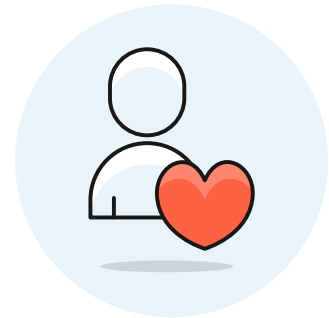


IMPORTANT

- The information we provide on our rights4children website is for general guidance. It is not legal advice.
- If you need legal advice, please contact an independent advocate or a solicitor.
- Article 39 tries its best to make sure information is accurate and up-to-date. However, we cannot guarantee this. We'd appreciate you letting us know if you notice any errors or out-of-date information: info@article39.org.uk

Feeling listened to

- + You might feel listened to all of the time. Brilliant!
- + Or you might never feel properly listened to. That's sad to hear. It's not how things should be.



Your rights – general

All children and young people have the right to be listened to.

This is part of the Human Rights Act – a law passed by our Parliament in London in 1998.

The Human Rights Act says that everyone, child and adult, has the right to be heard when courts and others make decisions about us (like who we live with and whether or not we have committed a crime).

The United Nations Convention on the Rights of the Child is even stronger:

It says that all children and young people (up to the age of 18) have the right to express your views freely about anything that affects you.

It says children's views must be given due weight in line with your age and maturity.

It says whenever decisions are made about you in court, or other official places like school or social services, you have the right to be heard. This can be through you speaking or someone else speaking on your behalf – a lawyer or an independent advocate for example.

It is your human right to be listened to and taken seriously.

It is only by knowing how you feel, and what your views are, that adults can make sure you are looked after well.

The right to be heard can never be taken away from you.

Children and young people whose behaviour is difficult still have the right to be heard.

If you have been charged or sentenced for a crime, you still have the right to be heard.

You are in charge of your right to be listened to. This means you shouldn't be pressurised into talking about things you don't want to. No-one should threaten or punish you for not speaking.

If adults are worried about you, if they want to know your thoughts and feelings about something, they should show you kindness and understanding. This will help you speak when the time is right for you.

Your rights – extra

This section gives you information about your extra rights in different places.

Words in “quotation marks” come from laws and legal rules. Laws and legal rules must be followed by the people who look after you.

Children's home

Local councils must protect children's welfare.¹

Part of looking after your welfare is making sure staff know your wishes and feelings.²

Your social worker must ask you about your wishes and feelings and take these wishes and feelings into account before making decisions about you.³

The person in charge of your children's home has a lot of legal rules to follow when it comes to you being listened to. We think these rules are incredibly important. So, we tell you about each of them below.

The person in charge of your home must make sure:

- + Staff find out and think about your views, wishes and feelings.
- + When making decisions about you, staff must think about your views, wishes and feelings alongside what they think is best for you.
- + Staff help you to express your views, wishes and feelings.

- ✦ Staff help you to understand how your views, wishes and feelings have been taken into account and give you reasons for decisions that have been made about you.
- ✦ Staff regularly ask your views about how well your home cares for you and other children and young people.
- ✦ Staff help you to understand how your privacy will be respected and when you might not be able to have full privacy.
- ✦ Staff help you to get ready for reviews of plans about your life. Reviews are where plans are checked to see that everyone is helping you in the way they should. Plans can be about your care overall (your Care Plan); how you will be looked after where you live (Placement Plan); or about your education and health (an Education, Health and Care Plan). If you are 15 or 16, you will have a Pathway Plan too. This is about the care and help you will get until you are 25. You may be wondering what the point of all these plans are, asking why you can't just have one! That's understandable. You might find the 'Plans about my life' part of our site useful.

And there's more!

- ✦ Staff must make sure your views, wishes and feelings are known by the adults involved in checking your plans.
- ✦ You must get help to give your views and express any concerns you have about the support and services you receive.
- ✦ You must be able to see the guide written about your children's home, and your home's complaints procedure, when you first come to live at the children's home and throughout your stay. The person in charge of your home must make sure the guide and your home's complaints procedure are explained to you.
- ✦ You must be given support from an advocate when you need it. The person in charge of your home must explain what kind of help you can get from an advocate; how you can get to see and speak with an advocate; and what rights you have to an advocate.
- ✦ The person who is in charge of your home must check and improve the guide about your children's home, and your home's complaints procedure. Before making any changes to either document, he or she must ask for your comments.⁴

If you have a disability, the person in charge of your home must make sure you have "aids and equipment" so that you can communicate with others.⁵ Of course!

