



The Right to Education

Article 2, Protocol 1



The Right to Education is one of the 16 human rights (also called Articles) in the Human Rights Act. It is Article 2 Protocol 1.



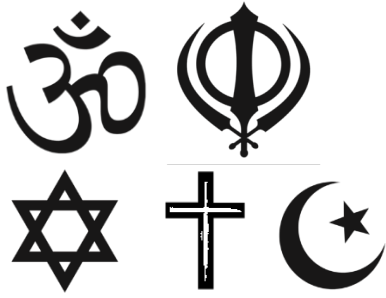
This right means that if you live in the UK, you must be given access to primary, secondary, and higher education.

The right only applies to educational settings that are already open.

When could the Right to Education matter to me?



If you do not have access to an effective (good standard) of education in existing schools/institutions.



If religious and other beliefs and principals of you or your parents are not thought about in your education.



If the things that you are learning are not true.

If a public authority (like a council or a social worker) says that you are not allowed to be educated. For example, if you have been expelled from school and your local authority (council) is refusing to place you in a different school or give you a different way to learn.



If the studies that you have already done are not recognised. For example, if you have taken GCSEs but have not received your grade, and there is no record that you completed your GCSEs.

This right does not mean:



That you can learn what you want and when you want.



That parents can stop schools teaching subjects that they do not like. However, parents of children under 16 can remove their children from certain classes if they wish, like sex education classes.



The Right to Education does not stop schools from giving out fair punishments.

This might be punishments like detentions, suspension, or exclusion. Any pupil that is excluded or suspended, must still be given access to education but in a different way. For example, support to complete work at home.

Can your Right to Education be restricted?

Some parts of this right cannot be restricted:



This means that parts of this right cannot be restricted. For example, the government must provide access to education for all children in the UK.



The Right to Education is often used with Article 14 of the Human Rights Act – The Right to be Free From Discrimination - [you can read about this right here.](#)

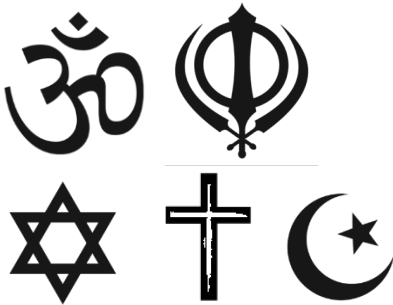
These rights are sometimes used together when children and young people have learning disabilities or additional needs, and they do not have access to a school which suits their needs.

Some parts of this right can be restricted:



The government can think about the needs of the whole community when they decide how much money they can spend on education.

Money should be shared fairly between different types of schools to ensure education that is suitable for everyone.



A school does not have to do exactly what parents want to fit in with their beliefs or religion.

If a public official is going to limit the Right to Education, a three-stage test must be passed:



Lawful

There must be a law which allows public officials to take the action or decision which restricts the Right to Education.



Legitimate (for a good reason)

There must be a good reason that the public official is trying to restrict the right.



Proportionate (thought about properly)

The government or public body must have thought about other things they could do, but there is no other way to protect you or other people.

What do staff in public services have to do about my Right to Education?



They must respect your right:

This means that staff in public services (like teachers and social workers) should not try to stop you from accessing education, unless it is necessary, and they can show that this is the case.



They must protect your right:

This means that they should make sure that you can access primary, secondary, and higher education.



They must fulfil your right:

This means that the government and people working in public services should take 'reasonable and appropriate' steps to protect your Right to Education.

In real life: Right to Education - Chrisann



Chrisann is a UK resident and has lived in the UK since she was 8 years old.



When the time came to go to university, she was told that that changes to student loans made by parliament in 2011 meant she was not allowed to get a student loan.



The changes to the rules meant that even though Chrisann is a UK resident, she was classed as an 'international student'.



It also meant that it would cost Chrisann a lot more to attend university because international students pay higher fees and she would not be able to access the student loan scheme.



She was not the only one in this situation. There were other young people who were affected in the same way by the rule changes.

Chrisann joined them, and started a campaign called 'Let Us Learn' which pushed for a change in the law that was stopping them from studying.



In July 2015 the group won a court case that meant that other people who were born outside of the UK, but now live in the UK as a resident have access to student loans.



Lady Hale, who was the judge in the case said that stopping Chrisann and her friends from taking out a student loan was in breach of the Human Rights Act Right to Education and the right to non-discrimination.



This meant the group could now access student loans and be charged 'home' tuition fees, the same as other students that are UK residents.

You can read more about Chrisann's campaign on the blog she wrote for us <https://www.bih.org.uk/Blog/15doa-oct16>

In real life: Right to Education – Lucas



Lucas has autism, learning disabilities, and Pathological Demand Avoidance.



He was excluded from school after an incident in which he hit a teaching assistant.



The school argued that Lucas's behaviour was physically abusive, which meant that the protection from discrimination that he has under the Equality Act 2010 would be removed.



Lucas asked an advocacy organization for help.

The advocacy organisation told Lucas about a recent court case that was like Lucas's situation.



In court, the Judge said that the pupil was defined as a disabled person under the Equality Act.

That meant that school needed to protect the pupils Human Rights.

The judge decided that the pupil was allowed to go back to school.



The advocacy organisation helped Lucas to ask if his school had thought about Lucas's human rights when they decided to expel him.

They asked the school to think about their decision again, thinking about the Right to Education and the Right to be Free from Discrimination (Article 14) of the Human Rights Act.



The school agreed to let Lucas return to school with additional support.

Example from BIHR's advocacy work with ALLFIE