

Young People in Residential School Rights, Communications and ‘Complaints’

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Introduction

Children do have rights. They have the right not just to be sheltered and cared for and protected from abuse, but also to be treated as moral agents in their own right, with intentions, purposes, and visions of the world that we should not presume are identical to our own (Ignatieff, 2000, p. 108).

There is a commonly held notion that human rights and social justice concepts have advanced the inclusivity, participation and equal treatment of marginalized and vulnerable groups of people, including children, through the entrenchment of human rights principles in international instruments such as the European Convention on Human Rights (‘ECHR’) and the UN Convention on the Rights of the Child (‘UNCRC’). It is often said that the measure of a fair and just society is how it treats its most vulnerable citizens and that human rights provide a benchmark against which we can measure the existence and contribution of societal values, such as tolerance and diversity, in building a stronger civil society.

There are gaps in knowledge, however, about what children and young people¹ *say* about their human rights experiences and about how their lives can be improved. Young people living in institutionalized settings, such as residential schools, are often overlooked as ‘expert knowers’ about their human rights experiences, particularly as they relate to public services received, and yet these young people’s susceptibility to challenging life circumstances, often resulting from traumatized and poor upbringings together with systemic inadequacies, requires us to hear the voices of these young people marginalized through out-of-home and community placements. This heightened degree of vulnerability places an onus on residential establishments to safeguard and promote young people’s human rights, enshrined in such instruments as the UNCRC and the ECHR, in ways afforded to any vulnerable and marginalized

¹ The substitute term ‘young people’ includes children for brevity’s sake.

group within the broader sectors of society. Complaint processes, existing at local, national and international levels, are widely recognized international mechanisms for safeguarding and promoting human rights, although they may also be used to monitor the implementation of rights and to inform policy about the effectiveness of public services.

This paper reports preliminary findings of research conducted at a multi-service residential school with young people aged 13 to 15 years old. Through interviews with young people, the research explored the young people's understanding about their rights; their experience with expressing concerns about matters important to them; and their knowledge about the residential school's formal complaint process. Premised on the notion that we, as a society, have a moral and legal obligation to young people who are not 'becoming' but who exist as social actors with an active role to play in shaping public policy, this research attempts to contribute to the wider topic about what young people say about their human rights experiences within a residential school setting.

Children's human rights: Promoting, protecting and monitoring

Children and young people have rights, embedded within the broader spectrum of international human rights instruments, which they do not need to be given or to deserve. The UNCRC, an internationally articulated formulation of young people's rights, uniquely extends these rights to incorporate the specific recognition of young people's *participatory* rights, such as the right to self-expression and the right to receive information. The UNCRC's Articles 12 and 13, for example, give young people the right to express their views in all matters affecting them; to participate in judicial and administrative proceedings that impact their everyday worlds; and the 'freedom to see, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice' (Article 13, UNCRC).

The UNCRC, however, has no individual or collective complaint process to rely upon as an implementation and monitoring mechanism and is limited thereby to states

reporting, as required under Article 44 of the UNCRC, to a UN Committee on the Rights of the Child ('UN Committee') on the measures states have taken to implement the UNCRC, which, as a process, places little responsibility on the signatories to effectively monitor those implementation measures. While it doesn't have its own complaint process, unlike other UN conventions such as the Convention on the Elimination of Discrimination against Women, the UN Committee has lent its support to complaint processes as an effective way to implement the UNCRC principles in their determination that these procedures may offer protection to young people while also facilitating their participatory rights (Hodgkin Newell 1998).

Many worldwide independent children's rights organizations, recognized by the UN Committee as a UNCRC implementation mechanism, have instituted complaint processes as a mechanism for hearing from young people about their concerns. According to a UNICEF Summary Report (2004), however, these institutions have exhibited a diminished lack of capacity to respond to individual complaints, resulting in a greater reliance on other institutions and devolved complaint processes. This devolution, in turn, has placed a greater obligation on state legislators to ensure proper strategies exist within residential establishments for informing, implementing and monitoring young people's rights and to make available complaint processes within residential establishments that meet young people's needs. These devolved responsibilities also require state legislators and policy developers to provide adequate guidance for designing, implementing and monitoring in ways that will facilitate hearing young people's views and responding to their concerns.

While 'the [UN] Committee has expressed concern at the lack of complaints procedures for children, in particular in relation to ill-treatment in institutions and in the family' (Hodgkin Newell, 1998, p.155), increasingly residential institutions, as an example, have established complaint processes for young people in compliance with legislated requirements. Various other factors, as well, have influenced this devolution shift. While complaint processes have existed within human rights institutions for many years, social changes within the UK have resulted in public bodies introducing complaint processes, within child welfare and in other places, to respond more directly to consumer needs. There is an assumption that minimum

standards in the provision of services, such as legal and health services, must be adhered to and that consumers are entitled to recourse through a complaints process. For young people living in state care, however, the introduction of complaint processes to residential establishments arose from recommendations made after public inquiries into abuse allegations determined there was wide-spread abuse of young people in residential settings (see Skinner 1992; Kent 1997; Marshall 1999), resulting in the subsequent enactment of related legislation.

