

**THE USE OF RESTRAINT IN SECURE TRAINING CENTRES**  
**Written evidence for the Parliamentary**  
**Joint Committee on Human Rights<sup>1</sup>**

**INTRODUCTION**

1. This submission is provided by the Children's Rights Alliance for England<sup>2</sup> ("CRAE") and the National Society for the Prevention of Cruelty to Children ("NSPCC")<sup>3</sup> in response to the JCHR's call for written evidence on the compatibility of the Secure Training Centre (Amendment) Rules 2007 (the "Amendment Rules") with international human rights standards<sup>4</sup> and any observations regarding the use of force against children in secure training centres, prior to holding an oral evidence session with the Rt Hon. David Hanson MP, Minister for Justice, on October 10<sup>th</sup> 2007. Dame Mary Marsh of the NSPCC and Carlyne Willow of CRAE served on the advisory panel of the Carlile Inquiry<sup>5</sup>, interviewing children in private about the use and impact of restraint and "distraction" techniques.
2. The Amendment Rules give rise to serious concerns about child safety in secure training centres ("STCs") and should be annulled. The Rules extend the circumstances in which physical restraint can be used, placing greater discretion in the hands of staff. They were introduced without any public consultation, in the context of serious public concern about child injuries and deaths in STCs and

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<sup>1</sup> Referred to hereafter as "the JCHR".

<sup>2</sup> CRAE is an alliance of over 380 voluntary and statutory organisations committed to the full implementation of the United Nations Convention on the Rights of the Child ("CRC"). Our mission is to transform the lives and status of children (under 18 year-olds) in England by lobbying for laws and policies to be fully compliant with children's human rights, monitoring Government action on implementing the CRC and other human rights instruments, and disseminating children's rights information to the public.

<sup>3</sup> The NSPCC is the UK's leading charity specialising in child protection and the prevention of cruelty to children. The NSPCC aims to end cruelty to children through a combination of community-based projects, national helplines and other work to achieve cultural, social and political change. This is achieved through a combination of service provision, lobbying, campaigning and public education.

<sup>4</sup> See paragraphs 28 to 44 below.

<sup>5</sup> An independent inquiry commissioned by the Howard League for Penal Reform, which reported in February 2006 on the use of physical restraint, solitary confinement and forcible strip searching of children in prisons, secure training centres and local authority secure children's homes.

following the disclosure in a recent inquest of systematic failures by the Youth Justice Board (“YJB”) to protect children.<sup>6</sup>

3. Two months have passed since the Government proposed a joint six-month review of restraint. The proposal fails to allay our concerns due to a lack of information as to the review’s terms of reference, a lack of transparency about the nature of authorised restraint techniques<sup>7</sup> and continued delay.
4. Our key recommendations are summarised below, followed by fuller submissions. Copies of our letters to the European Committee for the Prevention of Torture are annexed to this submission.

## **OUR KEY RECOMMENDATIONS**

### **Treatment of children in custody**

5. An urgent, independent public inquiry should be carried out into the treatment of children in custody in the UK, with a view to bringing the juvenile justice system into line with international human rights standards for children.

### **Purpose of restraint**

6. The current rules on the physical restraint of children held in secure training centres are in breach of international human rights standards and should be reviewed and amended immediately.
7. We accept that it is sometimes necessary to use appropriate physical restraint on children in STCs. However, we have serious concerns about the apparent over-reliance on restraint in STCs to date, as illustrated by the frequency of its use and personal testimony of children.<sup>8</sup>
8. Physical restraint should be a measure of last resort only ever used to prevent serious physical injury save that, within the context of detention, there are strong arguments for restraint to be permitted to prevent immediate escape. Arguments concerning the use of restraint for this purpose and other narrow and clearly

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<sup>6</sup> Inquest into the death of Gareth Myatt, July 2007.

<sup>7</sup> See paragraph 24 below.

