

Understanding

Youth

Work

Law

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LAW, YOUTH WORK AND ETHICS

Chapter Aims

- Introduce the notion of law, youth work practice and ethics
- Discuss the contested nature and different dimensions of youth work
- Demonstrate an understanding of the social and legal interpretation of childhood
- Outline the legal context and operational guidance for the enactment of police powers
- Identify the age restrictions placed on children and young people
- Detail the importance of personal and professional values to developing ethical practice

INTRODUCTION

In simple terms, laws are the rules devised by government and enforced by an administration of justice to keep public order, outline and protect individual freedoms, regulate relationships, detail acceptable standards, and arbitrate on legal disputes. Although there are international laws, which are applicable to all countries in the world, each nation state devises its own laws which are socially and culturally bound. In Europe, for example, citizens are guaranteed the right of liberty, freedom of movement and freedom from discrimination. In England and Wales, there are different classifications of laws: international and national; public (including constitutional, administrative and criminal); and private/civil (including contract, family law, company law and tort).

THE CONNECTION BETWEEN LAW AND YOUTH WORK

At first glance, it may be difficult to see the connection between law and youth work practice other than the need for this social practice to comply with the law

of the land in which it operates. However, there is another connection in that both practices provide a distinct societal function which operates along the same continuum. The main aim of the law is to provide for human protection while youth work exists to advocate for human development. The former practice, given its protective task, provides a framework and view that require both case law and new legislation to reflect current and emerging social circumstances, whereas the latter operates best in a developmental creative space which necessarily grapples with the real-life everyday circumstances of the young people it serves. Both practices optimally serve society, in the service of justice and social justice, and work best together when the rules are enriched and integrated with a human developmental understanding.

However, for our purpose here, the law provides an operational context for professional practice with young people. Although youth work is a non-statutory service, it is regulated and directed by a range of legislation, government reports and policies. Work with young people is subject to international and UK national laws, European legislation and policy directives, and shaped by organisational policies and procedures. While all laws will be relevant in particular situations, the main legislative focus for work with young people includes the areas of human rights, social welfare, youth justice, organisational law, management systems, and operational practice. These laws aim to ensure that the right attitudes, protections and procedures are built into the operational planning and practice for safe and enjoyable learning. However, it is also worth noting that the increase in recent legislation around children and young people is, at least in part, due to western societies becoming more risk averse and further aware of people's rights that are inherent in their understanding of citizenship in a particular society. It is also the case that laws do not always provide sufficient guidance when the principles are translated into reality through youth work practice.

SOCIAL CONTEXT FOR YOUTH WORK AND LAW

It could be asserted that a main rationale for the existence of youth work is that it is a practice which is aimed at a group of people who do not yet have full citizen rights and who need time and space with a significant adult, other than their parents, in which to explore their circumstances and come to a fuller understanding of themselves within the society in which they live. It is also a period of life where young people experience difference and seek the company of peers (Savage, 2007). However, in legal terms, there is not a clear age at which childhood ends and adulthood begins. In fact the laws concerning the rights and responsibilities of children and young people 'present a complex array of definitions which have been developed by the different institutions of the state, for different purposes and at different moments in history' (Cole, 1995: 7).

RESTRICTIONS BY AGE

In spite of the law's increasing recognition of the rights of children over the past fifty years or more, all people under the age of 18 years are legally regarded as children and are restricted by age in the type of actions that they can take. However, discriminating against adults, post 18, on the basis of age restrictions is prohibited by law except in defined circumstances: 'a proportionate means of achieving a legitimate aim' (Employment Equality (Age) Regulations 2006). However, it is still deemed appropriate by the state to pay a young person, over 16, less money than the minimum wage for adults and to receive no or reduced levels of social security rates when unemployed.

INCREASED LEGISLATION

In addition, over the past thirty years there has been a significant increase in specific types of legislation aimed at children: for example; the Children Act 1989, 2004; the Protection of Children Act 1999; the Crime and Disorder Act 1998; and the Youth Justice & Criminal Evidence Act 1999. This means that there is increased protection for children's rights and stricter requirements on local and other authorities to ensure that they are working together and sharing information for the protection of everyone's rights. In terms of law enforcement, parliament also provides guidance on how members of the public should be treated when an investigation is taking place to determine if a law has been broken.