The *Children (Scotland) 1995 Act* in Scotland sits alongside the *Human Rights Act 1998* and the *Commissioner for Children and Young People's Act (2003)* as primary legislation incorporating various UNCRC principles and promoting a societal shift from seeing young people as passive service recipients who require protection to young people as necessary participants in decision-making affecting their everyday lives. Other legislative and policy initiatives introduced have highlighted young people's rights and, in particular, their participatory rights. Recently, a major audit and review of the child protection system in Scotland led to two policy documents: 'Protecting Children and Young People: The Charter' and 'Protecting Children and Young People: Framework for Standards.' In promoting the Charter, the Scottish Executive made a particular reference to the UNCRC and its principles noting 'that young people have the right to be protected and to participate in decisions which affect them' (Scottish Executive, 2004a). The preamble to the Charter states that 'legislation and practice in child protection are underpinned by principles derived from Articles of the United Nations Convention on the Rights of the Child, ratified by the UK Government in 1991 (Scottish Executive, 2004a).

The *Regulation of Care (Scotland) Act 2001*, regulated by the Scottish Commission for the Regulation of Care ('Care Commission') and the Scottish Social Services Council, is legislation that makes provision for complaint processes to exist within residential schools. The *Regulation of Care (Requirements as to Care Services) (Scotland) Regulations 2002* stipulates that care service providers must establish a complaints procedure 'for considering complaints made to the provider by a service user or person acting on the service user's behalf' that 'shall be appropriate to the needs of service users' (Scottish Executive, 2002a). In support of this requirement,

the National Care Standards (Scottish Executive, 2002b) provide guidance claiming that ‘the standards have been developed from the point of view of children or young people who use the services (p. 4). In explaining the underlying principles to young people as it’s audience, the standards state that ‘they reflect the strong agreement that you have rights and that your experience of receiving services is very important and should be positive’ (p. 6).

The National Care Standards (Scottish Executive, 2002b) inform the regulatory bodies – the Care Commission and the Scottish Social Services Council – as to how the regulations must be implemented and monitored for compliance with the Act and the regulations. In this role, the Care Commission operates a national organization responsible for registration, standards and quality of care services, which it addresses through its inspection, complaints and enforcement mechanisms. The Care Commission conducts joint residential school inspections with Her Majesty Inspectorate of Education on a bi-yearly basis. As a relatively new organization, the Care Commission states that it is ‘working towards putting in place a new, unified and effective system of care regulation that puts the safety and well-being of people who use care services at its heart’ while attempting to ‘improve care services for everyone, respecting the rights of people who use care services to *dignity, choice* and *safety*’ (www.carecommission.com).

The research context

The majority of young people at the residential school who participated in the research originated from three different local authorities and lived in several distinct residential units while a smaller number of young people attended the residential school as day students. While some young people interviewed may have had an offending history, the residential school focuses on providing services to large numbers of young people unable to benefit from earlier interventions offered through fostering services, community children’s homes and mainstream schooling opportunities. The young people interviewed, like all young people, had a wide range of interests while they also, unlike other young people, had specific complex needs contributing to their heightened level of vulnerability made more challenging due to

their out-of-community placements. The panel members of Scotland's unique Children's Hearing System, which attempts to link juvenile justice to social work initiatives, usually would have made an order requiring the young people's placement at the residential school at the conclusion of their hearings.

Young people: Understanding rights

The research evidence shows that most young people residing at the residential school had little or poor understanding about their rights, while the young people attending the day school revealed that they had no understanding. Most young people had some awareness of the word 'rights' but they had limited knowledge about how rights related to their direct experiences at the residential school; varied experiences with the form and content of rights information they received, if any; and often couldn't recall who had provided them with information about their rights.

One young person who had lived in care for approximately ten years, however, spoke confidently about his understanding of his rights and specifically referred to his 'right to have ma say an' stuff', unlike the other young people interviewed.

N: So when you first came to the school, did you learn about your rights?

YP: Ah knew ma rights before ah came in this school.

N: Oh did you? And how did you learn?

YP: Because ah was in a different home from this one.

N: ...And who told you when you were there?

YP: Just people would come up an' ah spoke to the staff about it.

N: Are rights something you know about?

YP: Ah know a lot about ma rights, yeah.

N: So...what do you know about rights?

YP: Ah've got the rights to contact ma social worker, ma family or ah've got the rights to respect an' to have ma say an' stuff. Ah've got the right tae keep in contact wi' family, rights such as phone calls an' stuff.

N: So can you tell me who told you about your rights [at the residential school]?

YP: Well, ma children's rights officer came to see me an' gave me a children's rights book to read.

N: And when did that happen?

YP: About two or three months ago.

