

# Involving young people in decision-making

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The following two papers, which were provided to *Children Australia* by Meredith Kiraly, were given at a one-day Conference in London on 12 July 1994 entitled *Residential Child Care: Into the Next Century*. The Conference was convened by the National Children's Bureau of the United Kingdom.

**Dr. Michael Lindsay** was in care for over 15 years, brought up in various children's homes. He is in no way bitter about the care system or what happened to him within it, but feels that there are fundamental issues which have to be faced.

He is currently Children's Rights Officer with Cleveland County Council, having previously made history by becoming the first Children's Rights Officer in the United Kingdom when appointed by Leicestershire County Council in February 1987. Prior to this, he has gained a total of 9 years' experience of residential child care, including 2 years within a regional centre and two years in a secure unit.

Among other engagements, he has served as a Consultant to the Department of Health on complaints procedures for eighteen months, was a member of CCETSW's 'Expert Group' on Residential Child Care and currently serves as an Advisor to the Secretary of State for Health on the Youth Treatment Service.

His academic achievements include:-

- a double Honours Degree in English and Education;
- a Post-Graduate Diploma in Education;
- a Post-graduate Certificate in Socio-Legal Studies;
- a Doctorate Degree in Applied Social Linguistics.

He has had a number of articles published in professional magazines and journals.

**T**here is still considerable resistance to involving young people in care in decisions affecting their lives. This is in spite of the *Children Act* providing clear duties under Sections 22, 61 and 64 which emphasise the need for responsible authorities to take account of the child's own wishes and feelings. In its most recent annual report on the implementation of the *Children Act*, the Department of Health observed that:

It was not the general practice of staff to ask children how they felt about decisions affecting their daily life or their future, and their views were not routinely recorded on case files.

Further evidence, if needed, has been provided in recent publications by the Children's Rights Development Unit (UK Agenda Report to the UN Committee on the Rights of the Child), the *Who Cares? Trust* (Not Just A Name) and Nottinghamshire County Council Working Party on Residential Child Care ('As If They Were Our Own').

The Children's Rights Development Unit pointed to:

.... consistent failure to involve young people in decisions as broad-ranging as policies within children's homes, children's homes closures, placements, contact with families, participation in case conferences, development of child care plans and moves towards independence.

In doing so, it advised the UN Committee that in this respect the United Kingdom was in breach of Article 12 of the United Nations *Convention on the Rights of the Child*.

The Children's Rights Development Unit usefully listed the essential requirements for a serious application of the Article 12 principle on consultation:

- ensure that children/young people have adequate information appropriate to their age with which to form opinions;
- provide them with opportunities to express their views and explore options open to them;
- listen to those views and consider them with respect and seriousness;
- tell children/young people how their views will be considered;
- let them know the outcome of any decision and, if that decision is contrary to the child's wishes, ensure that the reasons are fully explained; and
- provide children/young people with effective and accessible avenues of complaint, backed up by access to independent advocacy.

The *Who Cares? Trust* conducted a survey of 600 young people eliciting their experiences and views of the care system. Nearly all respondents, both from residential and foster care backgrounds, felt that they were marginalised from significant matters affecting their lives because they had no say in daily decisions and were not listened to in case conferences or reviews. At a previous National Children's Bureau Conference in 1989 on 'Involving Young People', two firm suggestions still for me carry considerable resonance:

1. the Department of Health should issue guidelines for children and young people to be involved in case conferences, and

2. young people should be allowed to set their own separate agenda for their own reviews.

Incidentally, whilst we are on the subject of the Department of Health, we should welcome the emphasis in their recent circular on 'Inspections in Community Homes' on involving young people with ex-care backgrounds on their inspection teams. This recommendation does not merely represent platitudes on the part of the Department of Health as they have been including young people within their social services inspectorate teams long before most social services departments and voluntary child care organisations had ever contemplated the possibility. The Department of Health has also been providing a lead on consulting the views of young people on issues of policy development and service planning.

