



## **Judith Timms**

*Can We Protect Children?*

**THE 2001 WORLD CONGRESS ON FAMILY LAW  
AND THE RIGHTS OF CHILDREN AND YOUTH**

**19-22 September 2001**

**Bath, England**

*Concurrent sessions 5*

**Can we protect children and protect their rights?**

**Letting children and youth speak out for themselves**

*Judith Timms OBE*

*Former Chief Executive, National Youth Advocacy Service  
Hon. Research Fellow, Faculty of Law, University of Liverpool*

**Introduction**

*“I tried to tell both my Mum and my Dad who I wanted to see, and when. I tried to work everything out so it would be fair to everyone, including my Nannas and Grandads and my aunts and uncles, from both sides of the family, but no-one listened to me and everything afterwards was just such a mess.”*

*“My brother and I needed help – someone to talk to who we could say ‘Look, we need to see Mum for this much of the time and Grandma for this much of the time’ but there didn’t seem to be anyone to help us out in saying what we wanted, and things just became awful.”*

These are quotes from just two of the 112 young people experiencing difficulties over contact, who took part in a consultation day on ‘Effective Support Services for Children and Young People when Parental Relationships Break Down – A Child Centred Approach’ as part of a University of Liverpool research exercise (*Professor Christina M Lyon, Edward Surrey and Judith E Timms, The University of Liverpool for the Calouste Gulbenkian Foundation [1998]*).

Many thousands of children have a direct or indirect involvement in a range of family proceedings across the family jurisdiction each year. In all of these proceedings, the state and the courts have a prime responsibility to protect the interests of the children

and it is worrying that letting them speak out for themselves and protecting their right to have a voice when decisions are made about their lives are still often seen as potentially in conflict with this prime responsibility. Many young people with experience of public care tell us that they fear the child protection system itself, because ‘disclosure’ so often triggers an adult chain of events over which they have no control and of which they have little understanding. Some feel that outcomes for them are worse than the original ill-treatment. As one young woman put it “I’d rather have stayed at home and been abused by someone I knew”. Research tells us that there are thousands more children who do not ‘disclose’ abuse because they are fearful of the adult and institutional response.

The right of a child to be consulted and to have a voice is supported by international convention and domestic legislation. Article 12 of the UN Convention on the Rights of the Child requires that:

*“1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.*

*2. For this purpose the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly or through a representative or an appropriate body in a manner consistent with the procedural rules of national law.”*

The Children Act 1989 emphasises the need to listen to children and involve them in decision making, where they have sufficient understanding. It places a responsibility on both the Court (*Section 1.3(a)*) and the Local Authority (*Section 22.4(a)* and *Section 22.5(a)*) to ascertain the child’s wishes and feelings.

Consulting children does not mean colluding with children, nor does it mean that children sacrifice their right to be protected by the courts and the welfare agencies. The view that children cannot have rights, including rights to be heard and participate in decision-making, without burdening them with the responsibility for the final decision is an area of particular confusion. Children should be consulted, even though they cannot give a guarantee that they will always make responsible decisions. Indeed, without the voice of the child to inform decision making, the imprecise science of ‘best interests’ can itself constitute an abuse of rights, if applied within a subjective rather than an objective framework of welfare.

This paper refers to the work of the National Youth Advocacy Service and looks at the current status of the voice of the child in care, as well as in public and private law proceedings. NYAS’ experience is that it is possible to forge a middle ground that respects children’s rights to autonomy and increases the opportunity to protect them from harm.

## **The National Youth Advocacy Service**

The National Youth Advocacy Service (NYAS) was formally established in January 1998 and its development represents a practical approach to the incorporation of the principles set out in the UN Convention on the Rights of the Child and the Human Rights Act 1998 into services for children and young people. NYAS' core philosophy is rooted in Article 12 of the UN Convention on the Rights of the Child in seeking to ensure that children are consulted about decisions which affect their lives and, if necessary, are provided with a suitable representative in any forum in which decisions are being made.

The service is innovative, in that it:

- is interdisciplinary, employing social work, lay advocates and caseworkers alongside family lawyers to provide a wide spectrum of socio-legal services;
- is the first children's charity to obtain its own Legal Aid Franchise and to qualify as a Community Legal Service Help Point under the provisions of the new Access to Justice legislation;
- provides services to children and young people involved in the full range of both private and public law proceedings across the family jurisdiction;
- provides services for children and young people up to the age of 25, well beyond the age at which some other service providers operate.