N: And when did you come to the school?

YP: A year and a half ago. Nearly two.

This young person stated that he used the children's rights book for reference. The experiences of this young person, however, contrasted with the majority of young people interviewed who indicated they had vague or no knowledge about their rights while they lived at and attended the residential school.

N: And did anyone talk to you about what rights you have when you're here [at the residential school]?

YP: No.

N: No. Do you know what they are?

YP: No.

N: One of the questions I want to ask you about is whether anyone has ever talked to you about children rights - what your rights are when you're here at the school?

YP: Yes when I first came in.

N: They talked to you when you first came in?

YP: Yes.

N: And do you remember what information you got?

YP: Not really, no.

N: ... Was it written information or did someone talk to you?

YP: They were talking to me.

A few young people correlated their rights with their care while they lived in the residential units, however, they did not identify rights related to their health or educational entitlements. No young person indicated he had a right to receive information that would assist him with understanding his rights and the options available to him if he had concerns. A few young people associated the word 'rights' with their 'right to complain' which, in turn, those young people linked with their right to fill in the complaint *form* used for the residential school's complaint process.

N: Did people talk to you about rights?

YP: Mhm.

N: Do you remember what they told you?

YP: They gave me a rights officer, complaint form, an' eh, telt me telephone numbers and everything's there that you can write doon on a bit o', ken, on the complaints form and a' things like that.

Most young people were vague about what rights violations they might ‘complain’ about and none of the young people indicated they had a right to participate in the residential school’s complaint process; the right to information about the process, including their participation in it; or the right to ‘complain’ using processes outwith the residential school’s complaint process. In general, the young people did not associate the ‘right to complain’ with their right to express their views in a forum that suited them or any participatory structure, such as a care plan review. Most young people suggested that the implementation of their participatory rights depended upon their relationships with the professionals involved and whether those professionals made themselves accessible to young people by listening and respecting their views.

Rights: Sources and resources

While few young people stated they had received visits from their children’s rights officers, no young person could name his children’s rights officer and only one young person could remember receiving information from a children’s rights officer. A national advocacy agency provided contracted services on site for two days each week, however, no young person could name that contracted worker or the agency’s regional workers and many young people didn’t recognize the advocacy agency’s name.

- N: Have you seen your children’s rights officer?*
YP: Aye.
N: Recently?
YP: Recently, no.
N: No?
YP: No.
N: When was the last time do you think?
YP: When I was in [the other unit] and that was a good, it was near enough a year now.
N: A year ago?
YP: I think.
N: What about [the advocacy agency] – have you heard about [the advocacy agency]?
YP: Aye – I’ve no’ really seen much of then either.
N: Do you know who the worker is?
YP: No.

A day student stated 'I remember having a couple of meetings [when starting at the school] but I don't remember anything about children's rights.' Another day student stated that he didn't know anything about his rights nor had he received any written or verbal information explaining rights to him. A young person from a different day unit, however, recalled that his unit manager had met with him, together with his mother, and provided him with verbal information about rights that he said he couldn't recall.

Most young people indicated that they would ask the residential staff, particularly their key workers, about their rights if they had questions or wanted information although one young person said he would contact his social worker if he had any questions.

- N: ...Do you think that your social worker knows about your rights while you're here?*
- YP: Uhuh.*
- N: Ok and what about the staff, do you think they know?*
- YP: They have to know; part of their job to know.*

One young person said he learned about rights from other young people and from a children's rights booklet belonging to another young person. This young person said he thought the information in his unit welcome book was 'rubbish', although he also believed that the information in his previous unit welcome book was good. He said he couldn't remember if there was information about rights in either book.

- N: Did anyone ever sit down and talk to you about the rights information that you read?*
- YP: Naw. Other boys in here's got a rights officer. I've not. Ah've not been told about rights.*
- N: You haven't?*
- YP: Naw. I learned off other boys.*

A few young people recalled that they had seen written information about their rights in the residential school's individual unit welcome packs they had received when they moved to their unit. Some residential students recalled that the residential school staff had reviewed the welcome pack contents with them, which included information about rights, while other young people stated they had reviewed the unit welcome packs on

their own or not at all. One young person living in a mainstream unit stated that he had seen information about children's rights posted on the young person's board in his residential unit. The information on the bulletin board that this young person referred to consisted of a UNCRC poster with a summary of rights on it.

N: And it sounds like you got information when you first came here.

YP: Yep.

N: About rights. Do you have anything in writing about it?

YP: Yeah.

N: You do?

YP: It's up on top o' there so everyone can see it. On the board down there.

N: A list of what your rights are?

YP: Mhmm.

Another young person, attending the residential school as a day student and living at home, stated that he would use the internet as a resource for information about rights.

Young people: Defining a 'complaint'

One young person defined a 'complaint' as 'when somethin's getting' out of hand an' you want to talk about it.' Another young person said he didn't know how to define a complaint but then changed his answer and said it was 'filling out the form' and 'getting your opinion in about something that is bad.' This same young person also said that he thought a complaint 'could be about anything.' Other young people associated the word 'complaint' with filling out the complaint form.

