

Article 39

CHILDREN ACT 1989
GUIDE 4

**Ensuring children's
wishes and feelings
are taken seriously**

ARTICLE 39 GUIDES FOR ADVOCATES

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* Article 39 uses the description 'children in care' to refer to all children and young people (up to age 18) who are looked after by a local authority.

Thank you

Article 39 would like to thank members of our Children and Young People's Advocates Network who generously provided case studies for this guide. These show unequivocally the power of advocacy. We would also like to thank Network members who kindly took the time to comment on the draft version of this guide.

Please note: The information we provide is for general guidance. It is not legal advice.

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 We'd appreciate you letting us know if you notice any errors or out-of-date information:

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Introduction

The Children Act 1989, along with connected regulations and government guidance, places a range of duties on local authorities in England to ensure that children and young people in contact with children's social care are heard and taken seriously when decisions are made about them and their lives. Oversight mechanisms, such as the Ofsted inspection framework for local authority children's services, also explicitly recognise the vital importance of children's wishes and feelings in that there's an expectation that work with and for children who need care, help and/or protection "is influenced by their wishes and feelings", that children are listened to and have access to advocacy.¹

The principles and ethos of universal human rights remind us that children and young people possess inherent dignity, worth and inalienable rights – rights that cannot be taken away. This is because these fundamental rights are connected to humanity rather than any specific laws. Universal human rights also affirm freedom of opinion and expression for all children and young people (and adults).

Despite the volume and prominence of adult statements and pledges about valuing and listening to 'the voice of the child', in practice, too many children and young people feel unheard, sometimes desperately unheard, especially those in the most challenging and vulnerable circumstances. Children and young people often report feeling excluded, marginalised, dismissed, disbelieved and disempowered.

The consequences of denying children and young people their right to be heard and taken seriously are severe and far-reaching. Children and young people feel isolated and not respected, they lose self-esteem and find it difficult to trust adults. Protracted situations where children and young people are not listened to, or are disbelieved, are known to have contributed to persistent abuse and other serious human rights violations that lasted, in some cases, for decades.

In 2011, when 'the Munro review of child protection' asked children 'Does your social worker or caseworker take notice of your wishes and feelings?', 77% of children said 'never', 'not usually' or 'sometimes'.²

Since the launch of the Independent Inquiry into Child Sexual Abuse (IICSA) in 2014, new and bright light has been shone on the devastating consequences and impacts of not listening to and disbelieving children and young people. IICSA inquiries into systemic failures to keep children safe have repeatedly identified recurring themes relating to barriers encountered by children and young people who seek help. These barriers routinely include fear of not being believed or being blamed, not having anyone trusted to talk to and fear of repercussions for speaking out. In contexts and settings where the power imbalance between children and adults is amplified by the complexity of children's needs and traumatic pasts combined with unsupported and inexperienced staff out of their depth, or restrictive or coercive environments, such as secure and custodial settings, children and young people are often perceived as even less credible, with detained children dismissed as 'damaged' and not reliable.³

Institutional culture is crucial, as this damning statement about one council explains:

"...there was a culture of not believing children at [name of institution], justifying this by referring to their histories and using their past experiences against them. The more the children raised concerns, the less likely they would be believed".⁴

Other IICSA investigations identified not having the same social worker for a sustained period of time and inability to speak to a social worker in private as making children feel there was no-one they could tell about abuse.⁵

Despite extensive knowledge about the harms suffered by children and young people whose voices went unheard, current investigations into failures to keep children and young people safe reveal a stubborn culture within many institutions and public bodies of not listening to children and young people. A recent decision published by the Local Government

and Social Care Ombudsman quoted a young woman saying:

“I have been physically attacked on two occasions and on both occasions children social services neglected their duty of care. They ignored me and didn’t take me or what I was saying seriously. I was made to feel that my voice is not important and made to feel at fault for situations out of my control... It took for me to be physically hurt for someone to care. My words were not enough”.⁶

Various provisions within primary and secondary legislation⁷, and accompanying government guidance, guarantee the rights of children and young people in a variety of settings to have a say and influence decision-making which is meant to be about their welfare and their life. Although the law consistently makes reference to a child’s age and understanding when it comes to due consideration being given to their wishes and feelings, there is no minimum age for when the law requires social workers to ascertain the child’s wishes and feelings. The right to be heard applies to every child, no matter how old they are. Advocates play a crucial role in championing children’s views, wishes and feelings:

- They help mitigate systemic and cultural barriers and create spaces where children and young people feel listened to, heard, included and respected.
- They support and empower children and young people to express their wishes and feelings about what is important to them, including by helping them understand their rights and entitlements.
- They are in a unique position to challenge failures by public bodies to truly listen to children and young people and to take their wishes and feelings into consideration, as required by the law.

We hope this guide will help you in your vital work.

The wishes and feelings of children and young people: a visual map to relevant primary legislation, secondary legislation and statutory guidance

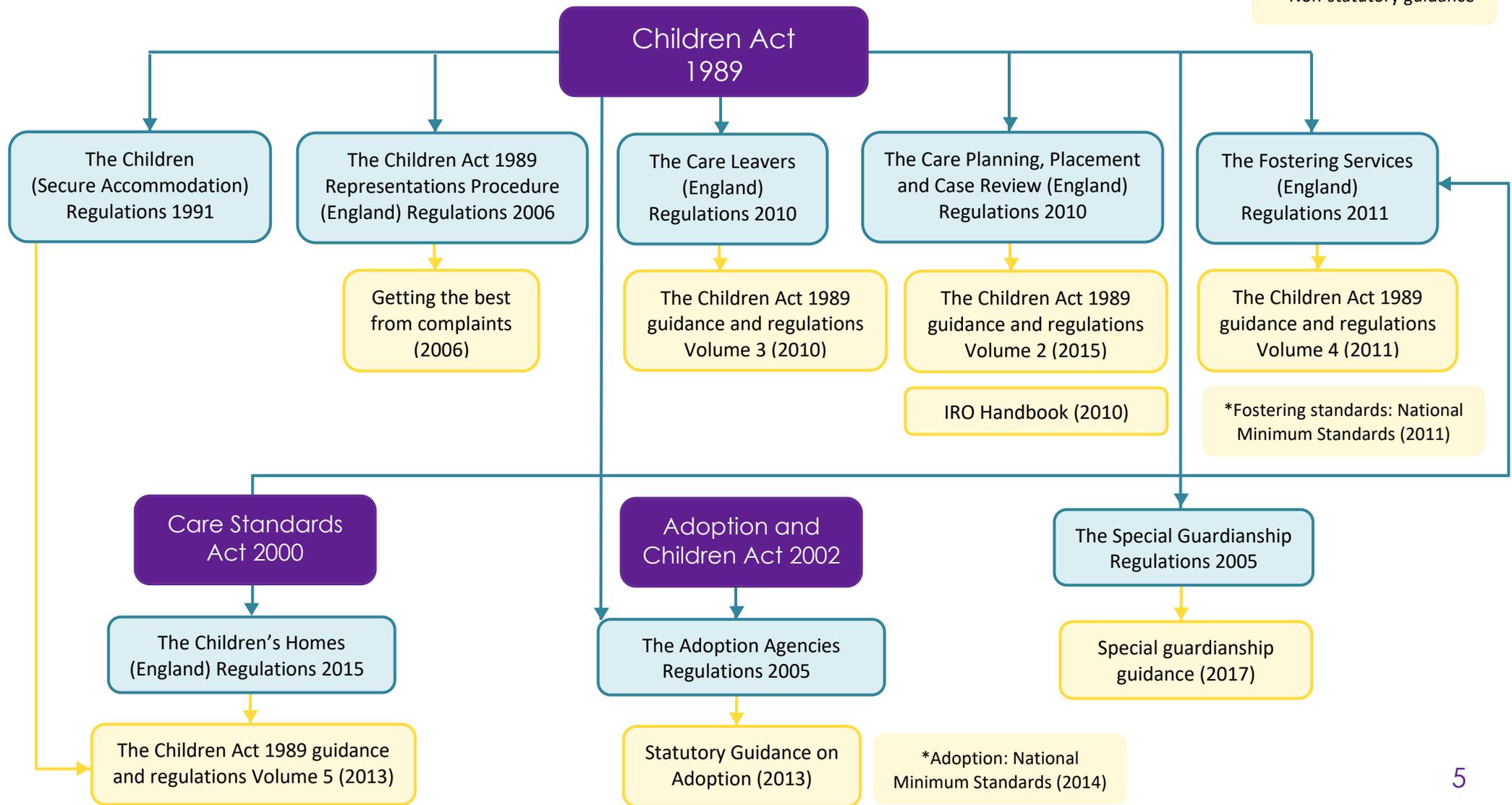
Each piece of legislation and statutory guidance included below contains explicit provisions relating to consideration of children’s wishes and feelings in decision-making and the actions of local authorities and other public bodies. This demonstrates clearly that listening to children and young people and taking into account their wishes and feelings is not only good practice, but a legal requirement.