LANGUAGE USED

At this point, it may be useful to point out that the language we adopt to describe what youth workers do reveals a set of expectations and assumptions which sets the operational position and determines the extent to which we can understand another's view and practice. This social discourse also affects the ability to reach out and effectively enter into dialogue with the other person and people. This interactive practice is inevitably framed within a societal framework which shapes the values, intentions and judgements that construct a legal, ethical and purposeful practice. It is useful to realise that language is not neutral and that it can be used to maintain unequal power relationships which will be to the detriment or benefit of particular groups (Spender, 1980).

It is important at the outset to be clear that while we would seek practice simplicity and clarity, the operational reality is often more opaque, diverse and complex. It is only by recognising the importance of personal and social development through reading, thinking, acting, reflecting and believing that we may develop experience, further understanding and a useful interpretation of what is perceivably occurring in practice.

Reflective Challenge – Questions

- Do you think that the law is supportive of children and young people?
- With increased legislation, nationally and internationally, over the past fifty years, do you think that children and young people are better protected now than in the past?

Comment

It is clear to me that young people are not prioritised in terms of legislation. Much of the law that related directly to young people in particular is now outdated. Young people would especially benefit from a fresh look at legislation around their status and rights through the development of laws based on capacity rather than age. Obviously, for children, it is vital that they are protected from harm, but evidence suggests that these laws are usually retrospectively based on reviews of cases and that safeguarding policies and procedures are not as effective as they could be.

WHAT IS YOUTH WORK?

In this section the first question which we may usefully consider is this: what is youth work? The answer to this important question will allow us to identify to what we are referring and will provide a framework for our discussion throughout the book. Unfortunately or fortunately, depending on how you view it, there are many different definitions and explanations of what constitutes the practice of youth work. This could be regarded as unfortunate if you are looking for a simple operational definition that will provide a security blanket for practice. On the other hand, you may see this as fortunate if you are a youth worker who finds pre-determined definitions restrictive and is liberated by defining the practice through creative meaningful interactions with young people. However, in spite of your perspective and preference there is an operational context to working with young people which is influenced by the current, dominant views of adults in society as expressed through laws, policies, and acceptable ethical judgements.

DIFFERENT PERSPECTIVES

The nature, extent and purpose of youth work have long been debated and rightly so, because at its best it is a dynamic developmental practice which is both highly disciplined and flexible in the moment. It is a practice which is defined by historical traditions and through legal, social, ethical, economic and political demands (Jeffs and Smith, 2010: 1–3) that delineate the key elements which define youth work: voluntary participation; education and welfare; young people; association, relationship and community; and being friendly, accessible and responsive while acting with integrity. Spence (2006: 48) suggests that youth work has a ‘particular set of difficulties for the status, visibility and naming of the reality of youth practice’. Martin

(2006) also holds that there is no generally accepted definition of what the term 'youth work' actually means, but advocates for the nature of the youth work relationship as its defining feature. Notably, Merton (2004: 29) identifies that youth work does not operate in a political vacuum, or a neutral social context, which means that 'its purposes and principal forms of practice will differ as that context changes' and this provides the flexibility to meet young peoples' needs. In addition, Banks (2010) helpfully recognises three senses of youth work: as activities with young people; as a specialist profession; and as an academic discipline.

TEN KEY ELEMENTS

Davies (2010a: 1–6), drawing on historical and current sources, identifies ten key elements of youth work which help to define it. These are: voluntary involvement; starting from where young people are at; developing trusting relationships; tipping the balance of power and control in favour of young people; working with diversity and responding equally; promoting equality of opportunity and diversity; working through friendship groups; youth work as process; reflective practice; and disciplined improvisation. However, while this recognition of various aspirations and actions is helpful in articulating that youth work is not a singular practice, it does not recognise the broader human developmental and jurisdictional aspects of the practice.