Complaint means to me if somebody's hurt you or abused you or there's something wrong with your dinner and you've already told the kitchen staff but they're not doing anything, then that's when you fill in the complaint form. You fill out a complaint form for your safety and other peoples' safety, just in case it happens again.

Complaint? That means you, like if any member of staff, for example, hits ye or anything like that, you can complain about them. Ye dinna need tae gie it [the complaint form] tae them.

Puttin' in a complaint about something or somebody.

Communicating a ‘complaint’: People, places and opportunities

It was clear from the interviews that young people *wanted* the opportunity to express their views, including their concerns, about everyday matters important to them. Young people at the residential school, like people everywhere, encountered situations they were unhappy about; where they disagreed with what had happened; or where they were worried about something or somebody. When asked about what they would do in these situations, all young people said that they preferred to talk to adults whom they trusted to listen although they differed in their revelations about which adults they favored.

N: ... So if you have a concern about something that’s going on here, for you, what would you do?

YP: Either speak to my social worker or speak to my key worker.

N: Can you think of the kind of issues you would talk about?

YP: What, with my social worker or my key worker?

N: Either one of them.

YP: I get on really well with my key worker, so I could talk about anything really.

N: Can you? So when something comes up for you that you’re not happy about you’re saying you would feel comfortable talking to your key worker?

YP: Aye.

N: ... Is there anyone in the unit you would talk to...you have trust in?

YP: Aye, a few of the staff.

N: A few of the staff. So...there are some people you trust who you can talk to?

YP: Aye.

N: And do you think these are people who can help you?

YP: Aye. Some ae them. All the staff try an’ help ye. Some in different ways.

Many young people indicated that while they might talk to various residential staff, they preferred to express their concerns, or communicate a complaint, to their keyworker.

- N: So you can talk to either one of those two people if you have any questions?*
- YP: Aye. Talk to any one of the staff, but I get on really well with my key worker and I get on quite good with my co-key worker.*
- N: Are you comfortable talking to either one of them?*
- YP: Aye.*
- N: ...And did the key worker sit down with you when you came and explain the school?*
- YP: Aye.*
- N: So if you're not happy with something, you'll talk to your key worker?*
- YP: Aye.*
- N: Is there anything you wouldn't talk to your key worker about?*
- YP: No.*
- N: No. So do you think you have a pretty comfortable relationship with that person?*
- YP: Aye.*
- N: And how accessible is your key worker; how often do you see your key worker?*
- YP: Every day in the school.*

Another young person living in a unit, however, said he didn't know if he could talk to his current key worker because he hadn't known her very long while a young person, in care for a few months, said he would only speak to his keyworker and did not identify any person outside the residential school environment he would speak to about his concerns.

Other young people identified a wider network of adults, including residential staff, social workers, family members and friends to communicate their concerns.

- N: ...If you could pick, who would be the person you would prefer to talk to about something?*
- YPA: (in unit keyworker)*
- YPB: He's leaving though.*
- YPA: But he's still here.*
- YPB: Your key worker, if you like him.*
- YPA: Yeah, I know, if you like him.*
- N: It sounds like the key worker's a pretty important person.*
- YPA: Not really – your mum and dad's more important than anybody.*
- N: Who else, if you wanted to ...*

YPB: Just a member of staff you can trust. The social worker if you like her; your family, your friends. If I've got a problem, I usually tell him before anybody. That's because we've known each other for ages though.

N: Tell...?

YPB: Your pals or somebody.

N: Your friends?

YPB: Somebody you really like that you can trust.

N: ... So if you wanted someone to help you with something, who would you ask?

YP: Ehm, my key worker.

N: Your key worker, ok...

YP: Or my social worker.

N: Or your social worker. What about outside the school – is there anybody outside the school?

YP: My auntie. My auntie I'll mostly talk to about my problems because it's somebody who I can trust the most.

Other young people had difficulty identifying a person or place to express their views about any matter important to them.

You can hardly trust anybody in here.

The day students identified a relatively small network of people they would speak to about their concerns and, typically, they identified the people who had the most daily contact with them such as keyworkers or keytutors. A day student identified the 'head teacher' as someone he would speak to as an alternative to his key worker if he had a particular issue he wanted to discuss with her. A few young people who had spent many years in care grasped the hierarchical nature of the residential school, indicating they would talk to duty managers, unit managers and senior managers, including the complaint manager and the residential school director, if they weren't happy about their discussions with the unit residential care staff.