Acts of Parliament
(primary legislation)

Regulations
(secondary legislation)

Statutory guidance

* Non-statutory guidance



Children Act 1989 core 'wishes and feelings' duties

The Children Act 1989 places a legal duty on local authorities to ascertain the child's wishes and feelings and give due consideration to those wishes and feelings as part of decision-making in four distinct contexts:

- Provision of services to children in need and their families – [Section 17\(4A\)](#).
- Provision of accommodation for children in need – [Section 20\(6\)](#).
- General duty of local authorities towards looked after children – [Section 22\(4\)-\(5\)](#).
- Local authorities' child protection duty to investigate to decide whether action to safeguard or promote the child's welfare is necessary – [Section 47\(5A\)](#).

This duty is almost identical across the four different sections of the Act and the same parameters for the implementation of this duty are set across all of them. Firstly, the process of ascertaining children's wishes and feelings is undertaken before decisions are made/actions are taken and its purpose is to inform decision-making. Secondly, the Children Act 1989 sets out some provisos for how the wishes and feelings duty is to be fulfilled ("a local authority shall"):

- The child's wishes and feelings must be found out "so far as is reasonably practicable" and "consistent with the child's welfare".
- The child's wishes and feelings must be given due consideration, and this must be done with regards to the child's "age and understanding".

The child's age and understanding should not be used or manipulated in a way that would limit children and young people's opportunities and ability to influence decisions about their lives. There are no age thresholds or conditions for children and young people's right to express their views and assumptions must not be made about children and young people's capacity or ability to do so. Assumptions must not be made about young children, disabled children, young people with

mental health difficulties, children who are speakers of other languages, or those who may have previously chosen not to share their views and wishes. References in law to children and young people's 'age and understanding' are designed to influence age- and circumstance-appropriate dialogue with children and young people, to safeguard their welfare and take into account the circumstances when it may not be possible to ascertain a child's wishes and feelings about a particular course of action or decision which could be, for instance, in the case of babies or children who are too unwell at a particular point in time. Statutory guidance states clearly that situations when it's not possible to ascertain the child/young person's wishes and feelings are rare and "*children should be supported to communicate their wishes and feelings through the provision of advocacy services and should be supported to communicate through a range of methods if necessary*".⁸

Vigyan* lives at home with his dad and step-mum. His relationship with his dad is strained and he does not have any emotional attachment to his step-mum. Because of child protection concerns, Vigyan is in contact with children's social care. Vigyan told his advocate that he is often unable to contact his social worker because he has no phone credit. He was also frustrated that his dad was listening to his calls. He asked his advocate for help and explicitly requested that his views and feelings not be shared with his dad. With Vigyan's permission, the advocate discussed the situation with his social worker and his school. It was agreed that Vigyan could use the school phone to contact his social worker.

*Not his real name

In this guide, we have focused on **local authority duties** towards children and young people that are set out in the Children Act 1989 (including those of independent reviewing officers). It is worth noting, however, that there are other provisions focused on statutory duties to ascertain children and young people's wishes and feelings in the 1989 Act. This includes situations where the family court makes decisions about children⁹, where children are taken

into police protection¹⁰, or the duties of private children's homes¹¹ and voluntary organisations that provide accommodation to children and young people.¹²

The role of advocates

*Advocates help children and young people to communicate their views and wishes freely and directly. The child or young person determines how he/she wishes to participate and communicate.*¹³

The role of advocates in supporting children and young people to enjoy their right to be heard – to express their views, wishes and feeling and influence decisions about their lives – cannot be overstated.

- Advocates enjoy a unique mandate to work exclusively for children and young people, being led by their views and wishes in everything they do (this is required by the [National Standards 2002](#)). This is fundamentally important in countering the power imbalance that characterises children and young people's interactions with local authorities and other public bodies, and with professionals and adults.
- Advocates are independent of local authorities and other public bodies, and this often puts them in a position of greater trust, with children and young people feeling more able to be open about what they want and don't want to happen in their lives, and what is worrying or frightening them.
- Advocates play a unique role within the Children Act 1989 representations (including complaints) procedure¹⁴ - this includes empowering children and young people to express their views, wishes and feelings, and working in partnership with them and only with their agreement.
- In specified contexts, access to advocacy is a statutory entitlement and failure to secure advocacy support for a child/young person would amount to a breach of legal duties.¹⁵

- Non-instructed advocacy helps ensure that the rights are protected of children and young people who, at the present time, are unable to directly influence decisions about them and their lives.

Advocates' work is guided by an understanding that children and young people are not a homogenous group and recognition that there is no single way to find out their views. Advocates don't follow blanket 'one size fits all' methods but approach each child and young people with acceptance that they are unique individuals with their own feelings, wishes, preferences and needs. Core values and ethos of fairness, equality and respect underpin advocacy.

*Advocates never make assumptions about children and young people's abilities to express views. It is the job of the advocate to discover their feelings. This may involve time and effort to get to know the child or young person well. Where appropriate, and only with the child or young person's consent, views are sought from parents, carers, grandparents, siblings and friends close to the child. Where there is conflict between the child or young person's wishes and those of others, advocates give precedence to those of the child.*¹⁶

Several looked after young people in a South East local authority expressed to their advocate their frustration at not having a National Insurance (NI) number as this was making it harder for them to get paid work. The advocate raised this issue with the local authority recommending that a system be put in place to automatically trigger NI number applications for all looked after children. This led to the establishment of a local authority-wide system.

