
I Themes and Principles of Safeguarding

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c01 JWBK334-Gorin December 12, 2008 21:51 Printer: Yet to come

1 Putting Children and Their Rights at the Heart of the Safeguarding Process

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This chapter looks at the safeguarding process from the child's viewpoint: what a good childhood means; who children trust to help them be and feel safe; and how adults can get better at listening to and supporting children. It explains the rights of all children under the Convention on the Rights of the Child 1989 and the Human Rights Act 1998, and it describes the additional rights of disabled children and other vulnerable groups. It demonstrates that listening to children and taking them and their lives seriously is the linchpin of safeguarding and promoting children's welfare.

CORE KNOWLEDGE

- Children want and have the right to be listened to, respected and involved.
- All children can communicate and all adults can become good listeners.
- All children have the right to be free from all forms of violence and abuse.
- Children can be silenced through fear and intimidation, as well as through negative beliefs and attitudes.
- Children want adults to be happy and approachable, and reliable and useful.
- Not enough children know about or trust the statutory child care system.
- Children need information communicated in an appropriate way at all stages of the safeguarding process.
- Children are harmed by not being seen and heard – some even die.

CHILDREN ARE PEOPLE NOW

When Roger Morgan, the Children's Rights Director of the Commission for Social Care Inspection, consulted children and young people about the *Every*

Child Matters Green Paper (Cm 5860, 2003), discussions sometimes moved to children's general social status. He reported:

One group felt angered that children are often not listened to in their own right [because] children are treated as less important than adults. One child summed this up powerfully – 'they think we're there to become adults – you're only a child because you can't be born as an adult.'

Morgan, 2003, p. 16

It could be argued that children have a greater need than adults to be validated and heard, given their vulnerability, low social status and dependence on adults. The United Nations recognised this when it drafted the Convention on the Rights of the Child: Article 12 grants all children the right to express and have their views given due weight. It is the first human rights treaty to give a group of people – in this case under 18-year-olds – the right to participate in decisions affecting them.

For further information on children's rights and perceptions of childhood, see United Nations (1989) and Alderson (2000).

THE INVISIBLE CHILD

Despite statutory guidance putting children at the centre of professional practice (Department of Health *et al.*, 2000; Chief Inspector of Social Services *et al.*, 2002; HM Government 2006a, 2006b, 2006c), individual children are frequently sidelined. Finding out children's wishes and feelings, and seeking to understand children's own perceptions of *their* needs and *their* life, is still too often viewed among professionals as a 'good practice' rather than as a 'must do'.

The approach taken by all services in responding to concerns about the welfare of 8-year-old Victoria Climbié powerfully demonstrates how children can be invisible in the safeguarding process (Cm 5730, 2003).

Three nurses had expressed concerns that Victoria may have been deliberately harmed. There were worries that Victoria may have been hit with a belt, that she may have been deliberately scalded or bitten, and there were concerns that she may have been burned with a cigarette. Despite these serious professional anxieties, the social worker's first home visit did not involve *any* direct communication with Victoria (an interpreter was never used by social services, despite Victoria's first language being French):

The [social worker's first of] two visits to Somerset Gardens took place ... shortly after Victoria was discharged from the North Middlesex Hospital. She found her to be smartly dressed and well cared for. Victoria spent most of the visit playing with a doll – one of a number of toys seen by [the social worker]. Although [the social worker] did not talk to Victoria during the course of this visit, she formed the impression that Victoria was happy ...

Cm 5730, 2003, Paragraph 3.51

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Two months later, in October 1999, the social worker made a second home visit. Lord Laming observed:

Victoria seems to have been all but ignored during this visit as she sat on the floor playing with a doll. The fact that she was still not attending school was raised during the conversation, but no questions seem to have been asked about how Victoria was spending her days.

Cm 5730, 2003, Paragraph 3.60

The following month, Victoria's aunt alleged that her niece had been sexually abused; the aunt later withdrew the allegation. Victoria was not given any opportunity to talk to a social worker or a police officer. Within 12 weeks, Victoria was admitted to casualty with severe hypothermia and multi-system failure. She had injuries 'too numerous' to record and medical staff were unable to straighten her legs. She died the next day.

The cataclysmic failures in Victoria Climbié's case should not tarnish the hundreds of thousands of practitioners and volunteers who every day make positive interventions in children's lives. However, Lord Laming's inquiry and its aftermath unearthed some fundamental problems in the system. One of these is the low priority given – by the system overall and by individual practitioners – to ascertaining the child's wishes and feelings. Social workers increasingly report that they do not have the time or capacity to build meaningful relationships with children and young people.

In February 2003, the government issued NHS organisations and local councils with a self-audit checklist to assess the implementation of the urgent recommendations of the Victoria Climbié Inquiry Report (those that were to be implemented within 3 to 6 months). All four recommendations relating to the child's voice were included in this audit. In October 2003, the Commission for Health Improvement, Her Majesty's Inspectorate of Constabulary and the Social Services Inspectorate reported on progress. In relation to the child's voice, the three inspectorates concluded:

Communication with children is not always a priority. Access to interpreting services for children whose first language is not English varies. Some councils do not include children's views and wishes in assessments as a matter of course.

