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Balancing Rights and Risk

The Impact of Health and Safety Regulations on the Lives of Children in Residential Care

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Abstract

- *Summary:* This study explored the effect of health and safety policies relating to children in residential establishments and their impact on the opportunities of young people to enjoy activities like visits to the beach or hillwalking. Data were gathered by analysing one health and safety policy, interviews and questionnaires with managers and basic grade staff in five authorities across Scotland, and focus group discussions with 24 young people in care.
- *Findings:* The policy which was analysed for this study had been adapted from a wider health and safety policy used in schools. Its application to residential units restricted activities for children in care. Unit managers were concerned about the restrictive impact of the policies and procedures. Young people described a limited range of activities and questioned their relevance and scope. Basic grade staff were the only group to report that health and safety guidance was positive. However, reasons for this appeared to be related to staff prioritizing safety over the potential benefits of activities which may carry a small degree of risk.
- *Applications:* It is argued that health and safety guidance must be specific to the circumstances of small, 'homely' residential care settings. Attitudes to risk must be informed by the developmental needs of children, and guidance should be reviewed to reflect this.

Keywords health and safety recreational activities residential care risk

Introduction

Someone said could we stop and play football in this field, it was on the way back from an outing somewhere – it was in the summer – then someone pointed out that we hadn't done a risk assessment. It's stupid I know but that's the policy and you can't do anything about it. (Residential child care worker)

Outdoor activities such as picnics, visits to the beach, swimming and playing games are a normal part of life for most children and young people. In the context of the non-institutional and child-centred approach which has shaped residential care in the last 25 years, it would be expected that young people in residential care would also have such opportunities. However, the comment quoted above demonstrates that children in residential care may be denied the range of activities available to children who are not in care. This paper reports on a small-scale study to ascertain the views of residential staff and young people about outdoor recreational activities, and starts by locating the issue in the context of legal requirements, child development theory and good residential child care practice.

Legal and Organizational Context

The sample for the study was generated using the database of residential child care units held by the Scottish Institute for Residential Child Care. The database defines units by the type of residential provision that they offer. For example, many units offer only respite provision while others are residential schools. The current study focussed on residential child care units of the type which are still commonly referred to as *children's homes*. By its very nature residential child care takes place within the context of organizations where the child's home is also the staff member's workplace. Thus organizations which manage residential units also have to take cognizance of the Health and Safety at Work Act (HSWA) (1974), and its various sets of regulations. In addition, the local authority has a duty of care in relation to young people under the Social Work (Scotland) Act (1968) as amended by the Children (Scotland) Act (1995), as do authorities in England and Wales under the Children Act 1989. In addition, specific policies adopted by individual agencies may have come about in the aftermath of serious, and even fatal, accidents involving children on school trips and other activities.

The original Health and Safety at Work Act (1974) was designed to ensure that everybody in a workplace – employees, customers and the general public – would be safe. Since 1974, regulations have provided organizations with extensive guidance which they must comply with, and taken together, health and safety obligations plus the duty of care make the safety of children a high priority for all responsible authorities. In general, health and safety regulations are drafted to suit all workplaces, and then tend to be interpreted locally in the form of health and safety policies and procedures within organizations. If organizations do not give proper cognizance to health and safety, they may be liable to legal action. Indeed the number of cases of litigation against organizations including local authorities has increased greatly, particularly over the past 10 years. Recently, teaching unions in England have advised their members not to undertake school trips because of a fear that their members could be exposed to court action should something go wrong. In response the Minister

for Education has recently announced that she intends to publish an 'outdoor learning manifesto' that promises every child (in England) a residential trip and aims to tackle these concerns (*Guardian*, 15 February 2005).

As explored below, research on child development and resilience would indicate that residential child care workers should ensure that children in their care experience as wide a range of activities as possible, some of which may carry a degree of risk. This paper is only concerned with 'routine' outdoor activities such as visits to the beach or a trip to the countryside and not to any high-risk activities such as hang-gliding! However, the present situation with regard to children in residential care (who form a small percentage of the total number of children for whom a local authority is responsible) is that health and safety policies, usually developed in the context of school outings, may be applied inappropriately. This could result in residential workers being hindered in carrying out their core tasks. This study sets out to investigate this view.