Tia*, aged 14, lives “between her mum’s and dad’s”. Tia struggles with mental health and isolation, and she’s been bullied and excluded by her peer group at school. Tia prefers spending time at her dad’s but only because her nan lives there. Tia says her nan is “the only constant person who loves her in her life” but Tia is very worried about her nan and believes her dad has been financially exploiting her and neglecting her basic care needs. Tia’s worries about her nan left her unable to focus on school and her mental health deteriorated rapidly; she mentioned feeling “paranoid” whenever she was away from her nan and unable to see what was happening to her. Tia was referred to her local advocacy service. After exploring Tia’s options with her, the advocate contacted adult social care regarding a referral for Tia’s nan. A referral to CAMHS was also made for Tia and additional support for her was agreed with the school.

*Not her real name

Regulations connected to the Children Act 1989

Secondary legislation (regulations) expand and set out in more detail the provisions of the Children Act 1989. They include (listed in date order):

- The Children (Secure Accommodation) Regulations 1991
- The Special Guardianship Regulations 2005
- The Adoption Agencies Regulations 2005
- The Children Act 1989 Representations Procedure (England) Regulations 2006
- The Care Planning, Placement and Case Review (England) Regulations 2010
- The Care Leavers (England) Regulations 2010
- The Fostering Services (England) Regulations 2011

Each set of regulations contains important legal provisions (rights for children and young people, and duties for local authorities) designed to ensure

children and young people’s wishes and feelings are known, understood and considered when decisions are made about them and their lives. These provisions do not replace the overarching duties expressed in primary legislation (Children Act 1989) but supplement them.

While this guide focuses on the Children Act 1989 as the main domestic source of children’s rights in England, there are relevant, important provisions elsewhere in both primary and secondary legislation. Below, we address and summarise the key provisions that are connected to the Children Act 1989.

The regulations referred to below are not a comprehensive list and it’s important to keep in mind that children and young people’s views, wishes and feelings are also addressed in legislation and statutory guidance focused on specific groups of children and young people, for instance, disabled children (The Special Educational Needs and Disability Regulations 2014), children in mental health hospitals (Mental Health Act 1983: Code of Practice) or children in custodial settings (The Secure Training Centre Rules 1998 and The Young Offender Institution Rules 2000).

The wishes and feelings of children and young people who are in care

[The Care Planning, Placement and Case Review \(England\) Regulations 2010](#) (‘care planning regulations’) contain a raft of legal provisions that are designed to ensure children’s wishes and feelings are heard and taken seriously.

Preparation of a care plan: The contents of the care plan that is developed for each individual child/young person are set out in law and must include, among other matters, the wishes and feelings of the child/young person about the arrangements made by the local authority and relating to the child/young person’s health, education and training, emotional and behavioural development, their identity, family and social relationships, social presentation and self-care skills

[\(Regulation 5\(e\)\)](#).¹⁷ It's important to keep in mind that the core duty to ascertain the wishes and feelings of looked after children and young people is set out in Section 22(4)-(5) Children Act 1989, whereas the care planning regulations require the details of these wishes and feelings to be captured within the child's care and placement plans.¹⁸ Any changes to either the care or the placement plan must be recorded too and include the child/young person's wishes and feelings about these changes.

Preparation of a placement plan: Before making arrangements about where the child/young person will live (which is set out in Section 22C of the Children Act 1989), the local authority looking after them must prepare a placement plan – a document that sets out how the accommodation where the child/young person is to live will help meet their needs¹⁹ – and ensure that the child/young person's wishes and feelings have been ascertained and given due consideration ([Regulation 9\(1\)\(b\)](#)), and that their IRO has been informed. The details of the child/young person's wishes and feeling about where they live (or are to live) must be expressly contained within their care plan ([Regulation 5\(e\)](#)).

Review of a care plan: [Schedule 7](#) to the 2010 care planning regulations lists the matters that the local authority which looks after the child/young people "must have regard to" when reviewing the child/young people's care. This list includes the child's wishes and feelings (and the view of the IRO) about any aspect of their care, including any changes that have been made since the last review or any new changes that are being proposed. Importantly, while the law specifies the frequency of statutory (care) review meetings²⁰, the law was changed in 2013 to give children and young people the right to request a review outside of the statutory timescales.²¹ If, however, the IRO considers that an earlier than planned review "is not justified", the local authority does not have to carry it out.

Assessment of need in preparation for the child/young person leaving care: The Children Act 1989 requires local authorities to advise, assist and befriend the children/young people they look after with a view to promoting their welfare when they

leave care.²² This includes carrying out an assessment of needs for each eligible child addressing the advice, assistance and support they require while still in care and after they've left care.²³ This duty is fleshed out in the care planning regulations, with [Regulation 42\(2\)\(g\)](#) requiring the assessment of "likely needs when the child ceases to be looked after" to take into account the child/young person's wishes and feelings (as well as the views of the IRO, personal advisor and other people supporting the child/young person).

The role of independent reviewing officers (IRO) in making sure children and young people's wishes and feelings are taken seriously

One of the core statutory functions of an IRO is to ensure that any ascertained wishes and feelings of the child/young person are given due consideration by the local authority ([Section 25B\(1\)\(c\) Children Act 1989](#)). This requirement is intended to "reinforce the local authority duty under Section 22(4)-(5) of the Children Act 1989"²⁴ to ascertain and give due consideration to the child/young person's wishes and feelings when making decisions about them and their life.

Statutory guidance states that "*the IRO's primary focus is to quality assure the care planning and review process for each child and to ensure that his/her current wishes and feelings are given full consideration*".²⁵

The care planning regulations require IROs to:

- Speak with the child/young person in private about the matters that will be considered at their statutory (care) review meeting unless the child/young person who has "sufficient understanding" refuses or if the IRO considers it inappropriate in light of the child's age and understanding ([Regulation 36\(1\)\(b\)](#));
- Ensure that the care review meeting addresses "whether the child's social worker has taken steps to establish the child's wishes and feelings, that the care plan has taken these into consideration and that the care plan demonstrates this" ([Schedule 7, Paragraph 12](#)).

Statutory guidance – the IRO Handbook – states that IROs should ensure (care) review meetings remain child-centred and “always begin from the perspective of the child, listen to his/her views and make sure that s/he is involved as much as possible in the review process” (para 3.32).

[Regulation 45](#) (Additional functions of IROs) is also crucial in that it places a duty on IROs to ensure children and young people are informed (where appropriate and in line with their age and understanding) by the local authority that looks after them about their right to:

- a) Apply for permission to apply to the family court for a Section 8 order or for the discharge of a care order - Regulation 45(1)(a); (Please note that if the child/young person wishes to initiate legal proceedings the IRO must support the child to obtain legal advice and assistance – Regulation 45(2)).
- b) Make representations (including complaints) and access advocacy support - Regulation 45(1)(b).

Regulation 45 also gives IROs unique powers to refer failures by the local authority to fulfil its statutory duties to the Children and Family Court Advisory and Support Service (Cafcass) – Regulation 45(3). In turn, Cafcass has been given legal powers to bring proceedings on behalf of children in care, including under the Human Rights Act 1998.²⁶

The final part of Regulation 45 further underscores the broad duty of the IRO to ensure children and young people’s wishes and feelings are heard and taken seriously. Whenever the IRO is informed or consulted by the local authority about any matter concerning the child in connection with the care planning regulations, the IRO must ensure that the local authority has ascertained and given due consideration to their wishes and feelings (subject to the child’s age and understanding) – Regulation 45(4). This will include situations when a local authority is considering moving a child from one setting to another²⁷ (including moving a child aged 16 and 17 to an ‘unregulated setting’, i.e., under [Section 22D\(6\)\(d\)](#) of the Children Act 1989).