Some young people said they would contact their local authority social workers, particularly if they weren't happy with the initial response from a member of staff who they might speak to, but a number of young people stated they had a temporary social worker; they didn't like their social worker; or they hadn't seen their social worker for many months. One young person reported that he had seen his social

worker about one year ago, that he used to see her every two weeks and that ‘she is hopeless.’ In his first interview, this young person described his positive experiences with social workers:

- N: You were saying you don't know who your current social worker is?*
- YP: No. Every social worker has been ok but I haven't met this one yet.*
- N: So you've had good experiences with your social workers?*
- YP: Aye.*
- N: How long have you had social workers?*
- YP: Well I had the same social worker for three years but then she had to move department then I got another social worker and she got pregnant then I got this one. I had a couple of social workers before that but that was when I just started moving into care.*
- N: So because you've had good experiences, you've had a good relationship with them, you feel comfortable calling them?*
- YP: Aye.*

In a second interview held several months later attended by another young person, however, this same young person had a different impression of his social worker.

- N: Do you know what's in your care plans?*
- YPA: I've not looked at mine for ages.*
- YPB: Because I've just moved here, my care plan's in a shambles.*
- N: Is it?*
- YPB: Aye. Not even the social worker knows what's going on with my care plan.*
- N: So whose responsibility is it to look after your care plan?*
- YPA: Social worker supposed to be...*
- YPB: Mhm.*
- N: So why do you think it's in a shambles?*
- YPB: But my social worker's a stuck up cow.*
- N: Really? You don't like her it sounds like.*
- YPB: No. I've liked every one of my social workers apart from this one.*
- YPA: I don't like mine either.*
- N: Do you have a choice about social workers?*
- YPA: You've got no choice really.*
- N: You don't? So if you wanted to make a complaint about your social worker, where would you go?*
- YPB: It's not that she's actually doing anything bad it's just, she just pisses me off sometimes.*

- N: Does she? ...What if you wanted a change in social worker so you could work with someone you really liked, what would you do?*
- YPB: I don't know. Every one of my social workers I've had have been off on maternity leave.*
- N: Oh really?*
- YPB: I've went through four lately.*
- N: So they go off on maternity leave and they don't come back?*
- YPB: Aye.*
- YPA: How weird's that?*

Another young person stated he wouldn't go to his unit manager or other residential school staff with his concerns because 'there was no point' and he didn't believe they listened to him. This young person described how he assessed whether a person was listening to him.

- N: ...How do you know whether they [keyworker, key tutor] are listening, what's a sign?*
- YP: You tell them something and they'll reply exactly like what you said first and then they'll give you the answer an' that.*
- N: So that means that...they're checking with you to make sure they've heard you and then they have a response, and that works for you...?*
- YP: Yes.*

Most young people, however, did not identify roles or structures as viable alternatives for taking forward their concerns but rather stated that they preferred to talk to people they knew, who treated them with respect, and with whom they had a trusting relationship.

There's some staff that ah know ah can talk to that ah've no known for that long 'cos of the wiy that they treat me. But some staff that ah know a' cannae and some staff that ah don't know if ah can or cannae, know whit ah mean?

In relation to places, or participatory structures, young people varied in their experiences and perceptions as to what participatory structures they could use, would use and would rely upon as a place to express their views. Most young people said they relied upon 'keytime' – the one-to-one weekly meeting with their keyworker - as a place to discuss their care plans and other issues and upon their keyworker as the person to deal with those matters. One young person referred to the school council

meeting as a place to take forward specific types of concerns and a few young people identified the unit meetings as places to talk about problems relating to the unit. Few young people identified the complaint process as a place to voice their concerns or complaints in the early stages.

‘Knowing’ the complaint process: Conjecture and experience

Some young people indicated that they knew how the complaint process was ‘supposed to work’, despite their lack of experience, and they expressed confidence in its ability to deal with their concerns. Other young people, who had experience with the complaint process and described how they thought it was ‘supposed to work’, indicated they wouldn’t use it because ‘there was no point.’ One young person stated he had instituted the complaint process but his original concerns had resolved before the complaint manager spoke to him so he used his interview time with her to ‘complain’ about another issue. The day students did not have any knowledge about the complaint process.

Young people who had not used the complaint process had varied understandings about how it was ‘supposed to work.’

N: Ok. So what would you do with the complaint form after you wrote on it?

YP: Ah’d give it to senior management.

N: A senior manager. And what’s the senior manager supposed to do?

YP: If you feel you’re getting bullied by a member of staff in here an’ they’re pushin’ you about, you go an’ make an appointment to see a person called [executive director].

N: Oh. Ok.

YP: Or is it [social work director]. It’s either [executive director or social work director]. To see what’ll happen in that situation, tell him all about it. Then what’ll happen is they’ll speak to the staff an’ then hopefully, if it happens again, the staff’ll lose they’re job.

N: So what do you think about that process?

YP: Well it’s never happened to me so ah really cannae say anythin’ about it.

N: So you’re not sure whether it works or doesn’t work for you because you haven’t made a complaint like that before?

YP: Naw.

N: Ok. Do you know anybody else who has?

YP: Naw, no really.

