



# MILLION

11 MILLION led by the Children's Commissioner for England

## The Use of Restraint in Secure Training Centres Inquiry – 11 MILLION Submission of Evidence to the Joint Committee on Human Rights

19 September 2007



**“The 11 MILLION children  
and young people in  
England have a voice”**

Children's Commissioner for  
England, Professor Sir Albert  
Aynsley-Green

# Summary

**11 MILLION believes that, following the passage of the *Secure Training Centre (Amendment) Rules 2007*, there is an increased risk that children may be physically restrained in Secure Training Centres in violation of their rights under articles 2 and 3 of the European Convention on Human Rights and article 37 of the United Nations Convention on the Rights of the Child.**

1. 11 MILLION is a national organisation led by the Children's Commissioner for England, Professor Sir Al Aynsley-Green. The Children's Commissioner is a position created by the Children Act 2004. The Children Act requires the Children's Commissioner for England to be concerned with the five aspects of well-being covered in Every Child Matters – the national government initiative aimed at improving outcomes for all children. It also requires us to have regard to the United Nations Convention on the Rights of the Child (UNCRC).
2. The Children's Commissioner was not consulted on the recent amendment to the 1998 Secure Training Centre Rules, despite having a statutory responsibility to promote awareness of the views and interests of children in England and, on non-devolved issues, across the UK.<sup>1</sup> It is 11 MILLION's view that far from providing clarity, as called for by the Coroner in the Adam Rickwood Inquest, the amending statutory instrument allows for a greater degree of subjectivity and individual interpretation as to when it may be legitimate to restrain a child. Permitting restraint for the purposes of "ensuring good order and discipline" is imprecise and may lead to individual custody officers restraining children or young people for failing to comply with an order such as to tidy up, attend class, or go to bed, construing their action as a threat to "*good order and discipline*". The use of restraint in such circumstances risks violating articles 2 and 3 of the European Convention on Human Rights (ECHR) and article 37 of the United Nations Convention on the Rights of the Child (UNCRC).

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<sup>1</sup> Children Act 2004, section 2.

3. The UN Committee on the Rights of the Child recently issued a General Comment in which it made explicit the circumstances under which children may be physically restrained, consistent with article 37:<sup>2</sup>

*“Restraint or force can only be used 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. The use of restraint or force, including physical, mechanical and medical restraints, should be under close and direct control of a medical and/or psychological professional. It must never be used as a means of punishment.”*

The Committee goes on to say:

*“Any disciplinary measure must be consistent with upholding the inherent dignity of the juvenile and the fundamental objectives of institutional care; disciplinary measures in violation of article 37 of CRC must be strictly forbidden, including corporal punishment, placement in a dark cell, closed or solitary confinement, or any other punishment that may compromise the physical or mental health or well-being of the child concerned”.*

11 MILLION believes that the current use of restraint in Secure Training Centres fails to meet these requirements, and the recent statutory instrument extending the circumstances in which restraint may be used could be understood to legitimise the use of restraint for the purposes of non-compliance with an order and potentially as a punitive measure.

4. The cases of Adam Rickwood and Gareth Myatt - two children who died in Secure Training Centres - highlight the potentially damaging physical and mental impacts of restraint. A 2005 Ofsted inspection report on Hassockfield STC, where Adam Rickwood died, indicates that restraint was often logged as being used for “non-compliance”.<sup>3</sup> It is argued that this use of physical force, which can be seen to have potentially fatal outcomes, is not consistent with articles 2 or 3 of the ECHR.

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<sup>2</sup> *Children’s Rights in Juvenile Justice*, CRC/C/GC/10, 25 April 2007, UN Committee on the Rights of the Child, accessed at: <http://www.ohchr.org/english/bodies/crc/docs/CRC.C.GC.10.pdf> p24, para 89

<sup>3</sup> Inspection of Hassockfield Secure Training Centre, 2005, OFSTED.

5. Following the publication of the UN Study on Violence,<sup>4</sup> which made special reference to the UK's use of violent practices in Secure Training Centres, the General Assembly of the United Nations, issued Resolution 61/439, urging States to:

*"...take measures to promote constructive and positive forms of discipline and child development approaches in all settings, including the home, schools and other educational settings and throughout care and justice systems".*

11 MILLION believes that extending the rules governing restraint in secure training centres to include maintaining good behaviour and discipline allows restraint to be used in an unconstructive and potentially negative way, in opposition to this resolution.

6. The potential for future human rights violations are increased by the actual techniques that are authorised in STCs for the purposes of restraint. The "Physical Control in Care" or "PCC" method involves the use of nose, thumb and rib "distraction" techniques which cause pain and have resulted in numerous injuries, such as nose bleeds.
7. According to figures supplied by the Youth Justice Board, there were 2,574 incidents of restraint amongst a population of around 240 children in STCs between February 2006 and March 2007. This indicates a high level of institutional use of restraint. 11 MILLION believes that the amendment to the rules governing the use of restraint will have the undesirable result of increasing this figure.
8. The high levels of use of restraint in STCs and the pressure coming from those responsible for managing the STCs to increase the circumstances in which it is

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<sup>4</sup>World Report on Violence Against Children, Paulo Sérgio Pinheiro  
Independent Expert for the United Nations  
Secretary-General's Study on Violence against Children  
P197 [http://www.violencestudy.org/IMG/pdf/5\\_World\\_Report\\_on\\_Violence\\_against\\_Children.pdf](http://www.violencestudy.org/IMG/pdf/5_World_Report_on_Violence_against_Children.pdf)

possible to use restraint, raise fundamental questions about the suitability of the regime in STCs and its ability to meet the needs and protect the rights of extremely vulnerable children and young people.

9. 11 MILLION fully agrees that in the wake of two inquests into the deaths in custody of Adam Rickwood and Gareth Myatt, the rules governing the use of restraint required clarification to prevent future tragedies. 11 MILLION believes that law and practice should have been tightened to prevent the use of restraint in situations other than where a child is in danger of injuring him/herself or others, attempting to abscond, or damage property.
  
10. 11 MILLION welcomes the Government's announcement of an independent inquiry into the use of restraint in STCs. We hope that the reach of the inquiry will be wide, and will take evidence from children and young people within the youth justice system who have experience of being restrained. It should also examine the range of restraint techniques, workforce issues and cultural/institutional factors that have a bearing on the use of force in secure settings.

## **CONCLUSION**

**In light of the evidence on the use of restraint against children in secure training centres and the interpretative comments of international human rights institutions, we urge the Committee to consider the compatibility of the Secure Training Centre (Amendment) Rules 2007 with the Human Rights Act and the United Nations Convention on the Rights of the Child. We hope that the findings of the Joint Committee's inquiry will influence the terms of reference for the Government's Review of Restraint and help lead us to a position where the rights of children in custody are fully promoted and protected in line with domestic and international human rights standards.**



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