Connected statutory guidance:

- ◆ [The Children Act 1989 guidance and regulations Volume 2: care planning placement and case review](#) (2021).
- ◆ [IRO Handbook. Statutory guidance for independent reviewing officers and local authorities on their functions in relation to case management and review for looked after children](#) (2010).

Jack* had to move out of London to protect him from county lines exploitation. He moved to the North West where he lived for 11 months before being told by his social worker that he would be returning to London. Jack was very upset about this because he felt happy and settled in the area he was living in. With help from an advocate, Jack expressed his wish to remain in the area where he now had a partner and friends, and where he attended college. He also expressed his fear of being exploited again if he returned to his home area. As a result, an agreement was reached that Jack would be supported to remain in the North of England.

*Not his real name

Maya, aged 11, has just moved to live with a new foster family. The move has meant that Maya would be some distance away from the secondary school she was meant to attend. This was a worry for her as it meant a lot to Maya to be able to build a local friendship group with children and young people who lived near to her now. Maya expressed a strong wish to attend a school near her new home. Some children’s social care staff said they believed Maya was “manipulating the system”, with one saying “11-year-olds don’t dictate which school they are going to”. Maya sought help from an advocate who helped communicate her views and concerns to children’s social care. This led to Maya’s wishes and feelings being considered and a new place was found at a secondary school closer to her new home.

*Not her real name

Children in Care Councils

Children in Care Councils (CiCC) are local groups which are hosted and supported by local authorities to provide a space and a platform for care experienced children and young people to share their experiences, voice their wishes, feelings and concerns, and communicate them to the local authority as the corporate parent. CiCCs are a vital mechanism for supporting care experienced children to influence local services, policies and priorities.

Statutory guidance documents set expectations about care experienced children and young people being included and consulted in the development of local policies. For example:

- Local authorities should “discuss with their local Children in Care Council their policy and procedures on sibling contact and regularly review their performance on the issue with both the Children in Care Council and other children in care” and hold an annual survey of children’s views on this issue.²⁸
- Financial policies developed by local authorities to support care experienced young people’s transition to adulthood should be “reviewed every year and be open to independent audit and scrutiny, including by the Children in Care Council” in order to ensure transparency and fairness.²⁹
- Children in Care Councils should undertake on-going reviews of how their local authority ensures that looked after children and care leavers are aware of the local complaints process and report back to senior management and corporate parenting boards with their findings.³⁰
- When local authorities set the level of the setting up home allowance and a minimum standard for furnishings and equipment (for young people setting up home for the first time), the local Children in Care Council or appropriate consultative advisory group should be consulted.³¹

Statutory guidance further stipulates that directors of children’s services (DCS) and lead members for children’s services (LMCS) “should involve and listen to parents, carers, children and young people”³², which by extension, and in light of the corporate parenting responsibilities of DCSs and LMCSs, ought to include local Children in Care Councils.

An annual survey designed by the local Children in Care Council to explore the views, experiences and ideas of children and young people in care revealed that many were not attending their personal education plan (PEP) review meetings. It transpired, that children were being “hauled out” of lessons, which violated their privacy and disrupted learning. An advocate, who also facilitates the local Children in Care Council, communicated children’s views and wishes to the local authority, which led to a ban on PEP reviews taking place during school hours and a council-wide policy requiring staff to conduct PEP reviews in a place chosen by the child.

A Children in Care Council in the South East of England was successful in lobbying for a council tax exemption until the age of 21 for all care experienced young people, including those living out of area. Young people felt the exemption would make a massive difference to their finances and that it should apply wherever young people live. After the exemption was agreed by the local Corporate Parenting Board (CPB), the local advocate, together with the local authority personal advisors, approached the CPB asking for the exemption to be extended up to the age 25, in line with statutory leaving care entitlements. This extension was agreed.

The wishes and feelings of children and young people who live with foster families

[The Fostering Services \(England\) Regulations 2011](#) ('fostering regulations') state that before making any decision affecting a child who currently lives or who is to live with a foster family, fostering services must give due consideration to the child's wishes and feeling, in line with their age and understanding) ([Regulation 11\(b\)\(i\)](#)).

They also require fostering services to provide children and young people with guidance, support and advice on health and personal care matters that reflect not only their needs, but also their wishes ([Regulation 15\(2\)\(d\)](#)).

Connected statutory guidance:

- ◆ [The Children Act 1989 Guidance and Regulations Volume 4: Fostering Services](#) (2011).

Other relevant (non-statutory) guidance:

- ◆ [Fostering Services: National Minimum Standards](#) (2011).

Fostering Services: National Minimum Standards (NMS) (2011), together with The Fostering Services (England) Regulations 2011, form the basis of the regulatory framework that applies to fostering services. While the 2011 NMS do not have the status of statutory guidance, there is an expectation that they will be followed: "All providers and staff of fostering services should aim to provide the best care possible for the children for whom they are responsible, and observing the standards is an essential part, but only a part, of the overall responsibility to safeguard and promote the welfare of each individual child".³³

[Standard 1 - The child's wishes and feelings and the views of those significant to them](#) – requires fostering services to work towards achieving two overarching outcomes for children and young people who live with foster families:

1. "Children know that their views, wishes and feelings are taken into account in all aspects of their care; are helped to understand why it may not be possible to act upon their wishes in all cases; and know how to obtain support and make a complaint."
2. "The views of others with an important relationship to the child (this could be a sibling) are gathered and taken into account."

For these outcomes to be achieved, all fostering providers are expected to support children to communicate their views on all aspects of their care, and to act upon children's views, wishes and feelings, unless this would be "contrary to their interests or adversely affects other members of the foster care household". Fostering providers are further expected to help children understand why certain wishes or concerns cannot be addressed and provide prompt feedback on concerns or complaints raised by children.³⁴

The wishes and feelings of children who live in children's homes

[The Children's Homes \(England\) Regulations 2015](#) ('children's homes regulations') contain nine quality standards which describe "the aspirational and positive outcomes" that children's homes are expected to achieve.³⁵ The second standard, set out in [Regulation 7](#), is dedicated entirely to children's views, wishes and feelings:

*The children's views, wishes and feelings standard is that children receive care from staff who develop positive relationships with them; engage with them; and take their views, wishes and feelings into account in relation to matters affecting the children's care and welfare and their lives.*³⁶

The children's homes regulations place a range of duties on the managers of registered children's homes who must:

- Ensure that children's home staff:
 - i. Ascertain and consider each child's views, wishes and feelings, and balance these against what is judged to be in the child's best interests when making decisions about the child's care and welfare;
 - ii. Help each child to express views, wishes and feelings;
 - iii. Help each child to understand how the child's views, wishes and feelings have been taken into account and explain all decisions that affect the child and their life;
 - iv. Regularly consult children, and seek their feedback, about the quality of the home's care;
 - v. Help each child understand how their privacy will be respected and the circumstances when it may have to be limited;
 - vi. Help each child prepare for care review meetings and make their views, wishes and feelings known for the purposes of these meetings; and
 - vii. Make each child aware of and, if necessary, remind them of their rights within the home, their right to make representations, including complaints, and their statutory entitlement to independent advocacy.
- Ensure that each child who lives in the children's home can provide feedback and raise issues, has access to information about the home, including its complaints procedure, and can access advocacy support.
- Keep the children's guide (to the home) and the home's complaints procedure under review, ensuring both are informed by children's comments;
- Ensure that each child is provided with an explanation, as soon as reasonably practicable after the child's arrival, about the children's

guide, the process for making representations, including complaints, and their statutory entitlement to independent advocacy support; and

- Ensure that the views of each relevant person³⁷ are taken into account, so far as reasonably practicable, before making a decision about the care or welfare of a child.