Commission for Health Improvement *et al.*, 2003, p. 5

In April 2004, newspapers reacted with horror to the report of the serious case review into the fatal shooting in September 2003 of 7-year-old Toni-Ann Byfield. Toni-Ann was a looked-after child, the responsibility of Birmingham social services. Her immigration status was not resolved when her foster carers went on holiday. Social services therefore agreed that she could visit her father in London, staying overnight with a woman identified as her father's aunt because her father did not have suitable accommodation. Toni-Ann spent less than 5 weeks with her father: they were both shot fatally in September 2003. The summary report from the serious case review undertaken by

Birmingham Area Child Protection Committee to learn the lessons from her death noted:

The overriding impression . . . is that the primary focus of professional work was on the assessment of [Toni-Ann's father's] parental capacity and the practicalities of the arrangements for him to undertake his parental role and that inadequate attention was paid to the full and necessary assessment of Toni-Ann's needs. In respect of both [the social worker and the children's guardian] it is difficult to see how, given the very limited number of occasions made available when they were actually in a position to have a direct and private conversation with Toni-Ann, they could make a full and sensitive assessment of her needs and wishes.

Birmingham Area Child Protection Committee, 2004, pp. 5–6

There are stark similarities between the lives and deaths of Toni-Ann Byfield and Victoria Climbié. Both of these young children were born outside the United Kingdom and were subject to informal kinship care arrangements that were brought to the attention of public authorities. There were concerns about each child's welfare, leading to contact with a range of professionals. Both children were extremely vulnerable and dependent upon professionals to see, hear and protect them. In this, they were let down gravely.

CHILDREN ARE EASY TO HURT

Children need to be protected – they need to feel safe. We want to feel comfortable and safe and not worried or scared.

Children's Rights Alliance for England, 2004, p. 16

Children are physically small, emotionally dependent and they cannot easily articulate their suffering or get out of bad situations. The level and extent of adult abuse and mistreatment of children are, to say the least, disturbing. A research commissioned by the Department of Health showed that from a sample of 99 families, 52% of babies under 1 were smacked/hit by a parent at least once a week (Nobes and Smith, 1997). Up to two children each week are killed by a parent or carer (Creighton and Tissier, 2003). Behind these homicide statistics are gruelling accounts of torture and human degradation. Stories of children being deprived of food, dry clothes and bedding, and toys and other forms of pleasure – and of not being loved or praised – sit underneath the headlines. Then there is the everyday impact on children of low status and disabling attitudes and environments – described by two leading advocates for disabled children's rights as 'small a' abuse:

Sally has cerebral palsy and has high physical dependency needs and no speech. She has good cognitive and language abilities and she uses a communication board. She attends further education and was staying in residential provision but felt she was being 'driven mad' by carers who failed to inform her what they were

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going to do or ask her what she wished for – even as to the simplest things such as how she liked her tea. She felt forced into leaving the college.

Marchant and Page, 2003, p. 60

For further information on safeguarding and disabled children, see National Working Group on Child Protection and Disability (2003).

SEEKING HELP FROM ADULTS

We know that significant numbers of children require high levels of support from adults outside their family, to keep them safe and well. Yet, these children's tremendous need for protection is not matched by a demand from them to be protected.

In 2004–2005, there were 23 per 10 000 children on local child protection registers (Department for Education and Skills, 2006). Research on the prevalence of child abuse carried out by the NSPCC suggests that the number of children severely physically abused by adults in the family is at least 20 times this number. About 1 in every 100 children is sexually assaulted in the family; many more are neglected and denied what they need to flourish (Cawson *et al.*, 2000). As Cooper, Hetherington and Katz (2003, p. 19) explain:

Only a small proportion of the children who are abused are ever reported to statutory child protection agencies. Those referrals by children themselves form an even smaller number.

When a 10-year-old boy was asked to whom he would talk about negative experiences or worries, he replied:

Nobody. I just sit on my bed and talk to myself. Grown-ups don't take you seriously. They just say 'good, good, good' 'cos they're not really that bothered. And I don't really trust my friends; they'd never keep a secret.

Butler and Williamson, 1994, p. 71

A girl the same age reported:

I know it sounds a bit silly, but I talk to my dog.

Butler and Williamson, 1994, p. 72

Featherstone and Evans (2004) carried out a literature review of the research relating to 'maltreated' children seeking help. They summarised:

- The NSPCC prevalence study (Cawson *et al.*, 2000; Cawson, 2002) found that only a quarter of people who were sexually abused as children had told anyone at the time of the abuse; 31% had still not told anyone by the time of their adulthood.
- From an analysis of the 1121 letters to the National Commission of Inquiry into the Prevention of Child Abuse, Wattam and Woodward (1996) found

that only 32% of people had told someone of their abuse as a child; for 13% of people writing to the Commission, it was the first time they had ever told anyone of the abuse.

- NSPCC research in the mid-1990s (Creighton and Russell, 1995) asked adults who had been sexually abused as children to identify when and how the abuse had stopped. For 6% of the respondents, the abuse never stopped or continued until after the age of 16.

For further information on children seeking help, see Featherstone and Evans (2004).

WHAT MAKES CHILDREN INVISIBLE?