Since its establishment, NYAS has provided services to approximately 3,500 children and young people. It currently receives around 120 new referrals each month. This paper draws on what we have learnt from listening to and acting for those children, all of whom had suffered or were at risk of suffering the negative effects of family breakdown, abuse and neglect. What young people tell us they want is a truly independent and confidential service which not only listens, but is prepared to act with and for them at their own pace.

NYAS operates through a network of approximately 100 children's advocates, geographically dispersed across England and Wales. They include some of the most experienced welfare professionals in the country and together they have many years' experience of acting as Guardians ad Litem (now Children's Guardians), Family Court Welfare Officers, Senior Child Protection workers and Family Mediators. The head office of the organisation is on Merseyside, where the team of socio-legal staff includes three in-house family lawyers who provide legal advice and representation to the teams of advocates, as well as to the young people. The service aims to respond to requests for help within 48 hours of referral and the fact that the teams of advocates work sessionally from all parts of England and Wales means that they can reach children quickly and cost-effectively. Advocates can support young people in taking action themselves or can act positively on their instructions.

Referrals come from three main sources:

1. from children themselves, via a Freephone (0800 61 61 01), staffed by ChildLine counsellors in London, or directly to the NYAS office;
2. from parents, carers, friends or members of the child's extended family network; and
3. from welfare professionals, many of whom have a direct statutory responsibility for the children involved but who sometimes feel powerless to

act as an advocate on their behalf from within local authority social services departments.

The combination of social work and legal skills considerably strengthens the service offered to children and young people. The inter-disciplinary model means that the full spectrum of services of information, consultation, support, lay advocacy and legal advice and representation are available to the child from one agency. NYAS believes in early legal advice rather than late legal intervention and its experience so far is that effective and swift advocacy can have an important proactive and preventative role in helping children in danger of falling through gaps in health, welfare and educational service provision. It seeks to ensure that outcomes are the best available, rather than simply reaching a minimum acceptable standard. An early challenge to a local authority falling down on its corporate parenting role can put matters right quickly and save months of court hearings, with all the attendant distress to the child.

As well as involving young people in decision-making on an individual basis, children's advocates can help groups of children facing specific problems, like closure of residential homes, and can, if necessary, test practice and policy in relation to children in the courts. In the wider context of society, NYAS encourages the participation of children in decision-making in schools and residential establishments and contributes to the training of socio-legal professionals.

The central task is the responsibility to listen to and represent the child's views and perceptions accurately, untrammelled by any other person's views of what is or should be happening. At the same time, advocates must ensure that young people have sufficient and accurate information on which to make informed decisions in relation to the options available. The children involved in the consultation exercise at Liverpool University expressed great resentment that they were given so little accurate information about their rights within the family, the law relating to children and their entitlements to resources and services. Many adults hand out information to children as if it were a dangerous drug. It is really a source of empowerment that enables them to resist pressure or persuasion and make informed choices from their own unique perspective of people and events.

### **The voice of the child in family proceedings**

In July 1999, the Lord Chancellor's Advisory Board on Family Law held a seminar, to review research findings on the issues of listening to children and considering their best interests. The subsequent report (*Listening to Children's Views: The findings and recommendations of recent research, Anna Quigley for the Joseph Rowntree Foundation [2000]*) noted that "*millions of children experience momentous changes which may have numerous consequences for them, yet they may have little say in them and very often they will not even be informed about them*".

Listening to children is clearly dependent upon the good offices of adults, as children are often relatively powerless and disadvantaged. Children at risk, children in need and children in care are particularly vulnerable. In attempting to make their voices heard in proceedings in which they are involved they are often dependent upon whether or not those who have authority over them consider it is (a) in their best interests and (b) whether or not they are judged competent to be heard.

Assumptions of incompetence appear to be based on five main judgements:-

- children's memories are unreliable;
- children are egocentric;
- children are highly suggestible;
- children have difficulty distinguishing fact from fantasy;
- children make false accusations, particularly of sexual abuse;

However, in an exhaustive review of this subject, Spenser and Flin found that there is actually very little systematic research into the frequency with which children or adult witnesses tell lies (*Spenser & Flin: 'The Evidence of Children, the Law and the Psychology' [1990] P 271*). NYAS' experience supports the conclusions of the Pigot Committee in 1989 that "*contrary to the traditional view, recent research shows that untruthful child witnesses are comparatively uncommon and that, like their adult counterparts, they act out of identifiable motives*". (*Home Office Advisory Group on Video Recorded Interviews with Child Witnesses in Criminal Proceedings – The Pigot Committee*).