The registered person (children's home manager) is also required to ensure there is a system in place for monitoring, reviewing and evaluating the quality of care, children's feedback and opinions about their care and the home in general, and what needs to be done to improve the quality of the care provided.³⁸

Connected statutory guidance:

- ◆ [Guide to the Children's Homes Regulations including the quality standards](#) (2015).

Marco*, aged 17, asked his social worker if his cat could live with him. Marco had mental health difficulties, including suicidal thoughts, he felt extremely isolated, and he found it difficult to form relationships. He was told it was not possible to have pets in the children's home where he lived. He asked an advocate for support and explained he wanted to be able to see his cat regularly. It was agreed that the cat would be brought to the children's home twice a month for four hours so that Marco could spend time with his cat. Three months later, Marco moved to different accommodation where the cat could live with him. Marco later told his advocate that being able to stay connected to his cat and having responsibilities around caring for a pet helped him feel more settled and secure.

*Not his real name

Kwasi*, originally from London, has been placed by children's social care in residential accommodation in Scotland. Kwasi is unhappy about this and has questions about why he's living so far away from home. He's recently told his advocate that neither his social worker nor his independent reviewing officer (IRO) have been in touch with him since he left London, and that now that he lives in Scotland, he's "out of sight, out mind" for social services. The advocate communicated Kwasi's feelings to a senior manager and Kwasi's IRO. The IRO went to see Kwasi soon after that and a social worker agreed with Kwasi to discuss the possibility of him returning home after his school exams are over. Even though Kwasi had to remain in Scotland, which was against his wishes, he told his advocate that being visited by his IRO and speaking to his social worker about his options and the future made him feel noticed and listened to.

*Not his real name

The wishes and feelings of children who live in secure children's homes

[Regulation 16](#) of The Children (Secure Accommodation) Regulations 1991 concerns the review of looked after children's deprivation of liberty in secure accommodation in a community home. It places a duty on those reviewing the child's deprivation of liberty in secure accommodation (see [Regulation 15](#)) to, if practicable, ascertain and take into account the wishes and feelings of the child. These reviews are undertaken by a panel of at least three people (at least one of whom must be independent of the local authority) and by law they must take place within one month of the child moving to a secure children's home and then at intervals not exceeding three months³⁹ (but please note that these protections have been removed for children and young people from England and Wales placed in secure accommodation in Scotland⁴⁰).

As part of the review, the independent member of the review panel must, if practicable, ascertain and

take into account the wishes and feelings of the child ([Regulation 16\(2\)\(a\)](#)). Additionally, the local authority looking after the child must, if practicable, inform the child of the outcome of the review and what action, if any, the local authority proposes to take in response to the review.⁴¹ This should include informing the child about the reasons for the local authority reaching the given decision.

Connected statutory guidance:

- ◆ [Guide to the Children's Homes Regulations including the quality standards](#) (2015).

Hassan* was living in residential accommodation 200 miles away from home when he was reported missing. Because of serious concerns about his safety and welfare, including risk of child criminal exploitation, an application for a secure accommodation order was made and granted by the family court. Because of the urgency of Hassan's move to a secure children's home, he was not able to take his belongings with him. This meant his boxing equipment remained in his former accommodation, which was very upsetting to him as he found boxing therapeutic and important in helping him manage his emotions. Hassan asked an advocate for help. His advocate contacted the secure children's home, Hassan's previous accommodation, his social worker and his independent reviewing officer to convey the importance to Hassan of having his boxing equipment with him. This was addressed and Hassan now has access to his boxing set where he lives.

*Not his real name

The wishes and feelings of children who are subject to a special guardianship order (SGO)

The Children Act 1989 places a duty on local authorities to prepare a report for the court when an application for a special guardianship order (SGO) is made.⁴² [Schedule \(Regulation 21\)](#) to The Special Guardianship Order Regulations 2005 sets out in detail the matters that must be addressed and included in this report, including specific matters related to the wishes and feelings of the child. The report must contain an assessment of the child's wishes and feelings (considered in light of their age and understanding) about:

- Special guardianship;
- The child's religious and cultural upbringing; and
- Seeing and spending time with the child's relatives (and any other person the local authority considers relevant).⁴³

(By law, the assessment of the child's wishes and feelings must make clear on which date they were last ascertained.)

Importantly, the duty to ascertain and consider wishes and feelings applies also to "any of the child's relatives, or any other person the local authority considers relevant", which, in line with the definition of a 'relative'⁴⁴ set out in the Children Act 1989, includes the child's brothers and sisters.

Connected statutory guidance:

- ◆ [Special guardianship guidance: Statutory guidance for local authorities on the Special Guardianship Regulations 2005 \(as amended by the Special Guardianship \(Amendment\) Regulations 2016\)](#) (2017).

The wishes and feelings of children who may be adopted

[Section 1\(4\)\(a\)](#) of the Adoption and Children Act 2002 places a duty on the courts and adoption agencies to have regard to (among others) the child's ascertainable wishes and feelings regarding adoption (considered in the light of the child's age and understanding). (It is interesting to note that as far back as 1926 the law required the court, before making an adoption order, to give due consideration to the wishes of the child, having regard to his or her age and understanding⁴⁵).

[The Adoption Agencies Regulations 2005](#) ('adoption regulations') place a duty on adoption agencies, so far as is reasonably practicable, to ascertain the child's wishes and feelings regarding the possibility of adoption, the child's religious and cultural upbringing, and contact with their parent/guardian and other relative/s ([Regulation 13](#)). Importantly, Regulation 13 additionally places duties on adoption agencies, so far as is reasonably practicable, to provide a counselling service for the child, to provide information to the child, and to explain to the child "in an appropriate manner" the adoption process and legal implications of adoption. These duties inevitably support the child's right to express their wishes and feelings, and to influence decision-making.

There is a similar duty to ascertain, so far as is reasonably practicable, the wishes and feelings of the parent or guardian of the child who is to be adopted.⁴⁶ This legal provision should be kept in mind when supporting young parents who are in, or leaving, care in circumstances where adoption of their child is being considered.

Connected statutory guidance:

- ◆ [Statutory Guidance on Adoption For local authorities, voluntary adoption agencies and adoption support agencies](#) (2013).

