UK implementation of the Convention on the Rights of the Child Optional Protocol on Armed Conflict

Submission from UK NGO children's rights coalitions

May 2008

We were only kids, and anyone with a stripe on his arm had an awful lot of power over you. We didn’t feel there was anyone we could go and complain to.¹

Sitting at the army desk in Liverpool’s glass-fronted careers office, a recruiting sergeant explains that half of the applicants who walk in off the street have difficulty filling in the form. Others try to fake their parent’s signature giving permission to join. ‘There’s a lot of kids come in because their home life is a mess,’ the sergeant says. ‘They want the army to give them a bit of discipline and a bit of support because their home life doesn’t offer that.’²

I thought school was the one place you could get away from the horror of the Iraq war, so I was shocked to go into the playground one day and see a helicopter and 20 army guys trying to recruit us.³

… there is an urgent need to reflect publicly and openly on whether we as a society feel comfortable with the recruitment of under-18s into the armed services. If we do feel comfortable about it, we need to consider with passion as well as prudence how we protect particularly those who may have had very few life choices and who have therefore found themselves in a situation the demands of which they may not have fully understood.⁴

1. This report summarises current law and policy in the UK, and the considerable concerns among NGOs relating to the far-reaching declaration the UK has made to the Optional Protocol on Armed Conflict (OPAC); the active recruitment of children into the UK armed forces; the prevalence of bullying and other harmful behaviour; and the lack of adequate safeguards for children in the UK armed forces.

Current law and policy

2. On April 1 2007, there were 4,560 children serving in the UK armed forces (6,900 in April 2002).⁵ The UK is the only EU member state to recruit children from the age of 16 into the armed forces. This does not match the UK’s position in relation to child soldiers abroad:

   We condemn the recruitment of children [in Sri Lanka] in violation of international law.
   Dr. Kim Howells, UK Government Minister, January 2008⁶

   Under the Comprehensive Peace Agreement signed in Nepal in November 2006, both sides to the conflict have agreed not to include or use children under 18 years of age in the armed forces.
   Dr Kim Howells, UK Government Minister, June 2007⁷

   We continue to push for the total demobilisation of all child soldiers [in the Democratic Republic of Congo].
   Baroness Amos, UK Government Minister, November 2006⁸

   The UK condemns unequivocally the use of child soldiers [in Burundi].
   Gareth Thomas, UK Government Minister, March 2004⁹
3. There is no conscription into the UK armed forces. Age eligibility for voluntary enlistment (British and Irish citizens, as well as Commonwealth citizens) is as follows:

- A child can apply to join the British army at 15 years, 7 months. He or she must be 16 on entry. The consent of parents or guardians is required.
- A child can apply to join the Royal Navy and the Royal Air Force at 15 years, 9 months. He or she must be 16 on entry. The consent of parents or guardians is required.

4. A person who intends to remain permanently absent without leave is liable to a court martial penalty of two years’ imprisonment. A person who intends to avoid a period of active service is liable to a court martial penalty of life imprisonment.  

5. In 2002, the Committee on the Rights of the Child expressed concern about the minimum length of service for child recruits, which was six years at the time (four years for recruits joining as adults). Following public pressure arising from the deaths of four young trainee soldiers (three English, one Scottish – see below), at the end of November 2007, the Ministry of Defence (MoD) introduced into Parliament regulations changing the terms of service for those enlisting from January 2008. These regulations were subject to negative resolution which means no Parliamentary debate was necessary and the MoD did not have to declare compatibility with the European Convention on Human Rights. They apply to all UK jurisdictions. Current terms of enlistment are:

   a. Children can leave the armed forces after they have served 28 days and before the end of six months from enlistment. They must give 14 days' notice. (“Discharge as of Right - DAOR”)
   b. Individuals under the age of 18 years three months who have passed their statutory period for DAOR may be considered for discharge from the armed forces provided that their unhappiness was registered with their commanding officer before reaching the age of 18
   c. After four years' service, an individual can leave the armed forces but they must give 12 months' notice and will be liable for “reserve service” for 6 years.