The Gillick case in 1986 (*Gillick v West Norfolk & Wisbech Area Health Authority and the DHSS [1986] A.C.112*) established the principle of competence to give consent (in the case of medical treatment) if of sufficient age and understanding. Case law demonstrates that the state will listen to children but will not allow them to die or to suffer serious harm through lack of treatment (*see 'Consent – What have you a right to Expect'. A Guide for Young People. Free from the Dept. of Health*). Children must not be left to the mercy of their rights, in the interests of autonomy rather than their long term good. That would be to deny the state of childhood.

The problem, then, is not the question of rights or welfare, but seeking a balance between autonomy and child protection. This is not a crude judgement, but a painstaking process of discussion and exploration with the child, within a relationship of professional trust and confidence that can often narrow any gap between adult and child perceptions. Most fully informed young people do not make self-destructive choices once they are in full possession of the facts, for example in relation to a return home where there is an abuser in the house.

In practice, instances in which children's confidentiality has had to be breached in order to protect them have been rare (just once, in NYAS' own experience) and it is usually possible to agree a course of action together. A decision to breach confidentiality is one of the most agonising an advocate may have to make, although he or she can be supported by the fact that the confidentiality resides in the agency rather than the individual advocate.

Scottish law differs from the law in England and Wales in assuming that children of 12 and over are competent to give instructions to a solicitor (*S.6. Children (Scotland) Act 1995*). Such an assumption of competence would have considerably helped one fifteen year old boy in the care of an English local authority when he asked to see a Children Panel Solicitor following an incident of alleged physical abuse by a member of staff. He was told that he could not see a solicitor because it was not in his 'best interests'. In such head on collisions between rights and welfare, welfare may be used to 'ration' rights in an unacceptable manner and the end result, paradoxically, is to increase the child's vulnerability.

The problem may be further compounded by the fact that, in a case like this, the rights of the child to be protected and to be heard may be in direct conflict with the rights of the employee. Internal disciplinary hearings are governed by employment legislation designed to protect employees and do not include the right for the child to be heard, as provided by the Children Act 1989 and the Criminal Justice Act 1988. In some cases, employees' unions have stipulated that the child's word should not be accepted unless corroborated by a member of staff. This sits uneasily with the enhanced status of the child as witness in other proceedings and it is hard to justify such an inconsistent approach.

Many problems in relation to involvement of children in decision-making arise because adults are not used to relinquishing any of their control in relation to children. The framework of services to children and families has historically not generally supported participation in the decision making process by the child client, although this is now beginning to change. The tensions between children's welfare and children's rights, including their rights to be heard and to have a voice in decision making, and the scale of change of culture required to empower children within both legal structures and social services departments remain key practice issues.

### **Public law proceedings**

In proceedings in which the state is a party, the potential for a conflict of interest between parents and children is formally acknowledged and a Guardian ad Litem/Children's Guardian is appointed to represent the interests of the children before the court. The court rules require the Guardian to ascertain the children's wishes and feelings and to set them out separately and unequivocally in the subsequent report. The Guardian will appoint a solicitor from the Children Panel to represent the children in court. The Children Panel Solicitor will take instructions directly from the children, provided they are judged to be competent to give instructions. In some cases there may be a conflict between the stated wishes and feelings of the children and the instruction they wish to give their solicitor and the course of action which the Guardian decides to be in their best interests. One of the strengths of the current system of children's representation in public law proceedings is that it covers this eventuality by providing, through the duality of representation, a working synthesis of children's rights and children's welfare that ensures that children's voices are amplified for the court to hear at the time that decisions are made in their best interests. It is important that solicitors representing children advocate the children's views strongly to the court, in order to give the court the best chance of safeguarding both the children and their interests.

The system, therefore, enables children to be heard and to be separately represented.

### **Private law proceedings**

In contrast to public law proceedings, there is no formal acknowledgement of a potential conflict of interest between parents and children in private law proceedings.

*“Research suggests that the vast majority of children currently involved in a parental divorce do not have their wishes ascertained by any professional and do not know that anyone has the slightest interest in them.” (Ref. Christine Piper. Ascertaining the*

wishes and feelings of the child, *Family Law*, Vol. 27 [1997] Pages 796-900. See also Judith Timms. *Children's Representation – A Practitioner's Guide*. Ch 9. Sweet & Maxwell [1995]).