The reasons why children do not seek help from adults are complicated and varied. They might not know that what is happening to them is unacceptable – especially pertinent for younger children, or for children living away from home:

One young person told us about being locked out of her foster home when her foster parents were out. She had resorted to wandering the streets or travelling on buses to fill in the time. Sadly, she had not been aware that she should question this treatment or make it known to her social worker.

Social Services Inspectorate, 1998, Paragraph 4.31

Children might choose to blank out their abuse and focus on the positive aspects of their lives; or they might be too afraid of the consequences of disclosing. Dominant attitudes and beliefs about children, and about different groups of children, can make their suffering go unnoticed. Children can also be made invisible if the needs of their parents or carer dominate the household.

SWITCHING OFF

Even if they have a sense that they are being abused or badly treated, children might switch off this part of their life, and concentrate on other more positive aspects. As Schofield and Thoburn (1996, pp. 13–14) report:

Children often resort to defence mechanisms, such as denial, in order to cope with their feelings. They can become effectively unable to think about what has happened to them.

LESSER OF TWO EVILS

Older children, especially, can make what appear to be rational judgements about the costs and benefits of disclosure. In calculating what they will potentially lose, children not only consider their own lives, but they also think about

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the impact of disclosure on the ‘abuser’ and on the rest of the family. Will their father, uncle or mother be sent to prison? Will their sisters and brothers be ‘taken away’ and put into care? Will their family be ostracised? This is a particular concern for children from close-knit communities where they fear that everyone will hear about the abuse or neglect that they have suffered.

SHAME AND EXPOSURE

Exposure is much more likely for children from minority ethnic communities, especially if they are poor and – like white working-class children – live in close proximity to others. Children from minority ethnic communities may feel that the cost is too high of exposing their whole family to shame and criticism, and to the loss of support from within their community. Gorin (2004, pp. 51–52) reports on a study carried out by Mullender *et al.* (2002), which found that Muslim children and young people of South Asian descent were affected by the concept of ‘family honour’. This could stop them and their mothers from taking action against domestic violence:

He wanted to keep us under his control – that is why he terrorised us. Mum stayed so long because of us and because of Izzat, you know. ‘What will people say?’ She hid it from her family – wouldn’t tell them how bad things were for such a long time.

Concern about ‘institutionalised racism’, and the belief, however mistaken, that adults in positions of power will not treat them sensitively, can silence black children.

Featherstone and Evans (2004, p. 35) explore the reasons for sexual abuse still being seen predominantly as a female issue. Using the work of Baginsky (2001), they report that boys in particular can feel too ashamed to disclose abuse or maltreatment, because their experiences challenge dominant perceptions that boys are tough and strong. Boys who have been sexually assaulted by other males can be afraid to tell because they assume that they will be seen as gay; such is the power of homophobia.

TOO SCARED TO ACT

Children can be too terrified to take action. In 2003, the Children’s Rights Alliance for England and the NSPCC ran a consultation weekend for 13 children and young people with experience of child protection. A 13-year-old boy reported:

I’ve had to give advice to somebody . . . My little sister, she was 7 or 8 years old. She was getting sexually abused by that person I told you about earlier . . . I kept telling her to tell my mum . . . she didn’t tell my mum till we left [name of step-father] and went to live back with my real dad. I knew that if I told someone I would get battered by [step-father] . . . He’d broke my little brother’s rib. The

only person I could really talk to was my social worker but I hated her ... she always wanted me to go into care, all the time. My sister kept crying every time she came to talk to me.

Children's Rights Alliance for England, 2004, p. 13

When asked why he had not felt able to tell his mum, the boy replied:

Because [step-father] would have beaten us all up. Because he made up that he used to do karate and stuff so that none of us would get on the wrong side of him.

DOMINANT ATTITUDES

Adult perceptions of children are a major consideration. Children might not expect to be believed. Here children's status and dominant conceptions of different groups of children are important, just as they have been seen to be a major influence on women reporting violence. The summary report from Sir William Utting's Children's Safeguards Review (1997, p. 1) cautioned:

Bear in mind that the abuse of children in institutions is part of the wider issue of the abuse of children generally. The bottom line is drawn by the values and attitudes to children which characterise the society in which we live.

Children who are deemed troublesome and untrustworthy – those in custody or in trouble with the law, for example – might calculate that any disclosure of abuse will be dismissed as malevolent or as negative attention-seeking. On the other hand, the abuse of disabled children or the cruel treatment of babies and very young children can go undetected because it challenges the dominant perception that the most weak and vulnerable in our society are cared for. Put simply, adults can find this kind of abuse too much to bear, so we do not allow ourselves to see it.

Four-year-old John Smith was killed by his pre-adoptive parents in Brighton and Hove in December 2000. John died with 54 bruises on his body and three adult bite marks. Social workers had visited his home on 20 separate occasions; they believed his foster parents when they said that his injuries were self-inflicted. When John was admitted to hospital in a terminal condition, his pre-adoptive carers and their support social worker told hospital staff that he was a disturbed child who self-harmed.

Six-year-old Lauren Wright died in May 2000 after her stepmother struck her so hard in the stomach that her digestive system collapsed. There were 60 bruises on her body, including marks on the back of her legs, which were probably made by a stick.

