

Foundations *of*
Early Childhood
Principles and Practice

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Edited by
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London EC1Y 1SP

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Cover design: Wendy Scott
Typeset by: C&M Digitals (P) Ltd, Chennai, India
Printed and bound in Great Britain by Ashford
Colour Press Ltd



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First published 2014

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Library of Congress Control Number: 2013941060

British Library Cataloguing in Publication data

A catalogue record for this book is available from the British Library

ISBN 978-1-4462-5528-5
ISBN 978-1-4462-5529-2 (pbk)



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Upholding Children's Rights in Early Years Settings

Carolyne Willow

This chapter will:

- Establish the importance of early childhood and the critical role played by early years practitioners in upholding children's rights
- Show that young children are not always respected as people, within the law and in their everyday interactions with adults
- Introduce the general principles of the Convention on the Rights of the Child and explore how they can be implemented in early years settings
- Outline the main themes in the children's rights literature and their implications for early years settings.



This chapter introduces you to children's rights ideas and practice, beginning with a discussion of the importance of early childhood then moving on to recognising young children as individual people with their own thoughts, wishes and feelings. You are asked to consider how you communicate respect to young children and to analyse different early years scenarios from a children's rights perspective.

Five themes are discussed in more detail, with case studies, in order to develop your understanding of what it means to uphold the rights of young children. These themes cover the capacity of young children to make choices and influence their surroundings; the ways in which adults can nurture or suppress children's capacities;

the interrelationship between what is in a child's best interests and their wishes, feelings and views; how children's rights relate to all aspects of child well-being and development; and the responsibility of us all to uphold the rights of young children.

The chapter ends with a reminder of the extraordinary opportunities that early years practitioners have, to show young children they are valued; to offer them respectful relationships where they are heard and taken seriously; and to provide pleasurable experiences. Upholding young children's rights should be at the centre of every early years setting, and I hope this chapter will inspire you to strengthen your efforts to make this happen.

The Importance of early childhood

That early childhood is a critical period of human growth and development is now firmly established in public policy (Allen, 2011; Feinstein, 2003; Field, 2010; Tickell, 2011). The quality of care, relationships, stimulation and opportunities offered to babies and young children is fundamental to their present happiness and well-being, and will also affect their adulthood. The Childcare Act 2006 has given prominence to the state's role in supporting early childhood: since April 2008, English local authorities have been required to promote the well-being of young children in their area and reduce inequalities between them.

Babies and young children require special attention from policy makers, partly due to their innate vulnerability and dependency on adults, but also because the economic and social conditions of early childhood can be extremely challenging. Statistics show that the homicide rate in England and Wales is highest in the first year of life (Smith et al., 2012: 44). Forty-five per cent of UK families living in severe poverty includes a child aged 4 or under (Magadi and Middleton, 2007: 19). Over one-third of children of imprisoned mothers are aged under 5 (Howard League for Penal Reform, 2011) and 144,000 babies in the UK live with a parent who has a mental health problem (Cuthbert et al., 2011: 5). In the year ending 31 March 2012, 40,990 children under the age of 10 years were looked after by local authorities, accounting for 40 per cent of children in care (Department for Education, 2012a).

The international monitoring body for children's rights, the United Nations Committee on the Rights of the Child, has issued guidance on young children's rights. This urges governments to adopt a 'positive agenda for rights in early childhood' (UNCRC, 2006: 2) and explains:

Work with young children should be socially valued and properly paid, in order to attract a highly qualified workforce, men as well as women. It is essential that they have sound, up-to-date theoretical and practical understanding about children's rights and development; that they adopt appropriate child-centred care practices, curricula and pedagogies; and that they have access to specialist professional resources and support ... (2006: 11)

Children are people

The UN Committee's guidance explains that international law now 'requires that children, including the very youngest children, be respected as persons in their own right' (2006: 2–3).

