

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 We'd appreciate you letting us know if you notice any errors or out-of-date information: info@article39.org.uk

Staying on track with your education

- ✦ Childhood is an extra special time for growing your mind, having fun and making sense of the world.
- ✦ Every time a person reads a book, figures out how to get to the next level of a computer game, or goes through a difficult time with family or friends – they're learning.



People are smart in all sorts of ways. You've probably used your strength and intelligence to get through tough times.

Keeping hold of your goals is not always easy. Well done if you're managing to stay on track with your education.

Your rights – general

All children and young people have the right to education.

In England, the law says children must receive an education suitable to your age, ability and talent and any special educational needs you might have.¹

When you live away from home, people involved in your care should do their best to help you keep on track with your education.

Many children and young people live in boarding or residential schools where their education is a top priority. You still have all of your other rights too!

Wherever you live, you must always be listened to – about your education and everything else that's important to you.

If you need extra help with learning, you have a right to have this carefully looked at. Your needs might be written down in a legal agreement, to make sure your right to education is respected.

There is an extra law which is aimed at stopping unfair treatment, including in schools and colleges. This is the Equality Act 2010. It says you should not be treated less well because you have a disability, or because you are a boy or a girl for example.

If you are disabled, your school or college will have to make fair changes to how things work to make sure you get your right to education.

You must receive an education between the age of 5 and 16 years. Between 16 and 18, the law says you must:

- + Continue your education (6th Form or college) OR
- + Be on an apprenticeship or training scheme OR
- + Work or volunteer for 20 hours a week and study the rest of the time.²

After the age of 18, when you are legally an adult, you might choose to continue your studies by going to university. Or you might want to train and get qualifications while you are working.

The United Nations Convention on the Rights of the Child sets out the aims of education. It says education must be aimed at:

- + Helping build your personality, talents and abilities to the maximum.
- + Helping you to respect human rights.
- + Helping you to respect your parents, your background and language.
- + Helping you to respect countries and ideas from all over the world.
- + Helping you to live a good, caring life.
- + Helping you to respect nature and the environment.³

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

Your council

Local councils must protect children's welfare.⁴ Your educational needs and achievements are part of this.⁵ Your social worker should make sure your education rights are taken care of.

The law says there must be a person in your local council who gives their full attention to the education of children in care.⁶ This person is called a Virtual School Head.

They're called a Virtual School Head because they are not actually based in a school (though they must be a qualified teacher).

It is the Virtual School Head's job to be a strong champion for the education of children in care. Brilliant!

Your achievements

Your educational achievements must be a top priority for everyone who cares for, and about, you.

Achievements include things like having good attendance, showing a great attitude to learning, making progress, and becoming a member of your school council. Passing tests and exams are a massive achievement too!

There should be no limit to how far you take your education – see below for information on going to university.

If you have been able to work on things that make you angry or upset at school, that's also an educational achievement.

Your school must have someone who takes charge of making sure children in care do well in their education.⁷ (You mightn't know who they are, but there will be other children in care in your school – there are over 72,000 children in care in the whole country).

New school

If you have recently arrived at your children's home, and you have had to leave your school, your new place must be sorted within 20 days.

Your social worker and others must try their hardest to get you into a school which has a great reputation (judged good or outstanding by Ofsted). Your wishes and feelings must be taken into account.

Your own education plan

Every child or young person in care must have a Personal Education Plan (called PEP for short). This is part of your overall Care Plan, which is an agreement for making sure you are well looked after and have all of your needs met.

Your PEP must say:

- + Where you have been to school or college before, or where else you have been educated (you might have had home tutors, for example).
- + What your attendance and behaviour was like in the past.
- + What you achieved academically and in other ways (for instance, you may have been in a drama group or have won awards for swimming or cycling).
- + If you have any special educational needs.
- + Where you are going to be educated now.
- + The help you'll get to do well in your education.
- + If any changes are planned in your education, what's going to be done to make sure these changes don't have a bad effect on you.
- + What you enjoy doing in your free time.
- + How your carers will help you do well in your education and enjoy your free time.

In your children's home

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

The person in charge of your home must make sure:

- + Staff help you achieve your education and training targets.
- + Staff support your learning and progress. This includes helping you to learn how to study on your own
- + Staff understand any difficulties you have in learning, and they try and help you work through these difficulties.
- + Staff help you understand the importance and value of education, learning, training and employment.
- + Staff encourage ways for you to learn outside of school or college.
- + Staff keep in regular contact with your school or college.
- + Staff take action if you need extra or different help with your education.
- + If you have been excluded from school, or you are not going to school, staff help you get educational and training support some other way.
- + If you are 16 or older, staff help you get sorted in further education, training or employment.
- + You have the equipment and other things you need (like a quiet study area) to learn well.⁸

Money for college

If you are aged 16 to 19 and attend a further education college, you could get up to £1,200 a year. This is called a bursary (money you don't have to pay back). Ask your children's home manager or social worker about it!