6. The report from an independent review of the deaths of four young trainee soldiers was published (The Deepcut Review) in March 2006. One of the recommendations of the review, undertaken by human rights barrister Nicholas Blake QC, was:

   **Recommendation 7 of Deepcut Review, March 2006**
   Recruits who joined the Army as minors and who have reached a settled decision that they are unhappy with pursuing a military career before they reach the end of their Phase 2 training, but after their 18th birthday, should be able to discharge as of right.

7. The UK Government rejected this recommendation:

   **UK Government’s response to recommendation 7 of Deepcut Review, June 2006**
   Current Service policy already makes provision for unhappy Service personnel under the age of 18 to leave the Services. Individuals deemed unsuitable for Service life during their training… may also be discharged; these individuals in this respect are dealt with on a case by case basis. Additionally, and importantly, under the suicide vulnerability risk management policy, which was introduced into the Army Training and Recruiting Agency (ATRA) in August 2005, minors deemed to be ‘at risk’ will be discharged...

   Work is underway to examine how further measures could be put in place to accommodate trainees who wish to leave the Armed Forces having joined prior to their 18th birthday. However, the length of training
courses and the investment in individuals, particularly in the more technical or specialist areas, varies significantly. The longest initial training course is over four years. The implications of allowing an individual to leave as a right at the end of such training therefore need to be carefully considered. In particular, it is very unlikely that, in practice, a trainee who joined the Armed Forces under the age of 18 would, after extensive counselling and support, be forced to have completed such training against his or her will.¹³

8. The MoD does not publish statistics on the number of child recruits who choose to leave the UK army whilst they still have Discharge as of Right; nor does it publish statistics on the number of individuals that joined the army as children who were subsequently discharged, and the reasons why.

UK declaration to the Optional Protocol on Armed Conflict

9. The UK made a far-reaching declaration when it signed the OPAC in September 2000. It confirmed this declaration when it ratified the OPAC in June 2003 (see also Annex A):

**UK declaration made upon signature and confirmed upon ratification**

*The United Kingdom of Great Britain and Northern Ireland will take all feasible measures to ensure that members of its armed forces who have not attained the age of 18 years do not take a direct part in hostilities.*

*The United Kingdom understands that article 1 of the Optional Protocol would not exclude the deployment of members of its armed forces under the age of 18 to take a direct part in hostilities where:*

a) there is a genuine military need to deploy their unit or ship to an area in which hostilities are taking place; and

b) by reason of the nature and urgency of the situation:-
   i) it is not practicable to withdraw such persons before deployment; or
   ii) to do so would undermine the operational effectiveness of their ship or unit, and thereby put at risk the successful completion of the military mission and/or the safety of other personnel.

10. The UK Government’s far-reaching declaration was criticised by the parliamentary Joint Committee on Human Rights in its inquiry on the implementation of the Convention on the Rights of the Child.¹⁴

11. The Government responded:

*All three Services have procedures in place to review the deployment of each and every individual under the age of 18 in circumstances when there is deemed to be a greater than low risk of their direct involvement in hostilities. In such cases the default option is for them to be removed from their units unless the very rare, exceptional and unpredictable circumstances described by the declaration pertain … None were deployed in recent operations in Iraq.*¹⁵

12. In February 2007, a question in Parliament revealed that at least 15 child soldiers (all aged 17) had been deployed to Iraq between the ratification of the OPAC and July 2005.¹⁶ We note the Government’s report to the Committee states there were 18 children deployed to hostilities during this period. The Minister told Parliament in 2007:

*New administrative guidelines and procedures have been introduced … following the ratification of the Optional Protocol to ensure that under 18-year-old personnel are not deployed to areas where hostilities are taking place unless there is a clear operational requirement for them to do so. Unfortunately, these processes*
are not infallible and the pressures on units prior to deployment have meant that there have been a small number of instances where soldiers have been inadverently deployed to Iraq before their 18th birthday (our emphasis).17

13. The parliamentary Joint Committee on Human Rights’ most recent report (2005) concludes:

… we consider this declaration to be overly broad, and to undermine the UK’s commitment, undertaken in the Protocol, not to deploy under-18s in conflict zones.18

