



Reference CAS-6946369-K4J1W8

Dear Executive Complaints Unit of the BBC,

Thank you for your email of Dec 20th confirming that you are going to investigate the ICARS complaint into the BBC 2 programme 'Don't Exclude Me' at stage 2.

Whilst waiting for your response Becky Gillespie and Zoey Read at the International Coalition Against Restraint and Seclusion (ICARS) have continued to collect evidence that strengthens the validity of our complaint.

It is disappointing that we have had to continue to seek expert opinion from professionals who should have been consulted;

1. By the Open University in the making of this programme.
2. By the BBC prior to the broadcast of this programme.
3. By the BBC in response to our complaint.

The reality is that at none of these points have the opinions of relevant professionals and/or entities been sourced, yet their judgements are crucial to the successful investigation of our complaint.

Team Teach is the training provider Milton Hall Primary School (MHPS) cited in their policies as their training provider at the time of filming and broadcasting 'Don't Exclude Me'. We quote "In the event of a child being at risk of causing harm to themselves or others, positive handling will be used as a last resort, and should be carried out, where possible, by staff trained and certified by 'Team Teach', following the Team Teach approach." (MHPS Behaviour Policy June 2020).

Team Teach have made a public statement which the BBC needs to be aware of.

"In response to the ICARS complaint to the BBC about the documentary 'Don't Exclude Me' we note that ICARS have referenced Team Teach Training within the complaint.

At Team Teach our training emphasis is 95% on de-escalation of situations. Our training does recognise that in some situations someone may have become so distressed that if they are at risk of hurting either themselves or others then in those circumstances a physical intervention may be required to reduce that risk.

In the BBC documentary 'Don't Exclude Me' the technique and approach that Marie Gentes used are not Team Teach approved or recognised and should not have been used. Marie Gentes is not an accredited Team Teach practitioner and has not been trained by Team Teach in recent years.

From the clips that were shown our assessment is that the child did not present a risk of harm to themselves or others and therefore physical intervention was not something that Team Teach would advocate in these circumstances. We have reached out to the school that featured to offer help in further training in best practice as at time of filming their accreditation with Team Teach had lapsed."

Dr John Parkes (PhD, M.Med.Sci., BA(Hons), PGCTHE, RMN) is one of the country's leading experts on positional asphyxiation. In fact, the BBC cited his expert opinion on positional asphyxiation when reporting on the death of Jimmy Mubenga who died shortly after being restrained in October 2010. [Restraint technique could be fatal, research suggests - BBC News](#)

On October 29th 2021 Becky Gillespie wrote to Dr John Parkes regarding the restraint shown in Don't Exclude Me, providing him with copies of all the complaint correspondence we had had with the BBC to that date. On December 16th 2021 Dr John Parkes responded.

He addresses the potential impact of the restraint directly on Oscar in the email and also provided his expert testimony in relation more generally to the use of the hold demonstrated by Marie Gentles. A copy of the email in its entirety is attached.

Extracts from his email include;

"This is an issue which might impact on the safety of children so I am happy to respond"

"The child is in a seated position on the playground and at times the child's chest is located towards his knees. Seated positions where the chest is pushed or held towards the person's knees are demonstrated in formal research to reduce lung function. Seated restraint with the chest pushed or held towards the knees has been associated with fatalities. The risk is greater with obese persons. Even where the seated leant forward position is not harmful, it may be uncomfortable and may cause fear to the restrained person that they cannot breath."

"Good practice is to avoid any restraint which pushes or holds a person with the chest on or towards the knees whilst in a seated position.

I would not recommend the restraint position shown on the video."

We do note that Dr John Parkes' expert testimony states that Oscar himself may not have physically been at 'substantial risk of serious harm' in the restraint shown on the programme because of the length of the hold and because Oscar is not obese. His expert testimony asserts that obesity increases the risk of positional asphyxiation. The BBC may like to note that Amanda Spielman (Her Majesty's Chief Inspector) wrote in July 2018 "Childhood obesity is one of the pressing issues of our generation. By the start of primary school, almost a quarter of children in England are overweight or obese. This rises to over a third by the time children leave Year 6." [Microsoft Word - Obesity, healthy eating and physical activity in primary schools FINAL \(publishing.service.gov.uk\)](#)

Milton Hall Primary School, in a public statement they made in the press following the broadcast of the show, wrote "A number of schools have also been in touch to find out more about the work we did with Marie and to say how they are now looking at working in different ways with their children as a result of what they saw". This statement directly contradicts the BBC's stance that the show did not promote the use of restraint as a valid behavioural modification strategy, albeit one of several.

