

Making the most of the European Convention on Human Rights



Summary

This guide tells you how you can protect your rights through making a complaint in a court in the UK, or through the European Court of Human Rights in Strasbourg in France. It gives you some examples of how human rights complaints have resulted in positive changes for children and young people.

This guide covers:

- What is the European Convention on Human Rights?
- What is the Human Rights Act?
- How do I know if my rights have been broken?
- How do I make a human rights complaint?
- What's the point of making a complaint?
- Where can I find out more and get help?

This guide only gives general information. For advice about your own situation, you should talk to a lawyer. There is information at the end of this guide about how you can find a lawyer or get legal advice by telephone or email.

What is the European Convention on Human Rights?

The European Convention on Human Rights is an agreement that was made in 1950 by a group of countries in Europe, including the United Kingdom.

The human rights protected in this agreement include:

- The right to life
- The right to be kept safe from torture and very cruel treatment
- The right to a fair trial
- The right for your privacy to be protected if you have been charged with committing a crime and you are going to court
- The right to respect for your private and family life

- The right to have your own thoughts and beliefs
- The right to spend time with other people and share ideas
- The right to gather with others in public places
- The right to education.

Some human rights can be interfered with, and even broken, if there is a really good reason, for example, for public safety, to protect against crime, or to protect the human rights and freedoms of other people. Some rights – like the right to life and the right to protection from torture – always have to be completely protected. There can never be any justification for breaking these absolute rights.

How human rights protect children: example 1

A young man called Graham Gaskin was very badly treated in care for many years. He wanted to read his social services files, which were kept by Liverpool City Council. The Council refused to let him see all his files. Graham Gaskin went to different courts in this country to try and force the Council to let him see his files, but the courts agreed with the Council. So he took his complaint to the European Court of Human Rights.

The European Court of Human Rights said the Council had broken Graham Gaskin's rights. The Court agreed he needed to see his social services files in order to try and make sense of his childhood and his treatment in care.

As a result of Graham Gaskin's complaint, which was decided by the European Court in 1989, it is now much easier for people in care or in contact with social services to see information that is written about them. Councils must now keep files concerning children in care for 75 years.

How human rights protect children: example 2

In 1999, two boys complained to the European Court on Human Rights that their rights under the European Convention on Human Rights had been broken. They had been put on trial in court for killing a two year-old. They were just 10 years old when they committed the murder. Their lawyers said that they had not had a fair trial because their case was dealt with in an adult court. There were a lot of people there from newspapers, and the boys were confused and frightened.

Judges in the European Court of Human Rights agreed that the boys' rights had been broken. They said the UK Government should make changes to protect the rights of other young children appearing in court in future. A lot of changes were made, though many human rights bodies and campaigners are still concerned about how children who commit crimes in the UK are treated.

What is the Human Rights Act?

The Human Rights Act was passed by our Parliament in 1998. It makes most of the European Convention on Human Rights part of UK law. This means that people and organisations doing public jobs (like running a school, hospital or council service) must act in a way which supports human rights. Children, young people and adults can complain to a UK court if your rights have been broken. When courts are deciding a case – no matter what it's about – they must do everything they can to make a decision that respects people's human rights under the European Convention on Human Rights.

How human rights protect children: example 3

In 2004, a 16 year-old girl called Shabina Begum complained to the UK courts about her school's uniform rules. Her older brother helped her work with a lawyer to bring her case. Shabina's lawyer said that her human rights had been broken because the school would not let her wear a jilbab, which she thought she had to wear because of her religion.

The UK Court of Appeal agreed Shabina's rights had been broken, but then the case went to the House of Lords*, which disagreed and said that her rights had not been broken.

Even though Shabina lost her final court case, there was a lot of discussion about school uniforms in the newspapers and on TV. The Government wrote new rules for schools emphasising that students and parents must be asked their views when uniform rules are being made.

*This used to be the highest court in England; it has now been replaced by the Supreme Court.

How do I know if my rights have been broken?

If something has happened to you that you feel is unfair, or which is making your life difficult, this can sometimes mean your rights have been broken. There is probably someone you know who can help you work out whether your rights are being broken, and what you can do about it. It usually helps to talk to someone – like your mum or dad, another person in your family, a teacher, or someone else that you trust and who may be able to help you. Sometimes it helps just to talk things over with a friend.

If you are unhappy about something that is happening somewhere outside your home, like in your school or college, it is usually best to tell someone who works there about the problem, and ask them who is in charge and how you can sort

out the problem. This may involve making an official complaint. Sometimes there are time limits which means you must make your complaint fairly quickly (though there are often ways round this).