Other relevant (non-statutory) guidance:

- ◆ [Adoption: national minimum standards](#) (2014)

[Adoption: national minimum standards \(2014\)](#) do not have the status of statutory guidance but “can be used by children, birth parents and birth families, prospective/adoptive parents, and adopted adults as a guide to what they should expect as a minimum the (adoption) agency to provide and to do”.⁴⁷

Standard 1 - The child’s wishes and feelings – sets the following expectation:

“Children know that their views, wishes and feelings are taken into account in all aspects of their care; are helped to understand why it may not be possible to act upon their wishes in all cases; and know how to obtain support and make a complaint”.

In fulfilling this expectation, adoption agencies/adoption support agencies should, for instance, act on children’s views, wishes and feelings unless this is contrary to their best interests, support them to understand how their views have been taken into account, support children to take up issues in the most appropriate way, and offer prompt feedback. Guidance is clear that no child should be assumed unable to communicate their views.

The wishes and feelings of young adults who were in care as children

Care leavers' expectations of how they are perceived sometimes prevented them asking for the help that they needed, or feeling that they were not listened to: '[A PA] basically discouraged me from going to university... I felt like if I said I'm struggling, they were going to be like "well maybe it's not for you", rather than "we'll help you"'.⁴⁸

I only... [saw my leaving care worker] once a year as he kept telling me how amazing I was doing. So [I] didn't feel I could say how much I was struggling.⁴⁹

[The Care Leavers \(England\) Regulations 2010](#) ('care leaver regulations') require local authorities to take into account care leavers' views when assessing their needs and preparing or reviewing pathway plans ([Regulation 4](#)).

- **Needs assessments:** When carrying out assessments of young people's (relevant and former relevant children⁵⁰), the local authority must, unless it is not reasonably practicable, seek and have regard to the young person's views. The local authority must also take all reasonable steps to support the young person to participate in the assessment process.
- **Pathway plans:** The exact same duty applies as above.
- **Providing information:** The local authority is required to provide the young person with a copy of their assessment and pathway plan/reviews and help them understand their contents. This should happen as soon as possible.
- **Written records of young people's views:** Local authorities must ensure that young people's views are recorded in writing.

We will encourage you to stay in care until you are 18. Most young people still live at home with their families at this age. If you choose to leave care before age 18, the law says we must provide you with suitable accommodation.⁵¹

The Children Act 1989 requires local authorities to provide looked after children and young people with “suitable accommodation” if this is needed to safeguard and promote their welfare.⁵² The care leaver regulations specify that “suitable accommodation” is that which meets the young person's health, education and broader needs, and also takes into account, so far as reasonably practicable, the child/young person's wishes and feelings ([Regulation 9\(2\)\(c\)](#)). Additionally, when assessing the suitability of accommodation to the child/young person's needs, the local authority is under a legal duty to have regard to a checklist set out in [Schedule 2](#) to the care leaver regulations.

This checklist includes the child/young person's (relevant child's) views about the accommodation, and their understanding of their rights, responsibilities and funding arrangements connected to the accommodation.⁵³

[In the context of care leavers' rights, it is also worth keeping another set of regulations in mind - [The Children Act 1989 \(Higher Education Bursary\) \(England\) Regulations 2009](#) – because they require local authorities to ascertain and give due consideration to the wishes and feelings of the young person (former relevant child), as far as reasonably practicable, before making any decision about payment of the higher education bursary].⁵⁴

Connected statutory guidance:

- ◆ [The Children Act 1989 guidance and regulations Volume 3: planning transition to adulthood for care leavers](#) (2010).
- ◆ [Local offer guidance. Guidance for local authorities](#) (2018).

Arran* was in care and receiving cognitive behaviour therapy (CBT) as part of his care plan. He attended these sessions with enthusiasm and found them extremely helpful. In the run up to his 18th birthday, the local authority looking after Arran informed him that it would stop funding CBT sessions once he turned 18. With help from an advocate, Arran was able to oppose this, and have the local authority reverse its earlier decision and agree to fund six additional CBT sessions after his 18th birthday.

*Not his real name

Children's wishes and feelings in the context of seeing and spending time with their family

Please refer to our guide for advocates: [Supporting family and other important relationships](#)

Thang and Binh* had become good friends after meeting at the local Children in Care Council. Both had arrived in the UK seeking refuge from Vietnam. The boys were due to move to semi-independent accommodation at age 18. They asked children's social care if they could live together so that they could mutually support one another but the local authority said that due to shortage of suitable accommodation, as well as the council's experience of "young people falling out with each other", the plan was for them to live separately. Thang and Binh sought advocacy support to challenge this. The advocate helped them express the reasons why they wished to live together. This included being able to communicate in their own language; sharing cultural values; having a valuable emotional link to their homeland; and, most importantly, being able to live together like a family does. The local authority reversed its earlier decisions and agreed to Thang and Binh's request. Some 10 weeks later they moved into a two-bedroom flat together.

*Not their real names

The wishes and feelings of children and young people making representations, including complaints

The Children Act 1989 representations procedure offers a route to resolving concerns, acknowledging children and young people's views and experiences, redressing injustice, and putting things right. Representations are very widely interpreted in [statutory guidance](#) and incorporate any expression of views, wishes and feelings. Children and young people's views, wishes and feelings are central to the entire representations procedure – from the

decision to make a representation, to making choices about having the representation considered at stages 2 or 3 of the procedure and specifying what the child/young person wishes to happen to redress the injustice they have experienced.

Local complaints procedures should be seen “in the wider context of encouraging children to speak out and encouraging decision-makers to hear their views”⁵⁵ and statutory guidance makes clear that:

*Local authorities should develop a listening and learning culture where learning is fed back to children and young people who use services – and fed into internal systems for driving improvement. The same listening and learning culture should shape wider opportunities for working in partnership with children and young people, such as individual reviews and systematic quality assurance. It should give children and young people opportunities to tell the local authority about both their good and bad experiences of the service.*⁵⁶

For more information about the statutory representations procedure and the paramountcy of children and young people’s views, wishes and feelings in that context, please refer to our [Guide for advocates: Statutory representations \(including complaints\) procedure](#).

Connected statutory guidance:

- ◆ [Getting the best from complaints: Social care complaints and representations for children, young people and others](#) (2006).

Halima* is in care. She is pregnant. Halima has told her advocate that her social worker has made judgemental comments to Halima about her pregnancy being an offence to her faith. After discussing this with her advocate, Halima decided to make a complaint under the Children Act 1989 representations procedure. Halima sought an apology and asked for a new social worker. Following consideration of the complaint at stage 1, Halima was told a new social worker would be assigned but the complaint response implied that Halima made up the comments she complained

about. The local authority also told Halima the social worker disputed her complaint and denied commenting on her pregnancy and her faith. Even though Halima knew she would have a new social worker, which reflected her wishes, she was very unhappy about not being believed. She told her advocate: "This is what they do all the time. I am the problem". Having discussed her wishes and feelings with her advocate, Halima decided to escalate her complaint to stage 2 of the statutory representations procedure. At the time of writing, it is still being investigated.

*Not her real name

Other relevant legislation:

Advocates should also keep the following primary legislation in mind when supporting children and young people to have their views, wishes and feelings heard and taken seriously:

Care Act 2014: This sets out the rights of young people who are moving from children’s to adult care and support services – this includes care and support needs assessments for those children and young people who currently receive support and who are approaching their 18th birthday ([Section 59](#)), as well as the support needs of young people who are young carers ([Section 64](#) – but please note that assessment and support for young carers under the age of 18 is principally carried out under the Children Act 1989, [Section 17ZA](#)).