Staff from other schools clearly saw the show as a training resource, giving them ideas that they could utilise when working with their own children.

We do not believe that the BBC have considered in their investigation the findings of;

- The United Nations Special Rapporteur on Torture. Novak in 2009 or Mendez in 2013.
- The UN Committee on the Rights of the Child in 2016.
- Article 3 of the European Convention on Human Rights.
- Article 24 of The United Nations Convention on the Rights of Persons with Disabilities.

We can only reiterate, as we have stated in every letter we have sent thus far to the BBC as part of this complaint, the hold demonstrated by Marie Gentles was presented by the BBC as best practice. It was far from best practice. Our correspondence related to this complaint has highlighted to you in some depth that;

1. Team Teach confirm the restraint was not necessary
2. Dr John Parkes confirms that not only could the use of this hold give rise to fear in the child/young person it was used on but, in the wrong set of circumstances, the hold could be lethal. It could cause death.
3. ICARS have gone on to establish that between a quarter and a third of primary aged children run an increased risk of death were this hold to be used on them because of the levels of obesity in our communities.
4. The T-wrap (the hold demonstrated by Marie Gentles on the programme) is a hold that was removed from the Team Teach syllabus on the advice of Dr Tony Bleetman because of the risk of positional asphyxiation. He is one of the Government's preferred medical experts in relation to the medical implications of the use of force.
5. We have demonstrated that the restraint was in violation of the 2013 "Use of Force" guidance.
6. The restraint was in violation of the 2019 Government guidance "Reducing the need for restraint and restrictive intervention".
7. The restraint was likely in violation of the 2021 Government guidance "Positive environments where children can flourish"
8. Due attention was not made by the programme makers or the BBC to Article 3 of the ECHR.
9. The restraint goes against the advice to the UK government of the UNCRC in 2016.
10. The restraint likely breaches Article 24 of the UNCRPD, which the UK government ratified in 2009.
11. In our opinion 'Don't Exclude Me' breaches the Ofcom Broadcasting Code section 5, section 2.3 of Ofcom's generally accepted standards and section 2.4 of the Broadcasting Code.
12. Children have been killed in schools globally most recently Max Benson, Cornelius Frederick and Xavier Hernandez. All killed by fatal positional asphyxiation through restraints that restricted breathing at the hands of teaching staff.
13. School staff are using this show to base their practice on.

Whilst there can be no doubt that the restraint that the BBC have represented as best practice on 'Don't Exclude Me' can actually be life threatening and at best cause significant harm, still the BBC continue to ignore these facts and continue to show 'Don't Exclude Me' on their broadcasting platforms.

Given that children have been and continue to be placed at risk as a result of this programming we maintain our call for a full public apology from the BBC, the programme taking off iPlayer and the facts made right. It is imperative that the BBC commit to making a programme that seeks to portray the harmful effect that restraint and seclusion has on children within the education system and their families.

Until the BBC does so, they have not fulfilled their obligation to the British public to produce truthful, knowledgeable, investigative, research-based programming such as the licence payer expects. 'Don't Exclude Me' is a documentary that has touched on a significant Human Rights issue by flippantly screening an unnecessary and disproportionate restraint without consideration of any potential unintended consequences. Over the past year ICARS have now collected over 700 lived experience case studies of restraint happening in schools across the UK. They paint a disturbing picture of systemic Human Rights abuses and harm experienced by disabled children.

This show has justified, normalised and promoted this abhorrent treatment of disabled children across all UK school settings. The use of restraint by staff in schools is such an important Human Rights issue that it deserves nothing less than a true rendering of the facts.

We trust that the ECU will investigate our complaint with a thoroughness and gravitas that we have not yet seen from the BBC in previous stages of the complaint's procedure,

Respectfully,

The ICARS Team