

## PE1713/C

Scottish Government submission of 9 August 2019

Thank you for your e-mail of 10 July to the Scottish Government, following the Public Petitions Committee's consideration on 20 December 2018 of Petition PE1713 which is calling on the Scottish Parliament to urge the Scottish Government to ban outright the use of mosquito devices in Scotland in order to uphold children and young people's rights.

The Committee agreed that it would write to the Scottish Government seeking its views on the action called for in the petition and issues arising through the evidence session. The Committee specifically would welcome the Scottish Government's views on:

- the stated views of the Council of Europe (2010) – “In 2010, the Council of Europe's Parliamentary Assembly recommended the devices be banned in all 47 member states”; and
- the Department of Justice and Equality in Ireland – “In July 2018, the Department of Justice and Equality in Ireland advised that use of anti-loitering devices may constitute assault and that all concerns about the devices should be reported to the Garda.”

The issue of mosquito devices has been a concern to the Scottish Government for some time and our clear view remains that we are opposed the use of these devices. That is why we have taken proactive action to minimise and discourage the use of mosquito devices within the limits of the powers available to us. A ban on the sale, supply or use of mosquito devices would be outside the legislative competence of the Scottish Parliament. The UK Government (UKG) is not seeking a ban/restriction despite our requests for action.

That is why the former Minister for Community Safety and Legal Affairs wrote to Victoria Atkins, Minister for Crime, Safeguarding and Vulnerability on 13 March 2018 setting out the Scottish Government's position in relation to these devices. We have also been in contact with officials from the Home Office, Tackling Crime Unit. The replies from UKG advised us that they did not share our concerns and that they believed there were sufficient procedures available if people wished to complain about noise emanating from one of these or similar devices.

We also wrote to the Health and Safety Executive on 20 June 2018, the UK body who is responsible for enforcing health and safety legislation relevant to the working environment, requesting that they carry out testing of mosquito devices to give us the conclusive evidence of the impact on health these devices can have. Such evidence would provide the empirical evidence needed to allow appropriate action to be taken by the UKG in response to the impact of these devices. Unfortunately, the response from the HSE declined to take any action stating that following the additional management and control measures introduced by the Control of Noise at Work Regulations 2005 they have no plans to revisit research, which was carried out in 2001, or to commission new research in this area.

Despite being met with a wall of obfuscation, our position remains consistent – that we do not believe the use of the mosquito device is consistent with our approach to tackling antisocial behaviour, nor do we believe that it is consistent with our desire to promote strong and supportive communities where people's rights are recognised and respected. We recognise that anything short of an outright ban will leave children and young people unfairly targeted, but in the absence of appropriate powers being made available to us, we are taking forward the actions that we can.

To improve our understanding of the impact of mosquito devices on young people, we worked with YoungScot and the Scottish Youth Parliament (SYP) to commission a survey of young people's experiences of the mosquito device. The research comprised of an online survey based on a self-selecting sample of young people who responded through a range of YoungScot channels and via direct emails. The research was published in January 2018 and was discussed in some detail at Public Petitions Committee on 20 December 2018. The survey attracted 725 responses and 15% (105) of those had encountered one device at least once while going about their day-to day business, while 59% (61) of those who had encountered a device reported experiencing health effects or discomfort.

Such a survey is of course indicative rather than conclusive, but it does clearly demonstrate that there were young people in Scotland who had encountered these devices. The survey identified Hamilton, Aberdeen and Helensburgh specifically as the frequently mentioned locations for mosquito devices. This finding was not surprising given ScotRail had installed and trialled mosquito devices at their railways stations in these areas. Our correspondence with ScotRail has revealed that the company did install mosquito devices at certain railway stations (including in the three locations mentioned) in relation to combating antisocial behaviour, but that following the trial use of mosquito devices it had taken the decision to ban the use of mosquito devices at all stations across the network.

In addition we had contacted all local authorities to highlight the Scottish Government's position on the use of mosquito devices. Of course it is important to acknowledge that councils do not have a general power to ban mosquito devices from non-council premises, but we believed that local authorities could set a clear example by doing this within their own estate. I am pleased to inform you that all local authorities have confirmed they either do not use or no longer use these devices. Since then we have written to other public sector bodies in similar terms encouraging them not to use these devices.

Both Police Scotland and the British Transport Police do not use mosquito devices as a way of tackling antisocial behaviour. Police Scotland is working in partnership with local authorities and local communities to tackle antisocial behaviour using conventional policing methods which may reduce or negate the need to use mosquito devices in areas experiencing persistent antisocial behaviour. Whether the use of any specific mosquito device constitutes an assault is of course a matter for the police and we fully support them in taking all appropriate and proportionate action in response to each individual incident that is reported to them.

The responses from a few local authorities highlighted that they were aware of some private businesses in their area using these devices. However, as there is no data held by anyone which tells us the numbers being used or in which areas the devices are located, we decided to write to organisations representing the business sectors highlighting the Scottish Government's opposition to the use of mosquito devices.

The Scottish Government remains committed to upholding the rights of children and young people and are taking the action which is within our current powers to minimise the impact that these devices have on children and young people.

I hope the Committee finds this information helpful.