One of the key principles underpinning local authority functions carried out under the Care Act 2014 is respect for views, wishes and feelings. Statutory guidance - [Care and support statutory guidance](#) (2021) – states: “Considering the person’s views and wishes is critical to a person-centred system. Local authorities should not ignore or downplay the importance of a person’s own opinions in relation to their life and their care. Where particular views, feelings or beliefs (including religious beliefs) impact on the choices that a person may wish to make about their care, these should be taken into account. This is especially important where a person has expressed views in

the past, but no longer has capacity to make decisions themselves”.⁵⁷ The Care Act also stresses the importance of personal dignity (including treatment of the individual with respect) ([Section 1\(2\)\(a\)](#)). Finally, it’s vital to keep in mind statutory entitlements to get help from an independent advocate set out in [Section 67](#) and [Section 68](#) of the Care Act 2014.

Children and Families Act 2014: This contains vital provisions relating to children with special educational needs and disabilities (SEND), including:

- A duty on local authorities to have regard to the views, wishes and feelings of the child/young person and supporting them to participate fully in decision-making ([Section 19](#)) – this is an overarching duty and an underpinning principle and applies to all functions carried out by local authorities in relation to children with SEND;⁵⁸
- The right of the child/young person to express their views when an education, health and care (EHC) assessment is being considered ([Section 36\(7\)\(b\)\(i\)](#)); and
- The right of a child/young person who is detained to express their views about a planned EHC assessment ([Section 71\(8\)\(b\)\(i\)](#)). More duties are set out in The Special Educational Needs and Disability Regulations 2014, including: a duty to consult the child/young person and take their views, wishes and feelings into account in the context of developing EHC needs assessments ([Regulation 7](#)) and reviewing EHC plans ([Regulation 19\(a\)](#)). Accompanying statutory guidance – [SEND Code of Practice 0-25](#).

Children Act 2004, and the role and functions of the Children’s Commissioner for England

*The Children’s Commissioner’s primary function is promoting and protecting the rights of children in England. The primary function includes promoting awareness of the views and interests of children in England... The Children’s Commissioner must have particular regard to the rights of (children living away from home or receiving social care) and other groups of children who the Commissioner considers to be at particular risk of having their rights infringed.*⁵⁹

The Children Act 2004 established the office and defined the role and functions of the Children’s Commissioner for England. The Children’s Commissioner has a range of statutory powers designed to ensure that children’s rights, views and interests are considered, both at the national and local level. In line with her statutory powers, the Children’s Commissioner may, for instance, encourage anyone working with and for children to take account of their views and interests and advise the Secretary of State (for Education) on the rights, views and interests of children.⁶⁰

Importantly, the Children Act 2004 places a duty on the Children’s Commissioner to take reasonable steps to involve children in the discharge of her functions. This includes a duty to ensure children are aware of the Commissioner’s role and functions, and that they know how to contact her, and a duty to consult children and organisations that work with children. The Commissioner must, in particular, ensure that children who are living away from home, children who are in contact with children’s social care and children who “do not have adequate means by which they can make their views known” are involved in her work.⁶¹

The United Nations Convention on the Rights of the Child

Article 12 of the [United Nations Convention on the Rights of the Child](#) (UNCRC) guarantees the right of every child (aged under 18 years) who can form their own views the right to “express those views freely in all matters affecting the child”. Those views should be considered and taken seriously (“given due weight”), in line with the age and maturity of the child. Article 12 applies in all judicial and administrative proceedings affecting the child (which include care proceedings as well as formal processes making decisions about child protection, health, education or other matters). It also entitles children to access support such as advocacy to express their views.

The right of all children to be heard and taken seriously is widely seen as the beating heart of the UNCRC, since it affirms each child’s human dignity and agency. It is a standalone right, and a general principle of the UNCRC (alongside non-discrimination (Article 2); best interests (Article 3); life, maximum survival and development (Article 6). General principles guide the interpretation and implementation of every right protected by the UNCRC.

In its guidance on the effective implementation of Article 12 of the UNCRC, the Committee on the Rights of the Child – the United Nations body responsible for monitoring progress in implementing the Convention across the world – states that children should be encouraged to form a free view in an environment that enables them to exercise their right fully. Environments that are intimidating, hostile, insensitive or inappropriate for the child’s age preclude meaningful participation of children in decision-making. Equally important is combating negative attitudes which undermine, devalue or dismiss children’s views and wishes, or question children’s capacity for independent thinking and decision-making.⁶²

While the Convention is not fully part of England’s domestic law⁶³ and as such it does not create enforceable obligations for local authorities, provisions in the Children Act 1989 effectively mirror the requirements of Article 12, and Article 12 itself appears in some statutory guidance. For instance, statutory guidance for local authorities states that directors of children’s services and lead members for children’s services should have regard to the general principles of the UNCRC and the treaty as a whole and ensure that children and young people are involved in the development and delivery of local services.⁶⁴

European Convention on Human Rights

The European Convention on Human Rights (ECHR) is also relevant and helpful in upholding the right of every child and young person to participate and influence in decisions about them and their lives.

Public bodies in the UK, including local authorities, are required by law to act compatibly with the ECHR – this is expressed in [Section 6](#) of the Human Rights Act 1998 (which gives the ECHR direct effect in UK law⁶⁵).

Two Convention rights are particularly significant: Article 6 – right to a fair trial (which applies both in the context of civil and criminal proceedings); and Article 8 – right to respect for private and family life. Article 6 grants the right to a fair trial and access to justice and the European Court of Human Rights (ECtHR) has held that Article 6 requires adaptations to procedures to make effective participation possible for children. Article 8 has, read alongside Article 12 of the UNCRC, been interpreted as granting competent children the right to freedom of expression and participation in proceedings about their care and custody.⁶⁶