The idea that children are people may seem obvious. But if you think carefully about their everyday lives, and the attitudes and behaviour within wider society, it becomes clear that children are commonly treated as *human becomings* (Lee, 2001; Qvortrup et al., 1994) rather than human beings. The law on assault is probably the greatest signifier that children are not accorded the same human worth and dignity as adults. Parents and others acting *in loco parentis* can use a legal ('reasonable punishment') defence if they are charged with the common assault of a baby or child. This defence is not available to those who are prohibited in law from inflicting corporal punishment, such as early years practitioners and teachers. There is no statutory definition of reasonable punishment: the court must look at the facts of each case. The defence dates back to 1860 when a schoolmaster in Eastbourne beat to death a teenage boy. The judge in that case advised the jury (who found the schoolmaster guilty of manslaughter) that: '... a parent or schoolmaster ... may for the purpose of correcting what is evil in the child inflict moderate and reasonable corporal punishment' (*R v Hopley*). Husbands were similarly permitted to chastise their wives until 1891, when the Court of Appeal ruled that this was now obsolete. But the situation remains that babies and children are the only people in the UK not to be fully protected under the law. A study for the Department of Health found that 52 per cent of 1-year-olds were hit/smacked weekly or more often by their parents (Nobes and Smith, 1997: 276–7). The NSPCC found that 39 per cent of primary-school-aged children had been physically punished/smacked by a primary carer in the past year (Radford et al., 2011: 89). The legal situation in the UK and elsewhere led the Deputy Secretary-General of the Council of Europe to declare: 'children are not mini-persons with mini-rights, mini-feelings and mini-human dignity' (de Boer-Buquicchio, 2005).

Laws mirror social attitudes, and at the same time influence thinking and behaviour. This is why the campaign for equal protection from assault for children is so intertwined with seeking greater respect for them as people. Sweden was the first country in the world to give children the same protection as adults from assault, in 1979. A government publication two decades later reflected on the country's growing respect for the child's mental and physical integrity, and Sweden's rejection of violence in child-rearing:

At the beginning of the 20th century it was still implicitly assumed that the child should obey its parents and authorities without murmur. Children were ascribed no independent standing and as a rule were not allowed to voice their opinions ... Gradually society has changed ... The concept of the child as an individual with rights of its own has become more prominent. This calls for a form of child education based on interaction, care and mutual respect. (Hindberg, 2001: 11–12)

Early years practitioners have countless opportunities to provide care and respect to children. Your role in encouraging positive behaviour among children is vital and uncontested, whether this be administering warnings against snatching, stealing, pushing or interrupting, or reminders to be kind, patient and considerate. But how many of the courtesies enjoyed by adults are available to young children?

How do you talk to children?

Playgroup leader Judy Miller in her book about young children taking responsibility and making decisions gives this advice: 'Tape yourself talking with children and compare this with how you talk with adults. Is there a difference in your tone of voice? Are there things you say to children that you wouldn't say to adults' (2003: 31). Miller is not saying that children are miniature adults, nor is she advocating that people of different ages should be treated exactly the same. She is questioning how much respect (or disrespect) we communicate to children as a matter of routine.



Reflection

Recall the last time you had a conversation with a child. Consider the purpose and nature of the conversation and whether there was anything else you could have said or done to communicate respect to the child.

Young children are very often aware of the lack of respect given to them. The child that told me some years ago that '[Adults] don't treat us like humans. They treat us like babies who can't talk' (Willow, 1999: 32) was pointing to children's inferior social standing and depicting a pecking order with babies at the bottom. Another child eloquently described children's low status to Ofsted's Children's Rights Director: '[Adults] think we're there to become adults – you're only a child because you can't be born as an adult' (cited in Morgan, 2004: 16).