Worst Forms of Child Labour Convention 1999 (no. 182)

14. The UK ratified the Worst Forms of Child Labour Convention in March 2000. This requires it to ‘take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency’ (article 1). Article 3 includes in its definition of the worst forms of child labour:

work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

15. A Quaker parliamentary briefing reported in November 2002:

While both international and national norms make it clear that the employment status of young people deserves special protection, the armed forces provide an exception to this, outside the framework of the law. Over the last twenty years there have been 332 deaths among 16 to 18 year olds serving in the armed forces. Of these fifty deaths have been due to fire-arms discharges, 12 of which were due to accidents and 38 due to other causes including hostile action and suicides. Of the non-firearm discharge deaths, 156 were due to road traffic accidents, 48 were due to natural causes and 78 as due to other injuries.19

Active recruitment of children into the UK armed forces

16. In 2002, the Committee expressed concern that ‘about one third of the annual intake of recruits into the armed forces are below the age of 18 years (and) the armed services target young people’. This position remains unchanged: in the financial year 2006-2007, 30 percent of recruits to the UK armed forces were children.20 The UK Government claims the armed forces, the army in particular, could not operate without the recruitment of children. In a parliamentary written answer in 2006, a Minister explained:

If the Armed Forces were required to raise the minimum age of entry, it would create serious manning problems … The services, in particular the Army, would be unable to man current structures and maintain current capabilities. It is probable that, should the minimum entry age be raised, good quality school leavers would settle into other careers and thus be lost to the services.21

17. The MoD has recently notified the UK parliamentary defence select committee that the shortfall in trained strength in the armed forces is 3.1% (as at January 2008). Factors affecting recruitment are:

• High employment: ‘Services recruitment is always easier in times of high unemployment’
• Decline in numbers of working age
• Increasing proportion of ethnic minorities (low proportion in armed forces)
• Increasing proportion of women in workforce (low proportion in armed forces)
• Increasing levels of obesity among young people
• Attitudes and expectations of young people – ‘may be moving away from a “job-for-life”’
• Government is encouraging more young people to enter further and higher education
• Reputation of armed forces decreased as a result of Iraq war, Deepcut Barracks (see below) and allegations of mistreatment of Iraqi prisoners.22

18. The UK Government’s report understates the extent to which the armed forces advertise to children and incentivise them to join. The British armed forces actively markets to children through:

• The Ministry of Defence Camouflage magazine and website aimed at 13-17 year-olds. The website includes interactive games and videos which portray army life as intensely exciting. Children that register online receive a free torch and kit bag as well as the Camouflage magazine (http://www.camouflage.mod.uk)
• The Ministry of Defence Defence Dynamics website with teaching resources for 14-16 year-olds (http://www.schools.defencedynamics.mod.uk/)
• The Royal Air Force Altitude website for 8-18 year-olds which has several games and downloads (http://www.rafcareers.com/altitude/)

19. A recent analysis of recruitment into the armed forces notes that the UK Government’s direct marketing to children hardly ever mentions that this kind of career can involve killing and harming other human beings.23

20. A member of the Scottish parliament obtained figures under the Freedom of Information Act that showed more than a tenfold increase in the number of regimental recruitment visits to schools in Scotland between 2003/04 and 2005/06 (from 14 to 153 visits).24 In Wales, Plaid Cymru used the Freedom of Information Act to obtain figures on army school visits during 2005-2006. It found that schools in the most deprived areas of Wales received 50 per cent more visits than schools in affluent areas.25 In 2006/07, the Defence Schools Team visited over 460 schools in England, Scotland and Wales.26

21. Specific attempts are made to raise awareness among children in ethnic minority communities, including:

• The Royal Navy’s Diversity Recruiting and Awareness Team gives presentations in schools and colleges and attends cultural and religious festivals and events
• The Army’s Diversity Action Recruiting Team (DART) provides role models to young people from ethnic minorities, attending 650-700 events each year
• In January 2007, the Royal Navy’s Diversity Action Team invited a group of young people from the Small Heath (predominantly Muslim) area of Birmingham to take part in an “Introduction Day”
• The army has a network of Youth Activity Liaison Officers across the UK. They participate in many youth-specific activities such as schools’ careers conventions festivals and melas and sporting events.27