'Homely' Care and Normal Living

The nature and function of residential child care has changed greatly over the past 30 years, as units have become smaller and care has been more individually planned and reviewed. One of the major changes has been that the size of units has reduced dramatically. The five- or six-bed unit has become the norm and some organizations are moving to even smaller-scale provision. The extensive critiques of institutionalization which began in the 1960s, illustrated by writers such as Goffman (1961) and Laing (1965), and the more contemporary analyses of residential child care such as Berridge and Brodie (1998) gave further impetus to this view. The change to small-scale units has helped to counter criticisms that residential care was compromised by large-scale living arrangements. The hope has also been that smaller units mean fewer staff for young people to relate to. The keyworker system described by Berridge and Brodie (1998) has been adopted to try to individualize care even further. Though the term *normalization* has only been coined relatively recently in connection with disability work (Wolfensberger, 1996) the concept of normalization has had a major impact on approaches to residential work with children for a long time and has become almost implicit as the standard by which care practice should be judged. Indeed the origin of normalization in child care can be traced back to the 1948 Children Act, which required authorities to act in the 'best interests' of the child. As Nigel Parton has noted, the Act was based on the work of the Curtis Committee, whose remit was to investigate the care of children 'deprived of a *normal* home life' (Parton, 1999: 4), and which required authorities to provide care in a manner similar to that available to 'children in the care of their own parents' (p. 5).

The principle of providing a normal life for children in residential care is also emphasized in contemporary practice, and has been recently codified in the National Care Standards (Scottish Executive, 2002) and the National Minimum

Standards (Department of Health, 2002). The Scottish standards were devised by the Scottish Commission for the Regulation of Care, and are the benchmark by which residential child care units are registered and inspected. The standards state that 'your daily life in the care home should be as similar as possible to that of other children and young people' (2002: 25). In relation to 'activities', Standard 15 is most relevant. Section 2 of this standard states that children should be *encouraged* and *supported* to take part in activities, while Section 1 states that children should be *encouraged* and *supported* to take part in sporting, leisure and outdoor activities.

Activities and Child Development

One of the features of a normal life is access to varied life experiences, some of which may present low-level risks that are managed by adults and are done so on a daily basis by most parents. This feature of life is illustrated in the Skinner Report (1992). This report was the government-commissioned review of residential child care in Scotland. Under the Skinner principle of *individuality and development*, young people who are looked after should expect 'to have new, varied and positive experiences' (1992: 20).

One of the main ways in which residential child care staff establish relationships with young people is through taking part in activities with them, and introducing them to new experiences. Most children in residential care are teenagers, and the benefits that participation in outdoor trips and activities can bring are numerous. The onset of adolescence marks the end of childhood and the start of entry rituals into adult life. Erikson identifies the establishment of identity as a key task of adolescence (Bee and Boyd, 2002). Adolescents may try out various different roles at this time, and competence in indoor or outdoor games and sports may well enhance the self-esteem that is so often lacking among young people in care. They require a range of different role models for behaviour, whether it is the successful sportsman or woman or the relative who enjoys fishing. Adolescence is a time of major change and adjustment, a time when rules, values and role models are questioned. Adolescents are developing the physical, cognitive and emotional capacities to engage in risky behaviours, which makes this a particularly worrying time for carers, although it is important to remember that a degree of risk-taking is a normal part of adolescence (Daniel et al., 1999). VanderVen (1999) goes further, saying that activities engaged in by children and young people mediate the development of relationships with others, encourage the development of a positive self-concept, and are developmentally productive.