The idea that childhood's value rests in its production of adults is embedded in our society's culture and education system. The 'What do you want to be when you grow up?' question, so frequently asked of children, epitomises the belief that childhood is simply a passing stage to a full and valued adult life. The way in which play, the mainstay of early childhood, is viewed by some as a mere pastime that can be interrupted or ended without warning shows little regard for what children find fulfilling. The National Children's Bureau's first Director, Mia Kellmer Pringle, wrote almost 30 years ago:

The phrase 'he is only playing' is still too often heard, implying that play is only slightly superior to doing nothing at all. In fact, it is an intensely absorbing experience and even more important to the child than work is to the adult. (1975: 43)

Communicating respect

Most of us have answered a question for a young child when they were capable of responding themselves. Sometimes questions are not even asked. The demands of working in a group setting can mean that enquiring of children's basic needs is replaced by assumption: Hamid has eaten oranges before so there's no reason he shouldn't eat one today (what if Hamid doesn't want an orange right now); Megan looks hot so she should take off her cardigan (wouldn't it be polite to ask Megan if she is feeling uncomfortable); it's time for morning nap, Anka must sleep (but Anka has only just found all the pieces to her toy).

How many of us have lifted a young child without informing them of our intentions or seeking their permission to do so? Or dismissed a child when they were telling us something important? Miller (2003) cautions us to 'resist the temptation to find the teaching point in every exchange', giving this example:

Child: My mum's car broke down on the way to nursery!

Adult: Did it? And what colour is your mum's car? (2003: 32)

In this scenario, the adult is interrupting the child's flow and expression. They are also denying themselves the enjoyment of listening to an interesting anecdote told by an enthusiastic child. Leaving aside the educational benefits of conversation, probing and testing children in this way is not treating them with respect. This kind of interchange would appear very odd were it between two adults.

Treating children courteously tells them they are valued and worthy of respect. Crucially, it also reminds us we are interacting with fellow human beings who have dignity and feelings just like us. Indeed, we encourage very young children, babies included, to say thank you and take turns long before they can properly understand the social meaning of such actions. Writing about the rights of babies, Priscilla Alderson explains: '... rights partly become real in being respected, just as babies learn to speak through being spoken to for months as if they can already speak' (Alderson et al., 2006: 47).

Children's rights agreed worldwide

The rights of children were first codified internationally in the 1920s and then the Declaration of the Rights of the Child was passed by the United Nations in 1959.

Twenty years later, the Polish Government recommended that a dedicated children's rights treaty be drafted. Its proposal was accepted and, after a 10-year drafting period, the UN adopted the Convention on the Rights of the Child (UNCRC) in November 1989. Two years later the UK ratified the Convention, which was a legal undertaking that the treaty would be upheld in all settings and for all children.

The UNCRC has 54 sections, called articles. These prescribe the rights of children, set out the obligations of governments and explain the membership and working practices of the UN Committee on the Rights of the Child. When it was formed in 1991, the UN Committee on the Rights of the Child selected four articles – 2, 3, 6 and 12 – as general principles. These are key to the implementation of all the other rights in the Convention.

Article 2 is every child's entitlement to enjoy his or her rights without any form of discrimination. This includes protection from discrimination relating to his or her parents' actions or status. Implementing children's right to non-discrimination in early years settings entails treating every child with respect and fairness, and ensuring individual needs are understood and met. Positive action will sometimes be necessary to ensure children can enjoy their rights on an equal basis with other children. The case study below shows the harm that can be caused by breaching a child's right to privacy, which in this situation arose from a mother being arrested for shoplifting.

CASE STUDY

The right not to be discriminated against

Four-year-old Chantelle arrives at nursery with her grandmother who tells the nursery manager that Chantelle's mother was arrested for shoplifting and detained at the police station for several hours over the weekend. Later that day, Chantelle and three other children overhear staff talking about Chantelle's mum being arrested. One member of staff says Chantelle's mum is likely to be sent to prison as she has been in trouble with the police before.