22. In June 2007, the Educational Institute of Scotland (EIS), Scotland’s largest teacher union, voted in overwhelming support of a ban on armed forces targeting recruitment campaigns at schools.28 This year the largest teacher union in England voted in favour of a motion
opposing military recruitment activities “based upon misleading propaganda”. The motion defended the rights of teachers “not to take part in activities promoting military recruitment, or which they feel present a partisan view of war and life in the military”. The union called for “education for peace embedded in the curriculum along with education about the military”.29

23. Children can join the army cadet force and the sea cadet corps from the age of 12 years. They can join the air training corps from 13 years. Primary school children (from age of 10) can join the junior sections of the sea cadet corps. The websites of the cadet forces report that:

- 44,000 children are members of the army cadet force
- 15,000 children are members of the sea cadets
- There are 41,000 members (aged 13 to 20) of the air training corps.

24. The websites emphasise adventure and opportunity, as well as shooting:

<table>
<thead>
<tr>
<th>Army Cadet Force website, Cadets Q and A</th>
<th>Sea Cadets website</th>
<th>Air Training Corps website</th>
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</table>
| **What’s your favourite subject in the Army Cadet Force?**  
I reckon that would have to be **shooting**. I’d never shot before I joined cadets so I surprised myself when I had my first bit of coaching from an instructor and was quite good. I’m now in my county shooting team and will be competing in a competition against all the other counties next month. | **Activities - what’s on offer**  
A wide variety of activities are available for Sea Cadets. Water based activities on offer include sailing, canoeing and pulling (rowing). Not all Sea Cadet activities involve water and although many of the land based activities have a nautical theme and are the basis for the water based activities, there are opportunities to take part in unrelated activities such as rock climbing, **shooting**, cookery and music. | **Cadets at all levels of the Air Training Corps have the opportunity to participate in the sport of **shooting**. Since the ATC was originally a recruiting organisation for the Royal Air Force it made good sense for marksmanship to be on the training syllabus. **Shooting remains one of the most popular cadet activities.** |

25. The websites of both the air training cadets and the Marine Society and sea cadets confirm that these organisations are recruitment mechanisms for the armed forces:

<table>
<thead>
<tr>
<th>British army website</th>
<th>Marine Society and sea cadets website</th>
<th>Air cadet organisation website</th>
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<tbody>
<tr>
<td><strong>The Student Presentation Team aims to increase the awareness and understanding of today’s Army amongst school children and Sixth Form college students in order to promote a positive image of the Army at an influential stage in their education. The three teams tour the country aiming to visit every area at least twice a year. During the summer months the teams speak to Army Cadets attending their annual camp.</strong></td>
<td><strong>The combination of these two powerful brands makes a potent force in the promotion of maritime careers.</strong></td>
<td><strong>A very large percentage of serving members of the Royal Air Force were air cadets. Although the ACO is not a recruiting organization, 41% of Officer and 51% of all Aircrew (including pilots, navigators, air electronics operators, air engineers and air loadmasters) recruits into the Royal Air Force are ex-air cadets. If you are looking for a Service career, membership will help give you a head start.</strong></td>
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26. In October 2007, statistics were published which show a 22% increase in the number of army cadet units affiliated to UK state schools between 2002 and 2007. The increase in Royal Navy and Royal Air Force cadet forces affiliated to UK schools was 9% and 3% respectively.30
<table>
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<tr>
<th></th>
<th>2002</th>
<th>2007</th>
<th>% increase</th>
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<tbody>
<tr>
<td>Army cadet force units affiliated to state schools</td>
<td>49</td>
<td>60</td>
<td>22%</td>
</tr>
<tr>
<td>Royal Air Force cadet force units affiliated to state schools</td>
<td>40</td>
<td>41</td>
<td>9%</td>
</tr>
<tr>
<td>Royal Navy cadet force units affiliated to state schools</td>
<td>11</td>
<td>12</td>
<td>3%</td>
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<table>
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<tr>
<th></th>
<th>2002</th>
<th>2007</th>
<th>% increase</th>
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<tbody>
<tr>
<td>Army cadet force units</td>
<td>243</td>
<td>259</td>
<td>7%</td>
</tr>
<tr>
<td>Royal Air Force cadet force units</td>
<td>189</td>
<td>199</td>
<td>5%</td>
</tr>
<tr>
<td>Royal Navy cadet force units</td>
<td>121</td>
<td>128</td>
<td>6%</td>
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27. The cadet forces receive a large amount of Government funding – £111 million in 2007/08 (£68.5 million to army cadets; £29.6 million to air cadets; and £12.5 million to sea cadets)\(^{31}\) – and very strong support from Government Ministers.