Risk and Resilience

In recent years the concept of resilience has attracted attention. A *resilience* approach helps child care professionals to understand why some children and

adults seem to cope better with adverse family and social circumstances than others, and leads workers to focus on identifying those *protective factors* which may sustain the child. A number of writers have begun to suggest ways in which residential staff can use these insights to work with young people in their care. Gilligan defines resilience as ‘a set of qualities that helps a person to withstand many of the negative effects of adversity’ (2001: 15).

Furthermore, Jackson and Martin state that:

some children who face stressful, high risk situations fare well in life, but their chances of doing so depend on the extent to which the risk factors in their lives are balanced by positive factors, both individual and environmental. (1998: 573)

Research studies have identified a number of ‘protective factors’ which are associated with resilience. Among these are elements such as participation in a range of extra-curricular activities that promote self-esteem. For example, a recent review of research into resilience highlighted the need for high-quality and varied experiences but acknowledged that ‘child welfare services are under increasing pressure to avoid exposing children to any manifestation of risk’ (Newman and Blackburn, 2002: 7).

In a residential context one of the key ways to encourage resilience in a young person is to introduce them to new activities. If carefully supported the young person will not only get some intrinsic enjoyment from the activity but may also develop a degree of competence and expertise. From these, they may gain a sense of pride, which can contribute to a greater sense of self-esteem and self-efficacy which are key building blocks of a more secure and pro-social identity. There is a growing body of research which shows that participation in activities and hobbies promotes resilience. For instance, Mahoney (2000) found that young people who participated in extra-curricular activities at school were less likely to drop out of school early and less likely to be arrested for crimes than their fellow-students who did not participate in activities.

Safety and Children’s Rights

The Human Rights Act (1998), which incorporates the European Convention on Human Rights into British law, provides another perspective from which to consider the provision of positive life experiences for young people in residential child care. Articles 2 to 12 of the convention, and the protocols, contain the core human rights adopted by the Act. Some of these have direct relevance to residential child care, and Williams (2001) summarizes the principal rights. In particular, he cites Article 8 (the right to respect for private and family life) as having implications for residential care:

the Human Rights Act (1998) redresses the balance between the powers of the state and the citizen. It provides a framework of rights that can be used as a benchmark for reviewing the actions of social services . . . These rights will be enforceable by law, through courts and tribunals. (2001: 843)

Part of the right to a family life could be interpreted as having the opportunity to experience everyday, ordinary activities like visiting the beach or hill-walking. By unreasonably restricting or denying these opportunities residential care may be denying some of the human rights of its young people.

Another benchmark for residential child care workers is the United Nations Convention on the Rights of the Child, both in its own right and because it informed the most recent Children Acts (UNICEF, 1989). Article 31 has particular relevance in this area. It states that:

1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts;
2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

The Research Study

Having established the central importance of recreational activities in a child care context and the way that the right to recreation is underpinned in law and care regulations, we now go on to explain how our research sought to examine the effect of health and safety regulations on this area of practice.

Background

The Scottish Institute for Residential Child Care (SIRCC) develops and delivers in-service training and consultancy to Scottish residential units and staff. It currently has a portfolio of over 50 short courses which cover a wide range of topics, enabling workers to develop knowledge and skill in specific areas and to improve practice. The quotation at the start of this paper is an example of the kind of comment that SIRCC lecturers had heard frequently while delivering training to residential child care staff. It was decided to investigate this issue more fully by undertaking a small-scale research study.

Methodology

The study took the form of a survey of a sample of units in five local authorities across Scotland, representing a mixture of large urban and small rural agencies. In each area two residential units were identified, and data were sought both from unit managers and from basic grade staff. A questionnaire was devised and completed by the unit managers. The responses were analysed and an interview schedule for basic grade workers was devised, drawing on issues raised by the unit managers. One basic grade worker in each of the units was identified and interviewed. Copies of the 'Policies and Procedures'

document from one of the authorities were also analysed. Finally, focus group discussions involving 24 children and young people from units all over Scotland was carried out to ascertain their views about activities and the impact of health and safety guidance. In Scotland the National Standards have been written in a way that is intended to be user-centred, so the focus group discussion used the National Care Standards as the context for exploring this issue.