Davies (2010b) is writing mainly for a UK audience that would recognise youth work in terms of informal education, which explains why the practice identified elicits educative intent through its voluntary nature, personal attributes for personal development, and a flexible approach to meet learning needs. In other parts of the world, youth work has a different purpose and perspective. For example, within the European Union, youth practice is tied up with an understanding of social pedagogy, and in the USA, youth work is largely synonymous with youth development which can be more interventionist and programme-focused with a remedial orientation. What is common to all these practices, across the world, is that they are shaped within a context and operate within the parameters of statutory laws and the implementation of policies.

FLEXIBLE INTERPRETATIONS

Youth work approaches need to transcend such definitional limits: these attempt to define the boundaries of practice because the circumstances and needs change over time, and youth policy in particular has articulated a range of contradictory expectations and requirements over the past century. We need a description of youth work practice which analyses the different types of practises generated that not only explains different elements but also places the practice in a historical, socially and politically aligned setting tied to a defined purpose.

For example, Coburn and Wallace (2011) identify three different practice traditions that represent a type of youth work: *functional youth work*, which essentially

performs a socialisation function by working with young people who need to be fixed in some way; *liberal youth work*, which is open and developmental with negotiated activities and longer-term relationships with the location and the youth workers; and *critical youth work*, which recognises and builds on the capacities of young people, recognising the inherent injustices in society and encouraging them to participate in that society as part of their democratic and human rights. These are useful distinctions because each type is closely aligned to a purpose and setting.

POSING QUESTIONS

However, regardless of which tradition youth work belongs to, might it *not* be youth work if it is unaware of and/or subservient to current adult-dominated thinking about the status and role of young people? Is it still youth work if it fails to help shape the debate, with children and young people integrally involved, when adults are articulating their views about children? Is it self-evident that youth work becomes something else if it is a profession that maintains the status quo? Instead, given the unequal youth category, should it not defend the rights of children and young people and promote the debate about which form of youth work young people want? Should youth work be voluntary or state sponsored? Should it be open to all or targeted at those who are regarded as the most vulnerable? Is it about maximising potential or compensating for perceived deficiencies? (See Davies, 1999: 171–191; Davies, 2010a: 7–19.)

HUMAN DEVELOPMENT

Regardless of the nature, extent and purpose of youth work, one of its constant aspects is that young people need to be integrally and dialogically involved in shaping the nature of their participation, the type of content developed, and the learning experienced. Such an approach helps to mark youth work as a practice which is concerned with not just the individual and their relationships with others but also with the notion of community and human development. It is within these contested and competing ideas that youth workers need to create a meaningful and ethical practice.

Reflective Challenge – Key Questions

- What is your definition of youth work?
- Are you the type of person who likes to operate within set parameters or work ‘outside the box’?
- Which of the ten key elements of youth work are meaningful in your experience or understanding?
- What is your motivation for getting involved in youth work and what do you hope to achieve?

THE LEGAL AND SOCIAL CONTEXT OF CHILDHOOD

We need to acknowledge that our notions of childhood and youth are socially constructed, which means that these are culturally dependent as they remain subject to a changing political and legal interpretation. As a result our ideas on what constitutes a youth or child vary worldwide. In the UK it could be argued that the current overriding discourse, which underpins the service response of social practices, is that children are in need of protection and that young people are problematic either by giving cause for concern or being the source of that concern. Yet in spite of various social discourses, these individuals have the same protection under international law.

UNCRC

Although built upon the United Nations Declaration of the Rights of the Child in 1959, which charged governments with ensuring the best protection and promotion of children's rights, the establishment of the Convention thirty years later provided both the bedrock and the impetus for the development of current child policies across the world. The year 1989 proved a significant turning point in terms of moving away from an emphasis on the needs of the child and the duties of the adult to protect them, and turning towards a fuller recognition of children's own legal and political rights that enabled their views and wishes to be considered in law. Although there is still a qualification on these rights in terms of the parental duties of guidance and directions according to their level of maturity, there is still recognition that the child can hold separate views and claim different interests from those in authority.