On the bus journey home, Chantelle asks her grandmother if she can live with her when her mum goes to prison. The grandmother is furious when she hears what has happened and makes a formal complaint. She threatens to remove Chantelle from the nursery. Staff say the children were playing together and they hadn't realised any of them were listening to their conversation.

- What kind of information should be shared in early years settings?
- How can this be done in a manner consistent with children's right to privacy?

Article 3 of the UNCRC requires that the child's best interests be a primary consideration in all actions concerning the child. In certain circumstances, the Convention gives absolute priority to the child's best interests, for example in adoption and other legal processes where the separation of the child from his or her family environment is being considered (articles 21 and 9 respectively). The best interests of children are not defined in the treaty itself: they have to be constructed from analysing 'the sum total of the norms in the Convention' (Hammarberg, 2008). Where the best interests of an individual child in a particular situation is under consideration – for example, when decisions are being made about the child's home, relationships and education following parental separation – it will be necessary to scrutinise those parts of the Convention which are most pertinent. The case study below illustrates the challenges of seeking to act in the best interests of a child when other children are affected too.

CASE STUDY

Acting in the child's best interests

Two-year-old Sonny has been with the same childminder since he was nine weeks old. Both his parents work full-time. He is with his childminder three days a week and grandparents two days.

Sonny is thriving and enjoys being with his childminder. His parents are expecting another child and would like both their children to be looked after by the same childminder. Looking after Sonny's sibling would breach the childminder's conditions of registration. Sonny's parents are therefore considering moving Sonny to another childminder who can look after both their children.

- What factors would you take into consideration when determining the best interests of the two children?
- Would you ask Sonny his views?

Article 6 requires all those states that have ratified the UNCRC to ensure every child's right to survival and maximum development. This encompasses all aspects of the child's development. In educational settings it is also useful to refer to article 29, which sets out the aims of education, starting with the development of the child's personality, talents and mental and physical abilities to their fullest potential. The case study below considers the role of early years practitioners in championing the rights of young children.

CASE STUDY**The child's right to develop fully**

Mohammed is 5 years old and is a very quiet, placid child. He seems to be a bit of a daydreamer and doesn't have any friends at his after-school club which he attends with his 7-year-old brother.

Mohammed's older brother often speaks and makes decisions for him when they attend after-school club together. After-school workers have noticed Mohammed takes books to his brother to read aloud to him. One of the workers mentions this to his father and he says he is also concerned about Mohammed's development but does not know what to do. Mohammed's class teacher believes he is easily distracted but his parents think he may be having difficulties in learning.

- How can early years practitioners assist families in accessing support for children whose additional needs have not been recognised by other service providers?

Article 12 is the right of every child who can form a view to freely express this view. Due weight should be given to the child's views in accordance with his or her age and maturity. Every child has the right to be heard in any court or administrative proceeding concerning the child, and views can be communicated directly or through a representative.

The right to be heard and taken seriously is critical to respecting the child as an individual person with feelings, thoughts and wishes. The UN Committee on the Rights of the Child stresses there is no minimum age for the enjoyment of this right. The case study below describes a young child suggesting an improvement to the way her children's centre is organised. The child is concerned about minimising disruption to her own play, but may be highlighting a general problem. She is showing insight and problem-solving skills that could be used to good effect by the children's centre.

CASE STUDY**The child's right to be heard and taken seriously**

Three-year-old Sophie attends a children's centre once a week with her mother. She loves going to the children's centre and particularly enjoys building things with K'Nex® and Lego®, which she doesn't have at home.

(Continued)

(Continued)

Sophie gets frustrated when other children take pieces from her construction or knock into it when they are running around. She asks one of the workers if she can take a box of Lego® into the baby changing room as only babies go in there and they don't run around. The worker says it is a nice idea but floors in toilets are not hygienic so all playing must be done in the main play area. Sophie decides to play with something else.

- Could staff in the children's centre have responded more positively to Sophie's ideas?
- How might Sophie be enabled to give advice on other aspects of the organisation of the children's centre?