Money for university

If you are under the age of 25 years, and are going to university for the first time, you could get up to £2,000 from your local council. This is in addition to financial support that you can get like any other student. It is separate from your leaving care grant.

Your council should make sure you have somewhere to stay during university breaks. They should be mega proud of you too. Many councils have awards and celebration events for care leavers. Excellent! (For more information, please see the 'Leaving care' part of our site).

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.⁹ Your educational needs are part of this.¹⁰

Local councils have a legal duty to make sure children and young people who are ill get their right to education.¹¹

Whatever the reason you are in hospital, your local council should work with you and your parents to make sure you continue with your education, and there is as little disruption as possible. Your education should fit around your needs and health. You should get help to keep up with work you were doing in school.¹²

If you are in hospital for mental health reasons, legal rules¹³ say that:

- + You should receive education "on a par with" children and young people who attend regular schools.
- + You should receive support with your special educational needs.
- + Hospital staff and local councils should work together well, so that there is as little disruption to your education as possible.

Immigration detention

You have the right to be in accommodation that suits your needs as a child.¹⁴ This includes your educational needs.

You should receive education for 23 hours every week. Your centre's school should try to follow the national curriculum.

Your centre must have things for you to do and play. This could be books, arts and crafts, electronic games, music and computers. You should get the chance to exercise like you would at an ordinary school. This could be playing football, netball or running for example.

There must be a play area outside that you can use.

When your parents are locked up with you, they must be able to discuss your education with teachers in the centre.¹⁵

Prison

The governor of your **young offender institution** must carry out his or her work with your welfare in mind.¹⁶ Your education is part of this.

The law says you must spend at least 15 hours a week in education or on a training course.¹⁷ However, the government has told prisons they must give you 30 hours of education every week, including 3 hours physical exercise.¹⁸

The law says education in your prison should try to help you to:

- + Be responsible.
- + Build on your interests and skills.
- + Get ready for when you return home.¹⁹

If you are in care

- + If you are remanded, you are classed as a child in care and you get extra rights protection. Brilliant!
- + If a court has made a Care Order for you, and you enter custody, then you keep your rights protection.

Every child or young person in care must have a Personal Education Plan (called PEP for short). This is part of your overall Care Plan.

Your PEP must say:

- + Where you have been to school or college before, or where else you have been educated (with home tutors, for example).
- + What your attendance and behaviour was like in the past.
- + What you achieved academically and in other ways (for instance, you may have been in a drama group or have won awards for swimming or cycling).
- + If you have any special educational needs.
- + Where you are going to be educated now.
- + The help you'll get to do well in your education.
- + If any changes are planned in your education, what's going to be done to make sure these changes don't have a bad effect on you.
- + What you enjoy doing in your free time.

- + How your carers will help you do well in your education and enjoy your free time.

If you are in a **secure training centre**, the law says the person in charge (the director or governor) must promote and protect your welfare.²⁰ This includes your education.

The law says you must spend at least 25 hours a week in education or on a training course.

The law says your education should try to help you to:

- + Be responsible.
- + Build on your interests and skills.
- + Get ready for when you return home.²¹

Your studies should suit your age, ability and talents, and any special educational needs you have. Your education should be in line with your training plan.²²

The education you get should be as close as possible to the national curriculum.²³

If you are in care

If you are remanded [a court has sent you to prison, though you have not been convicted of an offence], you get extra rights protection through being in care. If you were in care before entering prison, and a court has made a Care Order [this gives your local council duties to be like a good parent] for you, then you keep your rights protection.

Every child or young person in care must have a Personal Education Plan (called PEP for short). This is part of your overall Care Plan, which is an agreement for making sure you are well looked after and have all of your needs met.

Your PEP must say:

- + Where you have been to school or college before, or where else you have been educated (with home tutors, for example)
- + What your attendance and behaviour was like in the past
- + What you achieved academically and in other ways (for example, you may have been in a drama group or have won awards for swimming or cycling)
- + If you have any special educational needs
- + Where you are going to be educated now
- + The help you'll get to do well in your education
- + If any changes are planned in your education, what's going to be done to make sure these changes don't have a bad effect on you
- + What you enjoy doing in your free time

- + How your carers will help you do well in your education and enjoy your free time.