Hospital or other health place

The NHS Trust that is responsible for the ward or unit you are staying in must do its work with your welfare in mind.⁶ Part of looking after your welfare is making sure staff know your wishes and feelings.⁷

When you are in hospital, the people looking after you must make plans about your care in partnership with you. They must help you to make decisions, and be involved in decisions, as much as possible.

If you are able to understand the care and treatment your doctors and nurses want to give you, this must only be given with your permission. Your parents or someone else acting on your behalf can give permission for your care and treatment if you don't have enough understanding.⁸

Immigration detention

Staff who have immigration jobs must carry out their work with your welfare in mind.⁹ Part of looking after your welfare is making sure staff know your wishes and feelings.¹⁰

Staff who have immigration jobs must follow government rules and advice. There is a very important set of rules and advice about your welfare. This tells staff that:

"In order to appreciate the child's needs and how they make sense of their circumstances it is important to listen and take account of their wishes and feelings."¹¹

Staff must also follow this rule:

"Children should be consulted and the wishes and feelings of children taken into account wherever practicable when decisions affecting them are made, even though it will not always be possible to reach decisions with which the child will agree."¹²

This means someone should take time to find out how you feel, and what your thoughts are, about any decisions that are to be made affecting you.

Your feelings and views should usually be taken into account when decisions are made. Sometimes it will be impossible to find out your feelings and views about a decision. But this should be rare.

You might not agree with decisions that are made about you. Your options for challenging decisions depend on your situation and the kind of decision it is. 'Your right to complain' and 'Taking a case to court' parts of our site give more information about this.

Prison

The governor of your **young offender institution** must carry out his or her work with your welfare in mind.¹³ Part of looking after your welfare is staff knowing your wishes and feelings.¹⁴

Prison officers must follow lots of rules and advice. This includes a document that tells them how they can reduce conflict and anger in prisons.

The document says managers of child prisons (where prisoners are aged under 18) should show they are committed to the atmosphere in your prison being calm and respectful.

You should be asked your views about things that affect you.

Your prison should arrange for an independent advocacy service to give you information, advice and help when you need it.

Prisons have to make sure children and young people who want to make a complaint get help from an independent advocate.¹⁵

If you are in a **secure training centre**, the person in charge must carry out his or her work with your welfare in mind.¹⁶ Part of looking after your welfare is staff knowing your wishes and feelings.¹⁷

Staff must follow lots of rules and advice. This includes a document that tells them how they can reduce conflict and anger in secure training centres and other places.

The document says managers of secure training centres should show they are committed to the atmosphere in your centre being calm and respectful.

You should be asked your views about things that affect you.

Your secure training centre should arrange for an independent advocacy service to give you information, advice and help when you need it.

Secure training centres have to make sure children and young people who want to make a complaint get help from an independent advocate.¹⁸

School

The law says schools where children live must protect and look after your welfare.¹⁹ Protecting and looking after your welfare includes you being listened to.²⁰

Boarding schools and residential schools must follow rules (called standards).

The standards say that children and young people should be “actively encouraged” to give your views about your care. Actively encouraged means the people who care for you should do all they can to help you express your views.

The people who work in your school should be happy and positive about you expressing yourself. You should never feel you have to hide what you think or feel.

You should be able to express any concerns you have and make a complaint if you are not happy about something.

Your views should be given “appropriate weight” in decisions about how your school is run. The standards don’t say exactly what “appropriate weight” means. It probably

means that your views must be looked at alongside other people's views to come up with the best way forward for you and your school.

Finally, the standards say that you should never be punished for saying you are concerned about something or for making a complaint "in good faith".²¹ Making a complaint in good faith means you are being honest and fair.

Secure children's home

Local councils must safeguard and promote children's welfare.²² Your welfare includes you being listened to, having your needs met and protecting you from harm.