The Prime Minister is very, very keen on the opportunities represented by cadet forces and we will be making a number of recommendations to increase the use of this superb national asset.

Ed Balls, Secretary of State for Children, Schools and Families, April 2008\(^{32}\)

I believe that [the army cadet movement] is the best youth movement in the country by a mile… They give young people a fantastic experience and many opportunities to do things that they would not normally do.

As I say, I think that it is the best youth service in the country.

Derek Twigg, junior Defence Minister, January 2008\(^{33}\)

28. In January 2007, the Minister confirmed that an extra £800,000 Government funding had been set aside for an additional six combined cadet force units across three years – four schools in England, one in Wales and the sixth in Scotland. The first school to be announced in the pilot was Haberdashers’ Aske’s in London – an academy school established in 2005.\(^{34}\)

29. There are concerns that the Ministry of Defence may be permitted to sponsor academy schools (11-16 year-olds) in England.\(^{35}\) The BBC has reported that an academy school in Bristol (England) will open later this year (September 2008) kitted out with a rifle range, which will be used by a cadet force out of school hours.\(^{36}\)

30. In addition to joining cadet forces, children who expect to achieve five or more very good GCSE grades can enrol at Welbeck - The Defence Sixth Form College near Loughborough in England from the age of 15 years. Each year up to 175 children enter the military college which ‘offers a unique programme of personal, physical and intellectual development, which provides our students with a rounded education specifically designed to meet the needs of today’s modern technical Armed Services. The programme does not end after a 2 year A level course; the four Services continue to monitor and support students through university and on to Officer Training with their respective Armed Service or within the Ministry of Defence Civil Service’. Parents with an income above £17,000 per year must contribute on a sliding scale, though the MoD provides most of the school’s funding.\(^{37}\)

31. As the UK Government’s report explains, there are two military schools in the independent sector for children (11 to 18 years) of serving or retired armed forces

32. The Government’s report to the Committee implies that recruitment to the armed forces is a service to children. It suggests that the recent public inquiry into the deaths of young people (including two 17 year-olds) at The Princess Royal Barracks, Deepcut (England) was favourable towards the recruitment of children. This is a misrepresentation. The inquiry’s position was reluctant acceptance rather than outright support. A career in the armed forces was deemed by the inquiry to be the only way that some children could access a fulfilling adult life.

