

**PE1367/N**

Mr. Fergus D. Cochrane  
Clerk to the Committee  
Public Petitions Committee  
The Scottish Parliament  
Edinburgh  
EH99 1SP



10<sup>th</sup> February 2011

Dear Mr. Cochrane,

**Re: Letter from Scottish Government PE1367/M**

Thank you for giving me the opportunity to respond to the latest submission from the Scottish Government with regard to my petition.

The submission on the 25<sup>th</sup> of January represents a welcome shift in the position of the Scottish Government on the Mosquito. I am glad to see that the Scottish Government now recognises that “the mosquito device is not consistent with [their] approach as outlined in Promoting Positive Outcomes and is also not consistent with [their] desire to create strong supportive communities where people take responsibility for their own actions and how they affect others” and that “this Scottish Government has not expressed support for these devices”. This appears to be an improvement on the earlier position which failed to note the discrepancy between the approach of “early and effective intervention” and a device which aims merely to move the problem on when it occurs with no communication, dividing communities rather than strengthening them.

Now that the Scottish Government has recognised that the Mosquito device is not consistent with their approach to tackling anti-social behaviour (and is in fact counter-productive in terms of their aims), they must take it upon themselves to look seriously into the option of a ban. The Scottish Commissioner for Children and Young People provided three separate roads which could be investigated in this area, namely:

- To work with the UK government, who have control over regulation of goods, to achieve a ban.
- To review whether public sector organisations have responsibility under the Public Sector Equality Duty to prevent the use of the Mosquito, in relation to it discriminating against children and young people, particularly those with disabilities.
- To review whether the Mosquito constitutes a noise nuisance under the Antisocial Behaviour (Scotland) Act 2004.

I would urge the Scottish Government to look into each of these, as well as undertaking the consultations they have promised to carry out with local authorities.

I find it disappointing that in their submission the Scottish Government failed to address directly some of the key points from the first round of submissions, which they were explicitly asked about by the Public Petitions Committee. Specifically, the failure of the submission to address the views of the Scottish Police Federation, ACPOS and SCCYP, along with no mention of what the government will do in the case of little local authority support for the devices, which has meant that I am not filled with confidence that the Scottish Government is serious about a ban, or recognises the seriousness of the issue in the way that the members of the Public Petitions Committee have.

I note that the action the Scottish Government does commit to is to “consider” the arguments put forward by respondents to the petition and to “seek the views of local authority partners to try and ascertain the extent to which the device is being used across Scotland, and their views on the device.” I am concerned that neither of these commits the government to reporting back on their findings and publically announcing their view in light of them. I would hope that the Public Petitions Committee would agree with me that it would be unacceptable for the Scottish Government to drop the issue at this juncture, and as such they should commit to publishing their findings and letting the young people of Scotland know whether or not they will pursue a ban.

Furthermore, I am not sure whether the question of “the extent to which the device is being used across Scotland” should matter when the Scottish Government is deciding its course of action. One Mosquito device in Scotland is one too many, and would merit a ban. Whether there are ten, a hundred or a thousand devices in use, each performs the same, discriminatory duty of collective punishment against a group in society which contains some of our most vulnerable citizens. If the government found that only one property in Scotland was fitted with a Mosquito, would they let the issue lie and pave the way for more? I anticipate that they will encounter difficulty in answering the question of “how many”, but that in no way should be a barrier to action.

In short, I am pleased that the Scottish Government finally seems to be considering where the Mosquito fits in with a Scotland that respects and protects its young people, or rather where it does not fit in. But they must be in no doubt that the young people of Scotland will hold them to account for the action they take or fail to take. I hope that the Public Petitions Committee will agree with my assessment of the submission - there is a good shift in attitude, but it must be backed up by action and this action must be made clear to the public, to which the Government is accountable. I leave it to the Committee to assess how best to obtain this commitment from the Scottish Government, so that this is not the last we hear from them on this issue.

Finally, I would like to make a point which relates to the third possible option for a ban as laid out by SCCYP. Noise nuisance, in terms of anti-social behaviour, would be when an individual or group is responsible for a noise which shows “disregard for the community and/or [the] personal wellbeing” of innocent people. A better description of the Mosquito is hard to find. The Scottish Government’s strategy on anti-social behaviour has “prevention and early and effective intervention” at its heart. It may well be too late for early action on the Mosquito, but I am in no doubt that a ban would prove an effective intervention in the case of the noise nuisance it represents to the vast majority of young people in Scotland who have done nothing wrong, and would also prevent such a nuisance being caused in future. The Scottish Government has an anti-social behaviour strategy which can deal with problems like this and produce positive outcomes - this is an excellent opportunity to display that anti-social behaviour is not limited to hooded teenagers on street corners, but to anyone who takes it upon themselves to engage in activities which cause division and alienation in our communities, and harm innocent people within our society with their actions.

Yours sincerely,

Andrew Deans MSYP