Findings

Analysis of outdoor activity policies and procedures for residential units The researchers examined the 'Outdoor Activity Guidelines' of one large local authority. They contain many of the elements typical of policies across the country. In this case the guidelines were originally drawn up for schools taking parties of children on organized outdoor activities. The guidelines included separate sections on a number of activities including abseiling and climbing, 'wild' camping, canoeing and bathing in natural waters. Two pages had been added to the front of the guidelines specifically for residential unit staff. These sections were entitled 'Philosophy of Participation' and 'Role of Leader in Charge'. The philosophy section was very positive and included the comment:

Outdoor activities can improve the quality of life for young people being looked after in Residential Houses through making use of the outdoors in an educative and fun way.

The range of activities that the guidelines (which throughout speak about 'organized groups') applied to was covered in one brief section under 'Role of Leader in Charge':

Some activities are not and should not be included in the Outdoor Activities Guidelines. These include activities such as children playing outside on bicycles, going on picnics, walk along a riverside or town park etc.

This latter point is a vital one, as it is clear that many residential workers feel they are expected to apply outdoor activity guidance in situations where it is not appropriate, such as normal individual play. The guidelines analysed for this study have at least attempted to address this issue by acknowledging that there are outdoor activities to which they do not apply. As noted above, the guidelines being referred to here had their origin in school *groups*. The groups that residential workers will usually take out are not usually more than three or four and thus are much smaller than the numbers for which the guidelines were originally devised.

However, although the guidelines examined for this study did try to identify normal routine activities which are exempt from the procedures, many other normal family activities were specifically covered. An example of this was the

section on 'Bathing in Natural Waters', which included guidance on going to the beach. The guidelines explained what was expected of the Leader in Charge:

Information must be given to parents, guardians, young people and all the participants of the proposed activity. This information must be in written form and must incorporate a statement of the experience, qualifications and competencies of the activity leader and staff.

The guidelines stated that planning and the associated paperwork, including a risk assessment form, should normally be completed seven days before the activity. In relation to the section on 'Bathing in Natural Waters', the guidance said that there must be an adult present with either a Life Saving Certificate (Bronze Medallion) or a lifeguard qualification. The group also needed a 'long pole or floating throw line' with them. The guidelines were explicit that these conditions applied to 'outdoor activity groups occasionally using beaches, river pools and lakes for *casual bathing and paddling*' (emphasis added).

These are very stringent conditions to apply to a unit context; they inhibit any spontaneity by virtue of the seven-day rule. Further, there is no policy of recruiting only staff who hold lifeguard qualifications. Nor are there arrangements to train all the staff so that they will be able to comply with this requirement. This is a clear example of the problems with these procedures. Residential child care was not the context for which these guidelines were originally drawn up, yet they are applied in a blanket fashion to all residential services. If schools are arranging such activities, it is likely that they will be planned well in advance, that large numbers will be involved, and that funds will be available to make sure there are suitably qualified personnel present. Yet they are now being applied to small residential units where the authority neither requires staff to have such life saving training nor arranges for them to be so trained. This means that in practice children in residential units may rarely or never get taken to the beach.

It is also instructive to note that these particular guidelines did not apply to foster carers, thus introducing a degree of discrimination concerning children who are often 'looked after and accommodated' on the basis of the same legislation regardless of whether they are in residential or foster care.

The views of unit managers This paper was born out of a concern reported by many workers that health and safety regulations have become so rigid and bureaucratically applied that they are curtailing the lives of the young people in residential care. In order to investigate the dimensions of this problem it was important to explore whether there were actually written guidelines that applied to residential units and what these guidelines actually said. It was important to check whether it was possible that, in order to protect themselves from possible criticism, residential workers were 'mis-applying' guidelines. For this reason, unit managers were questioned to see if there were written guidelines in their authority and whether they did, in fact, restrict staff from undertaking activities. Tables 1 and 2 represent the results of the questionnaire sent to unit managers. Seven out of ten unit managers responded to the questionnaire.