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Jurors at Norwich Crown Court were told that the stepmother had been seen punching Lauren to the ground while walking in the street, that Lauren had been made to stand in front of a fire for more than an hour and ‘half a pot’ of pepper had been put into a sandwich for her. Lauren was still attending school in the weeks before she died. She weighed less than two stone and her hair was falling out. Her stepmother – who was a playground assistant at the school – managed to convince concerned teachers that Lauren’s injuries were a result of her clumsiness.

Alyson Leslie (2001, Paragraph 1.46), the author of the Part 8 review (see Glossary: Serious case review) into the circumstances surrounding John Smith’s death, reported:

Social workers exist because there are aspects of our society the rest of us do not want to deal with. They are our eyes, our ears and our judgement when it comes to the care of our society’s vulnerable children. They are there to ensure such children have access to safe, nurturing, fulfilling environments where they can achieve their full potential. To do their job effectively, social workers must, on our behalf, ask awkward questions and always be thinking the unthinkable.

Ideas about what is normal, either for adults or for children, also come into play. Adults who lack knowledge or experience of children’s needs and rights can rely uncritically on second-hand beliefs, passed down from generation to generation. Classic examples are ‘parents have the right to discipline their children as they see fit’ and ‘children should respect their elders’.

The social worker noted ‘a sense of formality’ in Victoria Climbié’s relationship with her aunt and Carl Manning, characterised by Victoria standing to attention in her aunt’s presence. This was perceived by the social worker to be a normal feature of child/adult relationships within African-Caribbean families.

FOCUS ON PARENTS

The child’s needs and concerns are too easily eclipsed when a parent has chronic needs of his or her own (Cleaver, Unell and Aldgate, 1999). Parents with a history of substance misuse or mental health problems often struggle to give priority to the child’s needs. In these situations, the parents’ needs can easily become all consuming for professionals, with little time or energy left over for the smaller and less-demanding family members.

The Advisory Council on the Misuse of Drugs carried out a 2-year inquiry into the needs of babies and children of problem drug users. It reported in 2003:

Whilst there has been huge concern about drug misuse in the UK for many years, the children of problem drug users have largely remained hidden from view. The harm done to them is usually unseen: a virus in the blood, a bruise under the shirt, resentment and grief, a fragmented education.

Advisory Council on the Misuse of Drugs, 2003, p. 90

For further information on children's perspectives of seeking help, see Butler and Williamson (1994), Maurice (1998) and Gorin (2004).

SAFEGUARDING FROM THE CHILD'S PERSPECTIVE

Safeguarding is the responsibility of all those working, or in contact, with children. The Children Act 1989 places a duty on local authorities to safeguard and promote the welfare of children in need in their area. Section 175 of the Education Act 2002 places a duty on local authorities and on school and college governing bodies to make arrangements to safeguard and promote the welfare of children. The Children Act 2004 places a duty on key persons and organisations to make arrangements to ensure that their functions are carried out with regard to the need to safeguard and promote the welfare of children. Those covered by this new duty in the Children Act 2004 include children's services authorities together with district councils, police, probation, NHS bodies, Connexions, youth offending teams, governors/directors of prisons and young offender institutions, the British Transport Police and those on contract. So, for professionals working in statutory agencies or under a contract to these agencies, the defining tasks in safeguarding children are to protect children from maltreatment and prevent impairment of their health or development (Department of Health *et al.*, 2000; HM Government, 2005).

WHAT DO CHILDREN WANT FROM THEIR CHILDHOODS?

In 2001, the government's Children and Young People's Unit consulted children and young people on its draft children's strategy. This was the first time that children and young people in England had been asked *en masse* to contribute to a national vision of what makes a good childhood. It was the first time they had been invited to suggest how the state should intervene to ensure that children and young people can fulfil their potential (Children and Young People's Unit, 2001).

When asked which aspects of the government's vision for a good childhood they most agreed with, the two most popular answers among those aged

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12 years and under were ‘more activities’ and ‘more parks’. More than half of disabled children and children with special educational needs rated activities as the most important aspect of the government’s vision. For older respondents, ‘health’ and ‘families’ were named the most important parts of this vision. A 12-year-old girl explained (Children and Young People’s Unit, 2003):

If a family doesn’t work as a unit then children in that family would have problems . . . and would be an outcast of society.

Ten-year-old Georgie advised:

If I could change something I would make sure that every child had a loving family to care for them and give them lots of support.

Within the ‘families’ heading, a 13-year-old highlighted the importance of financial security:

Child Support [is the most important] – I do not live with my mum and dad, only with my nan. And we only get £20 a week; that is not even enough to feed and clothe me.

When children and young people were asked how the government could find out if their plans for children were working, younger children most often suggested ‘surveys’; older respondents rated ‘meet the children’ highest, closely followed by surveys. Checking whether children are happy was a common suggestion. An 11-year-old girl recommended:

By checking that children are getting their happiness.