In essence, the United Nations Convention on the Rights of the Child (UNCRC), fundamentally changed the nature and extent of the legal standing of children and young people. Through Article 12 the child has the right to freedom of expression and thought and the freedom to be heard by any judicial and administrative proceedings by which they are affected. Further, as outlined in Articles 13–16, the child has the right to freedom of expression, thought, conscience and religion, as well as the right to privacy and peaceful assembly.

Within the UN Convention on the Rights of the Child 1989, the notion of 'child' extends to 18 years of age, and all youth workers need to be aware of and must comply with its three underpinning principles:

- All rights under the Convention must be available to all children without discrimination of any kind.
- The child's best interests must be the primary consideration in all actions concerning them.
- The child's views must be considered and taken into account in all matters affecting them.

APPLICATION OF THE PRINCIPLES

These principles ensuring the child's protective rights, as well as a right to access education, growth, health and wellbeing, were enshrined in law through the Children Act (1989) and updated via the establishment of the Children Act (2004).

While these laws provide the principles on which children's rights are protected, youth work is based on a developmental approach to human growth which is in keeping with Erik Erikson's (1950) insights on developmental psychology that identified all humans as being in a constant state of *becoming*. This is an important idea for many developmental psychologists (Jung, 1957; Bronfenbrenner, 1974, 1979), one which challenges the dominant social idea that it is only children and young people who are in developmental phases and that adulthood is the preferred, dominant and fixed status in society. Therefore youth work is a people-based practice which holds that children and young people need to be involved in a dynamic process of participation in order to grow and to become fully human (i.e., the best that they can be). Previous, historical notions of 'being seen and not heard' are unhelpful and detrimental, as well as acts of corporal punishment that were routinely sanctioned, not so long ago, by many state institutions, including schools. This notion of *becoming* is central to the perception of the human being at all stages of development, in that a child begins the process of growing old from conception and continues the potential for human growth throughout life. In addition, the way that we perceive and treat the individual affects the process and potential of all human development. Each person, in their various capacities as citizen or professional, has a part to play in developing a society which both protects and develops each generation for the overall benefit of humankind.

This ethical duty, together with compliance with these and other laws, are the responsibility of all public servants, including those who are charged with a responsibility to uphold the law. Since youth workers sometimes work out on the street with young people, and they are also often asked by young people about their rights, it will be helpful to outline the role and responsibilities that police officers have in the public arena.

POLICE POWERS (PACE)

Under the Police and Criminal Evidence Act 1984 (PACE) in England, parliament has granted the police powers to stop, search and arrest people. Section 1 of PACE provides the power for police officers to stop, search and arrest people and vehicles in a public place if they have reasonable grounds for suspecting that the person is in possession of, or the vehicle contains, stolen goods or prohibited articles. A public place is considered to be all public roads and open spaces including car parks and play parks.

Given that these are significant powers, the act itself and codes of practice detail a range of safeguards in order to control police actions and protect all people, including children, as well as aiming to prevent harassment and encourage fairness, responsibility and respect. The first of four main conditions is that the police officer must state their name, give details of the station that they operate from, and provide a reason for the

search. Secondly, if the officer is in plain clothes then they must provide documentary evidence to prove their identity, although under this legislation plain clothes officers do not have the right to stop vehicles. Thirdly, if the search is conducted in public then the officer can only request the removal of a coat, jacket, or gloves. Finally, every stop and search event needs to be written up by the officer as soon as possible after the event.

It is crucial to note that under PACE the police need to provide an expressed reason for the stop and search and do not have the right to stop someone because of their age, ethnic origin, or previous criminal record. However, it is also worth noting that other legislation, such as the Misuse of Drugs Act 1971, also allows searches under certain circumstances. Again, more recent legislation (for example, the Crime and Disorder Act 1998 which introduced Anti Social Behaviour Orders, and was supplemented by the Anti Social Behaviour Act 2003) can enact very specific restrictions on the movements of individuals which the police will enforce. There are also restrictions on particular behaviour in identified zones and therefore youth workers should keep abreast of developments in their local area. Also, youth work organisations should be involved in partnership work to ensure that governance decisions are based on reliable information and commensurate with the nature of the identified problem.

