

Fergus D Cochrane
Clerk to the Committee
Public Petitions Committee
TG.01
The Scottish Parliament
EDINBURGH
EH99 1SP

Our ref: F3423778
26 November 2010

Dear Mr Cochrane

CONSIDERATION OF PETITION PE1367

Thank you for your letter of 29 October to the Scottish Government, asking for its views in relation to Petition PE1367 which “calls on the Scottish Parliament to urge the Scottish Government to ban the use of the ‘Mosquito’ and other such devices which emit a loud unpleasant high pitched noise designed to be heard only by those under 25.”

Firstly, I would like to say that the Scottish Government believes everyone has the right to feel safe in their community and it is unacceptable for people of all ages to be afraid to leave their homes, to use public spaces and go about their day to day business. Our aim is to make Scotland a safer and stronger place, which means encouraging a culture of personal and collective responsibility, and from that base rebuilding the relationship between law, government and the citizen.

On 19 March 2009, the Scottish Government and COSLA jointly published their Framework for tackling antisocial behaviour (www.scotland.gov.uk/communitysafety). This followed a thorough review of national antisocial behaviour policy and recognises that prevention and early and effective intervention should be at its heart. Among the strategic aims it identified were the need for appropriate, proportionate and timely interventions in tackling antisocial behaviour; and also that we should seek to counter negative stereotypes by focussing on encouraging more balanced, evidence-based reporting on antisocial behaviour with a particular emphasis on responsible reporting on young people’s involvement. The Framework recognised that, in addition to engaging with communities as a whole, there is a need to support practitioners to engage with young people to:

- Expand young people's horizons and increase their opportunities to develop interests and skills in an enjoyable, fulfilling and supported way; and
- Support personal, social and physical development.

Through the CashBack for Communities programme the range of activities for children and young people addresses diversion as a means of prevention, and provides education and support with the aim of increasing the likelihood of positive long-term outcomes for those involved. In addition, it is recognised that role-models and mentors have a crucial role to play in supporting both young people and adults in making a positive contribution.

While each case will turn on its facts and circumstances, we recognise that the use of the mosquito could prevent children and young people from enjoying freedom of movement and peaceful assembly. The Scottish Government cannot comment in the abstract as to whether using a device which targets ethnic minorities or young people would constitute discrimination as each case would clearly turn on its own facts and circumstances. We are also aware of concerns that have been raised by police, local authorities and young people around the use of the device. We have continued to discuss this issue with colleagues and partner organisations. We have also gathered and considered available information around the use of the mosquito. While we believe that local agencies, working with the local community, are best placed to decide the detailed strategy and range of measures which can best tackle antisocial behaviour, we are determined to ensure an appropriate balance between prevention and enforcement, to support positive behaviour for the majority as well as tackling antisocial behaviour by a minority.

Finally I would say, in response to the question raised about whether use of the device might constitute an assault, that the Crown Office and Procurator Fiscal Service (COPFS) is the sole prosecuting authority in Scotland and receives reports from the police and other specialist reporting agencies. All cases reported to COPFS are considered on the basis of the specific facts and circumstances contained within the report and criminal proceedings will be commenced if there is sufficient admissible evidence that a crime has been committed and it is considered that a prosecution would be in the public interest. Factors that will be taken into account when considering the public interest are set out in the Prosecution Code which is available on the COPFS web site at www.copfs.gov.uk.

In all of this our objective must be to create safe communities for all members of those communities. We will continue to support local authorities and agencies in helping create strong, resilient communities where people take responsibility for their own actions and how they affect others.

I hope that this is helpful.

Yours sincerely

JOHN BROWNLIE
Community Safety Unit