<table>
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<th>Government's report</th>
<th>What the Deepcut Review actually said</th>
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<tr>
<td>A recent review by a distinguished human rights lawyer (The Deepcut Review) accepted that young people with suitable qualifications for a military career should continue to be able to enlist at 16 with a view to participating in all aspects of military duties from the age of 18 and the UK Government accepted this report.</td>
<td>…The case to move to an adult only Army might be compelling if the only justification for recruiting those under 18 rested on the Army’s manpower needs, particularly if those needs could be said to be inconsistent with the principle of the best interests of the child. Such a principle should be a prime consideration for all public authorities in the United Kingdom. However, the Review is satisfied that a military career is an exciting and challenging career for many young people who otherwise may not have an opportunity to lead structured and fulfilling lives. Civilian society has not been notably successful in providing the opportunities for rewarding life-long careers for young people whose talents are not in the field of GCSEs and higher academic qualifications but lie, rather, in the technical trades or other careers offered by the Army. To deny these young people the chance to start training for such a career when they are of school-leaving age may deprive them of the opportunity they need to get away from difficult social circumstances and acquire new skills, and social discipline … Unless and until educational opportunity for 16 to 18 year olds in the United Kingdom becomes so diverse and well-resourced that it provides everyone the opportunity of acquiring better life skills in civilian society, this Review is of the opinion that there is not a sufficient case to prevent the recruitment to the Army of those over 16 but under 18 … However, such recruitment and training must take place in an appropriate environment where there are sufficient staff skilled in understanding and addressing the particular vulnerabilities of young people in general, as well as being alive to any specific issues any individuals may have.</td>
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33. The Government’s report to the Committee does not mention the recommendation made by the Ministry of Defence select committee in March 2005 ‘that MoD examine the potential impact of raising the recruitment age for all three Services to 18 [and] the Armed Forces ensure that those under 18 years of age are only placed in training environments and accommodation suitable for their age.’

34. The Government’s response to the select committee’s report emphasises the difficulties of recruiting over 18s:

Once individuals attain the age of 18 years they are more difficult to attract as recruits. By that time they fall into two broad categories: those who have continued in academic study and whose aspirations tend towards officer entry, and those who have already entered employment … we wish to recruit people before they have made other lifestyle choices.

The proportion of ethnic minority recruits is also considerably higher amongst the under 18s, and raising the entrance age could adversely impact on the ethnic minority recruiting achievement.  

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Active recruitment of children from deprived communities

35. There are well-founded concerns that the armed forces actively recruit individuals from disadvantaged backgrounds. The House of Commons defence select committee's inquiry into the state's duty of care towards those in the armed forces observed:

*There is a perception that the Army recruits most of its soldiers from the least privileged socio-economic groups. MoD argues that there is little evidence to substantiate that view; but this is, at least in part, because currently MoD does not collect data on recruits' socio-economic background.*

36. The select committee's report cites research into the backgrounds of army recruits, including:

- A survey of army recruits from the Cardiff area in Wales between 1998 and 2000 found the majority (69%) of recruits came from a “broken home” and half from a deprived background. Just over 60% had left school with no qualifications. Four out of 10 recruits joined the army as a last resort.
- Up to half of army recruits have the literacy and numeracy skills equivalent to those of an average 11 year-old or 7 year-old.

37. The average reading age of army trainees at a training centre in Catterick, England, is just 10 years, according to an independent provider of welfare support.

38. At the other end of the socio-economic spectrum, the parliamentary Public Accounts Committee reported in June 2007 that 90% of the army’s top 10 officers were educated at independent schools and 75% of army scholarships in 2006–07 went to students from independent schools.

Bullying and other harmful behaviour

39. The report from the Deepcut Review, carried out by human rights barrister Nicholas Blake QC, was published in March 2006. It concerns the death by gunshot wounds of four soldiers at The Princess Royal Barracks, Deepcut (England). Three of the four trainees joined the army when they were still children and two were just 17 years when they died:

- Cheryl James enlisted at 17 years and died from a single gunshot wound in November 1995, at the age of 18 years.
- Geoff Gray enlisted at 16 and died from two gunshot wounds in 2001, at the age of 17 years.
- James Collinson joined the local army cadet force at age 12 and enlisted at 16 years. He died from a single gunshot wound in March 2002, at the age of 17 years.

40. The review raises a number of concerns relating to bullying and victimisation from staff, as well as sexual harassment. It also describes common practices in the armed forces that in any other institutional context would be seen as deeply abusive. For example, in relation to Sean Benton, who enlisted at the age of 19 and died the following year, the review report describes a series of humiliating punishments, including being forced to do press-ups on top of a female Lance Corporal and doing press-ups while his face was held in a puddle. The army has a term for these kinds of punishments - ‘beasting’. On another occasion Sean Benton was asked to choose between a ‘dead arm’ and a ‘dead leg’.
41. In relation to the treatment of Cheryl James, the review states, “Although there is no reason to believe that Cheryl was assaulted or the victim of bullying, the possibility that she [whilst still a child] was the subject of sexual attention by an instructor cannot be dismissed as fanciful…” The Sexual Offences Act 2003, applying to England and Wales, introduced new sexual offences committed by people in positions of trust over children. These relate to positions of trust in health, social care and custodial settings, but not to the armed forces.

