatening to use violence or fear against you and your family.

If a person lives with you, the Protection Order prevents them from:

- the use of violence, or threats to use violence against the applicant/dependent, or
- molesting or putting the applicant/dependent in fear.

If the person does not live with you, the Protection Order prevents them from:

- hanging around
- watching your house
- following or communicating (including by electronic means) with you and your family.

A Protection Order lasts until you get a full court hearing. At this stage the court can decide to grant:

- a Safety Order – this is a longer-term order that does the same things as a Protection Order, or
- a Barring Order – this is an order to prevent the violent person from being in the home.

In certain circumstances, Tusla can also apply for the order on your behalf.

There are many services which offer short and longer-term refuge for those seeking to escape domestic violence. There are a number of organisations that can help you if you or someone in your home is currently experiencing domestic violence. These organisations can help you access:

- a refuge
- legal advice
- emotional support
- advice on available services.

Please go to chapter 10 'where can I go for help' for details..

You can also call the Women's Aid National Freephone Helpline on 1800 341 900 for advice and help.



4.2 Children in the care of the State

What does it mean to be in the care of the State?

Tusla (Child and Family Agency) gets involved in your care if it decides that you are not being properly cared for at home – this is called state care. If you are taken into care you will either live in a foster family (which may be with your relatives) or in a residential care home.

How could I be taken into care?

There are different ways that children and young people can be taken into care.

If your parent and Tusla both agree that it would be better for you not to live at home, your parent can agree to you being taken into care (this is called voluntary care).

If your parent does not agree that you should go into state care but Tusla thinks there is good reason to remove you from your home, it must go to court and ask a judge to order that you be taken into care (under a care order). If the judge agrees, they will grant a care order for a short time.

The social workers must assess your situation before a long-term plan for your care is agreed. You will be asked for your views on this.

If the court makes a care order and you are taken into state care against your parents' wishes, they may appeal the order to the court.

Supervision order: this allows Tusla to monitor a child it considers to be at risk. You are not removed from your home. A supervision order may last up to 12 months. When the original order ends, Tusla can apply again to extend the order.

Voluntary care: your parent can arrange with the social worker for you to go into state care without going to court.

Interim care order: this order can be made while waiting for a decision on a full care order. You will be placed in the care of Tusla for up to 29 days although the District Court can extend this time.

Care order: this order allows you to be removed from the care of your parent and placed in the care of Tusla. A care order can continue until you reach 18 years.

Emergency care order: this order places you in the care of Tusla for up to eight days in an emergency situation.

What are my rights if I am taken into care?

You have a number of rights if you are taken into care. Tusla has to make sure that any decisions about your care are made in a way that will benefit you most. Your social worker should tell you what is happening but what you are told will depend on your age and maturity. You have a right to have your views heard when decisions about your care are being made. Your wishes should be taken into account, as far as possible.

If a care order is sought in the court, the judge must take your wishes into account if they feel you are mature enough to understand what is happening.

What supports are available to me if I am in care?

Empowering People In Care (EPIC) provides independent advocacy support for children:

- being taken into care
- who are already in care
- going through care proceedings.

EPIC can help support a young person to have a say on what they want. For more information, see [EPIC's website](#), chapter 10 'where can I go for help' for details.

You can also contact the Children's Rights Alliance helpline if you would like more information on your rights:

- phone, 01-902 0494
- email, help@childrensrights.ie.

Who is responsible for me while I am in care?

Usually, Tusla (through your social worker) will make all the important decisions about your care like the kind of care you need and where you should live.

If you are in foster care or residential care, your foster carers or the carers in the residential centre will be in charge of the day-to-day decisions affecting your life.

If your parent has agreed that you should go into care (voluntary care), they still have the right to take part in all decisions affecting your life.

If an interim care order is granted, your parent must still be consulted about most things in your life.

Can I choose where I live when I am in care?

As far as possible, you will stay living in your community. You cannot decide for yourself where you will live. Your social worker and Tusla will decide for you but your social worker should listen and take into consideration your views.