Children's rights: Themes and implications for practice

There are five main themes within the UNCRC, and children's rights literature generally, and these have implications for how early years practitioners interact with children and deliver their services:

- Children of all ages have human agency – the capacity to make choices, shape their own lives and influence others.
- Human capacity evolves over time. In seeking to protect children's rights, we must always consider the individual child's evolving capacities.
- The best interests of children are shaped by an understanding of the child's wishes, feelings and views.
- Children's rights are interrelated and interdependent and concern all aspects of child well-being and development.
- Whilst governments are responsible, under international law, for ensuring the UNCRC is implemented, we must all uphold children's rights.

Recognising and supporting young children's agency

Human agency is the abiding need and capacity of human beings to make choices and influence our surroundings. Young children's agency is increasingly recognised, within the UK and internationally (Bernard van Leer Foundation, 2006; David et al., 2003). Alderson has conducted research with others on the different ways newborn babies in

neonatal units contribute to their care and treatment (Alderson et al., 2006). This work provides compelling evidence that *very young* human beings interact with their carers and environments, make sense of, and respond to, their surroundings, and constantly communicate their needs and desires. The UN Committee notes that very young children:

make choices and communicate their feelings, ideas and wishes in numerous ways, long before they are able to communicate through the conventions of spoken or written language. (2006: 7)

Listening to babies and young children, and actively seeking to understand their wishes and feelings, is fundamental to respecting them as people. The former Director of the municipal early childhood centres in the Reggio Emilia city in northern Italy, Carlina Rinaldi, says that active listening legitimises the person being listened to. In noting that 'children cannot bear to be anonymous' (2005: 20), Rinaldi reminds us that properly listening, and tuning in, to children ensures they are known. There are many actions that early years practitioners can take to promote the agency of babies and young children, as the example below demonstrates.

Young children making choices about sleep and rest

Babies at Riverside Children's Centre in North Tyneside each have their own padded wicker basket that they can access independently when they want to sleep, rest or play. Staff at the children's centre decided some years ago that placing babies in and out of cots unnecessarily restricted their movement and choices (Gordon-Smith, 2008: 20).



Reflection

In what ways do the physical surroundings of your setting encourage the agency of babies and young children? What choices can babies and young children make?

Evolving capacities central to protecting children's rights

The concept of evolving capacities challenges theories about child development that purport that all babies and children follow rigid, predictable stages of development.

Probably the most famous of all developmental psychologists, Jean Piaget, conducted experiments that concluded children below the age of 7 are unable to comprehend the other person's point of view. Later experiments showed this to be false but Piaget's theory was already well established across the Western world. Its central claim is that young children are unable to empathise, to think about other people's feelings and needs. The idea that they are lacking this basic ability – and there is nothing

they can do about this except grow up – is damaging to young children. For once they are seen to be lacking such a fundamental characteristic, it is easier to deny other human qualities. From this perspective, the purpose of childhood is to acquire adult attributes, skills and capabilities. And that takes us back to the child who told the Children's Rights Director that children only exist because it's impossible to be born an adult!

No doubt aware of the risks of adopting a fixed 'age and stage' approach, the authors of the Early Years Foundation Stage (EYFS) non-statutory guidance material include this reminder on every single page:

Children develop at their own rates, and in their own ways. The development statements and their order should not be taken as necessary steps for individual children. They should not be used as checklists. The age/stage bands overlap because these are not fixed age boundaries but suggest a typical range of development. (Early Education, 2012)

Read alongside the EYFS principles, which are set out in the Government's statutory framework (Department for Education, 2012b), this guidance makes it clear that early years practitioners are expected to get to know and relate to each child as a unique person.