<sup>8</sup> Approximately 250 children are held in the UK’s four STCs. Freedom of information requests by CRAE have revealed that “distraction” techniques were used 768 times in STCs in the period November 2004 to October 2005 and that 51 injuries resulted, with no children receiving outside medical treatment (State of Children’s Rights in England, third report by CRAE, p. 22), and that the techniques were used 121 times from February to August 2006 (State of Children’s Rights in England, fourth report by CRAE, p.25). Parliamentary Answers have shown that between January 1999 and June 2004 restraint was used 11,593 times in STCs (Hansard, 24 June 2004, col. 1522W; Carlile Report, para. 101) and that that restraint was used 3,036 times in the period November 2005 to October 2006 (Hansard, 18 December 2006, col. WA259). One child reported to the Carlile Inquiry that slamming a mug on a table was sufficient for PCC to be applied (Carlile Report, para. 138).

defined purposes, such as the prevention of serious property damage, should be considered in the context of a full, public inquiry into the treatment of children in custody and what restraint powers are genuinely required and justifiable, including a review of authorised restraint techniques (see paragraph 12 below).

9. Restraint should never be used simply to maintain order or to impose the authority of staff over children.<sup>9</sup>
10. Corporal punishment should be explicitly prohibited in all settings.

### **Restraint techniques**

11. Restraint techniques that carry a risk of serious injury or death (including asphyxiation) or are deliberately intended to inflict pain<sup>10</sup> (so-called “distraction” techniques) should be abolished immediately pending an urgent, independent public inquiry into the treatment of children in custody.
12. There should be a full and transparent review of authorised restraint techniques in all settings, the available alternatives, and the safeguards required to ensure maximum child protection and human rights standards are achieved and maintained. Children with direct experience of physical restraint should be consulted as part of this review.
13. There should be one approved set of restraint methods across education, health and custodial settings.
14. Measures must be urgently introduced to improve risk assessments during restraint so that, wherever it is apparent that a child is suffering discomfort or pain that could indicate a risk of serious harm or death, restraint will be immediately “scaled down” or stopped.

### **Other safeguards**

15. There should be a legal duty on all providers of education, health and custodial settings that use physical restraint to inform children and their parents or carers of their restraint policy, the methods used and the safeguards in place.
16. Whenever a child is subject to physical restraint, the parents or carers of that child should be notified immediately and the relevant children’s advocacy service should also be informed immediately that restraint has taken place.

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<sup>9</sup> It appears that such techniques are currently used in STCs for purposes such as “persuading” children to attend classes or to return to their rooms.

<sup>10</sup> Such techniques cause significant injuries and, because they humiliate, subjugate and de-humanise the child, can inflict serious emotional trauma.

17. National statistics should be published each year reporting on the incidence of physical restraint in education, health and custodial settings, and providing disaggregated data on the circumstances of children subject to restraint and the reasons for restraint.

## **WIDER CONTEXT – FAILING VULNERABLE CHILDREN**

18. Our submissions should be read in the wider context of the UK's extremely low age of criminal responsibility, the increasing criminalisation of children and the harmful impact of custody on children. The UK has one of the highest rates of child custody in Europe and a transformation is required in the way we deal with children in conflict with the law. It is often the youngest and most vulnerable children that are placed in STCs, and the introduction of the Amendment Rules is a matter for serious public concern.
19. Most custodial institutions are not tailored to children's needs, creating dangers for children as well as staff. Efforts must be focused on alternatives to custody and, where custody is absolutely necessary, investing in specialist staff and settings that can meet children's needs and facilitate their rehabilitation in a safe environment.
20. The failures of the current system were summed up by the comments of the Serious Case Review Panel who reported to Lancashire Safeguarding Children Board in September 2007 on the circumstances surrounding the tragic death of 14 year-old Adam Rickwood in Hassockfield STC in 2004 shortly after being restrained. Concluding that, based on the evidence available to them, Adam should probably not have been restrained, the panel commented generally that "*the 'whole [criminal justice] system' treated AR as a child in need of custody, rather than a child in need of care*".<sup>11</sup>
21. The Panel noted that crucial gaps remain in child protection in the secure estate generally (including, for example, a lack of clarity about the legal status of children who are subject to remand to local authority accommodation with a secure requirement) but commented that "[r]egardless of their legal status, these children/young people need to be afforded the same level of care and protection as any other child".<sup>12</sup> The use of restraint is of particular concern given that many children in STCs have suffered past abuse.<sup>13</sup>

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<sup>11</sup> Report of the Serious Case Review Panel upon the circumstances surrounding the death of AR at Hassockfield Secure Training Centre on 9<sup>th</sup> August 2004 (LSCB, 3 September 2007), Part II, page 12, first para.

