

Statement of principles

1. All of our visits and observations have confirmed that we need to take an end-to-end approach to our task. It will not be sufficient simply to advise on restraint methods and equipment without considering the detainees' journey through the system, their personal characteristics (for example, existing mental health problems; language and culture; past criminality; the uncertainty and anxiety engendered by the removal process), and their treatment from the moment they were told they had no legal right to remain in the country. We also need to consider the culture of [UKBA/the Home Office] and those companies to whom it subcontracts the responsibility to hold and remove detainees, the recruitment, training, hours of work, and turnover of staff working for those companies, and whether there are other measures that could reduce the use of restraint and ensure that it is only used when necessary and proportionate to the circumstances, and in a manner that is as safe as it is possible to achieve.
2. The critical need to take account of the characteristics and circumstances of those who may be subject to restraint has been acknowledged by the Ministry of Justice in its design of the system of MMPR (Minimising and Managing Physical Restraint) that is being introduced into all Young Offender Institutions and Secure Training Centres. Likewise, the focus on reducing anxiety, de-escalating tension and minimising recourse to force. Two relevant extracts from Minimising and Managing Physical Restraint 2012, Volume 1: Introduction and Instructor Guidance read as follows:

“Young people detained in custody have a wide range of needs, often at a higher level of intensity than that within the rest of the general population. Their needs often include issues to do with substance misuse, poor relationship skills, lack of formal education or training, physical or mental health problems, behavioural disorders, special educational needs and cultural involvement in deviant or criminal behaviour. Many display a combination of these behaviours and needs ... Others may have suffered substantial neglect, physical, sexual or emotional abuse.”

“Restraint minimisation is central to the concept of safe custodial management. Living in a safe environment reduces stress and anxiety, promoting the values of the establishment and encouraging public confidence in the work conducted by those tasked with caring for young people in a secure setting ... The consistent implementation of a positive, effective, young person centred, behaviour management programme is essential when providing staff with appropriate ways of responding to all levels of disruption, distress or violence. It is further recognised that the implementation of a positive, effective, young person centred

behaviour management programme can reduce tension and challenges within the environment and reduce the need to confront situations in ways which may result in the possible application of restraint.”

3. In taking account of the circumstances surrounding the forcible removal of adults from the UK, we believe these passages could sensibly be paraphrased as follows:

“Detainees facing removal have a wide range of needs, often at a higher level of intensity than that within the rest of the general population. Their needs often include issues to do with language, culture, uncertainty, indebtedness to people-smugglers, physical or mental health problems, behavioural disorders, involvement in criminal behaviour, and enforced separation from family and friends. They may have been exploited by economic overseers or by traffickers. Others may have suffered physical or emotional trauma in the countries to which they are being returned and/or they may fear for their safety when they return.”

“Restraint minimisation is central to the concept of safe detainee management. Feeling safe reduces stress and anxiety, promoting the values of the Home Office and encouraging public confidence in the work conducted by those tasked with removing those with no right to remain in the UK ... The consistent implementation of a positive, effective, detainee centred, behaviour management programme is essential when providing staff with appropriate ways of responding to all levels of disruption, distress or violence. It is further recognised that the implementation of a positive, effective, detainee centred behaviour management programme can reduce tension and challenges and reduce the need to confront situations in ways which may result in the possible application of restraint.”

4. Like the Restraint Advisory Board that advised the Ministry of Justice as it developed MMPR – and to whose advice and example we are greatly indebted – we believe that a clear ethical framework should underpin the use of force during removals (and indeed at other stages of immigration enforcement that are not within our terms of reference). That framework should comprise a set of values that then determine proper conduct and standards and which should be a core element in any training package. Only in this way will the objectives of proportionality and effective risk management be achieved.
5. Experience in the Prison Service has demonstrated the success of a values-based ‘decency agenda’. Recent events in the National Health Service have also emphasised the importance of such an approach: the concepts of respect and dignity, compassion, and a commitment to

the quality of care, all from the NHS constitution, have a direct read-across to immigration detention and removal.

6. We have identified the following core values to inform our work and which in turn should inform the Home Office's approach to removal:
 - (i) A strong ethical framework must be the basis of any system that permits the use of physical force (whether it be the deployment of particular equipment or the use of particular holds).
 - (ii) Everyone – both staff and detainees – has a right to be treated fairly and with respect.
 - (iii) Everyone – both staff and detainees – has a right to protection from harm and for their welfare to be promoted.
 - (iv) Detainees are owed a duty of care by virtue of their detention. We require a detainee-centred approach on the part of escorts, while mindful that detainees themselves must take responsibility for their own actions.
 - (v) All use of force necessarily contains some risk. For that reason, the use of force should always be the last, not the first, resort. The law determines that no more force should be used than is necessary and that force must not be applied for longer than necessary.
 - (vi) In promoting safe restraint procedures, at least equal emphasis must be given in training to restraint minimisation and measures to reduce anxiety and de-escalate tension at all times.
 - (vii) The quality of initial and refresher training is critical to reducing the use of restraint and ensuring that, when restraint is used, it is as safe as it possibly can be.
 - (viii) Issues of communication, cultural awareness, and an understanding of the particular needs and insecurities of those facing enforced removal are core elements of an effective training programme.
 - (ix) As the RAB acknowledged before us, a safe system of restraint requires effective governance and independent validation and continuing oversight.

7. The Restraint Advisory Board identified the following elements of good practice in decision-making against which to assess evidence of decision-making in the use of restraint. (In turn, this was based on a Welsh Health Circular, WHC (2007) 076: An ethical framework for commissioning health services to achieve the healthcare standards for Wales.):
 - (i) Openness and transparency
 - (ii) Inclusiveness
 - (iii) Respect
 - (iv) Proportionality
 - (v) Accountability
 - (vi) Reasonableness and lawfulness
 - (vii) Effectiveness and efficiency

- (viii) Exercising a duty of care
- (ix) Reviews and complaints

While endorsing this approach we would add the following riders in the context of immigration removal:

- (a) Unlike in an institution, the use of restraints may be an act carried out in public;
- (b) Decisions about use of restraints may have to be taken more speedily (say, in the case of disruption on an aeroplane);
- (c) Those escorting detainees have a far shorter opportunity than those in an institution of getting to know those in their charge (contact between staff and detainee is necessarily self-limiting);
- (d) Compared with an institution, restraints may have to remain in place for a longer period;
- (e) Notwithstanding our intention to ensure that methods of restraint in immigration removal are fit for purpose, the physical lay-out of transport vehicles, entry steps onto planes, and the seat configurations on the planes themselves necessarily present hurdles that are not likely to apply elsewhere;
- (f) Notwithstanding our emphasis upon an ethical framework and approach, we are sympathetic to the development of technological approaches to the safeguarding of both staff and detainees – in particular, the use of video-recording (although we are conscious that, as some videoing would take place in public spaces at airports and on board planes, this is not a matter solely within the gift of the Home Office);
- (g) As we have made clear above, we believe that a holistic approach must be taken to the detainee experience if restraint is to be minimised; moreover, at least equal emphasis must be given in training to restraint minimisation and the reduction of anxiety and tension, and to the particular circumstances, needs and insecurities of those facing enforced removal.

23 April 2013