

Assisting Children and Young People to Participate in Legal Processes

by Clair Trainor

Clair is a lawyer working in a free legal service for young people. She is a psychodrama trainee within the Auckland Training Centre for Psychodrama. In this article Clair describes something of her application of role training in this legal setting.

I am a lawyer practicing in the area of education law. I am one member of a group of nine staff who provide a free legal service for children and young people up to the school leaving age¹. Education law is a relatively new area of legal practice. It involves both advocacy for children and young persons and assistance to them in the multitude of situations where they encounter the law or where their access to education is at issue².

When they come up against the law or the requirements of an institution like their school, most children are not equipped to act on their own behalf. In these kinds of situations I have successfully used role training. My assessment is that role training enables my clients to more fully participate in these forums and to comprehend the events as they occur.

I include two examples of my work where role training has been of assistance: school discipline meetings; and court appearances.

School Discipline Meetings

For example, a child is facing suspension from school for allegedly assaulting another student. The hearing would be before the school's Board of Trustees, made up of parents from the community. The Board of Trustees is entitled to make a decision on whether the accused student is able to continue his/her education or will be excluded from the school³. The accused student has certain legal rights. These include the right to have his/her views heard, though they cannot be compelled to be present.

Although in the majority of cases children and young people want to be present; their desire to actively participate varies. Where a child wants to be present at the meeting, my tasks include the following:

- preparing them for the meeting;
- facilitating their involvement;
- providing the structure necessary to allow them to be heard;

- preventing unfair questions being put;
- ensuring that a fair and lawful process is followed;
- advocacy;
- ensuring by the end of the meeting that the Board have heard their account of events (where there is a difference between that and the account put forward by the Principal);
- ensuring the Board have heard or received any apologies they wish to make;
- ensuring the Board have heard any suggestions they or their family wish to make to 'put right the wrong'⁴.

My preparation for these meetings involves time spent explaining the process to the young person and their family and "role training" them to be as spontaneous as possible in this environment. There has also been a change required in my professional identity in this situation. This has taken the path of the *fighting advocate* becoming the *facilitating advocate*.

Typically, I will set out a number of scenes. For example, I will invite them to practice telling a member of the Board any information that they have indicated is important. This may be about their plans to sit school certificate that year or their fears that exclusion from the school will severely undermine their chosen career. Aspects of the method I have found particularly useful are to use:

- the setting of the scene to educate them about the functions of the various people who will be present;
- role reversal to provide a rehearsal for the meeting;
- mirroring, particularly when they are having difficulty expressing themselves (this often provides

an opening for a more real discussion on their concerns).

Court Appearances

For example, a child has complained of sexual assault by his/her teacher. The police are prosecuting the teacher. In these situations children may have to give evidence or appear as witnesses.

When educating children about the court process, it is necessary to avoid coaching the child to deliver the 'right' answers. However, it is not reasonable for children to be left to get by without guidance in dealing with questions in this very intimidating forum.

When preparing people for court my focus is on providing information and practice at answering questions (as long as they are not about the forthcoming case). Both these strategies are aimed at reducing anxiety.

I also try to assist the child to develop a role she or he identifies with to take into court. This may be the role of the *'truthful speaker'* for example.

Conclusion

Psychodrama has been valuable for my work in two ways. First, it has assisted me as a practitioner to develop more spontaneous responses to situations involving my young clients and their families. Second, it has helped me to think more creatively about how I can prepare children and young people to participate in formal environments.

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1. 19 years is the age at which you are required to leave school – although it can be as early as 16 years.

2. I also provide telephone advice to children and young people and adults assisting them, write submissions on amendments to legislation that will affect children and young people, comment to the media on matters affecting them and have input into agencies' policy where possible. The casework I do informs these comments.
3. Some children and young people drop out of the school system if they do not have advocacy to support them at the meeting with the school attempting to exclude them and to facilitate their placement in a new school, where that is necessary. Schools are often reluctant to enrol suspended students and the Ministry of Education may take many months to follow-up the excluded student. In the writer's view this can have an effect on criminal offending among young people – around 80% of those appearing in the Youth Court are not attending any school, despite being below school leaving age.
4. The notion of 'putting right the wrong' is from the restorative justice model, which encourages offenders or wrong-doers to identify that they have hurt another person and that they can assist that person's recovery.