<sup>12</sup> Ibid, page 12, second para.

<sup>13</sup> As highlighted in the report *Past Abuse Suffered by Children in Custody – A Way Forward* (YJB, November 2006). As far as we are aware this report has still not been formally published by the YJB, although it is in the public domain.

## THE RULES ON RESTRAINT

22. Before the introduction of the Amendment Rules, staff in STCs were authorised to physically restrain children using methods approved by the Secretary of State, when necessary to prevent physical injury, escape, property damage or inciting other children to committing any of those acts.
23. The Amendment Rules extended these powers to permit the use of authorised physical restraint techniques “*where necessary for the purpose of ensuring good order and discipline ... where no alternative method of ensuring good order or discipline ... is available*”.<sup>14</sup>
24. The approved methods of restraint are set out in a Prison Service manual<sup>15</sup> (the “PCC Manual”) and include the deliberate infliction of pain through nose, rib and thumb so-called “*distraction*” techniques. The manual is not in the public domain and the YJB has refused to provide a full copy in response to CRAE’s freedom of information request in May 2007, forcing us to apply to the Information Commissioner whose decision is awaited. We note that the JCHR’s request for the same information has been refused by the Minister for Justice.<sup>16</sup>
25. “*Distraction*” techniques<sup>17</sup> are intended to cause pain, and on many occasions have caused injury to children, as well as carrying a risk of serious emotional trauma. They consist of the following:
  - THUMB: Bending the upper joint of the child’s thumb forwards and down toward the palm of the hand.
  - RIB: Using an inward and upward motion of the knuckles into the back of the child exerting pressure on the lower rib.
  - NOSE: Using the outside of the hand in an upward “*chop*” motion on the child’s septum.
26. The Serious Case Review Panel recorded a staff account of Adam Rickwood’s restraint which noted that he “*had blood running from his nose which is common after the nose distraction technique has been administered*”,<sup>18</sup> and recorded Adam’s injuries as including “[t]wo linear abrasions 7 and 2 mm beneath the ala of the left side of the nose” and “*a linear abrasion 9mm in length on the left ala of*

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<sup>14</sup> Secure Training Centre Rules 1998, Rule 38 (as amended by the Secure Training Centre (Amendment) Rules 2007).

<sup>15</sup> “*Physical Control in Care Training Manual*” (December 2005) © HM Prison Service Training & Development Group.

<sup>16</sup> Letter from the Minister for Justice to the JCHR dated July 10<sup>th</sup> 2007.

<sup>17</sup> These techniques are described in the Carlile Report on page 38 (Howard League for Penal Reform, 2006, available at [www.howardleague.org](http://www.howardleague.org) or by telephone on 020 7249 7373).

<sup>18</sup> Report of the Serious Case Review Panel upon the circumstances surrounding the death of AR at Hassockfield Secure Training Centre on 9<sup>th</sup> August 2004 (LSCB, 3 September 2007), Part II, page 32, para. 13.9.

*the nose*".<sup>19</sup> Probably of even greater concern than these injuries is the impact this method of restraint may have had on Adam's mental state.

27. Other restraint techniques have been found to carry a risk of serious physical injury such as asphyxiation and some have techniques been banned following deaths and serious injuries to children. An urgent safety review is required of the techniques which remain in use.

## **INTERNATIONAL HUMAN RIGHTS STANDARDS**

28. Urgent reform is required in order to prevent inappropriate force being used against children in the secure estate in breach of international human rights standards, including the UN Convention on the Rights of the Child, the European Convention on Human Rights and other instruments, and to prevent offences being committed under the Offences Against the Person Act 1861 and the Children and Young Persons Act 1933. We believe the Amendment Rules are vulnerable to legal challenges both in relation to restraint generally and especially in relation to the "distraction" techniques.
29. We refer to our key submissions above and submit that immediate action is required to bring the UK into line with the following requirements, all of which are binding upon the UK under international law.