Another young person said that he had seen the complaint form, but he didn't know where it was located, he had never used it, and he didn't know anything about the complaint process.

One young person, who said he never used the complaint process and didn't intend to use it, indicated that instituting the complaint process involved filling out the complaint form and giving it to residential staff who didn't read it but who gave it to the duty manager (while he thought there were four duty managers, he didn't know their names). This young person said the duty manager would get the young person and staff member together to 'talk about it', which he thought was a good process because 'it's good to talk about it and work it out.' In this young person's opinion, however, the complaint process had nothing to do with feeling safe and when asked if he felt safe, he replied that he didn't know and said 'I keep to myself.'

A young person, who wanted his keyworker to attend his interview with him, described his perspective on how the complaint process 'was supposed to work.' From this discussion, it is apparent that this young person and his keyworker had different understandings about the process although they shared the impression that the social worker and the advocacy agency were involved in responding to the complaint.

YP: If you fill in a complaints form that goes to your social worker or your [advocacy agency] worker and they take it from there.

N: So is that what happens when the complaints form is filled out?

YP: Ah don't really know 'cos ah've never filled wan oot. Usually, they just get posted, dain't they? To the [advocacy agency] or the [advocacy agency] worker gets phoned and he usually comes out.

KW: The complaint form gets filled out and it would go to your manager..then head of social work, [name], in here, who'd then deal wi' it.

YP: Aye, that's the man – you'd just go to him wi' problems then.

- KW: *No, you wouldn't. You would give it to me. I would give it tae [name], the unit manager of both [unit names]. It would then go on to [director social work]. He would action that, 'cos he's head of social work.*
- N: *Ok.*
- KW: *Most young people, the ones that I have seen fill one [a complaint form] in, will ask for their key worker or a member of staff to help them fill it in anyway. They want to word it correctly if it's going to go to [the advocacy agency] or whatever. They obviously don't want to write daft things, you know what I mean, they want it right. I mean, as I say, it's no' something that I've seen.*
- N: *So [the complaint process] doesn't get used?*
- KW: *No. Well, I would imagine it does, yes. I've heard they have been used, yes. But I've never seen it.*

Another young person said he would take the complaint form to the residential care staff whom he thought would look at the complaint form 'right away' and 'deal with it.' These young people described yet a different understanding about the complaint process:

- N: *And you've written out your complaint? Then what do you do with the form?*
- YP: *There's boxes in the corridor and we put them in there. The staff will open them once a week and read all the complaints and then they take them to [complaint manager].*
- YP: *You can just put it underneath the door and naebidy would kens, kens who it wis. 'Cos they canna read it.*
- N: *So where do you get the form?*
- YP: *They gie us one. I've seen it on the back of my door.*
- N: *Oh, it's on the back of your door. So you would write on the form and then what would you do with the form?*
- YP: *Efter ah've written it oot, put it in an envelope and then put a stamp or whatever on it, and put it underneath the door.*
- N: *Underneath the unit manager's door?*
- YP: *Aye. Yep.*
- N: *And then the unit manager reads the complaint.*
- YP: *Naw.*
- N: *Oh. He takes it someplace?*
- YP: *Aye. He takes it ower the office. Or I can take it over.*
- N: *To the main office?*
- YP: *Yep.*
- N: *And so who, who looks at it over there? Do you know?*
- YP: *No, they send it away to the complaints officer.*

N: Oh, they send it away.

YP: Aye.

N: So who would you talk to in the unit about it?

YP: You write them and you can hand it into [complaint manager]; she deals with all the complaints.

N: What would she do, do you know?

YP: She'd come over and speak to you about it. You can also put them into your social worker as well.

Other young people who had direct experience using the complaint process described their experiences with initiating the process.

N: So that would be how you would deal with it, is by talking to your key worker. Ok. Have you ever used a complaint form?

YP: Yes.

N: Oh you have? Where is it kept?

YP: You can get one [complaint form] out of the office. If you want one, you just need to ask for one.

N: You ask for one and they're in the office?

YP: Aye. They did put them up in the corridors so if you didn't want staff to know you'd filled one out. But I think the kids all were just ripping them up.

N: So they moved them into the office?

YP: Aye.

One young person said he had used the complaint process because he'd 'fallen out with the staff' and that while the complaint manager had spoken to him after he made his complaint, he had already 'sorted it out with the staff.' This young person said he used the opportunity, however, to raise another issue about some broken furniture in the unit he believed needed to be fixed, which happened 'about a month later.' In their second interviews many months later, however, these same young people – YPC and YPD - sounded quite disillusioned about the complaint process.

N: OK. So if you wanted to make a complaint, you would fill out that form and then what would you do with it?

YPD: Sign it and then you could either hand it to your social worker, hand it in to anybody really.

N: To anybody?

YPD: Aye.

N: Ok. Who would be your first choice to give it to?