Endnotes

- ¹ <https://www.gov.uk/government/publications/inspecting-local-authority-childrens-services-from-2018/inspecting-local-authority-childrens-services> [Accessed 4 January 2022].
- ² Department for Education (2011), [The Munro Review of Child Protection: Final Report A child-centred system](#), p.28.
- ³ IICSA (2019), [Sexual Abuse of Children in Custodial Institutions: 2009–2017 Investigation Report](#), p.40.
- ⁴ IICSA (2021), [Children in the care of Lambeth Council, Investigation report](#), para.85.
- ⁵ IICSA (2019) [Children in the care of the Nottinghamshire Councils Investigation Report](#), p.120.
- ⁶ [Manchester City Council \(20 008 516\)](#) [Accessed 14 February 2022].
- ⁷ Primary legislation means Acts of the UK Parliament such as the Children Act 1989, the Human Rights Act 1998 and the Equality Act 2010. Secondary legislation is created by government ministers or public bodies and is used to introduce detailed provisions that elaborate on the content of Acts of Parliament. For example, The Care Planning, Placement and Case Review (England) Regulations 2010 are secondary legislation that expands on the provisions of the Children Act 1989. To learn more about primary and secondary legislation, visit our [introductory guide to the law for advocates](#).
- ⁸ [The Children Act 1989 guidance and regulations Volume 2: care planning placement and case review](#) (2021), para.2.80.
- ⁹ [Section 1\(3\)\(c\)](#) of the Children Act 1989 requires the Family Court to have regard to “the ascertainable wishes and feelings of the child concerned (considered in the light of his age and understanding)”.
- ¹⁰ [Section 46\(3\)\(d\)](#) requires the police to “take such steps as are reasonably practicable to discover the wishes and feelings of the child” when they are taken into police protection.
- ¹¹ [Section 64\(2\)–\(3\)](#) of the Children Act 1989.
- ¹² [Section 61\(d\)](#) requires voluntary organisations providing accommodation to children to (so far as is reasonably practicable) ascertain the child’s wishes and feelings when making decisions.
- ¹³ [Getting the best from complaints: social care complaints and representations for children, young people and others 2006](#), para 1.5.
- ¹⁴ [Getting the best from complaints: social care complaints and representations for children, young people and others 2006](#), p.38.
- ¹⁵ To learn more about statutory entitlement to advocacy, please [click here](#).
- ¹⁶ [Getting the best from complaints: social care complaints and representations for children, young people and others 2006](#), para 1.3
- ¹⁷ [Regulation 5\(e\)](#) of The Care Planning, Placement and Case Review (England) Regulations 2010.
- ¹⁸ [Regulation 5\(e\)](#) of The Care Planning, Placement and Case Review (England) Regulations 2010.
- ¹⁹ [Regulation 9\(1\)\(a\)](#) of The Care Leavers (England) Regulations 2010.
- ²⁰ [Regulation 33](#) of The Care Planning, Placement and Case Review (England) Regulations 2010.
- ²¹ [Regulation 20\(a\)\(ac\)](#) of The Children’s Homes and Looked after Children (Miscellaneous Amendments) (England) Regulations 2013
- ²² [Schedule 2, Paragraph 19A](#) of the Children Act 1989.
- ²³ [Schedule 2, Paragraph 19B\(4\)](#) of the Children Act 1989.
- ²⁴ [IRO Handbook](#), Annex 3.
- ²⁵ [IRO Handbook statutory guidance for independent reviewing officers and local authorities on their functions in relation to case management and review for looked after children](#) (2010), para. 1.21.
- ²⁶ [Regulation 3](#) of The Children and Family Court Advisory and Support Service (Reviewed Case Referral) Regulations 2004.
- ²⁷ [Regulation 14](#) of The Care Planning, Placement and Case Review (England) Regulations 2010.
- ²⁸ [The Children Act 1989 guidance and regulations Volume 2: care planning, placement and case review](#) (2021), para 2.91.
- ²⁹ [The Children Act 1989 guidance and regulations Volume 3: planning transition to adulthood for care leavers](#) (2010), para 8.13.
- ³⁰ [The Children Act 1989 guidance and regulations Volume 3](#), paras 4.36-4.37.
- ³¹ [The Children Act 1989 guidance and regulations Volume 3](#), para 8.19.

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- ³² [Statutory guidance on the roles and responsibilities of the Director of Children’s Services and the Lead Member for Children’s Services](#) (2013), para 14.
- ³³ [Fostering Services: National Minimum Standards](#) (2011), p.5.
- ³⁴ [Standard 1](#), [Fostering Services: National Minimum Standards](#) (2011).
- ³⁵ [Guide to the Children’s Homes Regulations including the quality standards](#) (2015), para.1.2.
- ³⁶ [Regulation 7\(1\)](#) of The Children’s Homes (England) Regulations 2015.
- ³⁷ ‘Relevant persons’ means “any person, body or organisation that the registered person considers to be relevant in relation to the care, protection or safeguarding of a particular child in all the circumstances” – [Regulation 2](#) of The Children’s Homes (England) Regulations 2015.
- ³⁸ [Regulation 45\(2\) and \(5\)](#) of The Children’s Homes (England) Regulations 2015.
- ³⁹ [Regulation 15](#) of The Children (Secure Accommodation) Regulations 1991, as amended by [Regulation 2\(c\)](#) of The Children (Secure Accommodation) Amendment Regulations 1992.
- ⁴⁰ See [Schedule 1](#), paragraph 5(c) of the Children and Social Work Act 2017.
- ⁴¹ [Regulation 16\(3\)](#) of The Children (Secure Accommodation) Regulations 1991, as amended by [Regulation 2\(d\)](#) of The Children (Secure Accommodation) Amendment Regulations 1992.
- ⁴² [Section 14A\(8\)](#) of the Children Act 1989.
- ⁴³ Paragraph 3(a) of [Schedule](#) to The Special Guardianship Regulations 2005.
- ⁴⁴ [Section 105](#) of the Children Act 1989.
- ⁴⁵ Section 3(b) [Adoption of Children Act 1926](#).
- ⁴⁶ [Regulation 14](#) of The Adoption Agencies Regulations 2005.
- ⁴⁷ [Adoption: national minimum standards](#) (2014), p.5.
- ⁴⁸ Ofsted (2022), [‘Ready or not’: care leavers’ views of preparing to leave care](#) [Accessed 22 February 2022].
- ⁴⁹ Ofsted (2022), [‘Ready or not’: care leavers’ views of preparing to leave care](#) [Accessed 22 February 2022].
- ⁵⁰ You can find definitions of ‘[relevant child](#)’ and ‘[former relevant child](#)’ on our rights4children website: <https://rights4children.org.uk/>.
- ⁵¹ [Local offer guidance. Guidance for local authorities](#) (2018), p.12.
- ⁵² [Section 23B\(8\)](#) of the Children Act 1989.
- ⁵³ [Schedule 2](#) (Regulation 9) of The Care Leavers (England) Regulations 2010.
- ⁵⁴ [Regulation 4\(4\)](#) of The Children Act 1989 (Higher Education Bursary) (England) Regulations 2009.
- ⁵⁵ [Get it sorted: Providing effective advocacy services for children and young people making a complaint under the Children Act 1989](#), para.2.1.
- ⁵⁶ [Getting the best from complaints: social care complaints and representations for children, young people and others 2006](#), para.1.5.2.
- ⁵⁷ [Statutory guidance: Care and support statutory guidance](#) (2021), para. 1.14 b).
- ⁵⁸ [Special educational needs and disability code of practice: 0 to 25 years Statutory guidance for organisations which work with and support children and young people who have special educational needs or disabilities](#) (2015), para. 1.1.
- ⁵⁹ [Section 2](#) of the Children Act 2004.
- ⁶⁰ [Section 2](#) of the Children Act 2004.
- ⁶¹ [Section 2B](#) of the Children Act 2004.
- ⁶² Committee on the Rights of the Child (2009), [General Comment No. 12: The right of the child to be heard](#).
- ⁶³ To learn more about the legal status of the UNCRC in England, read the ‘International law’ part of our [Guide for advocates: Protecting children’s rights through the law](#).
- ⁶⁴ [Statutory guidance on the roles and responsibilities of the Director of Children’s Services and the Lead Member for Children’s Services](#) (2013), paras.1 and 4.
- ⁶⁵ To learn more about the status of the ECHR in UK law, please read Article 39’s introductory guide for advocates – [‘Protecting children’s rights through the law’](#).
- ⁶⁶ Adapted from: Carolyne Willow (2013), [Independent Advocacy in Child Protection Guidance for Policy Makers](#), p. 6.