

**PE1367/BB**

**Safer Communities Directorate**

Drugs and Community Safety Division

T: 0131-244 4640

E: John.Brownlie@scotland.gsi.gov.uk

Anne Peat  
Clerk to the Committee  
Public Petitions Committee  
TG.01  
The Scottish Parliament  
EDINBURGH  
EH99 1SP

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Your ref: Petition PE1367  
Our ref: A2703684  
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Dear Ms Peat

Thank you for your letter of 12 March 2012 to the Scottish Government, following the Public Petitions Committee's consideration of Petition PE1367. Your letter requested responses to a number of questions relating to the „Mosquito“ Sonic Deterrent Device, the answers to which are set out below.

As has been outlined in previous correspondence, in March 2009 the Scottish Government and COSLA jointly published *Promoting Positive Outcomes*, their Framework for tackling antisocial behaviour. This followed a thorough review of national antisocial behaviour policy and recognises that prevention and early and effective intervention and diversion should be at its heart.

**Please confirm that the view of the Scottish Government is still that it does not support the use of the mosquito device.**

The Scottish Government's view remains that use of the “mosquito” device is not consistent with its approach to tackling antisocial behaviour as set out above. Nor is it consistent with our desire to create strong supportive communities where people recognise and respect each other's rights. I would also highlight the fact that the current Scottish Government has not expressed support for these devices in the past.

**Has the Scottish Government taken, or does it intend to take, any advice on ECHR issues relating to the use of the device?**

The Scottish Government has considered a range of advice across a number of different issues in respect of the mosquito. It is for public authorities themselves to determine what they need to do to comply with the legislation.

**When did the Scottish Government last speak to the UK Government about this issue and what was the outcome of those discussions?**

As the Committee is aware, the then Minister for Community Safety Fergus Ewing MSP wrote to the Home Secretary, the Rt Hon Theresa May MP on 9 September 2010. This offered a discussion on our respective approaches to tackling antisocial behaviour, following an announcement that ASBO powers in England and Wales were to be reviewed. On 8 March 2011 Mr Ewing outlined to the Committee that a meeting between officials was being arranged and gave a commitment to the Committee that the issue of the mosquito would be considered at that meeting. Scottish Government officials then met with officials of the UK Government on 2 August 2011. The content of this discussion was outlined to the Committee in my earlier letters of 5 September 2011 and 28 October 2011.

**Will the Scottish Government now investigate what powers it could employ to ban the use of these devices?**

In previous correspondence to the Committee, the Scottish Government has outlined that before any decision can be taken on whether or not to ban or regulate devices such as these, there would require to be justification based on evidence of the effects of the device, and for example whether it was injurious to health. Such evidence would likely need to be taken from a variety of sources. As the then Minister commented during his evidence on 8 March 2011, if the purpose of any ban or regulation was due to such effects on health, and there was sufficient evidence, then it would be possible to consider afresh various issues which arise in relation to the devolved competence to impose such a ban. Any steps taken have to be proportionate to the extent of the issue.

In that regard, the Scottish Government noted that in the official report of 6 March 2012, members had suggested that "SPICe could investigate what work has been done to assess the health impact of the device". The Scottish Government would appreciate seeing the outcome of this request.

Finally, the Scottish Government recognises the determined efforts made by the Committee in progressing this issue and the concerns that have been expressed. The Scottish Government has therefore considered options that might be open to individuals to address this issue. In undertaking this consideration, it would appear that Section 54 of the Civic Government (Scotland) Act 1982 may provide a potential mechanism to address individual cases. The Scottish Government intends to discuss this with the Association of Chief Police Officers Scotland (ACPOS).

I hope that this reply is helpful.

Yours sincerely

**JOHN BROWNLIE**  
Policy Manager