The Nottingham Shire Working Party consulted a total of 161 young people by organising four roadshows across the County. This consultation revealed the fascinating irony that the most commonly received complaints related to young people's perceptions of not being involved in decision-making whilst, conversely, the most frequent tributes paid to the 'care system' related to positive practices which encouraged and supported their involvement in decision-making. While many young people expressed satisfaction at the care they received from residential staff, involvement in taking decisions which affect them was clearly the burning issue for most young people in care.

### **Why involve young people?**

There are many good reasons for involving young people. Enforced decisions rarely succeed against determined opposition, are often made in breach of statutory duties and can be extremely costly in terms of time, effort and resources to retrieve. A Local Authority is required under the general law to reach decisions and exercise judgements which are reasonable. 'Reasonable' does not mean of average quality or standard. An act, decision or judgement is only reasonable if it has been properly reasoned. In order to satisfy that test, it must be informed by the views of any persons likely to be affected, including those which are contrary to the views being formed. The home closure cases, *C. H & others (minors by their Next Friend) v. Solihull MBC [1983]* and, *Liddle v.*

*Sunderland MBC [1983]* are good examples of this principle.

Decision-making which excludes young people will be susceptible to judgements which are, at best, speculative and at worst may enhance a young person's sense of isolation, low self-esteem and feelings of being little more than: 'someone else's object of concern'. The participation and involvement of young people means that social workers are more likely to get it right. It should be remembered that those on the receiving end can often provide a unique and valuable perspective about the care system and, if it is ever going to be effective, then young people's experiences and expectations of care are resources that we cannot afford to waste. If we are not careful, we will sloganise children's rights, but not give serious thought to how we implement them in individual child care planning and service provision as a whole. Young people need to be provided with opportunities for involvement in consultation and decision-making for developmental reasons. It becomes quite a perverse criticism when child care practitioners complain that young people do not act responsibly, if they continually deny them any real opportunities to do so through involvement in decision-making.

### **Involvement of children & young people in child protection matters**

One area of activity which significantly affects the lives of young people and which has largely overlooked their involvement, is child protection. This oversight is all the more remarkable when you realise that statutory child care agencies are estimated as responding to little more than 5% of abuse cases in this country. Whether we like it or not, few young people feel inclined to talk to social workers about abuse, and this problem is considerably exacerbated when the abused child is already in care.

Recent research has confirmed that most young people either elect to keep their own counsel or will typically opt to talk to a confidential service. The reluctance of children and young people to report or substantiate actual incidents of abuse or gross mistreatment is now well documented and far outweighs the statistical evidence for mischievous or malicious allegations. It is far from easy for a child or young person in care to make serious com-

plaints against those who can exercise so much power and control over their lives. Few, if any, child protection procedures will reflect the particular sensitivities which need to be adopted in respect of those victims who are understandably reticent about giving evidence to either Social Services, health professionals or the police.

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The evidence from both practice and the survey of young people's own views and actions, suggests that without access to confidential advice and support, most will remain disinclined to trust the authorities, and abuse incidents, such as they are, will remain undetected for substantially longer periods than necessary, if indeed they are ever to be brought to light at all. What is without contention is the proposition that most young people will increasingly only be prepared to receive protection by their own consent. A failure to involve them may too easily become equitable with an ultimate failure to protect them and any other children likely to be implicated as victims of abuse.

If children cannot trust adults to respect their confidences and to act or intervene, except in extreme circumstances, only with their agreement, it seems most likely that many will not talk about things that are worrying and hurting them, including abuse - physical sexual and emotional.

'Child Abuse Procedures: The Child's Viewpoint', The Children's Legal Centre, July, 1988.

### **How do we best involve young people in decision-making?**

Given the impact of the United Nations Convention on the Rights of the Child [1989], the Children Act 1989, paradigm case law decisions such as *Gillick v. West Norfolk* and *Wisbech AHA & DHSS [1985]*, and the introduction of

the *Access to Personal Files* 1987 following the landmark ruling won by Graham Gaskin against the United Kingdom in the European Court of Human Rights, the question is increasingly not about whether we should involve young people, but how we should do so. It might be seen that the 1990s heralded the era of 'born-again' children's rights advocates.

