

COURT FINDS THAT THERE WAS FLAWED AND UNLAWFUL DECISION MAKING LEADING TO THE INTRODUCTION OF NEW RULES GOVERNING THE USE OF RESTRAINT ON CHILDREN IN SECURE TRAINING CENTRES

R on the Application of AC –v- Secretary of State for Justice

Judgment in a judicial review public interest test case on behalf of a black child AC found that the decision making prior to the Secretary of State for Justice introducing the Secure Training Centre (Amendment) Rules 2007 (the 2007 STC Rules) was unlawful.

On 6 July 2007 the Ministry of Justice amended the rules governing the use of force within Secure Training Centres (STCs), broadening the circumstances in which vulnerable young children can be forcibly restrained. The amendment was made in response to evidence that emerged during the inquests into the deaths of 14 year old Adam Rickwood and 15 year old Gareth Myatt. They both died in STCs, which are privately-run children's prisons contracted by the Youth Justice Board (YJB) to detain children who are too young or too vulnerable to be placed in Prison Service-run Young Offender Institutions. The families of both Adam Rickwood and Gareth Myatt supported this judicial review application.

At the inquests it emerged that staff regularly used restraint to secure children's compliance with instructions outside the strict criteria of the then Statutory Rules which govern STCs. Those Rules made it clear that the use of restraint should only be used as a last resort and only to prevent injury, damage to property, escape or incitement of another to do any of these things.

It was always the position of INQUEST and other concerned NGOs and bodies that the 2007 STC Rules which were introduced without any form of public consultation and permitted children being restrained for reasons of "good order and discipline" significantly broadened the circumstances in which force could be used against children.

The Ministry of Justice and Youth Justice Board who have responsibilities for the juvenile estate prior to and at the hearing persistently presented the rule change as simply being a "tidying up" exercise and not amounting to any significant change in policy on restraint.

However the Court "*unhesitatingly*" found that the change was *significant* and that the Secretary of State, if she "*had applied her mind to it, could [not] reasonably have seen it in a different way*".

The Court found that the wrong characterisation of the change led to an unlawful decision not to consult the Children's Commissioner and an unlawful failure to undertake a race impact assessment prior to the Rules being introduced.

The Court though declined to quash the Secure Training Centre rules on the basis that a joint review is being conducted on the issue of restraint. Following the judgment the Ministry of Justice have also now undertaken to carry out a race assessment of whether the broadening of the power to restraint is discriminatory.

Mark Scott of Bhatt Murphy solicitor for AC and the families of Gareth Myatt and Carol Pounder said:

“It is disappointing that an application to Court had to be made for the true nature of the change in the rules governing the use of restraint of vulnerable children in STCs to be recognised by the Ministry of Justice. Albeit that it is to be welcomed that the Court have recorded the unlawful failures of decision making prior to the introduction of the rules it is of concern that the rules have been allowed to stay in place when important safeguards of consultation and a race assessment have still not been carried out.”

Co-Director of INQUEST, Deborah Coles, said:

*“Despite the protestations of the Youth Justice Board and the Ministry of Justice that the rule change was merely to clarify the law, the Court have found it to be a **significant** change to policy as we argued from the outset. INQUEST questions the government’s commitment to learning lessons when we note that they have still not responded to the detailed rule 43 report made over 6 months ago at the conclusion of the inquest into the restraint related death of Gareth Myatt.¹ Our fear is that the narrow remit of the restraint review will not address the serious questions raised by the state sanctioned use of force used against some of society’s most vulnerable children.”*

¹ In a 17 page letter to Rt Hon Jack Straw MP, Secretary of State for Justice and Lord Chancellor, HHJ Pollard specified 34 preventative actions. which range widely over the treatment of children, the use of restraint, monitoring, good practice, access for emergency vehicles, and inspection. See www.inquest.org/press/