THE NECESSITY TEST

Notwithstanding, all arrests must comply with what is known as the necessity test which asks if there are reasonable grounds of an offence about to be or being committed. Recently the Equality and Human Rights Commission produced a report entitled 'Stop and think again: Towards race equality in police PACE stop and search': this identified that as a black person, you are at least six times as likely to be stopped and searched by the police in England and Wales as a white person. Following a programme of work initiated by the Commission, five police forces that were involved have seen reductions of up to 50 per cent in overall usage and a fall for some disproportionate usage against ethnic minorities (www.equalityhumanrights.com/key-projects/race-in-britain/stop-and-think-again/).

The Protection of Freedoms Act 2012 introduced a new regime for police stops and searches under the Terrorism Act 2000, and reduced the maximum pre-charge detention period under that Act from 28 to 14 days.

Reflective Challenge – Case Study

Les and Bev are detached youth workers working in an inner city neighbourhood in England. They have been working for the local authority for six and two years respectively. They have also worked the same patch together over the past year and have a good working relationship, as well as a significant degree of professional respect and confidence in each other's judgement.

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One evening, while out on the street, they see a young person, with whom they have worked over the past six months, being accosted by two young police officers who jump out of their patrol car, push the young person up against a wall, and carry out a stop and search.

- What do you think these two experienced detached youth workers should do?
- (a) Walk by as if nothing was happening and speak to the young person later?
- (b) Take up a good vantage point, and observe and record what is happening for later use?
- (c) Intervene on the young person's behalf at the scene, asking the officers if they are complying with PACE guidance?

Comment

I think that option (b) might be the most useful response in the majority of circumstances as it allows you to be a witness for the young person if this is required.

CHILDREN, YOUNG PEOPLE AND LEGAL AGE RESTRICTIONS

Detailed below are a number of actions that can be legally undertaken at a certain age. One of the main difficulties in classifying people by age and restricting their behaviour is that this treats them as a homogeneous group which they are not. Although age is a key factor in development there is a danger that other factors will not be taken into consideration, such as gender, intellect, schooling, ethnicity, and religious beliefs. In other words, age is synonymous with a particular philosophical and practical view of childhood which is pre-determined and generic and overlooks a person's level of capacity, life circumstances, and personal aspirations.

The information below was correct at the time of writing and is an indicative list. However, as legislation continues to change and circumstances influence judgements, it is important that as youth workers we obtain particular advice from a qualified legal practitioner when required.

5 YEARS OF AGE

- Are duty bound to receive education by attending school or home tuition.
- May open a bank or building society account in their own name.
- May consume alcohol as long as they do not purchase it, nor have anybody else purchase it for them, nor consume it in licensed premises.

7 YEARS OF AGE

- May withdraw money from Post Office or savings account.

8 YEARS OF AGE

- Is the age of criminal responsibility in Scotland.

10 YEARS OF AGE

- Is legally responsible for crimes committed.

12 YEARS OF AGE

- May purchase a pet.
- May watch a 12A certificate film at the cinema unaccompanied or buy/rent a 12 certificate film on video or DVD. (Note that people under 12 can view a 12A movie at the cinema if they are with an accompanying consenting adult.)

13 YEARS OF AGE

- May begin work on a limited number of hours (7am–7pm) – although this is largely ignored.

14 YEARS OF AGE

- May enter licensed premises within certain hours to buy food and soft drinks.
- Are responsible for wearing their own seatbelts when travelling in vehicles.
- Can take accompanied flying lessons (can fly solo at 16).
- Liable to pay the full fare on public transport, buses and trains.

15 YEARS OF AGE

- May watch a 15 certificate film at the cinema or buy/rent a video or DVD.

16 YEARS OF AGE

- May smoke – but cannot purchase cigarettes or tobacco or cigars until the age of 18.
- May get married with the consent or at least one parent – but must be 18 without consent.
- May leave home and leave school.
- May have consensual sex – both heterosexual or homosexual in private (there are some differences in Scotland and Northern Ireland regarding age and offences).
- May join the armed forces with parental consent – but cannot enter a war zone.
- May work full-time, claim social security benefits, and join a trade union.
- May obtain a licence to ride a moped, and if disabled, obtain a license to drive certain vehicles.
- May select their own doctor.
- May buy Premium Bonds and play the National Lottery – but may not place a bet until 18.
- May drink beer, cider, port or perry with a meal in a restaurant.

