

Your rights to be heard – introductory guides for children and young people in England

Participation Works is a group of six children and young people's national charities that works together to improve your rights to be heard and taken seriously.¹

We have written four guides for children and young people living in England to help you understand your rights to be heard in different situations – at school; if you are in contact with health services; if you are in contact with children's services; and if you are in contact with the police and criminal courts.

This document summarises the information from all four guides. All information can be downloaded free from www.participationworks.org.uk



General rights

Parliament has passed laws and the UK Government has agreed to follow human rights rules that mean:

- You should be treated with respect at all times
- You should be consulted whenever decisions are made about you
- You should never be treated unfairly because of your ethnic origin, sex, any disabilities, your religion or beliefs, your sexual orientation or your transgender status.

¹ These are the British Youth Council, Children's Rights Alliance for England, National Children's Bureau, National Council for Voluntary Youth Services, The National Youth Agency and Save the Children UK.

Human rights

The **European Convention on Human Rights** (ECHR for short) is now part of UK law. The Human Rights Act 1998 says that all public organisations must follow the rights in the ECHR – this includes schools, children's services, health services, the police, the courts and prisons.

If you think any of your ECHR rights have not been followed, talk to the people involved. See if you can work together to solve the problem (sometimes it is not possible to do this, for example if you do not feel safe). If talking things through does not work, you can ask for advice from a lawyer or contact a human rights organisation for more information. Your treatment could be challenged in a court in this country. Some cases go to the European Court of Human Rights in Strasbourg, France, if they cannot be solved in this country.

The main rights in the ECHR connected to being heard and taken seriously are:

Article 5 - If you are arrested or charged with committing an offence, you should be promptly told the reasons why. You should be given information in a language and way that you understand. A judge should look at your case soon after you have been charged, especially if you have been kept in custody.

Article 6 - You have the right to fair trial. This means you should be able to follow what is going on in court, and you should have a lawyer to help you and question people giving evidence against you. You have the right to an interpreter. The Government and media must not interfere in the court's decision making. Information can be kept from the media to protect your privacy.

Article 8 - This is your right to respect for private and family life. This right covers many different matters relating to your own choices and decision-making, and whether others can interfere with these. It protects your privacy (letters, emails and telephone calls) and affects the personal information organisations can hold and share about you. It also protects your relationships with your family, and is relevant when decisions are being made about who you should live with. The rights in article 8 can be limited in certain circumstances, for example to stop a person being seriously hurt.

Article 9 - This is your right to freedom of thought, conscience and religion. This is relevant to the choices you make for yourself about what you believe and if you follow a religion or not.

Article 10 - This is your right to freedom of expression. This includes what you wear, as well as giving and receiving ideas and information. This right can be limited to protect the rights of others.

Article 11 - This is your right to peaceful assembly and association – being on a public protest for example, or being able to form and join groups, such as school councils, trade unions and political parties.

The rights in article 11 can be limited in certain circumstances, for example to stop a person being seriously hurt.

Article 14 - The European Convention on Human Rights protects every person irrespective of their age, their circumstances or where they were born.

The **United Nations Convention on the Rights of the Child** (UNCRC for short) is not fully part of UK law. Public organisations are still meant to follow it, because the UK made an agreement with the UN in 1991 to make the rights real for all children and young people in our country.

The main rights in the UNCRC connected to being heard and taken seriously are²:

Article 2 - The United Nations Convention on the Rights of the Child protects every child (up to 18) irrespective of their age, their circumstances or where they were born.

Article 5 - Parents can give children and young people advice and help about children's rights. The more a young person knows and understands, the less advice and help a parent needs to give.

Article 9 - If a court is thinking about who a child or young person should live with, everyone affected by the decision should get the chance to be heard – including the child.

Article 12 - Every child and young person has the right to express his or her views freely – about everything that affects him or her. The child's or young person's views must be given 'due weight' depending on his or her age and maturity. The child or young person has the right to be heard in all decision-making processes, including in court hearings. The child or young person can speak for him or herself, or someone else can speak for him or her.