The person in charge of your secure children's home has a lot of legal rules to follow when it comes to you being listened to. We think they are incredibly important. So, we tell you about each of them here:

The person in charge of your home must make sure:

- + Staff find out and think about your views, wishes and feelings.
- + When making decisions about you, staff must think about your views, wishes and feelings alongside what they think is best for you.
- + Staff help you to express your views, wishes and feelings.
- + Staff help you to understand how your views, wishes and feelings have been taken into account and give you reasons for decisions that have been made about you.
- + Staff regularly ask your views about how well your home cares for you and other children and young people.
- + Staff help you to understand how your privacy will be respected and when you might not be able to have full privacy.
- + Staff help you to get ready for reviews of plans about your life. Reviews are where plans are checked to see that everyone is helping you in the way they should. Plans can be about your care overall (your Care Plan); how you will be looked after where you live (Placement Plan); or about your education and health (an Education, Health and Care Plan). If you are 15 or 16, you will have a Pathway Plan too. This is about the care and help you will get until you are 25. You may be wondering what the point of all these plans are, asking why you can't just have one! That's understandable. You might find the 'Plans about my life' part of our site useful.

And there's more!

- + Staff must make sure your views, wishes and feelings are known by the adults involved in checking your plans.
- + You must get help to give your views and express any concerns you have about the support and services you receive.

- + You must be able to see the guide written about your children’s home, and your home’s complaints procedure, when you first come to live at the children’s home and throughout your stay. The person in charge of your home must make sure the guide and your home’s complaints procedure are explained to you.
- + You must be given support from an advocate when you need it. The person in charge of your home must explain what kind of help you can get from an advocate; how you can get to see and speak with an advocate; and what rights you have to an advocate.
- + The person in charge of your home must check and improve the guide about your children’s home, and your home’s complaints procedure. Before making any changes to either document, he or she must ask for your comments.²³

If you have a disability, the person in charge of your home must make sure you have “aids and equipment” so that you can communicate with others.²⁴ Of course!

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¹ Section 22(3) Children Act 1989.

² See the welfare checklist in Section 1(3) Children Act 1989.

³ Section 22(4) and 22(5) Children Act 1989.

⁴ Regulation 7 The Children’s Homes (England) Regulations 2015.

⁵ Regulation 22(4) The Children’s Homes (England) Regulations 2015.

⁶ Section 11 Children Act 2004.

⁷ See the welfare checklist in Section 1(3) Children Act 1989.

⁸ See Section 2, Part 3 The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014.

⁹ Section 55 Borders, Citizenship and Immigration Act 2009.

¹⁰ See the welfare checklist in Section 1(3) Children Act 1989.

¹¹ Home Office and Department for Children, Schools and Families (2009) Statutory guidance to the UK Border Agency on making arrangements to safeguard and promote the welfare of children. Issued under section 55 of the Borders, Citizenship and Immigration Act 2009, page 12.

¹² Home Office and Department for Children, Schools and Families (2009) Statutory guidance to the UK Border Agency on making arrangements to safeguard and promote the welfare of children. Issued under section 55 of the Borders, Citizenship and Immigration Act 2009, page 15.

¹³ Section 11 Children Act 2004.

¹⁴ See the welfare checklist in Section 1(3) Children Act 1989.

¹⁵ Youth Justice Board for England and Wales (2012) Managing the Behaviour of Children and Young People in the Secure Estate Code of Practice.

¹⁶ Section 11 Children Act 2004.

¹⁷ See the welfare checklist in Section 1(3) Children Act 1989.

¹⁸ Youth Justice Board for England and Wales (2012) Managing the Behaviour of Children and Young People in the Secure Estate Code of Practice.

¹⁹ Section 87(1) Children Act 1989.

²⁰ See the welfare checklist in Section 1(3) Children Act 1989.

²¹ Standard 17, Department for Education (2015) Boarding schools. National minimum standards: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/416186/20150319_nms_bs_standards.pdf

²² Section 22(3) Children Act 1989.

²³ Regulation 7 The Children's Homes (England) Regulations 2015.

²⁴ Regulation 22(4) The Children's Homes (England) Regulations 2015.