If you have a problem at home and you cannot talk to your parents or another family member about it, you may find it helpful to talk to someone outside your family like a friend or a teacher or social worker. Social workers work for local councils and it's their job to make sure children are protected from harm and their rights protected. You will find the telephone number of your local children's services (where social workers work) in the phone book, or you can search online for 'children's services', adding the area you live in the search.

How do I make a human rights complaint?

If you believe that your human rights have been ignored or not protected by a person or organisation doing a public job, you may be able to use the Human Rights Act to protect your rights, for example:

- You can make a complaint in the UK courts
- If you are already making another complaint in a UK court, you may be able to use the Human Rights Act to make your complaint stronger
- You can tell the person or organisation that they have ignored your rights under the Human Rights Act and that they must do something about it.

A human rights lawyer or human rights organisation will be able to give you advice about whether you have good grounds for making a human rights complaint. They will be able to help you make a complaint. The general rules are:

- If you want to make a complaint in the UK courts under the Human Rights Act, you must write to the court setting out your complaint within **one year** of the action by the person or organisation that you are complaining about
- If you want the court to make the person or organisation change their decision or act in a different way, you must start your claim as quickly as possible and at the longest within **three months** of the decision or action you are complaining about.

How human rights protect children: example 4

In 2007, a teenage boy complained to the UK courts about a new law which allowed staff to use physical force a lot more often on children in some prisons.

The boy's lawyers said that the new law broke his right to be protected from violence and cruel treatment. The UK Court of Appeal agreed and said that the new law was not allowed, because it broke children's rights. This meant that the new law was stopped, and all children in these prisons – including the boy who made the complaint – were much better protected.

What's the point of making a complaint under the Human Rights Act?

If the Court agrees with your complaint, it may:

- Say publicly that your rights have been broken
- Tell the public authority to pay money (compensation) to you
- Tell the public authority to stop ignoring your rights
- Say that the public authority's decision or policy no longer exists because it is unlawful. This means the public authority has to come up with a new decision or policy.

If you want to make a complaint using the Human Rights Act, you should contact a lawyer as soon as possible to make sure you contact the court within important time limits.

What's the point of making a complaint to the European Court of Human Rights?

If you cannot get the result you want in the UK courts, you may be able to take your complaint to the European Court of Human Rights, which is in Strasbourg in France. A human rights lawyer or human rights organisation will be able to give you advice about making your complaint.

The Court is a group of people which decides whether people's rights have been broken, and what should happen next. The UK Government must follow the European Court's decisions.

There are three things you must usually do before sending your claim:

- You must have done everything possible in the UK to get your claim heard – this will usually mean making a complaint under the Human Rights Act
- You must make sure that the Court (or another international legal group) is not already looking, or has not already looked at, your claim
- You must send your claim to the Court within 6 months of the end of any complaint in the UK that you could have brought to get what you want.

It is also important that your claim:

- Is written down
- Includes your full name (but you can ask the Court to keep it secret)
- Includes all important information and documents
- Says exactly which human rights under the European Convention on Human Rights you believe have been ignored or not protected by the UK.

First, the Court decides whether to accept your claim. If it does, the Court will then decide if it agrees that your human rights have been ignored or not protected and will usually ask for more information.

The Court's decision can take many months or even years. If it agrees that your human rights have been ignored or not protected, it will make a decision telling the UK Government what to do. This may include giving you money as compensation, making or changing a law, or something else. **Your complaint could lead to the change you wanted for yourself, and it could lead to change for other children whose rights are also not being protected.**

If the Court does not agree that your rights have been broken, nothing else will happen. You will not be punished for making the complaint. Sometimes the fact that someone has made a complaint can make people understand problems better, and this can lead to change.

Where can I find out more and get help?

Read the full version of the European Convention on Human Rights: <http://conventions.coe.int/Treaty/en/Treaties/Html/005.htm>

Read more about the Human Rights Act on CRAE's website: <http://www.crae.org.uk/rights/hra.html>

For advice about equality law and your human rights, contact the **Children's Rights Alliance for England** – Telephone **0800 32 88 759** (no charge except from a mobile; textphone users dial 18001 first) 3.30pm to 5.30pm on Tuesdays, Wednesdays and Thursdays; email – advice@crae.org.uk

Equality and Human Rights Commission's helpline (England) – Telephone **0845 604 6610** (textphone **0845 604 6620** 8am to 6pm every weekday; email: info@equalityhumanrights.com

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Advice for children on human rights and equality law in England

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