Table 1 **Does outdoor recreation take place?**

| Venue | Yes | No |
|-------------|--|----|
| Beach | 5 | 2 |
| Countryside | 7 | 0 |
| Other | fishing camping theme parks quad biking places of interest | 4 |

 Table 2 **Content of guidance**

| Questions | Yes | No | Examples |
|--|-----|----|--|
| Do you have written guidance on procedures for outdoor activities? | 7 | 0 | |
| Is there a copy in the unit at the moment? | 7 | 0 | |
| Does the policy contain guidance on parental consent? | 7 | 0 | permission for trip permission for specific activities details of recent surgery, allergies, dietary needs, confirmation of swimming ability |
| Does it specify specific safety training? | 7 | 0 | fishing has different categories: bank, boat, shore; and still or moving water use of qualified instructors for activities training by relevant accredited body e.g. Scottish Mountain Leader first aid training hillwalking qualification Mountain Instructor Certificate to allow participants to carry out rock climbing and abseiling |
| Does it specify any specific safety equipment? | 7 | 0 | windsurfing: specific buoyancy aids buoyancy aids: helmets for canoeing whistle, torch, map and compass boots, protective clothing climbing safety helmets that conform to the UIAA |
| Does the policy specify restrictions on activities? | 7 | 0 | hillwalking has 6 separate categories qualified staff, paperwork for trip use of licensed operators staff must hold NGB award for hillwalking water-based activities qualifications needed for certain activities groups swimming must be supervised by someone holding RLSS (Bronze Medallion) numbers of people in ratio to lifeguard |

In addition, the unit managers were asked for their comments on any other elements of the policy which had an impact on residential practice (see Table 3). The following list outlines their responses:

1. Residential staff cannot viably be trained in these activities.
2. Paperwork prevents spontaneous trips. Some staff find the paperwork time-consuming and will use activities that are familiar. This prevents staff from introducing young people to new experiences.
3. Planning requires time, so spontaneity is very difficult.
4. Some contact sports and motorized sports (e.g. go-karting) aren't allowed.
5. At times, the policy prevents young people in residential care doing what they could do living in the community.

Unit managers were asked if they had any other comments to make about health and safety regulations and their impact on residential practice. Some of their responses were:

1. 'This takes away from residential workers doing things on an ad-hoc basis.'
2. 'Whilst recognition must be given to staff looking after other people's children, we feel that training for many staff can't be provided. Thus looked after children can't take part in activities that young people at home can.'
3. 'Health and safety regulations have a severe impact on the activities we can involve young people in.'
4. '(I) feel that fear of litigation is restricting us enabling young people to take "acceptable risks". This leads, at times, to extreme risk-taking by young people when they choose to risk-take in an unsupervised setting.'
5. 'I have some concern that the emphasis on risk assessments may impact on practice as they try to minimize the risks on activities. Part of the development and excitement of most activities is the element of risk.'
6. 'Young people can feel restricted if peers who are not looked after are permitted by parents to take part in activities denied to looked after [children].'

The findings from the unit managers' questionnaire indicate a real concern from this group about the practices in relation to health and safety guidelines. Although concern about safety in the countryside or at the beach is valid, the way such regulations are being *interpreted* cuts across the principles of normalization and respect for individuality, and may infringe the human rights of the young person in residential care. They represent a real and damaging set of practices that have emerged in the last few years. They are damaging not only because they restrict the possibilities for normal living, and the simple physical and emotional health benefits of fun and exercise, but also because they undermine the confidence of residential child care staff and contribute to a culture of dis-empowerment.