HOW TO BE A GOOD ADULT

We can see, therefore, that the principal tasks of adults living and working with children include minimising risks of harm and at the same time helping children to be happy and fulfilled. This is a broad spectrum that takes in the different responsibilities of the child’s parents, relatives and adult friends and neighbours, as well as professionals. Despite the variety of roles, when children are asked what they want from the adults in their lives, there are more similarities than differences. Certain personal characteristics seem to be uniformly rated by children. A happy disposition and an ‘even temper’ are critical, as is the ability to listen and really take on the child’s views.

A consultation with 25 disabled children and young people aged between 7 and 19 years, undertaken for Sir William Utting’s review of safeguards for children living away from home (Utting, 1997, p. 84), revealed a strong preference for staff who

- have a good sense of humour;
- have a good attitude towards children;

- try to understand children;
- do not shout at children;
- have been closely vetted.

The theme of children and young people being put off by grumpy and ill-tempered adults continued in the Children's Rights Alliance for England/NSPCC consultation. A 13-year-old girl explained (Children's Rights Alliance for England, 2004, p. 24):

I don't like it when foster dad shouts advice at me. My foster mother puts things into nice terms.

Youth workers were rated highly by a 17-year-old male:

Youth workers are more like friends. They are not always telling you 'this is your best interests; do it this way'. They are not in your face all the time.

In a different context, a child involved with statutory agencies said why she valued her independent advocate (Children's Rights Alliance for England, 2004, p. 75):

[When I first met my advocate] she had a nice smile and was all nice and happy, not like social workers.

Jones (2003, p. 71) lists the core skills required for effective communication with children. These include listening, being able to convey genuine interest, empathic concern, understanding, emotional warmth, respect for the child, and the capacity to self-reflect and to manage emotions. He stresses the importance of these skills in seeking to communicate with children who have suffered adverse experiences:

... good communication skills on the part of the professional are desperately needed by children who have been victimised, in order to allow them to impart any information or express their concerns. Equally, the potential consequences of poorly developed professional skills are serious for such children, as they can lead to erroneous accounts and distortions of children's memories. The consequences can be serious, psychologically, emotionally and legally.

Butler and Williamson's (1994, p. 33) seminal account of children's views of trauma and social work eloquently summarises what children want:

When asked about the characteristics of adults in whom they might place their trust, it was somewhat embarrassing but also rather flattering that a number of younger children said to the researcher, 'someone like you'. [They wanted] someone who smiled a lot, had a sense of humour, maintained a lot of eye contact, did not interrupt, and appeared engaged and interested in what they were saying.

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But personal attributes are not enough; children and young people want to see hard evidence of professionals actively working on their behalf. A 15-year-old boy in Butler and Williamson's study (1994, p. 95) reported:

I don't want any support from social workers. They're a load of shit. All they do is remind you of what you're like. They're not worth it. What can they do for you, except talk to you? All it is is talking – nothing to do with what's really going on. Just gets you into more trouble – other people contact them to moan about you. They're all talk and no action.

The Blueprint Project was set up by the Voice for the Child in Care with support from the National Children's Bureau to identify the vital ingredients for a child-centred approach to children in public care. Concerning relationships with professionals, children and young people involved in the project made the following key recommendations (Voice for the Child in Care and National Children's Bureau, 2004, p. 49):

- be on time, do not cancel unless you absolutely have to;
- invest time in getting to know children;
- be honest;
- do what you say you will do – keep promises;
- show interest in the positives as well as the problems;
- be responsive to what children and young people say;
- believe in their capabilities.

The TOTAL RESPECT training pack for ensuring children's rights and participation in care gives advice for professionals wishing to communicate effectively with young children (Dalrymple *et al.*, 2000, p. 37):

- Never be too busy to listen. Children often have important things to say at inconvenient moments.
- Give the child all your attention.
- Sit on an equal level – on the floor if necessary.
- Respect what the child is saying.
- Do not patronise young children by acting surprised when they make intelligent comments, or by expecting them to amuse or entertain you.
- Do not try to guess what will be said next.
- Pay attention to both what is being said and how it is being said.
- Do not interrupt – wait until the child has paused before you ask a question.
- If you disagree, do not dismiss the child or get angry.
- If the child is talking for a long time, and you need to remember exactly what he or she has said, make notes when there is a pause or when the child has finished speaking.

All of this advice adds up to seeing and respecting each child and getting to know him or her and the family. It means getting behind the professional labels, good and bad, to find the people. As Gorin (2004, p. 72) reports:

Children do not talk about 'domestic violence', 'parental substance misuse', 'parental ill health' or 'abuse'. Indeed these are not necessarily terms that they understand or can identify with. Similarly, they do not think of themselves as being 'a young carer' or 'a child of a parent with substance misuse problems'. They think about themselves as individuals with different roles and responsibilities within and outside their family. Their accounts reflect the complexity of family situations and their own subjective experience.

While direct communication and relationships are seen as critical, children also recommend that adults stand back and notice changes in a child's behaviour. Children and young people taking part in the CRAE/NSPCC consultation weekend gave the following tips on recognising children who may be at risk of harm (Children's Rights Alliance for England 2004, p. 9):

They become very shy, keeping themselves to themselves. They're on edge all the time.

If you change how you act e.g. you cry when you don't normally.

Like where the mum and dad are not being a mum and dad to their children. They're just letting children do what they want . . . They're not making sure children are fed and watered [and] not making rational decisions – like my mother.