### **UN Convention on the Rights of the Child ("CRC")**

30. The current restraint regime is in breach of a range of requirements under the CRC, including the following:
  - Article 3: Requirement for the best interests of the child to be the primary consideration in all actions concerning children whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies.
  - Article 6: States parties' obligation to "*ensure to the maximum extent possible the survival and development of the child*".
  - Article 19: States parties' obligation to undertake all appropriate measures to "*protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation...while in the care of ... any ... person who has the care of the child.*"
  - Article 20: States parties' obligation to provide special protection and assistance to children temporarily or permanently deprived of their family environment.

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<sup>19</sup> Ibid, page 33, para. 13.12.

Article 37(a): States parties' obligation to ensure that no child is subjected to *"torture or other cruel, inhuman or degrading treatment or punishment"*.

Article 37(c): States parties' obligation to ensure that every child deprived of liberty is *"treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age"*.

Article 39: States parties' obligation to *"take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse...Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child."*

Article 40(1): States parties' obligation to *"recognise the right of every child alleged as, accused of, or recognised as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society"*.

31. The United Nations Committee on the Rights of the Child commented in its 2002 Concluding Observations that it was *"concerned at the frequent use of physical restraint ... in custody..."* and urged the UK Government to *"review the use of restraints and solitary confinement in custody, education, health and welfare institutions throughout the State party to ensure compliance with the Convention, in particular articles 37 and 25"*.<sup>20</sup> We believe similar concerns are likely to be raised by the UN Committee when the UK is examined in 2008.
32. In its 2006-07 General Comment on corporal punishment, the UN Committee defined such punishment as *"any punishment in which physical force is used and intended to cause some degree of pain or discomfort, however light"*<sup>21</sup> and referred to the use of such punishment in many settings, including *"all forms of alternative care ... and justice systems"*.<sup>22</sup>

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<sup>20</sup> Committee on the Rights of the Child, Thirty-first session, Consideration of Reports Submitted by States Parties under Article 44 of the Convention; Concluding observations: United Kingdom of Great Britain and Northern Ireland (CRC/C/15/Add. 188, 9 October 2002)

<sup>21</sup> UN Committee on the Rights of the Child, Forty-second session, Geneva, 15 May-2 June 2006, General Comment No. 8 (2006): The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (arts. 19; 28, para. 2; and 37, inter alia) (CRC/C/GC/8, 2 March 2007), para. 11.

<sup>22</sup> Ibid, para. 12.

33. The UN Committee further stated that it “*recognises that there are exceptional circumstances in which teachers and others, e.g. those working with children in institutions and in conflict with the law, may be confronted with dangerous behaviour which justifies the use of reasonable restraint to control it ... The principle of the minimum necessary use of force for the shortest necessary period of time must always apply. Detailed guidance and training is also required, both to minimise the necessity to use restraint and to ensure that any methods used are safe and proportionate to the situation and do not involve the deliberate infliction of pain as a form of control*”.<sup>23</sup>
34. The Committee went on to comment that “*eliminating violent and humiliating punishment of children, through law reform and other necessary measures, is an immediate and unqualified obligation of States Parties.*”<sup>24</sup>
35. In its 2007 General Comment on children’s rights in juvenile justice, the UN Committee stated that “[r]estraint or force can be used only when the child poses an imminent threat of injury to him or herself or others, and only when all other means of control have been exhausted.”<sup>25</sup>

**European Convention on Human Rights (“ECHR”)**

36. The following provisions of the ECHR, incorporated into domestic law under the Human Rights Act 1998, are engaged by the current restraint regime:

- Article 2: The right to life (including the state’s positive obligation to protect the lives of those held in detention)
- Article 3: The prohibition of torture and inhuman or degrading treatment or punishment
- Article 8: The right to privacy (including physical integrity)
- Article 13: The right to an effective remedy before a national authority notwithstanding that a violation has been committed by persons acting in an official capacity
- Article 14: The prohibition of discrimination<sup>26</sup>

37. We believe the use of “distraction” techniques under the current rules is particularly vulnerable to legal challenge in respect of Articles 3 and 14.