The links between family breakdown, domestic violence and child protection have been generally glossed over in the interests of family autonomy and the voices of the many thousands of children involved in family breakdown have been muffled by a traditional institutionalised reluctance to intervene in private family matters. This reluctance was articulated in the Former Lord Chancellor, Lord McKay's assertion that: "*the bedrock of a free society lies in the independence and integrity of the family. That view is founded on the belief that, save where there is a demonstrable and recognised neglect or abuse, it is for the parents to decide how to bring up their children, not the organs of state – be they legislative, executive or judicial*". (*The Lord Chancellor's address to the President of the Family Division's Conference [October 1989]*). In public law proceedings, the intervention of the state acts as a trigger for the court and the local authority seeking the order to ascertain the wishes and feelings of the child concerned, but this attitude still prevails in private law proceedings, where there is no parallel provision.

The Family Law Act 1996 contained provision for courts to be apprised of children's wishes and feelings when judges were making decisions about their future residence and contact (at S.11), and for them to be separately represented if the court considered there was a conflict of interest between the children and one or both parents (at S.64). Sadly these much-needed provisions, along with most of the Family Law Act, were shelved and the position for the approximately 160,000 children under the age of sixteen who are annually affected by their parents' divorce remains profoundly unsatisfactory. At the present time, if the voice of the child is to be heard, the child himself must first seek the leave of the High Court under the provisions of Section 10 of the 1989 Children Act in order to be granted leave to make a Section 8 application, that is an application for a Residence, Contact, Prohibited Steps or Specific Issue Order. (*Practice Direction (new) Family Division, Children Act 1989, Application by Children [February 1993]*). Only where such leave is granted will the child be awarded separate party status and have a right to separate legal representation.

The following cases illustrate some of the resulting problems for children:

Linda is 9. Her parents divorced five years ago. There is a long history of domestic violence and disputed contact applications. Linda's mother is terrified that contact with Linda will be used as a way of establishing her own whereabouts and as a prelude to yet more domestic violence. She has consistently refused to comply with the terms of the Contact Order made by the court and has now been committed to prison. There was no separate representation of Linda's interests within the S.8 contact proceedings, that might have allowed her welfare to be taken into account.

Helen and Jennifer are 13 year old twins. Their parents have decided that Helen will live with her father and Jennifer with her mother. The twins do not want to be separated, but their parents have agreed that this is 'fair'. This decision involved a financial arrangement whereby mother received extra maintenance for herself and Jennifer in return for her agreement that Helen should stay with father. The court was not able to give due consideration to the twins' wishes to stay together.

Ian is 10. His parents divorced six years ago and have been fighting over him ever since. He feels worn out with the quarrelling and the commuting between his father's and mother's houses, which are sixty miles apart. He gets tired with the travelling and would like to be in one place every weekend, so he can play in the football team with his friends. Unless his parents wish to review residence and contact arrangements, it is unlikely that Ian's own wishes and developing needs will be considered by the court.

Anna is 11. Her parents were divorced four years ago, at which time the arrangements for residence and contact were fixed by the Court. Anna goes to stay with her father every other weekend from Friday to Sunday evening. Recently Anna has told her mother that her father has been climbing into bed with her naked. She is happy to see him during the day but finds his behaviour at night frightening and unpredictable. An application by the mother's solicitor for an investigation by the social services department was rejected by a District Judge, so Anna has to continue to see her father every other weekend. She is asthmatic and recently her asthma has become much worse.

James, Ben and Suzie are 15, 13 and 10. Their parents divorced acrimoniously seven years ago and are now implacably hostile to each other. The three children live with their mother, but their father believes that they all want and should live with him. This has resulted in no less than twenty-four separate sets of court proceedings, though eight years of continual litigation. The children just want it all to stop, but no one is listening.