Notice whether parents come to pick children up from school. If [they] didn't come there's something wrong – go and see if [the] child is all right. Keep a close eye on them.

This advice is reflected in the professional literature. In relation to professional assessments of children in need, Adcock (2000, p. 82) notes:

It is very helpful to observe the adults and children together as soon as possible in order to assess the quality of their relationship and the child's attachment to each parent. The child's appearance and manner should be noted. Sometimes the worker may immediately note a developmental delay or be concerned about a child who seems very sad or very wary. The parents' or carer's ability to anticipate and respond to the child's needs and to show care and affection, the tone of the voice when speaking to or about the child and the way in which the child is described are very relevant.

A SAFEGUARDING SYSTEM FIT FOR CHILDREN

Whenever a child dies at the hands of its parents or carers and it is revealed that education, health or social services had previously been aware of the child's vulnerability, the same question is posed – when will we ever learn? Since 1945, there have been 70 public inquiries into severe child abuse (House

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of Commons Health Committee, 2003). The most recent was Lord Laming's inquiry into the torture and eventual manslaughter of 8-year-old Victoria Climbié.

One of the most remarkable omissions from all of these inquiries is the lack of any exploration from children's perspective of what needs to be done to make the system better at protecting them. Only adults are considered to be experts in safeguarding children. It was more than a century ago when the first Act of Parliament was passed protecting children from abuse; it was modelled on legislation that had existed for 66 years to protect animals. But we have yet to see a child being invited to give expert advice at a public inquiry concerning child abuse. There have been no studies or projects focusing solely on children's ideas for the design of a safeguarding children system fit for them.

Eleven-year-olds were interviewed for a radio programme on whether the Children Act 2004 should give children equal protection from being hit as adults. The children were asked what they would do if their friend came to school with bruises on the body. Their instant remarks all focused on their friend's feelings: 'try to cheer him up', 'tell some jokes', 'I would show her she's got friends'.

How much weight do adults give to children's *feelings* when they are seeking to safeguard and promote their welfare?

Under the Children Act 2004 children's wishes and feelings have to be taken into account when assessing children under section 17 and carrying out enquiries under section 47 of the Children Act 1989.

Piecemeal research with children has been brought together providing key headlines of what children want and need from statutory agencies. Schofield and Thoburn (1996, p. 52–54) summarise the key lessons from research:

- Children need a dependable relationship with a trusted and skilled helper.
- Children and young people need comprehensive information at all stages in the process. (Information is especially important to make a reality of the child's right to consent to medical or psychiatric assessments ordered by the court – see also Brandon, Schofield and Trinder, 1998, Chapter 5.)
- The early stages of investigation and offering support are critical for establishing a relationship with the child and ensuring that he or she is an active participant.
- To take part in child protection conferences successfully, children need the following: preparation before meetings from workers or advocates who are positive about their contribution; support during the meeting, skilful chairing of the meeting and a respectful approach by conference members; an immediate opportunity after the meeting to discuss their feelings about it and the decisions made.

Independent advocates can play a vital role in ensuring that children have appropriate information and support to communicate their views in formal settings such as child protection conferences and court proceedings (Department for Education and Skills, 2004).

Sonny is 7 years old. His name was placed on the child protection register 10 months ago. His mum had forcibly pushed him into his bedroom, and he had tripped over a toy on the floor and fallen hard onto the wall. One of the bones in his hand was fractured and he had a bloody nose. This is not the first time Sonny's mum has lost her temper, though previously her attacks on Sonny were all verbal. Since social services' involvement, Sonny's mum has been attending parenting classes and having individual anger management sessions with a counsellor. They are going well.

The social worker is visiting Sonny and his mum to discuss the forthcoming child protection review conference. He sees Sonny by himself and has brought along a children's storybook about the process. They look through Sonny's football sticker album first, as they had on the previous visit. Then the social worker asks Sonny if there is anything he wants to talk about today.

As soon as the social worker finishes his sentence, Sonny says he wants to come off the 'stupid list'. The social worker checks that Sonny is talking about the child protection register* – he is. He asks why he thinks it is stupid. Sonny replies that his granny and grandad want to take him to Spain for a week's holiday but they can't because he's on the register. He says he heard them talking to his mum and they were saying Sonny would not be able to leave the country while he is on the register.

The social worker explains the purpose of the register and thanks Sonny for sharing his worries. He says that everyone – including Sonny's mum and grandparents – are working together to try to keep Sonny safe and happy. He says the holiday sounds like a great idea and he will discuss it with Sonny's mum.

*From April 2008 local authorities are required to have replaced the child protection register with individual child protection plans.

POSITIVE ACTION

- Do not assume the child is too young to be part of the process.
- Make time for the child.
- Do not rush into your own agenda – check what is on the child's mind.
- Take seriously the child's worries or questions.
- Stress that everyone wants the child to be safe and happy.

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For further information on children's participation in decision making, see Schofield and Thoburn (1996).

CONFIDENTIALITY AND CONSENT

A duty of confidence may be owed to a child or young person in their own right.