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<sup>23</sup> Ibid, para. 15.

<sup>24</sup> Ibid, para. 22.

<sup>25</sup> UN Committee on the Rights of the Child, Forty-fourth session, 15 January – 2 February 2007; General Comment No. 10 (2007) (CRC/C/GC/10) (25 April 2007), para. 89, page 24.

<sup>26</sup> Different rules and practices on restraint apply in different secure settings.

## **UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (“UNCAT”)**

38. UNCAT defines torture as meaning “*any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as ... punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.*”<sup>27</sup>
39. The Convention requires States parties to “*take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction*”.<sup>28</sup>
40. In its 2004 Concluding Observations on the UK’s compliance with UNCAT, the UN Committee Against Torture noted with concern, in respect of the UK’s criminal justice system in general “*reports of unsatisfactory conditions in the State party’s detention facilities including substantial numbers of deaths in custody*”<sup>29</sup> and recommended that the UK should “*develop an urgent action plan, including appropriate resort to criminal sanctions*” to address those concerns.<sup>30</sup>
41. There is a clear risk that the misuse of restraint may breach these provisions.

## **International Covenant on Civil and Political Rights (“ICCPR”)**

42. The ICCPR requires children to be accorded treatment appropriate to their age and legal status (Article 10) and for procedures against children to take account of their age and the desirability of promoting rehabilitation (Article 14).

## **Charter of Fundamental Rights of the European Union**

43. Regard should also be had to this Charter, particularly Article 24 which requires that children should “*have the right to such protection and care as is necessary for their well-being*”<sup>31</sup> and that “[i]n all actions relating to children, whether taken by public authorities or private institutions, the child’s best interests must be a primary consideration”.<sup>32</sup>

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<sup>27</sup> UNCAT, Article 1(1).

<sup>28</sup> Ibid, Article 2(1).

<sup>29</sup> Conclusions and recommendations: United Kingdom of Great Britain and Northern Ireland, 10/12/2004 (CAT/C/CR/33/3), para. 4(g).

<sup>30</sup> Ibid, para. 5(1)

<sup>31</sup> Charter of Fundamental Rights of the European Union, Article 24(1).

<sup>32</sup> Ibid, Article 24(2).

## **United Nations Rules for the Protection of Juveniles Deprived of their Liberty (the “JDL Rules”)**

44. Amongst other requirements, the JDL Rules require that:
- The deprivation of liberty “*should be effected in conditions and circumstances which ensure respect for the human rights of juveniles*”.<sup>33</sup>
  - “*Juveniles deprived of their liberty shall not for any reason related to their status be denied the civil, economic, political, social or cultural rights to which they are entitled under national or international law, and which are compatible with the deprivation of liberty*”.<sup>34</sup>
  - “*The protection of the individual rights of juveniles with special regard to the legality of the execution of the detention measures shall be ensured by the competent authority...*”.<sup>35</sup>

## **UNITED NATIONS VIOLENCE STUDY**

45. Due weight should be given to the recommendations of the 2006 United Nations World Report on Violence against Children, which notes that “[v]iolence against children while in justice institutions ... is more common than violence against children placed in institutions solely for provision of care”<sup>36</sup> and calls on governments to prohibit all violence in care and justice systems and to ensure quality staffing and training for all those who work with children in those settings.<sup>37</sup>

## **CHILD DEATHS IN CUSTODY**

46. Twenty nine children have died in custody in the UK in the last 17 years, including 14 year-old Adam Rickwood and 15 year-old Gareth Myatt in 2004, both of whom died following the use of physical restraint by staff in two of the country's four STCs. Adam had been subjected to a nose “*distraction*” hours before his death.
47. On June 28<sup>th</sup> 2007, jurors at the inquest into Gareth Myatt’s death returned a verdict of accidental death and made sweeping criticisms about the conduct of the YJB, including the following failures which it concluded caused or contributed to Gareth’s death:

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<sup>33</sup> United Nations Rules for the Protection of Juveniles Deprived of their Liberty, Article 12.