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One universally recognised, and I dare say perhaps even accepted method of involving young people is through the adoption of a complaints procedure. In principle, this ought to provide young people in residential child care with opportunities to formally register their unresolved grievances, with some reasonable expectations of them receiving a fair hearing and, of equal importance, being capable of dispensing justice through redress. Regrettably, complaints procedures have not proved to be either generally effective or credible in the perceptions of many young people. Some of the reasons for this, such as a self-evident lack of impartiality, are there for all to see. However, a more subtle subtext would have to question the import of expediency, in which the interests of the organisation are clearly and predominantly put well before those people it was set up to serve. Another key factor in the general failure of complaints procedures was astutely observed by the Utting Report (1991), which examined the national picture of residential child care services:

I have received evidence, which I have found persuasive, that a child needs someone with whom he or she can talk through the problem before a decision is made on how best it might be handled.

### **Local rights groups in the United Kingdom**

Whilst this belated recognition of the importance of independent representation through services of advice, information, advocacy and conciliation

is to be welcomed, the continued lack of direct support for the provision of such services is not. At a time when the National Association of Young People in Care ceases to exist as a funded organisation, how many local authorities and voluntary child care organisations are actually supporting the development of local representative groups of young people. I would use this conference to make this plea to the Department of Health: use the money which you had provisionally earmarked for supporting the National Association of Young People in Care as grant-aid funding for the support and development of local groups such as Care in Durham, Who Cares? Newcastle, and Cleveland's Rights for Young People Group. I would maintain that it is the contributions which these groups have consistently made which most graphically demonstrates the concept of involving young people. The Rights for Young People Group's case study follows and I, for one, am confident that they will more than adequately attest to the range of activities which young people can contribute towards.

### **Rights for Young People Group - Cleveland**

The Rights for Young People Group's 'Statement of Expectations' has considerably influenced child care planning and policy development in Cleveland. Their report to Cleveland Social Services Department, based upon the survey which they conducted of the views of some young people in local children's homes, has changed some of the original thinking about the future shape of residential Child Care Services in Cleveland. Albeit with some support and assistance from the Children's Rights Service, the Rights for Young People Group has helped transform the Social Services Department's approach to many key issues. For instance, Cleveland will be totally restructuring its complaints procedure, and augmenting it with the introduction of a comprehensive complaints service. This will, at source, provide young people with independent services of advice, information, advocacy and conciliation. Another convincing argument for adopting this sort of approach is that it shall hopefully enable us to make the complaints procedure more accessible and responsive to the needs of both children/young people with disabilities and black young people. As with many areas of social work activity, it is typically these groups that are disenfranchised from entitlement to

services, or the rights that flow from that. Their voices go consistently unheard for all of the virtuous statements of principles and policies which most Social Services Departments and voluntary child care organisations espouse to work by.

It is intended that our changes will enhance the potential for 'problem-solving' complaints at an early stage, and enable young people to consider the nature of their disagreements with social services prior to lodging a formal complaint about it. It is still the case, some three years after their statutory introduction, that most young people only ever find out about the existence and operation of the complaints procedure by making a formal complaint.

Also, we have been working together with the Rights for Young People Group to modify the 'Open files' policy, so that the right to see one's own file becomes implicit and any necessity to apply to do so should be reserved for those instances in which access to information has been initially refused. In this way, young people would not be forced unnecessarily through some elongated and excessively bureaucratic procedure in respect of seeking access to information to which they may already be duly and legally entitled. As previously intimated, young people can be involved in assisting to inspect children's homes, and there is much evidence to suggest that they are able to develop a much better rapport and uninhibited communication than are most people who presume to be trained for the task.