² Many of the articles give you rights related to other things. Visit www.crae.org.uk for more information.

Equality laws

Over the past 30+ years, Parliament has passed nine major equality laws to try and stop discrimination. There are around 100 legal documents that must be followed. Most equality laws protect you from unfair discrimination

Article 13 - Every child and young person has the right to freedom of expression, including the right to all kinds of information and ideas (unless there are legal restrictions).

Article 14 - Every child and young person has the right to freedom of thought, conscience and religion (unless there are legal restrictions). Governments must respect the right of parents and guardians to give advice to the child and young person about this right. The more a child or young person knows and understands, the less advice parents need to give.

Article 15 - Every child and young person has the right to meet people and to gather in public (unless there are legal restrictions).

Article 17 - The Government must make sure children and young people have access to lots of different information. It must encourage the media to give information to children and young people and protect them from harmful information and materials.

Article 23 - Every disabled child and young person has the right to a full life and to active participation in the community.

Article 37 - Children and young people who are locked up should be able to challenge this quickly in court. Every child or young person who is locked up must be treated with respect and has the right to keep in contact with his or her family, through letters and visits.

Article 39 - Governments must give good support to children and young people who have been hurt, abused or exploited. This support must promote children's and young people's health, self-respect and dignity.

Article 40 - Children and young people should be told as soon as possible why they have been arrested and charged with a crime. They must be given immediate access to a lawyer and cannot be forced to give evidence in a court. Every child and young person has the right to an interpreter if they do not understand the country's main language.

Article 42 - Governments must make sure everyone gets information about this Convention.

wherever you are related to your ethnic origin, sex, any disabilities, your religion or beliefs, your sexual orientation or transgender status. In addition, you are protected from age discrimination in the workplace.

Your rights to be heard at school

The guide we have written covers your general rights to be heard, your rights if you have special educational needs, your rights if you are, or have been, excluded and other rights such as seeing your school records and when teachers can search you and your belongings. It also tells you how you can be involved in helping to run your school and how you can make a complaint.

In addition to human rights and equality laws, the important laws relating to your rights to be heard in school are:³

- Education Act 1996
- Education Act 2002
- Education Act 2005
- Education and Inspections Act 2006
- Disability Discrimination Act 1995

³ We do not expect you to read all these, though an advocate or some other person assisting you should know about them.

Your rights to be heard when you are in contact with health services

The guide we have written covers your general rights to be heard when you are in contact with health professionals. It includes confidentiality, giving and refusing consent, obtaining information and when information can and cannot be shared about you. It summarises your rights to be heard if you have a mental illness, including your right to an independent advocate. It says what should happen if you go into hospital and how you can make a complaint.

In addition to human rights and equality laws, the important laws relating to your rights to be heard when you have contact with health services are:⁴

- Family Law Reform Act 1969
- Mental Health Act 1983
- Family Law Reform Act 1987
- Children Act 1989
- Access to Health Care Records Act 1990

⁴ We do not expect you to read all these, though an advocate or some other person assisting you should know about them.

Your rights to be heard when you are in contact with children's services

The guide we have written covers your rights to have your wishes and feelings taken into account when a family court is making a decision about you, or when you have contact with a social worker. It explains how a CAFCASS worker (short for Children and Family Court Advisory Support Service) helps family courts make decision. It tells you your rights to ask for help from children's services and how your care is monitored when you live away from home. It explains the work of an independent reviewing officer (IRO for

- Special Educational Needs and Disability Act 2001
- Children Act 2004
- School Governance Regulations 2003

The important rules relating to your rights to be heard in school are:

- Working together: listening to the voices of children and young people (2008)
- Special educational needs code of practice (2001)
- Improving behaviour and attendance guidance (2008)
- Department for Children, Schools and Families guidance to schools on school uniform and related policies (2007)
- Boarding schools national minimum standards (2002)
- Get it sorted: statutory guidance on advocacy services (2004)

- Data Protection Act 1998
- Data Protection (Subject Access Modification) (Health) Order 2000
- Health and Social Care Act 2001
- NHS and Health Care Professions Act 2002 (s15 creates patients' forums)
- Mental Capacity Act 2005
- Mental Health Act 2007
- Local Government and Public Involvement in Health Act 2007

The important rules relating to your rights to be heard when you have contact with health services are:

- Code of practice – Mental Health Act 1983
- Confidentiality – NHS Code of Practice (2003)
- Get it sorted: statutory guidance on advocacy services (2004)

short) and says how you can help to improve children's services (this may include making a complaint).