Table 3 **Impact of guidance on practice**

| Questions | Restricts | Encourages | Examples |
|---|-----------|------------|--|
| Does the policy restrict or encourage staff in taking young people on outdoor activities? | 7 | 0 | <p>time and finances restrict staff training and, therefore, activities</p> <p>see previous comments about paperwork, training, spontaneity, etc.</p> <p>open country walking requires significant preparation and carries 'extra' responsibilities for leaders</p> <p>staff very concerned about taking young people near any water, e.g. beach, rivers for fishing, or ponds</p> <p>walking up a local hill – many local people do this; however, there would appear to be hillwalking height restrictions</p> <p>not enough training given to residential staff to allow these activities to take place and lack of resources for young people to use</p> |
| Does the policy restrict or encourage young people in taking up hobbies and participating in normal social recreational activities? | 5 | 2 | <p>difficult for young people to take up hobbies and participate due to lack of resources, money and trained staff</p> <p>many activities need a 'qualified person' due to young person being looked after</p> <p>any activity is closely monitored to an extent that the staff won't be involved in anything risky</p> <p>recent accidents (to staff) at recreational facility have led to the health and safety officer advising manager to risk assess all such facilities even though these are in wide public use and have their own safety procedures</p> <p>if the young person were given the opportunity to follow up sessions, it would be encouraging, but we should also be encouraging staff to participate and the complicated procedures and guidelines discourage this</p> <p>the policy promotes the virtues of physical activity but is difficult to implement</p> <p>encourages towards less dangerous sports and hobbies</p> |

Interviews with basic grade residential staff The interviews with the basic grade residential staff to an extent painted a different picture from that of the unit managers. A total of seven basic grade staff were interviewed by telephone. Staff felt that there were restrictions on activities but seemed content with this. Although unit managers reported that children and young people did have access to outdoor recreational activities, basic grade staff reported that they rarely took young people on outdoor activities such as fishing, walking in the country or going to the beach. Only one of the staff had a qualification (pool lifeguard). If outdoor activities were being undertaken, risk assessments had to be completed, and permissions had to be obtained either from parents or from social workers. Although staff reported that there were restrictions on activities, they felt that this was acceptable as the young people needed to be kept safe. In general, they were happy that the guidelines existed and were applied. They thought that the rules and guidelines which existed were necessary and valid, even though they acknowledged that this had an effect on the spontaneity of activities. As members of staff, they felt safeguarded as long as they followed the guidance. There was a sense that if guidelines were not followed, this could lead to disciplinary action against the staff member. The responses from basic grade staff were different from the responses of unit managers, and different concerns were apparent between the groups.

Focus group discussion with young people Four separate focus group discussions were held in locations around Scotland. The young people who took part were between the ages of 15 and 19 years, and they were all in residential care. The task of the focus groups was to discuss Standards 9 and 15 of the *National Care Standards: Care Homes for Children and Young People* (Scottish Executive, 2002).

Standard 9 is concerned with *making choices*. The standard says that the young person should live in a place where everyone respects and supports their personal choices, and the seven elements relate the principle of choice to a range of practices, from participating in care decisions to deciding how to spend pocket money or be consulted about décor. Over half of the young people felt that they were able to choose what they wanted to do but that this sometimes depended on which staff members were on duty. The responses from young people gave a sense that some degree of negotiation went on with staff to ensure that safe and appropriate choices were being made. Choices about outdoor activities were constrained by staff availability.

Standard 15 is about *daily life*. This standard states that young people should be made to feel a part of their unit and community. Only one young person reported that they were never encouraged to have and maintain hobbies and interests. Staff were generally perceived as supportive in helping young people to take part in activities outside the unit. However, most of these activities were sedentary activities like the cinema, bowling or visits to fast-food restaurants and cafés, and the young people reported that they rarely took part in more

active or outdoor activities such as fishing, trips to the beach, hillwalking or even visits to country parks. In terms of taking them to indoor (and usually paid for) outings, the staff themselves were usually viewed as willing to organize such events. However, sometimes staffing or budget levels meant that trips which had been talked about didn't happen. Some young people were concerned about the cost of some trips and they were very aware that activities could be costly. Others were concerned at the reasons why only certain types of activities, using the same venues, seemed to happen, such as going tenpin bowling, or playing pool in a local community centre. Some young people had a clear impression that activities like these were often undertaken on a 'reactive' basis, as a response to a problem in the home, and sometimes appeared to be for the benefit of staff and not the young people.