### **What does genuine involvement mean?**

Of course all social workers think that they consult and involve young people, but most do not and of those who do, it tends to be very much on their terms. At reviews, young people are allowed to speak for a few minutes at a time, only to have what they say ignored, corrected or contradicted. As one young person remarked:

What is the point of telling them what you think or about what you want to happen in your life? They never listen to you and always think that they know best.

Too often our failure to involve young people properly arises because young people do not have the information to which the professionals have access. Just as it would be unreasonable to expect a professional person to venture an opinion on a subject about

which they knew very little, so it is also unreasonable to seek to consult the views of young people knowing that they have received little relevant information upon which to form an opinion. If we understand nothing else from this conference, let's at least understand that if we are to genuinely involve young people, we are to inform them about themselves, their family, their circumstances of being in care, previous decisions made in respect of them and, a frank and reasonable assessment of future options.

Let us also understand that involvement must be genuine. Some children's homes try to involve young people through weekly meetings. However, some of these threaten the very integrity of involvement by: imposing the agenda, insisting that attendance is compulsory, using the meeting to raise issues of house discipline and reiterate the rules, and/or using the meeting as a forum, for group therapy. In addition, few young people participating in such meetings receive much encouragement to believe that they are a genuine vehicle for achieving any change in the way the home is managed or in how they are treated within it. As with case reviews and conferences, attendance at a meeting is never synonymous with participation in its decisions. It is too easy to exclude children and young people in care and to construct excuses for doing so.

It is equally easy to believe that a professional interpretation of a young person's wishes and feelings is somehow an improvement on what that young person has, or would have said for themselves. Neither of these professional delusions accomplish anything because they lead to a range of decision-making which is based upon subjective reasoning, coming as it will with its host of prejudices and misconceptions, the two pre-requisites of poor child care planning.

It would be somewhat hard to deny that young people's views on how residential child care should develop 'into the next century' could only have the effect of improving the lives of themselves and others within the care system. Already some have made a profound contribution over the years. Examples of these include:

- Young people, when they were asked, told Parliament that the care system had become riddled with institutionalised child care practices.

- Young people also told Parliament that they rarely saw their social worker, had contacts with family stopped as a punishment and were often separated from their brothers and sisters.
- Young people, for the best part of a decade, were telling a wholly unresponsive child care profession and administration that some of their number were being abused and grossly mistreated within certain children's homes.

### **In summary**

So what are young people generally telling us about today's care system?

1. Young people want more involvement in a whole range of decision-making which affects what happens in their lives, and some say as to what form that involvement might take.
2. Young people want access to information in order to assist their forming of opinions.
3. Young people want social workers to understand and help them combat the discrimination of 'careism' whereby many young people can readily experience massive prejudice, stereo-typing and discrimination on the basis of their care status.

4. When living in a children's home young people want to feel safe.
5. Young people want more support and encouragement with their education.
6. Young people want access to a range of confidential advice services, and
7. Young people want the security of knowing that they will get support in leaving care and after care.

**Let's hope that it won't take another ten years before the legitimate concerns of young people are responded to.**

In this paper, I have alluded to the need to involve young people in all aspects which affect their lives and that failure to do so may not only prejudice their rights but also their welfare. As usual, I will leave the final word with Charles Dickens:

In the little world in which children have their existences, whosoever brings them up, nothing is so finely perceived nor finely felt as injustice.

Great Expectations, 1861

### **A day in the life of a children's rights officer**

(A light-hearted reprise)

I went to visit a children's home  
and they said 'Don't park too near,  
you really must learn to be more discreet  
or the kids will know you're here'.

I then went to the office  
and was greeted with lots of smiles  
well, at least until I'd finished my coffee  
then asked to see the files.

I went to see the manager  
who said all his staff were saints.  
I said I did not doubt the fact  
now what about these complaints.

He said well, there's nothing really,  
the kids are always complaining.  
His staff do an excellent job,  
and they get no training.

I hear what you have to say,  
But it has been resolved,  
The year is 1994,  
and young people should be involved.