An acceptance of children's evolving capacities means that we recognise the capabilities and potential of *every* child. We understand the ways in which we help (or hinder) the development of capacities; and see that children's relationships, opportunities and environments affect what they are capable (and incapable) of. In 1971, 80 per cent of 7- and 8-year-olds walked to school without an adult. Twenty years later this figure had reduced to less than 10 per cent of children (Hillman et al., 1990). The researchers found that parents were accompanying or chauffeuring their children to and from school because of their own fears associated with traffic and abduction. The following case study reports on a children's centre that engages young children in staff selection, making sure they have a role that is both meaningful and enjoyable.

CASE STUDY

Young children involved in staff recruitment

Young children attending First Steps Twerton Children's Centre in Bath and North East Somerset are involved in staff recruitment by assessing candidates' ability to read them stories. Children assess individual performances by using smiley and sad faces and this information helps the recruitment panel make its decisions. This is one of two local children's centres to be awarded the Gold Standard in the Children and Young People's Charter Scheme run by The Children's Society (The Bath Chronicle 3 Feb 2011).



Reflection

What does an early years setting gain from involving young children in staff recruitment? What positive messages would you communicate to candidates by involving young children in their selection process?

Children's best interests shaped by their wishes, feelings and views

As discussed above, two of the UNCRC's general principles relate to the child's best interests (article 3) and the child's right to be heard and taken seriously (article 12). The UN Committee on the Rights of the Child states 'there can be no correct application of article 3 if the components of article 12 are not respected' (2009: 15) which means that children's views must always be taken into account when considering what is best for them. A report I wrote for the Council of Europe put it this way:

The right to be heard and children's best interests are often seen as being in competition, when in reality they are mutually dependent. Try asking yourself which you would be prepared to relinquish – the right to live in conditions conducive to your well-being or the right to be heard and respected. It's an impossible and meaningless choice – the right to express oneself to others is part of being a fully functioning human being. (Willow, 2008: 130)

The importance of listening and responding to children's views is reflected in many UK laws. For example, nursery schools are required by the Education Act 1996 to have regard to Government guidance on pupil participation in decision making. When a court is deciding what is best for a child it must have regard to the child's wishes and feelings, as must social workers, before making any decision about children's care and treatment. These duties apply to all children, irrespective of their age. Local councils must have regard to the expressed views of young children when carrying out their duties under the Childcare Act 2006. Directors of Children's Services are now required by statutory guidance to have regard to the general principles of the UNCRC and to ensure that children are involved in the development and delivery of services (Department for Education, 2012c: 3). The Mosaic Approach, summarised below, has been adopted by many early years settings as a means of delivering better services to children.

Learning through dialogue what children need and want

Alison Clark and Peter Moss developed The Mosaic Approach (2011) as a way of eliciting the views and experiences of young children in early years settings. This

multi-method approach aims to create a 'living picture' of the child in the early years setting (it can be used in other contexts too) and starts with observation then uses an assortment of techniques to obtain additional information, including:

- Interviewing the child
- Giving children cameras to take photographs of important things
- Accompanying children on tours of their early years setting (the child is the leader and guide)
- The researcher and the child make a map based on the child's photographs and tour: these give a focus to dialogue and conversation about the setting
- Role-play using play figures
- Dialogue with children, practitioners and parents.



Reflection

Consider how your setting elicits the views and experiences of children using your service? Has anything changed in your setting as a result of listening to children?

Children's rights concern all aspects of children's well-being and development

There are parts of the UNCRC which relate especially to early childhood: the right to a name, nationality and to know and be cared for by both parents whenever possible (article 7); parents having the child's best interests as their basic concern and being entitled to assistance in their parenting role (article 18); the child's right to protection from all forms of violence (article 19); the right to play and recreational activities (article 32); and government's duties to ensure the reduction of child deaths, to encourage breastfeeding and to provide health guidance to parents (article 24).