Children over the age of 16 are assumed in law to be competent to consent to medical advice or treatment, without the involvement of their parents (Family Law Reform Act 1969, s 8(1)). A child under 16, who has the capacity to make their own decisions, may give (or refuse) consent. The child has to show that he or she understands both the proceedings and the implications of his or her wishes (*Gillick v West Norfolk and Wisbech Health Authority* [1986] AC 112).

Children and young people have the same common law right to confidentiality as adults – providing that those aged under 16 are judged by professionals to understand their choices and the potential outcomes of sharing information. This follows from the *Gillick* case and is known in practice as Fraser competence.

Judgements have to be made on a child's capacity to consent on each particular issue. The same child may be able to give consent on a straightforward matter, but may not have the capacity in relation to a complex decision. It is important to remember, though, that children and young people faced with complicated decisions – for example, relating to a medical procedure or a change in the family – often have had years of experience of the difficult issues at stake. A lack of capacity should not be assumed, but neither should they feel compelled to make decisions that they do not understand fully, or do not want to make.

If a child under 16 does not have the capacity to understand and make his or her own decisions, a person with parental responsibility can consent on his or her behalf (HM Government 2006c, Appendix 3, Paragraph 4.19). If action is taken without a child's consent, he or she should be informed of the action and why it is being taken. Good practice is always to keep the child fully informed.

There is an overwhelming and consistent call from children for confidential spaces where they can, at their own pace and in their own time, discuss difficult experiences, including abuse, with trusted adults.

The fact that ChildLine each day attracts about 30 000 direct calls from children of all ages shows the importance of adults being there, but not taking over. The propensity of adults to take away any sense of control is certainly one of the major reasons cited by children for seeking help from peers rather than from grown-ups. But even when complete confidentiality cannot be offered, there are ways of responding to children that preserve their dignity and keep them firmly at the centre.

Jamelia is 9 years old. She lives in a cramped council flat with her mother and twin siblings, 3-year-old boys. Jamelia is an intelligent child who likes to write poems and stories. She seems to get on well with her mother and brothers, but is especially close to her maternal grandmother with whom she stays each weekend.

Jamelia's teacher notices that she is walking with a slight limp and during the morning break asks if she is all right. Jamelia explains that the lifts in her flats were not working this morning and she tripped while helping one of her brothers down the stairs. Jamelia becomes tearful, and says her mum called her 'stupid' and 'clumsy'. Jamelia tells her teacher that this is not fair – she was feeling sleepy because her mum's new boyfriend had been shouting and throwing things about in the night, and it had been hard for her to sleep. She says her mum has never called her stupid before; she usually describes her as 'my bright little princess'.

The teacher suggests that they sit together at lunchtime and have a longer chat about how things are at home. She says she likes Jamelia and her mum and brothers and would like to help them if they are having difficulties. She explains that she will probably need to contact some other people who can help Jamelia and her family be happy and safe.

At lunchtime, Jamelia tells her teacher that she thinks her mum's boyfriend was thrown out by his previous girlfriend because of his violent temper. Jamelia says that she is frightened of the boyfriend and that she thinks her mum and brothers are scared too. The teacher asks Jamelia's permission to pass on this information to the person in the school whose special job is to keep children safe. She says that she thinks Jamelia's mum and grandmother will understand why some help is needed for the family.

POSITIVE ACTION

- Be alert to a change in the child's behaviour.
- Ask the child to explain the change.
- Show concern.
- Be honest about sharing concerns with others.
- Go at the child's pace; try not to panic.
- Build on the child's own support networks.

What if Jamelia had told the teacher she should not tell anyone about her worries? What could the teacher do or say to reassure Jamelia that passing on concerns would not lead to her or her mum getting into trouble? What could the teacher do or say to help Jamelia understand what might happen next? What risks and benefits might there be to waiting until Jamelia is happy for information to be passed on?

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Wattam (1998) points out that children understand the rules of secrets and confidentiality and know that sometimes adults have the power to break the rules. For this reason, children may try to keep control of information and to restrict disclosure. Negotiating confidentiality and disclosure must be undertaken with an understanding of the child's perspective, and in a way that empowers children.

In Jamelia's case, the teacher would have to decide whether Jamelia's account was serious enough to justify an immediate referral to social services, regardless of Jamelia's wishes, or whether it would be better to take a little longer to build up the trust that would enable Jamelia to accept the actions that are suggested.

Alderson's (1993, p.166) groundbreaking research on children's consent to surgery shows the benefits of making time, wherever possible, for children to work through their fears:

One senior house officer described a 12-year-old with a slipped vertebra: 'He was well prepared and it really needed doing, but at the last moment he couldn't face it. The ward staff phoned theatre, and there was no problem, immediate agreement to cancel. He stayed in for a week, and then agreed and it went ahead. Choices are being made, and discussions are going on all the time, when some children keep coming back to clinics for years. It is very important to allow them breathing space and thinking time and to discuss it calmly...'

For further information on children's competence and seeking informed consent, see Alderson (1993).