In most cases, children will live with a foster family or with relatives (these are known as relative foster carers) especially if you are under the age of 12.

Some children may live in a children's residential centre.

Do I have a right to have access to a social worker?

Yes, every child in care has a right to a social worker. The social worker is employed by Tusla. They will meet you to support you and give you whatever information or advice you need. You should be given a phone number of your social worker so you can contact them if you need to.

It is your social worker's job to draw up a care plan for you and to put it into action.

If I don't have a social worker who should I contact?

If you do not have a social worker, you should contact your local social work office and ask for one. You may also contact EPIC which provides independent advocacy support for children being taken into care, in care, or going through care proceedings. EPIC can help support you to have a say on what you want. For more information, see [EPIC's website](#).



What is a care plan?

Before you are placed in care (either in foster care or residential care), a social worker must prepare a care plan for you. Your care plan must state the following.

1. The aims of your care placement.
2. The support Tusla will give:
 - you
 - your foster carers
 - the residential centre
 - in some cases, your parent.
3. The access arrangements made between you and your parent, relative or anyone else who has the right to have contact with you.
4. When your care plan will be reviewed.

You can ask to give your input into your care plan. If you were placed in care in an emergency situation, Tusla must prepare your care plan as soon as possible after the emergency placement.

When will my care arrangements be reviewed?

A meeting called a 'child in care review' should take place two months after you first enter care. This should review how you are getting on. The review should be repeated every six months for the first two years of your placement in care. After this, your care plan should be reviewed at least once a year.

Can I go to the 'child in care' review?

Yes, your social worker should tell you when the review meetings will take place. You have a right to attend these meetings and to give your views. You may also bring someone to support and accompany you like an **EPIC advocate**.

Other people like your parent, teachers, counsellors, foster carers or other people working with you may also be at these meetings.

You have the right to be told about any decisions that are made as a result of these care plan reviews.

Do I have a right to know what is in my care plan?

Yes, you should know and understand the key points in your care plan. At any time, you can ask your social worker or a residential care staff member to explain to you what is in your care plan. You should also get a copy of your care plan from your social worker.

Do I have a right to have my views heard in court when decisions are made about my care?

Yes, but the court has different ways of hearing your views. This depends on your age and level of maturity, and on the wishes of the judge. Your social worker will be in court and will tell the judge about your needs.

In some cases, the judge might appoint a Guardian *ad Litem* for you. This is someone who:

- makes sure that the judge hears your views
- advises the judge on what is best for you.

The judge may want to speak to you directly or have an expert speak with you. You can ask to attend court, or you can write a letter to the judge. While the judge might listen to what you want, they may ultimately make a decision that does not follow your views. The Guardian *ad Litem* may also have a different view from you about what they think is best for you.

You can also ask to be made a party to the case which means that you would be represented in court by your own lawyer. This is done by what is known as a section 25 application. If you would like more information on this you can contact the [Children's Rights Alliance helpline](#).

EPIC can support and accompany you to court or meetings, for more information see their [website](#).

Do I have a right to be present in court when my case is being heard?

You do not have an automatic right to be present when your case is being heard. However, if you ask to be present for the hearing or any particular part of the hearing the judge should say yes to your request unless they think it would be better for you to avoid being there.

Do I have a right to have my privacy protected in court?

Yes. When your case is being heard in court, only certain people will be allowed to be present and to report on the case. They are not allowed to share any information that would identify you in public – like in the newspapers or online. Your name, address and image cannot be made public. This is called the *in camera* rule.

Do I have a right to leave care and go home?

No, you cannot decide to leave care until you are 18.

If you are in care under a voluntary arrangement, your parent may withdraw their consent for you to be in care and take you home. If this happens and your social worker is not happy that your needs will be met by going home, the social worker may ask for a care order from the court to keep you in care.

If you are in care under a care order, a court may decide that the reasons you were taken into care in the first place have changed and it has no further concerns about your safety or welfare. If this happens, you can go home. You have a right to have your views heard in this decision.

Do I have a right to contact with my family while in care?