There are numerous other rights that young children share with older children, including: civil rights, such as freedom of expression (article 14), freedom of association (article 15) and the right to privacy (article 16); the right to an adequate standard of living (article 26); the right to education which helps them develop fully as people and the duty on education providers to ensure discipline is carried out in a way which respects the child's human dignity (articles 28 and 29); the right to special care and assistance if they are separated from their family environment (article 20); the right of disabled children to lead full and decent lives and enjoy active participation in their communities (article 23); and children's entitlement to have information about their rights (article 42: the Government is also under a duty to inform parents and professionals about the UNCRC). The Children's Rights Alliance for England has produced

an activity book for young children that explains all 54 articles of the UNCRC in an accessible way (Willow, 2006).

Many early years settings promote a rights-respecting ethos, and some are working towards UNICEF UK's Rights Respecting Early Years Award. But all early years settings have a crucial role to play in promoting and protecting children's rights. Indeed, as well as being prohibited from using corporal punishment themselves, early years providers must now, so far as is reasonably practicable, ensure other people caring for, or in regular contact with, children, do not use corporal punishment. This new duty came into force in September 2012 and should lead to greater promotion of non-violent parenting, though it falls far short of giving children the same legal protection from assault as adults.

Young children talk about smacking

When the UK Government last consulted the public about the law on smacking, two children's charities consulted 75 young children, aged 4 to 7 years, about physical punishment (Willow and Hyder, 1999).

A storybook was created with an appealing character called Splodge who was introduced to the children as not knowing much about this world. Questions to the children included 'what is a smack' and 'how does it feel to be smacked'. Children described smacking as a hit or very hard hit and told Splodge:

'It feels like someone banged you with a hammer' 5 year-old girl

'Sometimes may feel that inside like their tummy hurts' 5 year-old boy

'You're hurt and it makes you cry [and] drips come out of your eyes' 5 year-old girl

'It hurts and it's painful inside – it's like breaking your bones' 7 year-old girl

(Willow and Hyder, 1999: 46–51)

Similar research has since been carried out in Wales, Scotland, Northern Ireland and New Zealand; and the perspectives of 2- to 4-year-olds have been elicited through focus groups in early years settings in England (Milne, 2009).



Reflection

How can early years practitioners ensure methods of discipline are consistent with children's human dignity? What action could early years practitioners take to implement their new duty to seek to stop parents and carers from using corporal punishment?

We are all responsible for promoting and protecting children's rights

It is now 20 years since the UK ratified the UNCRC, so the idea of children being rights holders should be well established across all children's services. The Human Rights Act (HRA), which places legal duties on many professionals working with children, has also been in force for over a decade.

The HRA was passed by Parliament in 1998 and makes it illegal for public authorities to act in a way that is incompatible with a right in the European Convention on Human Rights (ECHR). There are 16 rights in the ECHR, including the right to respect for private and family life; the right to protection from inhuman and degrading treatment or punishment; and the right to manifest your religion.

Publicly funded nursery schools and children's centres are public authorities, so staff working in those settings must follow the HRA. HRA duties may also apply to childminders and early years practitioners working in private nurseries, as the Act's definition of a public authority includes 'any person certain of whose functions are functions of a public nature'. Victims of rights violations can take public authorities to court and claim compensation. People of all ages are protected by the HRA, including babies and young children.

Some of the rights in the UNCRC resemble the rights protected by the HRA, such as the right to privacy, the right to education and the right to effective participation in official proceedings. But the UNCRC has not been made part of UK law so our courts cannot enforce its rights. Nevertheless, cases involving children that do go to court *can* refer to the UNCRC obligations. For example, article 3 of the UNCRC (the child's best interests) was given prominence in a High Court case in 2012 about imprisoned mothers being allowed temporary home leave to spend time with their children, even though this was a HRA case (*R (MP & P) v Secretary of State for Justice*). In a different HRA case, considered by the Supreme Court in 2010, it was stated that a child's best interests must always be a primary consideration when the authorities are deciding whether to deport a parent, consistent with the UNCRC (*ZH (Tanzania) v Secretary of State for the Home Department*).