Although there is a facility within the court rules (Family Proceedings Rules 1991: Rules 9.2 and 9.5) to provide for representation in private law proceedings, there is no clear mechanism for how this is to be either achieved or funded. Listening to the voice of the child can substantially improve the capacity of the court and social services departments to protect the child, as the following case illustrates. This was a case which NYAS successfully took to the Court of Appeal and which has been reported as re A (Contact: Separate Representation) [2001] 1 FLR 7.15. (*Family Law in Practice, The Representation of Children in Private Law. Thea Henley and David Hershman. Family Law Vol. 31 page 540-541 [July 2001]*). NYAS was approached by a young boy (C) aged fourteen, who was extremely upset and worried about his half sister (M) aged four. C wanted to speak to the Judge and to make the Judge believe that it was dangerous for his sister to see her father. C had not been spoken to by either the Court Welfare Service or Social Services about these allegations. NYAS was granted public funding to apply for party status for M under Rule 9.5 of the Family Proceedings Rules. The application was made on the basis that M was at risk of harm, which had not been thoroughly investigated. Furthermore, there was a conflict between the interests of the parents and their daughter. The application was dismissed in the County Court, but the application for permission to appeal was granted in the Court of Appeal. The fact that nobody, including in particular a Court Welfare Officer, had taken the trouble to interview C was disturbing and the Judge should not have dismissed C's persistent and detailed views in the way that he did. The President largely accepted the points made on behalf of M and the Court of Appeal decided that M's voice had to be heard.

This case also illustrates how amplifying the voice of the child in proceedings can act as a necessary corrective to what has been historically a predominantly paternalistic welfare model of child care decision-making. This is a model that is demonstrably flawed in terms of outcomes.

### **The voice of children looked after by the state**

The poor outcomes for children and young people in public care and the litany of abuse of children in residential care, summarised in Sir William Utting's Report 'People Like Us' in the North Wales Inquiry, is so familiar that it almost loses its capacity to shock. Outcomes for children in the public care system are unacceptably poor and many local authorities continue to fail in their role as corporate parents. The following outcomes for looked after children were identified by the Social Services Inspectorate in 1997.

- 75% leave care without any academic qualifications;
- 50% leaving care after sixteen are unemployed;
- 17% of young women leaving care are pregnant or already mothers (NCB research in 1999 suggested a figure as high as 25%);
- 23% of adult prisoners and 38% of young prisoners have been in care;
- 30% of young single homeless have been in care.

In addition, looked after children had the following characteristics.

- An estimated 75% had mental health problems;
- They exhibited above average incidence of physical and learning disabilities;
- They had suffered high levels of physical and sexual abuse and physical and emotional neglect;
- They had experienced care status as an additional stigma.

Overwhelmingly, the largest single problem for children looked after is multiple changes of placement within the system, with little regard for their own wishes and feelings, educational welfare, family relationships or peer group ties. It is not unusual to see children who have been moved more than ten, fifteen or even twenty times. Children complain that review meetings are sometimes used as forums to criticise them, that they are not regarded as people of worth and that they are subjected to unfair or demeaning treatment, including being held up to ridicule by other children or staff. The lack of positive planning for education and the problems of re-entering the system after a move, are particularly resented.

The experience of NYAS suggests that a clear working knowledge of the rights of children and young people can act as a necessary corrective to imprecise definitions of 'best interest'. For example, a common factor in inquiries into abuse of children and young people in residential care is the classification of basic human rights as privileges. Telephone calls, contact visits, even food have sometimes become privileges to be earned or withheld by staff who may be all powerful in their own abusive regimes, which purport to be in the best interests of the child. In these situations, a framework of children's rights, including the right of the child to be heard and be listened to, can regulate and inform welfare and protect children from harm. Central to this approach are the provisions of Article 12 of the UN Convention on the Rights of the Child; the child's right to be consulted, to express an opinion and to have that opinion taken into account in any matter or procedure affecting the child.

Advocacy services for these children and young people have developed over the last twenty years as part of a grass-roots movement, which has recognised the extreme vulnerability of young people looked after and leaving care. Advocates have sought to ensure that the children's voices are heard when decisions are being made about their lives. However, although Section 26 of the Children Act 1989 introduced the possibility of children and young people looked after by local authorities making complaints or representations about the services that they receive, there is no statutory recognition of the role of advocate. Advocacy is mentioned, but not encouraged, by the Children Act Regulations. (*See Children Act 1989 Regulations and Guidance Volume 4 Residential Care Paragraph 4.17*).

The change in attitude and organisational culture required for professionals and members of powerful bureaucracies to acknowledge and facilitate the participation of service users in service provision, to consult them in the development of those services and to empower them to make use of complaints procedures is considerable. Nowhere was the culture clash more obvious than in children's residential services and the introduction of statutory complaints procedures under Section 26 of the Children Act was viewed with suspicion and unease by many staff members. Experience and research has demonstrated (*NYAS and Children's Society 1999*) that the Section 26 complaints procedures are simply not robust enough to provide adequate safeguards to the child complainant and that, without the help of a well informed and effective advocate, it may be impossible for a child or young person to complain effectively. Even with an advocate, it is a tortuous obstacle course which one often hesitates to encourage the child to undertake.