Discussion

There is no doubt that policies and procedures are required in many aspects of care practice in order to both guide and support staff so that they are able to maintain high standards of care. However, all policies should meet the 'best interests of the children' test, and no policies should be adopted which are about protecting staff or agencies *at the expense of* the children's needs and rights. It is widely noted, and lamented, that staff and organizations operate in an increasingly litigious society, and agencies are entitled to seek protection from the charge that they have been negligent if an accident occurs. However, this study illustrates that there are serious questions about how this has been tackled to date and how the requirements for appropriate protection for children and those who care for them can be balanced with the requirement to meet children's needs and rights to high-quality care in contemporary residential settings.

Apart from the question of what might constitute normal living and how residential practitioners can properly exercise their duty of care, the research indicates that current health and safety policies are impinging on the rights of children and young people to experience a full range of activities which might otherwise contribute positively to their development. Currently, procedures, such as the one examined for this study, may have been implemented on the basis that they will remove the risk of authorities being sued by children and parents 'if something goes wrong'. However, while authorities may currently feel that they have to protect themselves from the risk of litigation in the case of accidents, it may be necessary for agencies to consider if there is a balance that needs to be drawn between the current risk and possible future risks. For, unless this issue is addressed, it may be that young people who feel they have been deprived of normal opportunities while in care could explore the possibility of litigation to gain compensation for having being cared for in a manner which restricts their right to take reasonable risks. The child or young person may have a case under the Human Rights Act, given that they have never been

taken to the countryside because that required a risk assessment, prior consent from every parent or guardian, and perhaps a staff member with a hillwalking qualification.

Residential units usually have budgets for the promotion of recreational activities. However, in spite of this, the children and young people in this study were clearly not experiencing a range of straightforward, physical activity which would be the norm for other young people in their community. From a developmental and educational perspective the scope and relevance of the activities described by the young people raised questions about the professionalism of the care providers at both unit and agency level. The 'activities' that were offered most commonly seemed to be ones that could be organized with the least need to fill in lengthy paperwork and demanded the least staff skill. The developmental needs of the young person and therapeutic qualities of the activities did not appear to be a significant factor in the decisions about what was offered.

The residential staff questioned for this study appeared to feel that they could not spontaneously undertake any outdoor activities because they were defined as potentially risky adventures and were contrary to procedures, any deviation from which might put their jobs at risk. It could be conjectured that staff might experience a conflict between good practice principles and these procedural constraints, generating a kind of cognitive dissonance (Festinger et al., 1956) in the worker. Cognitive dissonance is the psychological process whereby an individual resolves two conflicting thoughts by developing a belief which somehow incorporates both. In this context the staff member may convince themselves that they are working in the child's best interests by imposing the health and safety guidance, although the result is that the child is denied a range of normal experiences which it would be considered good practice to organize. Staff may therefore convince themselves that they are doing the right thing because they are working to guidelines in the best interests of the child's safety.

Another factor which may make many of the blanket restrictions imposed in the name of safety policies so dis-empowering is that they may prevent residential care staff exercising the discretion and judgement that parents exercise on a daily basis. This kind of inner rationalizing may help staff deal with some of the tensions inherent in their work but produces a kind of care which is far from the homely and normalizing intentions of the National Care Standards.

Conclusion

In terms of children's needs and rights, this research indicates there is a need to at least review current health and safety policies in each authority to examine how well they align with good care practice. Such good care practice undoubtedly includes a clear commitment to safety and a balanced approach to

appropriate risks. However, there are dangers in adopting an excessively cautious approach in this area, as has been recognized in the National Care Standards (Scottish Executive, 2002) themselves. Under the heading of 'Main Principles', in the section on 'Safety', it is stated that 'children and young people have the right to enjoy safety *but not be over-protected*' (2002: 7, emphasis added).