<sup>34</sup> Ibid, Article 13.

<sup>35</sup> Ibid, Article 14.

<sup>36</sup> Paulo Sérgio Pinheiro, Independent Expert for the United Nations Secretary-General’s Study on Violence against Children, United Nations (2006), Chapter 5, page 190.

<sup>37</sup> Ibid, page 216.

- Lack of adequate assessment of the safety of Physical Control in Care, and the Seated Double Embrace in particular, before it was introduced.
- Failure to undertake a medical review of the safety of Physical Control in Care, and the Seated Double Embrace in particular, by the Home Office or the YJB, before Gareth's death.
- Lack of personnel at the YJB with specific management responsibility for the safety of Physical Control in Care prior to Gareth's death.
- Inadequacy in the response by the YJB to the National Children's Bureau Report as to the urgent need for the medical review of Physical Control in Care.<sup>38</sup>
- Inadequacy in the YJB's response to the letters of David Tuck, the YJB monitor at Rainsbrook STC in 2002 and 2003, in which it was noted that children were complaining that they could not breathe while being restrained and that some were vomiting.
- Inadequacy in the YJB's monitoring of the use of Physical Control in Care at Rainsbrook STC.
- Inadequacy in the monitoring of the use of Physical Control in Care at Rainsbrook by Rebound management (the YJB's contractor).

#### **OVER-RELIANCE ON RESTRAINT – CONCERNS ABOUT STAFF AND SETTING**

48. CRAE wrote to the then Minister for Justice in May 2007 and again (jointly with the NSPCC) in June 2007 to raise our serious concerns about restraint of children in custody in general and the Amendment Rules in particular, receiving a reply in August 2007. Carolyne Willow of CRAE is now due to meet with the Rt. Hon. David Hanson MP in late October to discuss these concerns.
49. CRAE wrote to the European Committee on the Prevention of Torture in November 2005 and June 2007 to encourage them to investigate these matters, receiving a response in August 2007 which reported that the Committee "*continues to examine carefully the use of, and safeguards surrounding, physical restraint of children in detention in England and Wales*". Copies of this correspondence are annexed to this submission.

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<sup>38</sup> National Children's Bureau Report to the YJB on the use of Physical Intervention within the Juvenile Secure Estate.

50. The Carlile Inquiry recommended to the YJB in February 2006 that “[r]estraint should never be used primarily to secure compliance...”. The YJB and Minister for Justice have sought to defend their position by stating that the restraint rules and YJB guidance, together with the common law on assault, do not permit this. The Minister for Justice has confirmed that there are no plans to amend the code of practice.<sup>39</sup>
51. However, the evidence gathered by the Carlile Inquiry, by CRAE through freedom of information requests, by the National Children’s Bureau and through the inquests into the deaths of Adam Rickwood and Gareth Myatt, suggests that physical restraint has been used routinely in STCs for unlawful purposes and, specifically, as a response to non-compliant behaviour.<sup>40</sup>
52. This was reflected by the conclusions of the Serious Case Review Panel investigating the circumstances surrounding Adam Rickwood’s death. Adam committed suicide hours after being restrained as a result of his refusal to go to his bedroom. The Panel commented that “[o]n the evidence available...it is probable that AR should not have been restrained”<sup>41</sup> and raised “concern about the use of the ‘nose distraction’ technique, particularly within a system which purports not to rely on pain compliance, but also because it may well involve a breach of Article 3 of the [ECHR].”<sup>42</sup>
53. The Panel referred more generally to apparent staff confusion “about the basis on which restraint of young people is permitted, notwithstanding the clear guidance given in the ‘Physical Control in Care’ Training Manual, and during staff training”<sup>43</sup> and noted that when questioned, Hassockfield STC staff gave varying explanations of the circumstances in which restraint could be used.<sup>44</sup> It was also noted by the Panel that “[i]mmediately prior to the restraint, [Adam Rickwood] was not being physically abusive to a member of staff”.<sup>45</sup>

### Clarification of the law?

54. The Government claims that the Amendment Rules simply clarify the existing law. We believe this is misleading. During the recent inquest into Adam

<sup>39</sup> Letter from the Minister for Justice to the JCHR dated July 10<sup>th</sup> 2007.