In addition to human rights and equality laws, the important laws relating to your rights to be heard when you have contact with children's services are:⁵

- Children Act 1989
- Children Act 2004
- Children (Leaving Care) Act 2000

⁵ We do not expect you to read all these, though an advocate or some other person assisting you should know about them.

- Adoption and Children Act 2002
- Children and Adoption Act 2006
- Family Law Reform Act 1969
- Data Protection Act 1998
- Care Standards Act 2000

There is a new law being considered by Parliament called the Children and Young Persons Bill. It has not been passed yet (August 2008). Check our website for information.

The important rules relating to your rights to be heard when you have contact with children's services are:

- Working together to safeguard children. A Guide to inter-agency working to safeguard and promote the welfare of children (2006)
- Framework for the assessment of children in need and their families (2000)
- The Children Act 1989 guidance and regulations vol. 1 court orders (2008)
- The Children Act 1989 guidance and regulations vol. 3 family placements (1991)

- The Children Act 1989 guidance and regulations vol. 4 residential care (1991)
- The Children Act 1989 guidance and regulations vol. 6 children with disabilities (1999)
- The Children Act 1989 guidance and regulations vol. 7 guardians ad litem and other court related issues (1991)
- The Children Act 1989 guidance and regulations vol. 8 private fostering and miscellaneous (1991)
- The Children Act 1989: guidance and regulations vol. 9 adoption issues (2002)
- The Children (Leaving Care) (England) Regulations 2001
- The Review of Children's Cases (England) Regulations 2001
- The Review of Children's Cases (Amendment) (England) Regulations 2004
- Get it sorted: statutory guidance on advocacy services (2004)

Your rights to be heard in you are in contact with the police and criminal courts

The guide we have written covers the police's role in protecting you and investigating crimes committed against you. It explains what must happen when the police stop you in the street or arrest you. It summarises your rights to be heard and taken seriously if you have to go to court and after you have received a sentence, including if you are sent to custody.

In addition to human rights and equality laws, the important laws relating to your rights to be heard when you have contact with the police and criminal courts are:⁶

- Children and Young Persons Act 1933
- Children and Young Persons Act 1969
- Children Act 1989

- Children Act 2004
- Police and Criminal Evidence Act 1984
- Crime and Disorder Act 1998
- Youth Justice and Criminal Evidence Act 1999

The important rules relating to your rights to be heard when you have contact with the police and criminal courts are:

- The Police and Criminal Evidence Act 1984 code of practice
- Practice Direction. Trial of children and young persons in the crown court (2000)
- National standards for youth justice (2004)
- The common assessment framework, asset and onset. Guidance for youth justice practitioners (2006)

⁶We do not expect you to read all these, though an advocate or some other person assisting you should know about them.

For general information about your rights to be heard, your human rights and equality law, contact:

- Children's Legal Centre, freephone **0800 783 2187**; www.childrenslegalcentre.com/
- Children's Rights Alliance for England You've got the Right advice line, freephone **0800 32 88 759** between 3.30 and 5.30pm, Tuesday to Thursday; www.crae.org.uk/protecting/legal-advice.html
- Liberty advice line **0845 123 2307** Monday and Thursday between 6.30 and 8.30pm and Wednesday between 12.30 and 2.30pm; www.liberty-human-rights.org.uk.

The Children's Rights Alliance for England and Participation Works are not responsible for any information or advice you receive from other organisations.

This summary guide was written by the Children Rights Alliance for England for Participation Works. All information was accurate as of August 2008. Download from www.participationworks.org.uk



LOTTERY FUNDED