17 YEARS OF AGE

- May obtain a licence to drive certain vehicles – but not some heavier vehicles like HGVs.
- May have homosexual sex, in private, in Northern Ireland.
- Will be treated as an adult when in police custody but will still attend a youth court.
- Can be sent to adult prison – but normally will be sent to a Young Offenders' Institute until 21.
- May go into a war zone as a member of the armed forces and give blood.
- Can buy an air rifle, be a street trader, and obtain a private pilot's licence.

18 YEARS OF AGE

- May purchase and consume alcohol in licensed premises and buy tobacco, cigars, and cigarettes.
- May buy fireworks and lighter refills.
- May appear before an adult court – although in exceptional circumstances younger people can also be tried in an adult court.
- May make a will or act as an executor of a will.
- May be required to sit on a jury and vote in an election.
- May sue and be sued, purchase land or property, and hold a mortgage.
- May see an 18 certificate film at the cinema or buy/rent one on video/DVD and get a tattoo.

21 YEARS OF AGE

- May drive any vehicle with an appropriate licence.
- May stand as a candidate in an election and adopt a child.
- May hold a licence to sell alcohol.

The issue of age is a consideration which contributes to the debate over what constitutes youth work. Yet again there are no definite age categories which can be specifically aligned with a particular type of practice. However, it would be fair to state that work with individuals under 8 years old would generally be regarded as children's work, with some practitioners extending this term to working with under 12s. It could be argued, therefore, that most youth work takes place post 12 and under 18, after which age the person would be legally regarded as an adult (although the European definition of youth extends to 25 years old). What is important for us in this debate is that the youth provision is built on friendship groups which are usually based within a confined age range appropriate to the social circumstances.

However, in certain circumstances it may be regarded as inappropriate to routinely organise the same generic youth provision for 12–18 year olds because of their different needs and levels of maturity. It is important for youth workers, in spite of the legal definitions for child and adult, to come to an understanding that our notions of childhood and adulthood are socially constructed, power laden and hegemonic, which in practice gives rise to the need for the term 'young person'. To add to this debate, organisations such as the Society for the Study of Emerging Adulthood (SSEA) and the Society for the Study of Human Development (SSHD) would recognise developmental periods of adolescence (11–18 years) and emerging adulthood (18–25 years).

Nevertheless, these positions and articulations are based on a set of known or hidden philosophical assumptions about what is acceptable practice which are open to both scrutiny and debate. To help us understand the rudiments and nature of youth work practice, and its role in society, we need to examine the notion of ethics and ethical practice. However, before doing so you may wish to look at the reflective challenge below to help you clarify your own thinking and think through a realistic practice scenario.

Reflective Challenge – Work Out Your Answer

As a newly qualified professional worker, you are asked by a local voluntary organisation to set up a youth club for teenagers who attend the local secondary school (11–17 years). You have access to a foyer area and a multipurpose room in a local community centre. The centre is available for use three nights a week from 7 to 9 pm. You also have permission to use the school gym hall, music room and art room one evening per week.

Outline the structure of a potential programme for the operation of the clubs by defined age groups and describe the type of processes and activities that you would adopt to suit each of the different age ranges. Also make a note of any activities, circumstances or events which would appropriately involve more than one or all age groups. Again, at this point think of any legal considerations that you are aware of and identify any operational restrictions that will need to be overtaken.

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Comment

I think that it is vital to prepare, plan and train in order to make sure that everyone involved is clear about their job role and the reporting mechanisms. In addition, it will prove beneficial to build practice over time and not use rooms just because these are available: start small and build from this, making sure the necessary paperwork and registrations are in place.

ETHICAL PRACTICE

Ethics, or moral philosophy as it is sometimes known, is a concept that is not easy to definitively capture, and its interpretation will differ among people depending on their philosophical understanding and personal orientations. In such circumstances it may be helpful to dispel some myths by stating what ethics is not before delineating what it actually is.