- YPD: *The staff member I'm getting annoyed at just to wind him up.*
- YPC: *Yeah.*
- YPD: *I don't deal with complaints.*
- N: *You don't deal with them?*
- YPD: *I don't think nothing happens with them to be honest so I don't bother with them.*
- N: *Really?*
- YPC: *That's what everybody thinks.*
- YPD: *Nothing does happen.*
- YPC: *No.*
- N: *So you think that boys make a complaint but there's no response?*
- YPD: *I've put in about twenty complaints in my time being here and not one person's came to speak to me about them.*
- N: *Really?*
- YPC: *That's what always happens.*
- N: *How long have you been here?*
- YPD: *How long have I been here? Twenty one months, no twenty three months and still counting.*

Other young people who had direct experience with the complaint process described their understanding about how it worked, or explained how it didn't work for them, and what options they believed were available to them.

- N: *So you're saying that when you make a complaint and the staff try to talk to you about it...*
- YP: *The staff 'll talk to me and say. The staff basically. Well see the feeling ah get when the staff talk to me, they talk to me right, but they'll try and solve it, but they'll try and tell me dinnae go further with this complaint. They dinnae say don't fill out the complaint form. They'll do it in a way that they think they can twist.*
- N: *If you want to make a complaint outside the unit, do you have that choice? Can you do that?*
- YP: *What do you mean? In the education?*
- N: *Like if you don't want to use the complaint form...*
- YP: *If we don't want to tell the staff, we'll tell the staff can you phone [complaint manager]. You tell the staff ah want tae talk to the duty manager. You make a complaint tae him. Then half the time, they just go back and tell the staff.*
- N: *Do they?*
- YP: *You can hardly trust anybody in here.*
- N: *Are you worried that if you talk to someone, and you have a complaint about a staff member that they'll tell that staff member?*

- YP: *Yes. They always do. They do it all the time. You make a complaint about a staff member, they'll tell that staff member straight away.*
- N: *And you'd rather they didn't tell the staff?*
- YP: *Mhm. Ah'd rather go to [complaint manager] office, right. Then if that could happen that a member of staff could get a transfer for a couple of days, see how the person, like the member of staff or whoever, like if a serious complaint was made about a member of staff, get a person up here and they can monitor it. Then they go back...*
- N: *Can you go directly to [complaint manager's] office if you want?*
- YP: *If you make a complaint at night, you can. If ah'm no' wantin' tae tell the staff on a weekday, I'll go to education. Then ah'll phone and say ah want tae talk tae [complaint manager]. Then ah'll go straight tae the office.*
- N: *...So you have that choice?*
- YP: *Well ah do it anyway. Ah don't know if you're allowed that choice or not.*
- YP: *Ah got tooked in tae the duty room. [A staff member] stayed there himself wi' me. Ah started swearing at him an' he grabbed me by the neck, put me up against the wall, threatened to kick me, threatened to punch me. He kicked a chair off me. Then ah filled in a complaint but nothing happened because it was just me an' him. But ah wis wantin' another member of staff down, but he says naw.*
- N: *Right. And you've used the form? How many times have you done that?*
- YP: *Quite a few.*
- N: *Quite a few? And what's your feeling about it? What do you think about it?*
- YP: *Nothin' happens to the members of staff. Nothin' will happen. Because the staff are wantin' to stay.*
- YP: *... Ah've filled in complaint forms an' that, aboot the way ah get treated in here, but they never went naewhere.*
- YP: *Aye, an' filled in a complaints form aboot the manager that took ma leave aff us, but ah don't know whit happened tae the complaints form.*
- N: *You don't know what happened?*
- YP: *Whit happened tae it.*
- N: *You never heard anything about it?*
- YP: *Nope.*
- N: *When was that?*
- YP: *A good while ago. Two months ago or something.*

- N: Two months ago. So you gave the complaints form to the duty manager?*
- YP: Naw...*
- N: I mean to the unit manager?*
- YP: It wis aboot the unit manager.*
- N: Oh, it was about the unit manager.*
- YP: Aye. So ah gave it tae wan ae the staff.*
- N: So you gave it to a staff member.*
- YP: Aye, an' ah think he must ae seen it an' read it.*
- N: Did you put it in an envelope and seal it or did you just give it...*
- YP: Just gie it ower tae them.*
- N: So you had made the complaint about the unit manager because you weren't happy with a decision he had made?*
- YP: An' the way ah'd been treated.*
- N: You weren't happy with the way you had been treated. So you wrote that on the form, but you never heard anything after that?*
- YP: Nope.*
- N: Mmm. That's interesting. Did you ever ask about it?*
- YP: There's nae point 'cos nuthin's gonnae happen aboot it. Nuthin ever happens aboot it.*
- N: And would you use the complaint procedure again to make a complaint about the unit manager?*
- YP: Naw. Ah'd go an' see ma social worker an' that.*

Main messages

While there are universal commitments at the international, national and local levels in Scotland to promote and protect young people's rights, the young people participating in the research revealed that they did not have an understanding about their rights and how those rights correlated with their everyday experiences. There is an urgent need, therefore, to ensure that all young people attending the residential school have the opportunity to receive information about their rights – as captured under provision, protection and participatory rights - in sustained ways that are meaningful to them. It is possible that further research exploring what young people know about their rights, in a myriad of circumstances, will reveal that many young people need information and the opportunity to connect the theoretical application of rights with the reality of their everyday worlds as they experience them. Within this context, therefore, complaint processes need to be viewed as mechanisms to promote and protect a spectrum of rights related to the provision of services, protection of

young people's well-being and the participatory involvement of young people in matters important to them.

