



PE1367/KK

Dear David,

I welcome the opportunity to respond to the submissions from the SCCYP and the Minister for Children and Young People, as well as to respond to the oral evidence given by the Minister for Community Safety.

It will come as no surprise to learn how disappointed I was by the oral evidence of the Minister. I am disappointed, of course, that the Scottish Government do not appear to favour a ban on Mosquito devices. However, her evidence was, in two ways, more disappointing than that.

Firstly, I suspect that the committee will share my frustration and disappointment at the lack of impact two and a half years of petitioning seems to have had on the Scottish Government. I have detailed in previous responses how impressed and delighted I have been with successive incarnations of the committee and their willingness to keep this petition open and continue to pursue the issue. To me, it feels like the Scottish Government stalled for all this time and the evidence betrayed the fact that very little has been done to consider the issue in much detail - no legal advice taken on competence; no legal advice taken on human rights; no attempt to engage with young people or other stakeholders in consultation. For this process to work, petitioners need to engage with it, the committee need to engage with it, and the Scottish Government needs to engage with it. Two of us are doing so. One of us is not.

Secondly, while I accept that the decision not to legislate is one that the Scottish Government could reasonably take, I do not accept that the reasons for doing so, as outlined by the Minister, are in any way good enough. The human rights question, which I have said time and time again is the biggest concern with the Mosquito device, was brushed off with an assertion that the Scottish Government didn't think that the devices contravened the ECHR. No reasons for coming to this conclusion were given, and no legal advice was taken. When the Council of Europe feels that no less than four convention articles are breached by the Mosquito, I do not feel it is asking too much if Scotland's young people expect their government to look into the issue a bit harder.

The Minister, rather bizarrely, seemed to place some emphasis on the fact that she hadn't heard that this was an issue from young people, and had had no correspondence on the topic from young people in her constituency. I have to confess that I am not sure how many toddlers, primary school children or even older young people get in touch with the Minister to tell her about the pressing issues of the day, but I'd imagine it is a relatively small number. Nonetheless, I do believe that the MSYP for her constituency was a little bemused by this being used as a reason not to take any further action on the Mosquito device, and I believe the Minister has now received correspondence from him to remedy the situation.



Furthermore, the Scottish Youth Parliament is a democratic, representative body for young people, and a ban on Mosquito devices is a policy in our Manifesto, 'Change the Picture. This manifesto was the result of extensive consultation, with 42,804 responses received from young people. I can assure the Minister that young people do care about the Mosquito device and are supportive of a ban.

The response from the Minister for Children and Young People, though unsurprising in its backing of her colleague, is rather disappointing in that it makes no mention of the forthcoming Children and Young People Bill, in which the Minister's own foreword to the consultation paper makes clear the Scottish Government's ambitions to *"make Scotland the best place in the world for children to grow up...we want a Scotland where the rights of children and young people are not just recognised, but rooted deep in our society and our public services. A nation that strives to make these rights real in our everyday lives."*

The Scottish Youth Parliament shares this ambition and has been central to engaging young people in the consultation on the Bill. In this, and in all previous consultations SYP has carried out on these issues, young people have overwhelmingly supported the principle that the UNCRC should be given more force in Scots Law.

Given that the use of Mosquito devices in Scotland was highlighted as a particular concern by the UN Committee on the Rights of the Child in 2008, and that engaging with this petition was included in the Scottish Government's list of 'Next Steps' in its recently-published 2012 'Do The Right Thing' progress report, it is disappointing that the Minister's response appears to continue the focus on the extent of the use of the Mosquito, and on the justice and health issues related to use of the device. I have consistently regarded this as primarily an issue of young people's rights, and continued use of Mosquito devices in Scotland does not appear to be in keeping with the spirit of the Government's ambition, nor its positive intentions for the Children and Young People Bill.

I warmly welcome Scotland's Commissioner for Children and Young People's commitment to including work on the Mosquito device in his work programme. I agree that the Mosquito is a manifestation of a wider issue with respect for children's rights and look forward to the progress that he might make on the issue.

However, I still feel that we have not quite exhausted the public petitions process. I appreciate that the committee will be unsure what you can do to further the cause given the evidence of the Minister for Community Safety, but I want to pick up on something which, according to the response of the Minister for Children and Young People, she said on the 30th of October;

"if any group of people is being seriously impacted on by any activity, it can bring it to government and parliament. We will always look carefully at the evidence and consider whether legislation is appropriate."



Young people are being seriously impacted by this attack on their rights. This has been brought to Government and Parliament through this process. I do not feel that the Scottish Government have indeed looked carefully at the evidence. I do not even believe they have looked *for* the evidence in the first place. But because of my belief that the grounds for not taking legislative action laid out by the Minister simply do not stand up to any sort of scrutiny, I am prepared to lay all the evidence I can in front of the Scottish Government.

I ask the committee to keep the petition open to allow the Scottish Youth Parliament to collate all the evidence on this issue. Over the next couple of months we plan to consult with young people in order to prove that, in contrast to what was implied by the Minister, they do care about this issue. This will hopefully also help us identify the location of some Mosquito devices. In addition, we will gather together existing and new evidence from organisations including the National Autistic Society and childrens' charities, as well as evidence from those responsible for dealing with anti-social behavior including the police and local authorities. We will also look further into the human rights implications of the devices. We believe that this evidence will present a compelling case for action from the Scottish Government, and certainly show that the reasons relied on by the Minister in not acting are in conflict with the evidence. Once the evidence is presented I would hope that the committee could recall the Minister in order to find out whether, having carefully considered all this evidence, the Scottish Government intends to act or not.

Given the time and effort put in both on my part and on the part of the committee, I do feel we should not give up too easily. By keeping the petition open and allowing us this time to get all the evidence together, I hope for an answer from the Scottish Government which is based on sound reasoning. I believe we all deserve that much.

Yours Sincerely,

Andrew Deans MSYP