<sup>40</sup> See: The Carlile Report; State of Children’s Rights in England, third and fourth reports (CRAE – available on 020 7278 8222 or at [www.crae.org.uk](http://www.crae.org.uk)); National Children’s Bureau Report to the YJB on the use of Physical Intervention within the Juvenile Secure Estate (available at [www.yjb.gov.uk](http://www.yjb.gov.uk); contact INQUEST on 020 7263 1111 or at [www.inquest.org.uk](http://www.inquest.org.uk)).

<sup>41</sup> Report of the Serious Case Review Panel upon the circumstances surrounding the death of AR at Hassockfield Secure Training Centre on 9<sup>th</sup> August 2004 (LSCB, 3 September 2007), Part II, page 34, first comment under para. 15.1.

<sup>42</sup> Ibid, page 34, third comment under para. 15.1.

<sup>43</sup> Report of the Serious Case Review Panel upon the circumstances surrounding the death of AR at Hassockfield Secure Training Centre on 9<sup>th</sup> August 2004 (LSCB, 3 September 2007), Part II, page 20, para. 3.10.

<sup>44</sup> Ibid, page 33, para. 14.1.

<sup>45</sup> Ibid, page 35, para. 16.2.

Rickwood's death, the Youth Justice Board ("YJB") accepted that force used in order to ensure good order and discipline would be unlawful.<sup>46</sup>

55. The coroner in Adam Rickwood's inquest called for a clarification of the law to prevent future deaths in custody. The Amendment Rules do nothing to address the coroner's concerns, being apparently primarily concerned with legitimising the actions of STC staff rather than introducing further safeguards for children.
56. The Amendment Rules will inevitably encourage even wider use of restraint and will lead to more harm for children in STCs. The Secure Accommodation Network<sup>47</sup> has indicated that it is "*fundamentally opposed*" to the new rules.<sup>48</sup>
57. The wording of the Amendment Rules is open to wide interpretation and make it easier to justify the use of physical restraint, but will not help STC staff judge when restraint is appropriate. Far from transmitting a clear message to STC staff that their use of physical restraint should be dramatically reduced, the new rules significantly widen the circumstances in which staff may physically restrain children and leave more discretion in the hands of staff.
58. Serious concerns have been raised about the quality of staff, adequacy of their training and staffing levels in STCs. Further concerns have been raised about potential conflicts of interest, given that the private firms managing STCs must meet targets for children's participation in education in order to secure financial rewards. It became apparent from interviews with children during the Carlile Inquiry that restraint was being used to ensure children attended education sessions (see paragraph 64 below).
59. The Serious Case Review Panel on Adam Rickwood's death made a number of concluding recommendations regarding the use of restraint nationally, including the following:

*"xxv. That more detailed guidance as to the circumstances in which PCC may be used be included in a revised edition of the Manual, to be supplemented by initial/refresher training of all staff."*

*"xxvii. That all 'pain distraction' techniques used on children be reviewed as a matter of urgency."*

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<sup>46</sup> See INQUEST's briefing of June 2007 for further background on this point. Contact INQUEST on 020 7263 1111 or email [helenshaw@inquest.org.uk](mailto:helenshaw@inquest.org.uk) for a copy.

<sup>47</sup> SAN is a professional body whose role includes developing and sharing good practice in respect of secure accommodation for young people. See [www.secureaccommodation.org.uk](http://www.secureaccommodation.org.uk) for more information.

<sup>48</sup> Contact Roy Walker ([Roy.Walker@hullcc.gov.uk](mailto:Roy.Walker@hullcc.gov.uk)) for the Secure Accommodation Network's July 2007 briefing on restraint.