Some years earlier, the UNCRC featured prominently in a HRA case brought to the House of Lords (since replaced by the Supreme Court) about the lawfulness of a ban on corporal punishment in schools. A group of Christian parents argued that their human right to manifest their religion was being breached by the ban. They believe that Christian parents have a duty to use physical punishment and teachers should be able to lawfully assault children if parents request this. The parents' claim was strongly rejected, with the leading judge, Baroness Hale of Richmond, stating:

A child has the same right as anyone else not to be assaulted ... Above all, the state is entitled to give children the protection they are given by an international instrument to which the United Kingdom is a party, the United Nations Convention on the Rights of the Child. (*Williamson and ors) v Secretary of State for Education and Employment* [2005] UKHL 15, [80])

The UN has established a new complaints mechanism that children can use when their UNCRC rights are violated and they have exhausted all remedies in their own country. The UK has yet to sign up to this procedure, though the coalition Government has indicated it will consider early ratification (Human Rights Council, 2012). Acceptance of this mechanism would significantly strengthen the protection given to children's rights in the UK. But laws, policies and complaints procedures do not on their own change the lives of babies and young children. It is the people that love, nurture and care for children that make rights real. And it is here that early years practitioners play an incredibly important role.

Showing respect, listening to young children's views, being sensitive to their feelings, getting to know them as individuals, offering a range of enjoyable and fulfilling experiences, always having their best interests at heart and being an advocate when necessary – this is what upholding the rights of young children is in practice. When the Children's Rights Director for England asked children to define what well-being means to them, one child replied: 'being able to know that there will be more nice things to come' (Morgan, 2010: 28). Unlike many other professionals, early years practitioners can deliver on this each and every day.

Journal Task

Woodhead, M. (2005) 'Early childhood development: A question of rights', *International Journal of Early Childhood*, 37(3): 79–98. <http://oro.open.ac.uk/35894/2/64CC5394.pdf>

This article signposts two broadly different approaches to child development – one that sees all babies and children following a set of natural and predictable stages towards maturation, whereby an unformed and incomplete human being grows into a capable, autonomous adult; and the other that sees child development as being variable across communities and cultures and which places great value on the child's dignity and capacities. The second approach recognises children as rights holders and critiques the notion of adulthood being an end-stage of supreme independence and competence.

Levels 4 & 5

Consider how these two ways of understanding child development might affect the way in which early years practitioners approach their work and relationships with young children.

Level 6

Reflecting on this article, and using material you have researched yourself, what key points would you include in a strategy for promoting and protecting children's rights in your setting?

To download this task as well as other useful online resources please visit:

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Summary

This chapter discussed the importance of early childhood and the vital role of early years practitioners. We explored the status of babies and young children and the need for respectful relationships and laws. The development of the UNCRC was discussed and we looked in-depth at articles 2, 3, 6 and 12 (the general principles). Although the Convention is not part of UK law, early years practitioners should be implementing it and are also bound by the HRA. We examined the main themes in the children's rights literature – including children's agency, evolving capacities and the relationship between children's views and their best interests – and looked at case studies showing children's rights being upheld in a variety of early years settings.

Further reading

Levels 4 & 5

Leach, P. (2012) 'Babies are people', *Nursery World*, 7 February. This short article powerfully advocates the rights of babies.

Miller, J. (2003) *Never Too Young: How Young Children Can Take Responsibility and Make Decisions* (2nd edition). London: Save the Children. This text explores the implementation of children's rights in early years settings through discussion and numerous practical examples and tried-and-tested methods.

Level 6

Alderson, P. (2000) *Young Children's Rights: Exploring Beliefs, Principles and Practice*. London: Jessica Kingsley Publishers Ltd. This accessible and thought-provoking book explores attitudes towards young children and shows how adults in different settings can implement children's rights.

Convention on the Rights of the Child. The United Nations' treaty setting out the rights of children and the responsibilities of governments and others. This is a particularly important document for early years managers and policy makers.

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