42. The review notes that, on two separate occasions in the 11 days before her death, Cheryl had talked about harming herself.

43. In 2005, the House of Commons defence select committee published its report on the state’s duty of care to those serving in the armed forces. The report includes a letter from a current trainee complaining about the immaturity and poor behaviour of many trainees “that deserve a punishment”. Former Deepcut recruits are much more critical of staff:

Staff crossed the boundaries of discipline into humiliation and control through the use of fear… A handful of staff members made our training unattainable and not only soul-destroying but, for some, life-destroying. Senior officers stood back and watched the morale plummet, self-harming soar and people die and did nothing.

A boy was thrown against a wall so violently by a member of staff I thought he had broken his back.

The general atmosphere at Deepcut was one of depression with a high boredom factor, bullying and humiliation.

44. The committee sums up:

We conclude that bullying exists in the Armed Forces and that it is under-reported … the assertion [by the Ministry of Defence] that the Armed Forces does not tolerate bullying does not sit well with the levels of bullying MoD acknowledge.46

45. The latest attitude survey (2006-07) conducted by the army shows that 16% of soldiers have been subject to discrimination in the past 12 months, and 8% to bullying. More than a quarter of respondents (28%) did not know how to obtain information about the army’s complaints procedure in relation to unfair treatment, discrimination, harassment and bullying. Of those that had made a complaint in the past 12 months, 53% were fairly or very dissatisfied with the objectivity and fairness of the complaints investigation and 61% were fairly or very dissatisfied with the time taken to investigate complaints.47

Lack of adequate safeguards for children in the armed forces

46. Ofsted (the education and children’s services inspectorate) is to take on the inspection of the care and training offered to children serving in the armed forces, and will issue its first report in spring 2009.48 However, there are other safeguards which have not been put in place by the armed forces, including:

• Children are still expected to carry out guard duties, despite a recommendation from the Deepcut Review that this be stopped
• Separate training and accommodation is not provided, despite recommendations from the Deepcut Review and the Ministry of Defence select committee
• The armed forces are not covered by section 11 of the Children Act 2004 (England and Wales), the duty to make arrangements for ensuring that their functions are discharged having regard to the need to safeguard and promote the welfare of children

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• The Service Complaints Commissioner, who took up her role in January 2008, has virtually no statutory powers. The Ministry of Defence explains: “Although the Commissioner does not have the powers to conduct investigations or to challenge their outcome, she has a statutory right to raise any concerns directly with Ministers.”

Military law and justice system is not compliant with the Convention

47. There is no separate system for trying under-18s in the British armed forces and detained children are not held separately from adults. As the UK Government’s report explains, ‘a member of the armed forces who is aged between 16 and 18 has the same criminal liability for any crime they may have committed as an older person, and they are liable to trial by court-martial.’ Children can be detained alongside adults at the Military Corrective Training Centre (MCTC), in Colchester (England), a former prisoner of war camp. The MCTC website explains the centre:

… exists to retrain and rehabilitate service personnel who have offended and will return to active service, as well as those resettling into civilian life having been discharged from the armed forces. The MCT is not specifically targeted at individuals between the ages of 16 to 25; however any courts martial ruling would have taken into account an individual’s age. The MCTC acts in accordance with Home Office guidance on the treatment of those under 18 years of age.

48. The MCTC has been inspected by the Prisons Inspectorate on two occasions, in 2004 and 2007. During the first inspection, two children were detained (157 detainees in total). The Chief Inspector of Prisons reported:

In accordance with policies operating in all service settings, service personnel under the age of 18 lived and mixed freely with adults. Although thorough individual risk assessments were carried out, specific assessments of risk associated with room sharing were not; nor was there dedicated accommodation for under-18s who wanted or need to be held separately… Access to the telephone was restricted to one 10-minute call per week, and the siting of the telephones in a busy reception area provided little privacy.