School

The law says schools where children live must protect and look after your welfare.²⁴ Your welfare is everything that helps you be happy, including enjoying and doing well in your studies.

Your school should be well prepared before you arrive, so that the education you get fits you well.²⁵

If you live in a residential special school, after you first arrive there will be a meeting to check you are settling in well. Your views will be a very important part of this.²⁶

Secure children's home

If you are in care and living in a secure children's home, you will have a Personal Education Plan (called PEP for short).

There are three ways you can live in a secure children's home and be in care:

1. Your council and a family court believe this is the only way to keep you safe from harm OR
2. You are remanded OR
3. A family court has made a Care Order (you are still in care even if you are in a secure children's home because of offending).

Your PEP is part of your overall Care Plan.

Your PEP must say:

- + Where you have been to school or college before, or where else you have been educated (with home tutors, for example).
- + What your attendance and behaviour was like in the past.
- + What you achieved academically and in other ways (for instance, you may have been in a drama group or have won awards for swimming or cycling).
- + If you have any special educational needs.
- + Where you are going to be educated now.
- + The help you'll get to do well in your education.
- + If any changes are planned in your education, what's going to be done to make sure these changes don't have a bad effect on you.
- + What you enjoy doing in your free time.

- ✦ How your carers will help you do well in your education and enjoy your free time.

Whether you are in care or not, the person in charge of your secure children's home has a lot of legal rules to follow when it comes to your education. We think they are incredibly important. So, we tell you about each of them below.

The person in charge of your home must make sure:

- ✦ Staff help you achieve your education and training targets.
- ✦ Staff support your learning and progress. This includes helping you to learn how to study on your own.
- ✦ Staff understand any difficulties you have in learning, and they try and help you work through these difficulties.
- ✦ Staff help you understand the importance and value of education, learning, training and employment.
- ✦ Staff encourage ways for you to learn outside of school or college.
- ✦ Staff keep in regular contact with your school or college.
- ✦ Staff take action if you need extra or different help with your education.
- ✦ If you have been excluded from school, or you are not going to school, staff help you to get educational and training support some other way.
- ✦ If you are 16 or older, staff help you get sorted in further education, training or employment.

You have the equipment and other things you need (like a quiet study area) to learn well.²⁷

© Article 39, June 2018. Downloadable documents are for non-commercial, personal use only on the condition that copyright and source indications are also copied, no changes are made and the document is copied in full.

¹ Section 7, Education Act 1996. See Section 18A, Education Act 1996 in relation to children held in youth detention.

² Sections 1 and 2 Education and Skills Act 2008; <https://www.gov.uk/know-when-you-can-leave-school>

³ Article 29 United Nations Convention on the Rights of the Child.

⁴ Section 22(3) Children Act 1989.

⁵ See the welfare checklist in Section 1(3) Children Act 1989.

⁶ Section 22(3A) and 22(3B) Children Act 1989.

⁷ Section 20, Children and Young Persons Act 2008; The Designated Teacher (Looked After Pupils etc) (England) Regulations 2009

⁸ Regulation 8 The Children's Homes (England) Regulations 2015.

⁹ Section 11 Children Act 2004.

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

¹¹ Section 19, Education Act 1996.

¹² Department for Education (2013) Ensuring a good education for children who cannot attend school because of health needs. Statutory guidance for local authorities.

¹³ Mental Health Act 1983: Code of Practice, para 19.116.

¹⁴ Rule 11(2) The Detention Centre Rules 2001.

¹⁵ Detention Services Operating Standards manual for Immigration Service Removal Centres.

¹⁶ Section 11 Children Act 2004.

¹⁷ Regulation 38, The Young Offender Institution Rules 2000.

¹⁸ Noted in ministry of Justice (2016) The government response to Charlie Taylor's Review of the Youth Justice System, para 86.

¹⁹ Regulation 38, The Young Offender Institution Rules 2000.

²⁰ Rule 45A(2)(b)(i) The Secure Training Centre Rules 1998.

²¹ Regulation 28, The Secure Training Centre Rules 1998.

²² Regulations 27 & 28, The Secure Training Centre Rules 1998.

²³ Regulation 28, The Secure Training Centre Rules 1998.

²⁴ Section 87(1) Children Act 1989.

²⁵ Department for Education (2015) Residential special schools. National minimum standards, standard 2; Department for Education (2015) Boarding schools

National minimum standards, standard 2.

²⁶ Department for Education (2015) Residential special schools. National minimum standards, standard 2.

²⁷ Regulation 8 The Children's Homes (England) Regulations 2015.