As the young people participating in the research stated, their expression of a concern, or a 'complaint', could be about any matter important to them. In his report, the Children's Rights Director in England states that '[m]any of the younger children we spoke to saw 'complaining' as what you might simply say any day if you didn't like something, and not as anything to do with a 'procedure' (Office of the Children's Rights Director, 2005b). Rather than directing what young people can, and cannot, complain about through formalized complaint processes, therefore, it is essential to recognize that young people's 'right to complain' is embedded in their participatory rights, which include their right to express their views about matters important to them. Secondly, we must acknowledge that these participatory rights also incorporate young people's right to receive information (Article 13, UNCRC) and their right to participate in a complaint process as an *administrative proceeding* (Article 12, UNCRC). Thirdly, while a complaint process may promote and protect young people's rights while also informing policy, it is essential to regard complaint processes as one option on a continuum of alternatives representative of people and structures available to young people who wish to express their concerns.

Finally, a clear message from these young people is that the residential school's complaint process exists as a procedure that is elusive, confusing and not responsive to their individual needs despite the optimism of young people who had no experience with it. The overriding message within the complex arena of children's human rights and complaint processes from the young people participating in this research, therefore, is that they want to communicate their concerns, or complaints, to someone they have a trusting relationship with, who respects them, who will listen to them and who will respond in ways that meets their needs.

- N: And what if you have a complaint. What if there's something that's happened that you don't like?*
- YP: Well, I've got a rights officer's form or I can speak to them [staff] about it.*
- N: Right. And what would your first choice be?*
- YP: Talk to them.*

N: Talk to them?

YP: Yep.

N: And are you comfortable doing that?

YP: Yep.

N: So, what do you do if you're not happy about something, if you're not going to use the complaint process?

YPB: I don't know, it's nothing that you really think about.

YPA: Nup.

N: Do you think knowing something about ...

YPB: If I'm pissed off with someone, I usually tell it to them.

N: Do you?

YPA: Best way to be.

YPB: If you're not happy with somebody you tell them.

This main message from young people is consistent with the views of other young people in countries such as England, Wales and Australia. Among its many conclusions and observations, the Children's Commissioner for Wales report (2003) notes that 'children and young people expressed concerns about issues such as privacy, consultation, participation, being able to express their views and on feeling confident that their views were heard and considered seriously' (p. 12). Likewise, in England, the Children's Rights Director's top messages from young people include comments such as 'ask what we think and listen to what we say' and 'we want to be looked after by adults we can trust' and 'don't always believe an adult over a child' (Office of the Children's Rights Director, 2005a). The Children's Rights Director's concludes that children prefer to talk to someone they know and to be taken seriously (www.rights4me.org).

In Australia, the New South Wales Commission for Children and Young People published a report on their inquiry into 'children who have no-one to turn to' in which they adopted a wide perspective that suggested vulnerability originates from various factors (www.kids.nsw.gov.au). Similar to the young people in Scotland, Wales and England, the report noted that 'the importance of relationships was a clear and consistent message heard from children and young people in all settings' and that 'children and young people are most likely to seek advice and support from people with whom they have some kind of close and trusting relationship' (New South Wales Commission for Children and Young People, p 10). The report further stated:

The critical role of relationships in young lives provides a valuable basis not only for assessing how things are for children and young people but for determining what kinds of change need to be pursued (p 10).

Conclusion

By hearing these messages and responding to what young people want, it is evident that adults providing services to young people within the structures that support them, including complaint processes, must acknowledge, facilitate and promote strong human ties and relationships within them.

We owe children truth; we owe them reasons for our conduct. Sustained moral concern implies helping them to understand us as the imperfect but struggling agents we are' (Ignatieff, 2000, p 109).

Perhaps we need to explain to young people why we, as adults, have struggled to redress the challenges many young people face when we fail to acknowledge their entitlement to the realization of their essential human rights. By acknowledging young people as 'expert knowers' of their own experiences, we challenge our assumptions and we are reminded that, as adults, we are imperfect and struggling agents. We learn that it is our shared common humanity, children and adults alike, that binds us and it is the realization of human rights that protects our agency in which we are united, of course, by difference in all its forms. Treating young people with dignity and respect - core human rights principles – is the least that we, as a society, can offer what young people want, such as trusting relationships with adults who will listen and believe.

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