49. The 2007 inspection described child protection in the centre as ‘a sound area and links with the local authority remained strong’. There were three children detained in the centre at the time of the inspection (100 detainees in total). The Chief Inspector of Prisons reported that:

Risk assessment procedures for room allocation of those under the age of 18 were not sufficiently robust and the single accommodation available to them was inappropriate… the only room allocation procedure for detainees under the age of 18 was to ask them whether or not they wanted to share. A tick-box form was used to record the detainee’s choice. All detainees under the age of 18 requested, and were allocated, shared accommodation… Detainees under the age of 18 were offered separate accommodation but it was entirely unsuitable. The designated rooms were austere and very uncomfortable, and were also where disruptive detainees were taken to calm down… It was therefore not surprising that no detainee under the age of 18 had ever opted to have a single room.

50. She continued:

Young detainees were generally well cared for… but their different and distinct needs were not addressed in the policies and procedures and there was no proper system of care planning for them.
Other developments in UK law

51. The past few years have seen a range of legislative reforms that seek to reduce the risk of harm to children's health and development:

- The age at which a person can buy or consume alcohol has been raised to 18 years
- The age at which a person can longer legally smoke tobacco has been raised to 18 years
- The age at which a person can possess a firework in a public place has been raised to 18 years. It is an offence to supply under 18s with fireworks or sparklers and under 18s cannot purchase fireworks (with a few exceptions).

52. When the UK ratified the OPAC, it declared, ‘This minimum broadly reflects the minimum statutory school leaving age in the United Kingdom, that is the age at which young persons may first be permitted to cease full-time education and enter the full-time employment market’. The Committee should be aware that in November 2007, a Bill was introduced into Parliament that will increase the compulsory education and training age to 18 in England. The Green Paper announcing the proposal was published in March 2007, ahead of the UK’s report to the Committee, yet there is no mention of it in the UK Government's OPAC report. The armed forces are praised in the Green Paper – ‘They are the largest single supplier of Apprenticeships – in 05/06 alone, 8245 Apprenticeships were completed. Those with few or no qualifications are given the chance to acquire new skills and qualifications that not only prepare them to succeed in their chosen career, but are recognised outside the Armed Forces’. A 16 and 17 year-old who does not comply with an attendance notice will be liable for a fine up to £200; non-payment of the fine could lead to imprisonment. We are keen to know whether the UK Government expects, indeed hopes, more English children from disadvantaged backgrounds to enlist in the UK armed forces as a result of these measures.

RECOMMENDATIONS

1. The declaration to the OPAC should be removed.

2. The UK should stop targeting children generally and poor children in particular for armed forces recruitment.

3. For as long as children remain in the UK armed forces, they should be trained and accommodated separately from adults, in facilities that are conducive to their best interests.

4. All serving personnel who enlisted as children and have served for more than six months should continue to have an open-ended Discharge as of Right with a 28 days' notice period.

5. There should be explicit prohibition of all corporal punishment and other cruel, inhuman or degrading treatment or punishment in all military establishments and cadet forces.

6. The duty to have regard to the need to promote and safeguard the welfare of children (Section 11, Children Act 2004) should be applied to the armed forces.

7. The UK Government should ensure that all new recruits fully understand the terms of enlistment and the conditions of service before they enlist.

8. Children in the armed forces should have the same safeguards as other children living away
from home. These should include: independent investigation of complaints and allegations of abuse; telephone contact and family visits; access to confidential helplines, and scrutiny by the Local Safeguarding Children Board. Surveys.

9. When making international financial assistance or military assistance conditional on the non-use of child soldiers, the UK Government should require a minimum recruitment age of 18 years.

10. Action should be taken to ensure that the military justice system fully complies with international human rights standards protecting children. The detention of children at the Military Corrective Training Centre must cease as a matter of urgency.

Children’s Law Centre, Northern Ireland
Children’s Rights Alliance for England
Independent Monitoring Group for the Convention on the Rights of the Child, Wales
Save the Children Northern Ireland
Scottish Alliance for Children’s Rights

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