ETHICS EXPLAINED

First, ethics is not a personal code based on individual feelings which dictate how a person feels about a particular situation. Secondly, ethics is not synonymous with religious practice as its use and interpretation applies to the behaviour of all people in a particular society. Thirdly, it not the same as following the law because although the law often incorporates ethical standards there is no in-built guarantee that it represents all ethical viewpoints. Finally, being ethical is not the same as doing whatever society currently accepts because society can become ethically distorted, and in any event it is very difficult to claim – with any degree of confidence – an overwhelming degree of social consensus in any given society.

Primarily, ethics is a set of moral principles which substantiate the consistent standards of right and wrong that determine the ways in which human beings act. Ethical standards are often expressed in terms of rights, for example the right to life, to privacy and to impose reasonable obligations on people to refrain from harming others. Again, it can also include a set of virtues such as honesty and compassion.

In addition, ethics is used as a concept to explain the study and development of ethical standards – to constantly examine those standards to ensure that they are reasonable and well-founded. Therefore, ethics also means a consistent attempt to study moral beliefs and conduct in order to ensure that people and institutions adhere to reasonable and dependable standards.

PHILOSOPHICAL ROOTS

In terms of classical philosophy, and for simplification, it is generally accepted that there are three broad traditional approaches to ethics: consequentialist, deontological, and virtue based. Proponents of consequentialism will directly relate the appropriateness of an action to the consequences that occur as a result. Deontologists, on the other hand, will maintain that moral judgements are inherent within the act itself, related to natural law and human rights. Supporters of a virtue-based approach will focus on the ways in which the act affects the person's potential to *become*. This is an aspirational view which supports the notion of human development, with creative growth based on sound values and choices.

APPLICATION IN PRACTICE

While it could be argued that elements of all three perspectives are present in both law formulation and practice with young people, it could be equally held that the first two theoretical positions are predominantly integrated and used to frame laws and social policy. Of course, consequentialist ethics will be attractive to those youth workers who operate by the rules. However, for the creative practitioner who works with the complexities of practice and is committed to the development of the whole person and humanity, the articulation of virtue ethics will resonate as a way of supporting a dialogically-based youth work practice. In relation to approaches to professional ethics, Banks (2010) expresses principle-based ethics in keeping with Kantian and Utilitarian stances and character/relationship-based ethics in keeping with virtue (Aristotelian) and the Ethics of Care. (For a fuller cogent and useful insight into ethics in youth work see Banks, 2010; Sercombe, 2010.)

ETHICAL PRACTICE AND WORKING VALUES

In this quest for ethical practice, values and meaning making are crucial, and these come from tradition, professional acculturation and training as well as a person's own preferred political, religious, or other beliefs. These beliefs, values and attitudes will determine what is regarded as suitable behaviour. This positioning indicates that values emanate from experience which helps to ascribe meaning to particular actions and events.

In addition, Young (1981) proposes that our working values and norms are a combination of four key elements: facts (cognitive understandings); feelings and values (affective understandings); our position in, and relation to, the world (cathectic understanding); and our motivation to act (directive understanding). Therefore, we can see from this that values and meanings are central to the way we operate, and these are shaped both by understanding and experience which help to develop good practice.

Reflective Challenge – Ask Yourself

- Why is it important to be ethical both in person and practice?
- What are my values and how have these been formed?
- How important are values related to practice?
- Which ethical theory do I find most useful when thinking about my experience of youth work practice?

CONCLUSION

Both the law and youth work serve different but related functions in society: the law protects people and youth work develops people. The law primarily provides for the protection of people based on consequential and deontological notions of what is ethical. Youth workers, in contrast, focus on developing with people, which fits with a virtues notion of ethics and encourages them to be the best they can be and to give of their best for their profession. All professionals and public servants work within a societal context which adheres to the current laws and contributes to the debate on the continued appropriateness of the law as it is interpreted and developed within a framework of continuous political and social discourse. However, youth workers have a special role in engaging and communicating with young people and developing an ethical relationship which is based on a good understanding of both their own and others' personal values, a sound commitment to an ethical practice based on dialogue, respect, and a determination to combat the deficit portrayal by adult power brokers. In this context, it is important that youth workers do not view the law as a technical act to be complied with, but rather as a means whereby the views, rights and treatment of children and young people can be enhanced and respectfully embraced. Finally, if the law is administered by a system which upholds and protects the law in the name of justice, then the task of youth workers is to advocate for social justice that will enable the free development of young people in their process of *becoming*.