*“xxxvi. The use of restraint in the whole of the secure estate is reviewed nationally and that any proposed changes made to the current system are subject to a period of open consultation.”<sup>49</sup>*

## **LACK OF CONSULTATION**

60. We agree with the concerns raised by the JCHR in its letter of June 25<sup>th</sup> 2007 to the Minister for Justice that the Rules constituted a “*significant and controversial extension of the circumstances in which restraint can be used in secure training centres*” without informing the JCHR.
61. The Amendment Rules were laid without any public consultation and in direct contradiction to the recommendations of child protection and penal reform organisations, including the Carlile Report.<sup>50</sup>
62. The YJB and Ministry of Justice failed to consult the Children’s Commissioner or any other agency with particular expertise in child care and child protection. Many of these agencies have subsequently written to the Secretary of State to express their concerns about the Amendment Rules.
63. It appears that even the Secretary of State’s appointed panel of experts, the PCC Review Panel, was not consulted about the change in the rules. The Panel has apparently not met since March 2005.

## **CHILDREN’S VIEWS ON RESTRAINT**

64. Testimony from children about the use of restraint in a variety of settings is helpful to illustrate the type of injuries and powerful emotional impact suffered by children as a result of its use:

*”I got PCCd<sup>51</sup> from education because I would not go to a tutorial...I was PCCd by a female and a male staff member. The man got my head down and pushed me against the wall. Two people on response were holding my arms. The man had my head and pushed my nose up and it was bleeding...I got walked from education to the [residential] unit. My trousers were half way down. My knickers were showing. I asked the female staff member to pull up my trousers and she said “no”. **Nothing happened about the nosebleed. I didn’t see the nurse. I never see her because I’m always angry. They push your nose right up here. I put in a complaint but they are allowed to use force.**”<sup>52</sup>*

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<sup>49</sup> Report of the Serious Case Review Panel upon the circumstances surrounding the death of AR at Hassockfield Secure Training Centre on 9<sup>th</sup> August 2004 (LSCB, 3 September 2007), Part II, page 48.

<sup>50</sup> Available from the Howard League for Penal Reform at [www.howardleague.org](http://www.howardleague.org) or by telephone on 020 7249 7373.

<sup>51</sup> “PCC” is a reference to “Physical Control in Care” and here means “restrained”.

<sup>52</sup> Evidence given by Martha, a girl in her early teens held in a STC, during the Carlile Inquiry (Carlile Report, p.43).

*“Lewis told us that he was aware of others being restrained and that ‘some people came back with cuts on their lips, like they’ve been banged into a wall.’ He estimated that he witnessed two restraints every week. There appeared to be little faith in the complaints system...”<sup>53</sup>*

*“...some are in a children’s home because of abuse and force, and getting restrained is the same...”<sup>54</sup>*

*“...It makes you feel like you’re nothing. People holding you down brings bad memories. It’s horrible. Makes you want to head butt them.”<sup>55</sup>*

*“...I still bear a grudge against the way I was restrained...”<sup>56</sup>*

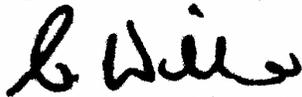
65. In a statement found in Adam Rickwood’s room after he died, he gave his own account of the restraint carried out on him hours earlier, concluding:

*“...When I calmed down I asked them why they hit me in the nose and jumped on me. They said it was because I wouldn’t go in my room so I said what gives them the right to hit a 14-year-old child in the nose and they said it was restraint...”<sup>57</sup>*

## CONCLUSION

66. In conclusion, we refer to the summary of key recommendations above and look forward to the JCHR’s report on this fundamental issue.

Signed:



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<sup>53</sup> Carlile Report, p.45.

<sup>54</sup> Child’s comment reported on page 15 of the Commission for Social Care Inspection’s report, “*Children’s Views on Restraint*” (December 2004), available from the CSCI at: [www.rights4me.org.uk](http://www.rights4me.org.uk) or by telephone on 0845 015 0120.

<sup>55</sup> Ibid, p.16.

<sup>56</sup> Ibid.

<sup>57</sup> See INQUEST briefing on restraint, June 2007 ([www.inquest.org.uk](http://www.inquest.org.uk)).