Yes. While you are in foster care or residential care, Tusla must make sure that you have reasonable contact with, and access to, your parent or guardian and other relatives unless the judge thinks it is not safe or the best thing for you. This contact can take the form of visits, phone calls or letters or emails. Tusla should also make sure that you have contact with anyone else who has an interest in your care like a grandparent, aunt, uncle or family friend. You can ask your social worker if you would like to see your family more or less often.

Have I a right to practise my religion (if any) in care?

Yes. You have the right to practise your religion, if you have one, while in care. Tusla must do what it can to enable you to practise your religion. Tusla must also take your religion and the wishes of your parents into account when placing you with a foster family.

Can I tell people I am in care?

You can tell people in your life that you are in care. However, you should be careful when posting information about your care status online or in any publication. No one else is allowed to identify you to the public on broadcast media or a written publication as a child who has been or is in care.



What are my rights if I am not happy in care?

You have the right to ask to see your social worker at any time while you are in care. Someone from Tusla should visit you during your first month in care, then every three months during the first two years that you are in care and every six months after that. If there is a problem with your care, Tusla must make sure that your welfare is protected. If you are not happy with your care, you have the right to:

- complain to Tusla
- know and understand the complaints procedure (someone must explain it to you)
- be supported in making your complaint, for example, by a parent or an independent advocate (someone acting on your behalf)
- know the outcome (result) of your complaint
- get a written copy of any decisions made about you.

If you are not happy with the complaints process, you have the right to complain to the **Ombudsman for Children**. You may also contact **EPIC**, which provides a range of services for children in care and leaving care. See chapter 10 'where can I go for help' for contact details for these organisations.

For parents and guardians

Can I ask Tusla to review the placement of a child in care?

Yes. If you have a link to the welfare of a child in care, you write to Tusla to ask them to carry out a special review of the child's placement. If Tusla decides not to do so, they must tell you in writing and give reasons for their decision.



What happens when I turn 18?

Before you leave care, Tusla should carry out an assessment of what you may need once you turn 18 and leave the care system – this is known as ‘aftercare’. This assessment of your needs should be recorded in writing.

If you have been in care for 12 months or more between the ages of 13 and 18 you are entitled to an aftercare plan setting out how your needs could be met.

While you have a right to an aftercare plan, you do not have an automatic right to access the services contained in the plan. For more information on aftercare, contact [EPIC](#).

Aftercare support might mean that you get help with:

- paying for school
- third level or other fees and costs
- getting an apprenticeship
- finding a place to live.

Tusla can support you until you reach 21 unless you are in education, in which case they can support you to complete your education until the age of 23.

What is a Special Care Unit and could I be sent to one?

The behaviour of some children and young people can place their welfare, health, safety or development in danger. In these rare situations, a social worker may ask the court for a child or young person to be detained for their own welfare or protection in a Special Care Unit in Ireland or abroad.

A Special Care Unit is secure accommodation with locked doors and windows where the High Court places children or young people aged 11 to 17 years when they are considered a risk to their own health or safety. Compared with other care settings, Special Care Units have more staff. They also have educational, therapeutic and specialised supports to help the child or young person overcome behavioural difficulties or other problems. The aim is to provide intense, short-term care to help the young person become more stable so they can return to regular care as soon as possible.

What supports are available to me in Special Care?

EPIC provides independent advocacy support for children:

- being taken into care
- in care
- going through care proceedings.

They can help support a young person to have a say on what they want. For more information, see [EPIC's website](#). EPIC provides a visiting advocacy service to Special Care Units in Ireland.

If you would like more information on your rights, you can also contact the Children's Rights Alliance helpline by phoning 01-902 0494 or by email help@childrensrights.ie.

What are my rights if I am placed in a Special Care Unit?

Only a High Court judge can order that you be placed in a Special Care Unit. Your social worker and possibly a Guardian *ad Litem* will give the judge your views and their professional assessment of your best interests, but you are not entitled to a solicitor. A placement can be for three to six months. After this time, the court must review the placement. The court itself can decide to change the order placing you in a Special Care Unit or Tusla can ask it to do so.