Case Study 1

Jan, an experienced youth worker, is the newly appointed manager of a local inner city youth centre. The management committee had appointed her because of her experience and demonstrable knowledge of, and commitment to, young people. At the first formal meeting the committee, made up largely of local people and local authority representatives, told Jan of the local perception that the centre was never open, and asked her to open the centre seven nights a week in order to establish 'a traditional youth club for all the young people in the area and to get them off the streets'. They also thought that bringing in the community policeman would help to manage difficult behaviour and set the right tone for the club. Jan advised that she would want the

centre to develop in a manner that was in keeping with youth work values, which would encourage the young people to decide how the centre was run and who supported them. She also suggested that representatives from other organisations would need to demonstrate similar values of ensuring that the young people's interests were at the heart of any decisions for any partnership to work successfully to their advantage.

Jan advised that, while understanding the good intentions of the committee, any plan should involve developing a balanced programme which would be both generic and targeted. She explained that their service should be based on aspirations that were clearly thought out and more robustly defensible. Jan also advised that it would be questionable to base a service on combating what was a legitimate right by young people to be on the street exercising their legal rights: trying to get all young people off the street would not only be impossible, it would also be counterproductive to their development and would negatively impact on the development of the community of which the young people were a vital part.

As a result of Jan sharing her experience and challenging the views of the committee in a helpful manner, the members recognised that she was advocating on behalf of the young people as well as applying a wider concept to perceived local problems which ultimately would enhance their own thinking and planning and offer a better service.

Following this honest and open communication, it was agreed that Jan should set out a range of principles on which the centre's programme should be based and developed. She thus went away to research and reflect and to identify a way forward.

Jan engaged in dialogue with local young people, centre users, youth work mentors, funders, committee members, and colleagues. She then devised and presented a 10-point plan to the management committee based on the work of a number of psychologists, educationalists and youth work writers (including Erikson, 1950; Jung, 1957; Freire, 1972; Davies, 2010; Sercombe, 2010; Jeffs and Smith, 2010).

The operating plan would be based on the following intentions that the centre would:

- provide a safe and protective learning environment;
- operate processes and procedures to comply with relevant legislation;
- develop activities based on the needs and desires of young people;
- work out a relevant interaction in, and between, different friendship groups;
- agree on an open and inclusive programme;
- complement, and be relevant to, local provision in the local environment;
- promote secure, empowering relationships;
- be inclusive by meeting the needs of particular disadvantaged groups;
- set up a youth committee, initially as a shadow group, to assess the decisions of the adult committee and develop their own proposals;
- advocate on young people's behalf with other adults when appropriate.

The management committee all agreed with the above operating principles but were surprised when Jan also explained to them that she wanted, within a period of five years, for the centre to be run by this group of young people and that the manager's job should be taken over by a qualified local young person within the same period.

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The adult committee protested that the young people were too young to take on such responsibilities and that these new fancy ideas would contravene the current legislation. Jan advised that the law existed for the protection of all people and youth work existed for the human development of young people. She also advised that if the protective law allowed young people to marry, buy a rifle, fight in wars and fly a plane solo then surely the developmental role of running a youth centre should not be beyond the young people's grasp or the law's assistance. As manager her next task was to research and reflect and develop a plan to turn this aspiration into a reality.

Summary of Key Points

- The law provides an important framework for the ordered functioning of society.
- Youth work is needed because young people are regarded as a transitional group which needs opportunities to participate in society.
- Children and young people have basic human rights which need to be respected.
- The police need to follow set procedures (PACE) when dealing with members of the public.
- Blanket age restrictions are placed on children and young people, preventing some actions which are based on a fixed notion of childhood.
- Values are a key part of developing ethical practice with people in order to achieve their human potential.
- Both law and youth work can work together for the protection and development of children and young people in a common search for social justice.

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