CHILDREN'S RIGHTS AND SAFEGUARDING

The United Nations adopted in 1989 an international human rights treaty especially for children – the Convention on the Rights of the Child. The United Kingdom ratified the Convention in December 1991, thus taking on legal obligations to fully implement it. The international treaty monitoring body – the Committee on the Rights of the Child – has issued guidelines for implementing the Convention, stressing four guiding principles:

- Article 2 – all children have all the rights in the Convention without discrimination.
- Article 3 – in any matter concerning the child, the child's best interests shall be a paramount consideration.
- Article 6 – the child's right to survival and development.
- Article 12 – the child's right to have his or her views given due weight in all matters affecting him or her.

The Convention grants all children a comprehensive set of social, economic and cultural, and civil and political rights. The ‘family environment’, whose defining features are ‘happiness, love and understanding’, is seen as critical to the child’s ‘full and harmonious development’. Article 19 grants all children protection from all forms of violence, abuse and neglect, while Article 37 protects children from cruel, inhuman or degrading treatment or punishment. In Article 23, disabled children get the right to ‘a full and decent life’, characterised by dignity, self-reliance and active participation in the community. They also have the right to ‘special care’. Children separated from their parents are entitled to ‘special protection’, while refugees and young asylum seekers are given the right to ‘appropriate protection and humanitarian assistance’.

The European Convention on Human Rights (ECHR) (Council of Europe, 1950/1998) gives children (as well as adults) a set of rights that can be legally tested and protected. However, when Convention rights are breached, children cannot seek a remedy directly through the courts. In 1998, the United Kingdom incorporated the ECHR into domestic law, through the Human Rights Act. This Act came into force in October 2000 and means that UK citizens can seek a legal remedy for breaches of their rights in domestic courts, as well as through the European Court of Human Rights in Strasbourg. There have been several UK cases in recent years concerning safeguarding children (Willow, 2004).

ECHR rights that are particularly relevant to safeguarding children are:

- Article 3 – the right to protection from cruel, inhumane or degrading treatment or punishment.
- Article 8 – the right to respect for private and family life.
- Article 6 – the right to a fair trial.
- Article 13 – the right to an effective remedy when rights have been infringed.

A commitment to children’s human rights is much more than accepting that a small number of children will need to challenge their treatment through the courts – to stop something harmful from happening or, more positively, to get the services and support they need to fully develop.

Adopting a children’s rights perspective is about seeing and valuing children as individual people. It is about making the most of that distinctive period in life, childhood, which brings immeasurable and unrepeated opportunities to assist another human being. There is no other time in life when the impact of help or harm is so great, affecting the here and now as well as the future. In 1998, Voice for the Child in Care published a self-help book for young people. In it a 37-year-old man reflects on his harrowing childhood, recalling the impact of living with an alcoholic and violent father, his mother’s suicide when he was 4 years old and sexual abuse in his children’s home. His advice, though aimed at children and young people, powerfully communicates how

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adults can be a positive force for change in children's lives (Maurice, 1998, pp. 95–96):

The most important message that I have to give is that there is the possibility that you can again taste happiness. You need to come across a person in the world in whom you can find some solace, someone who actually listens to you, whoever it may be, a teacher at school, a friend, whatever . . . the hardest thing in the world is to hope and to trust; to overcome the feeling that everyone and everything is just an utter pointless waste. If you can link in with someone and begin to talk about your experiences, then you can gain the strength to move on from them. Get out there into the world, link up with what is positive and what is good. Even if you fail every exam, even if it all amounts to not very much on paper, the mere process of having gone out there and involved yourself in what is the real world changes things.

EVERYTHING MUST CHANGE

In recent years, the need to consult children about the development of policy and services that concern them has become accepted in government practice. There are consultation exercises to which children are encouraged to respond, children's and young people's pages on government web sites and summaries of documents written specifically for children. A Children's Rights Director has been appointed in the Commission for Social Care Inspection, and there are now Children's Commissioners in England, Wales, Northern Ireland and Scotland.

The same degree of openness and consultation is not always present in individual practitioner behaviour. Masson and Oakley (1999) found that children were often not fully informed of their rights in public law proceedings, or told that they could attend the court hearing with the judge's permission. The Joint Chief Inspectors' report notes that few children are attending child protection conferences (Chief Inspector of Social Services *et al.*, 2002).

The government has promised that support to children, including those who require safeguarding, will be transformed. The *Every Child Matters* Green Paper stresses listening to and involving children in the design, development and evaluation of services (Cm 5860, 2003, p. 78):

The creation of an organisation defined by its client group rather than professional functions offers an important opportunity to involve children and young people in decision-making.

The focus is not just on children influencing general decision making; it is about them having a voice and an influence on decisions that affect them as individuals. In a GMTV interview on the day the Children Bill was published, the then Minister for Children, Young People and Families, Margaret Hodge, said of Victoria Climbié: 'Nobody talked to her, nobody asked her how she

felt, nobody asked her what she wanted. That must never happen again' (HL Deb, 2003–2004).

Recognising children as individual people and as holders of rights disturbs deep-rooted beliefs about the nature and purpose of childhood. Putting into practice children's rights, especially their right to be heard and taken seriously, requires a shift from acting on *images* of children, of which there are many – cute and amusing, unfortunate and needy, empty vessels to be filled with adult wisdom, and dangerous and out of control – to seeing children as having the full range of human characteristics that adults have. It means knowing and respecting each child as a whole person and doing our level best to ensure that children get what they are entitled to.

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