The government's comprehensive Quality Protects programme of investment in children services has acknowledged the position of the vulnerable young people who need the voice and safeguards that an independent advocacy service can provide. The second Quality Protects circular, published in October 1999, states at paragraph 8.5, priority 6:

*“particular attention should be given to the involvement of young people collectively and to enhancing their individual voices, for example through the development of independent advocacy services”.*

The circular still failed to provide enlightenment about funding mechanisms for independent advocacy services, or to define the criteria that the Department of Health would apply in deciding whether or not advocacy services provided were truly independent. Nevertheless, it constituted a significant step forward. The impact of the Quality Protects circular was also significantly emphasised by recommendation 4(d) of the Report of the Inquiry into Abuse in North Wales (*The Waterhouse Report 'Lost in Care'*) which recommended that social services departments should:

*“ensure that recourse to an independent advocacy service is available to any complainant or affected child who wishes to have it.”*

## **Conclusion**

Although there has been considerable historical, cultural and institutional resistance to listening to children when decisions are being made by adults ‘in their best interests’, attitudes are changing slowly. Progress is still slow, but has been facilitated by a general change of climate following implementation of the Human Rights Act 1998 and the government’s Quality Protects programme, reinforced by some landmark decision making in the Court of Appeal and the European Court of Human Rights.

NYAS’ experience shows there are clear advantages in listening to children and involving them in plans for their future:-

- Not listening to children can be extremely dangerous, not only to the child concerned but to other children too.
- Involving children in decision-making increases their sense of identity, self-esteem and personal autonomy. It enhances their sense of direction and gives them some element of control of what are often distressing and traumatic events.
- If children have been involved in the making of a decision they have a sense of ‘ownership’ and an emotional investment in positive, rather than negative outcomes, which means that plans are more likely to succeed.
- Even if consultation does not lead to the outcome a child would have preferred, participation in the decision making process can still leave children with positive feelings about themselves and the fact that they have been treated with respect.
- Amplifying the voice of the child can be a very effective catalyst in breaking up the adversarial dyad between hostile adult parties, allowing both to give in gracefully ‘in the best interests of the child’. This is particularly effective in disputes about the child’s residence and contact arrangements.
- It is possible to allow children to have an input into the decision making process without burdening them with the responsibility for making the decision.
- The child’s perspective may encourage adults, agencies and courts to think more flexibly or consider a wider range of alternatives.

The only way for young people to develop responsibility and responsible attitudes is through practice. It is like a muscle, it develops through exercise. It is not something which happens at a particular age, but should rather be part of a dynamic process towards independence and self-realisation, which grows within an atmosphere of trust and mutual respect, normally between parents and children but also between professional service providers and children. The role of the adult in the world of children is to facilitate their growth and maturation by encouraging them to exercise free will in decisions which are appropriate to their age and understanding.

All too often the voice of the child can become subsumed within the vested interests of other parties to the proceedings. The phrase ‘the best interests of the child’ is used to encompass a multitude of differential decision-making processes. It is often a statement of intent, rather than a defined and proven process of decision making, with agreed aims and outcomes. NYAS’ view is that that best practice is that which incorporates a core curriculum of rights within definitions of welfare at every stage of decision-making, both in and out of court. Many of the guiding principles of best practice may be derived from the UN Convention on the Rights of the Child and the European Convention on Fundamental Human Rights and Freedoms, as these

represent a healthy consensus on the best interests of children. Its principles may be used as a yardstick to inform and test professional practice.

Listening to children is an essential rather than an optional component of child protection and we ignore their voices at our, and their, peril.

**Judith Timms**

**July 2001**

**JUDITH TIMMS O.B.E.**

Hon. Research Fellow, Faculty of Law, University of Liverpool.

Former Chief Executive, The National Youth Advocacy Service.

Former Director of IRCHIN (Independent Representation for Children in Need).

Chair, The British Association of Social Workers 1987/8.

Appointed an Officer of the Order of the British Empire in 2000, for services to young people.

Publications include;

The Department of Health 'Manual of Practice Guidance for Guardians ad Litem and Reporting Officers' [HMSO 1992];

Children's Representation – A Practitioners Guide [Sweet & Maxwell 1995].