

PE1713/B

Police Scotland submission of 8 August 2019

I have been asked to consider your request for information on the subject of Mosquito devices and for the Police Service of Scotland (Police Scotland) to provide views on their use. I have now reviewed the reports produced for a call to ban them and would offer the following by way of response.

Police Scotland is aware that Mosquito devices have been used in communities throughout Scotland by private tenants, retail outlets, businesses and Local Authorities to counteract issues of anti-social behaviour, amongst other types of criminality. I note however, that there is no legal restriction regarding their use and no framework for regulation. Without regulation it is difficult to properly assess the extent of usage of these devices. I also understand that the policy around Mosquito would appear to be considered a 'reserved' matter not devolved to the Scottish Government.

I am also aware of support for the proposal to ban Mosquito devices from a number of sources, including the Scottish Youth Parliament and the Children & Young People's Commissioner, who have raised concerns about the devices being deployed in public places. They have cited perceived discrimination on the basis of age and, on occasion, of disability in the case of children with autism (heightened sensitivity of hearing – frequently accompanied by diminished capacity to comprehend or express the distress they are experiencing). There is also a view that suggests the devices infringe a number of rights of the United Nations Convention on the Rights of the Child (UNCRC) if deployed indiscriminately.

These include:

- the principle of non-discrimination (article 2),
- the principle that the best interests of the child must be a primary consideration in all decisions affecting them (article 3),
- the right to freedom of assembly and association (article 15),
- the right to protection from violence, abuse and injury (article 19), and the right to play, leisure and recreation (article 31).

Police Scotland does not endorse or deploy Mosquito devices. At present, however, there is no legal restriction on consideration or deployment of these as a tactic to deter antisocial behaviour. Where antisocial behaviour is reported, we will continue to work alongside our partners to tackle such behaviour or criminality, ensuring a proportionate, legal, accountable, necessary and ethical approach based on a profile of the problem supported by intelligence and evidence. We would not recommend a deployment of any device, whether Mosquito or other, where there was a blanket targeting of young people which contravenes the rights as mentioned above in the UNCRC.

Any actions and tactics used in any operation or incident must be proportionate and in line with the values of our organisation, particularly in relation to the European Convention of Human Rights and our integrity in performing our public task. The nature of any 'problem profile' should be risk assessed and acted upon dependent on the

severity, urgency and significance of the issue in hand. With this said, we must also be open to use legal options and tactics and deploy resources effectively to prevent further escalation of a problem which may impact on the wider community and their rights.

It is apparent that the main issue of contention is that these devices are apparently inaudible to adults however designed to cause annoyance to young people and therefore deployable as a counter measure to antisocial behaviour. This is unlike other protective security measures which are generally applicable to the population in general. There is anecdotal reference to possible health detriment provided in the petition and from other sources however it is unclear whether there is any evidence to support or refute this assertion, or research which would determine whether the annoyance caused by the devices would reach a threshold where it is considered to breach individuals' rights.

Police Scotland would welcome any existing or further academic research to determine the health, and other, implications posed by the deployment of Mosquito devices, including any long term effects. This would provide an evidence base, against which further action including 'ban' or regulation could be considered and debated. It is also unclear as to how a 'ban' may be achieved within Scotland, given that it would appear to be a reserved matter, albeit further consideration under devolved responsibilities may be possible. Further, should a 'ban' or regulatory framework be considered, Police Scotland would be interested in how this would be enforced and by which agency. The Mosquito devices would appear to be freely available from retailers and online. The feasibility of any 'ban' or regulation should, it is suggested, be carefully considered should discussion proceed towards this.

Finally, Police Scotland is committed to promoting the Equality Duty under the Equality Act 2010, part of which includes, across all public authorities, promoting cohesion between different groups. On that basis, given the proposal raised and views from organisations representing children and young people, we would be interested in participating in any further discussion regarding this matter especially given our focus on engagement with this sector of our communities and the wider general public