While the infringement of this principle seems to be of concern to the unit managers in this study, this concern is not shared by the basic grade workers. This difference in attitude could be considered surprising. However, in a climate marked by fear of litigation it may simply be that the workers are prioritizing *their* needs for protection (from blame or even litigation) over the young people's needs. This over-cautious approach may be exacerbated by a lack of knowledge about the developmental needs of young people and the benefits of activities in their lives. There exists a substantial body of theory and research which suggests that a range of physical and recreational activities can be used pro-actively with therapeutic intent and benefit in a child care context. It could be argued that the way in which residential staff are interpreting and implementing guidance on health and safety may mitigate against the development of resilience in young people in residential care. The study highlighted examples of policies which may contribute to the creation of a sterile and 'institutional' world in which care workers and children's lives are constrained by rules which staff are meant to follow despite their negative impact on the quality of care. As one of the unit managers said in the survey, 'The policy prevents staff from introducing children to new experiences. And at times, policy prevents looked after young people from doing what they could do living in the community.'

The evidence presented in this paper suggests that children and young people in residential care are being denied inexpensive and normal activities such as countryside walks, visits to the beach or even trips to the local swimming pool because of the excessive scope or unhelpful interpretation of health and safety policies, which may well have been originally devised for schools. It is suggested that many of these normal activities should lie outwith the scope of health and safety policies and should instead be placed within the discretion of the professional staff in the unit. However, if these activities are to remain subject to detailed prescription, then procedures must be reviewed in the light of the National Care Standards.

References

- Bee, H. and Boyd, D. (2002) *Lifespan Development*, 3rd edn. London: Allyn and Bacon.
- Berridge, D. and Brodie, I. (1998) *Children's Homes Revisited*. London: Jessica Kingsley.
- Daniel B., Wassell, S. and Gilligan, R. (1999) *Child Development for Child Care and Protection Workers*. London: Jessica Kingsley.
- Department of Health (2002) *National Minimum Standards: Children's Homes Regulations*. London: HMSO.
- Festinger, L., Riecken, H. and Schachter, S. (1956) *When Prophecy Fails*. New York: Harper and Row.

- Gilligan, R. (2001) *Promoting Resilience: A Resource Guide on Working with Children in the Care System*. London: BAAF.
- Goffman, E. (1961) *Asylums*. London: Pelican.
- Jackson, S. and Martin, P. (1998) 'Surviving the Care System: Education and Resilience', *Journal of Adolescence* 21(5): 569–83.
- Laing, R. D. (1965) *The Divided Self*. London: Penguin.
- Mahoney, J. (2000) 'School Extracurricular Activity Participation as a Moderator in the Development of Anti-social Patterns', *Child Development* 71(2): 502–16.
- Newman, T. and Blackburn, S. (2002) *Interchange 78: Transitions in the Lives of Children and Young People: Resilience Factors*. Edinburgh: Scottish Executive Education Department.
- Parton, N. (1999) 'Ideology, Politics and Policy', in O. Stevenson (ed.) *Child Welfare in the UK*, pp. 3–21. Oxford: Blackwell Science.
- Scottish Executive (2002) *National Care Standards: Care Homes for Children and Young People*. Edinburgh: HMSO.
- Skinner, A. (1992) *Another Kind of Home: A Review of Residential Child Care*. Edinburgh: HMSO.
- UNICEF (1989) 'United Nations Convention on the Rights of the Child', full text version), URL (consulted Oct. 2004): <http://www.unicef.org/crc/crc.htm>
- VanderVen, K. (1999) 'You Are What You Do and You Become What You've Done', *Journal of Child and Youth Care* 13(2): 133–47.
- Williams, J. (2001) '1998 Human Rights Act: Social Work's New Benchmark', *British Journal of Social Work* 31(6): 831–44.
- Wolfensberger, W. (1996) *The Principle of Normalisation in Human Services*. London: Fitzhenry and Whiteside.

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