A child's legal rights

What is a child?

In England, Northern Ireland and Wales, a child is someone who has not yet reached their 18th birthday. Once they turn 18, they are legally an adult.

In Scotland the definition of a child varies. In most situations, a child is someone who is under 18. But in some contexts, for example Children’s
Hearings and child protection orders, a child is defined as a person under 16 years of age. Section 21 of Scotland’s national guidance for child protection provides more information about this.

There are also different laws across the UK that specify age limits for young people in different circumstances. These include leaving care; the age of consent; and the age of criminal responsibility.

The definition of a child in child protection legislation and guidance

England, Wales, Northern Ireland and Scotland each have their own legislation and guidance on keeping children safe.

**England**

A child is anyone who has not yet reached their 18th birthday. Child protection guidance highlights that under-18s who are:

- aged 16 or over;
- living independently;
- in further education;
- a member of the armed forces;
- in hospital; or
- in custody in the secure estate

are still legally children and should be given the same protections and entitlements as any other child.

HM Government (2015)

Download Working together to safeguard children: A guide to inter-agency working to safeguard and promote the welfare of children (PDF)
Northern Ireland

Defines a ‘child’ as a person under the age of 18


View Co-operating to safeguard children and young people in Northern Ireland (DOCX)

Wales

A child is a person who is aged under 18

View Section 3. Social Services and Well-being (Wales) Act 2014

Scotland

In Scotland, the definition of a ‘child’ varies according to the legal circumstances. Part 1 of the National guidance for child protection in Scotland explains that a child is generally defined as someone under the age of 18. But in some child protection contexts, including children’s hearings and child protection orders, a child is someone who is under 16.

Scottish Government (2014)

Download National guidance for child protection in Scotland (PDF)

International

The UN Convention on the Rights of the Child defines a child as everyone under 18 unless, "under the law applicable to the child, majority is attained earlier". The UK has ratified this convention.


View UN Convention on the Rights of the Child
Children and young people leaving care

In all nations of the UK, children leaving care at 18 are entitled to support from their local authority until they are at least 21. England, Scotland and Wales are governed by the Children (Leaving Care) Act 2000 and there is separate legislation for Northern Ireland.

Age of consent

The age of consent (the legal age to have sex) in the UK is 16 years old. The laws are there to protect children from abuse or exploitation, rather than to prosecute under-16s who participate in mutually consenting sexual activity. Underage sexual activity should always be seen as a possible indicator of child sexual exploitation.

To help protect younger children the law says anyone under the age of 13 can never legally give consent. This means that anyone who engages in any sexual activity with a child who is 12 or younger is breaking the law. Sexual activity with a child who is under 13 should always result in a child protection referral. The law gives extra protection to young people who are over the age of consent but under 18. It is illegal:

- to take, show or distribute indecent photographs of a child (this is often called sexting)
- to pay for or arrange sexual services of a child
- for a person in a position of trust (for example teachers or care workers) to engage in sexual activity with anyone under the age of 18 who is in the care of their organisation

The Sexual Offences Act 2003 applies in England and Wales, with some sections applying in Northern Ireland and Scotland. It gives more information about specific offences and the related penalties.

Age of criminal responsibility for children

The age of criminal responsibility in England, Wales and Northern Ireland is 10 years old.

This means a child is considered capable of committing a crime and old enough to stand trial for a criminal offence. Their case will be dealt with by a youth court and if they are convicted, their sentence will take their age into account.

In Scotland the age of criminal responsibility is currently 8 years old but the age at which a child can be prosecuted is 12 years. The Scottish Government plans to raise the age of criminal responsibility to 12 during 2018.
Criminal responsibility legislation

England & Wales


Northern Ireland

section 3 of the Criminal Justice (Northern Ireland) Order 1998.

Scotland

section 52 of the Criminal Justice and Licensing (Scotland) Act 2010

CJD Circular JD/2011

section 42 of the Criminal Procedure (Scotland) Act 1995

Children’s wishes

Most guidance for services for children and families emphasises the importance of listening to the wishes of the child.

However, authorities also have a duty to act in the best interests of the child and this may mean contradicting their wishes.

International children’s rights
Some rights are recognised at the international level through agreements between governments. The UK has signed up to the European Convention on Human Rights (ECHR) and the United Nations Convention on the Rights of the Child (UNCRC), both of which set out a number of children’s rights.

**European Convention on Human Rights (ECHR)**

The 1950 European Convention on Human Rights (ECHR) is an international treaty which gives a set of rights to both adults and children. The Human Rights Act 1998 made most of the ECHR UK law. This means that children can complain to a UK court if their rights have been broken, and if the claim is rejected, take their claim to the European Court of Human Rights.

Rights set out in the convention include: the right to life, the right to be kept safe from torture and cruel treatment, freedom from slavery, the right to a fair trial, the right to respect for private and family life, and the right to an education.

**Legal definitions:**

- view the European Convention on Human Rights
- view the Human Rights Act 1998


The Convention sets out the rights of every child in the world to survive, grow, participate and fulfil their potential. It sets standards for education, health care, social services and penal laws, and establishes the right of children to have a say in decisions that affect them.

The Rights of Children and Young Persons (Wales) Measure 2011 made Wales the first, and so far only, country in the UK to make the UNCRC part of its domestic law.

**Legal definitions:**

- view the United Nations Convention on the Rights of the Child
At what age is parental consent no longer required?

Many activities have their own age limits and the age when a child may make their own decisions without the consent of parents, or those with parental responsibility, depends on the activity in question.

Legal definitions:

- view Article 1 of the Convention on the Rights of the Child
- view the Children (Leaving Care) Act 2000
- view the Children (Leaving Care) Act (Northern Ireland) 2002
- view the Sexual Offences Act 2003
- view the Sexual Offences (Northern Ireland) Order 2008
- view the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005
- view section 53 of the Children Act 2004
- view section 3(3) of the Children (Northern Ireland) Order 1995

Read about what the law says about children working
Child protection in the UK

How the systems and laws of the UK and its 4 nations work to keep children safe from abuse and harm.

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More about the child protection system

Information Service

Our free service for people who work with children can help you find the latest policy, practice, research and news on child protection and related subjects.

For more information, call us or email help@nspcc.org.uk.

0808 800 5000

Submit an enquiry
EVERY CHILDHOOD IS WORTH FIGHTING FOR

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