

Position statement: Mosquito devices

The sale and use of the Mosquito device and other acoustic devices – designed specifically to ‘repel’ children and young people – is a breach of the international human rights law. A renewed call for action against them is timely.

The office of the Commissioner has been campaigning for a ban since 2007 and in 2015 lent its support to [Petition PE1367: Ban Mosquito Devices Now](#) at the Scottish Parliament’s Public Petitions Committee.

In 2010, [the Parliamentary Assembly of the Council of Europe estimated there were around 3,500 Mosquito devices in use in the UK](#). We have no reliable estimate of how widespread their use is in Scotland. However, anecdotal evidence suggests that private businesses – particularly in the retail sector – and some Local Authorities have purchased the device and use it today.

Children and young people’s rights

The deployment of the Mosquito infringes a number of rights enshrined in the United Nations Convention on the Rights of the Child (UNCRC). 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).

[In its 2008 Concluding Observations](#), the UN Committee on the Rights of the Child expressed concerns regarding the *general climate of intolerance and negative public attitudes towards children, especially adolescents* observed in the UK. It went on to recommend:

“that the State Party reconsider the ASBOs as well as other measures such as the mosquito devices insofar as they may violate the rights of children to freedom of movement and peaceful assembly, the enjoyment of which is

essential for children's development and may only be subject to very limited restrictions."

[In its response to the report](#), Scottish Government made a commitment to tackling negative perceptions of children and young people, and to *consider[ing] next steps on the mosquito once examination by officials is complete during summer 2009*.

In its [2016 Concluding Observations](#), the UN Committee on the Rights of the Child explicitly called the UK State Party to *Prohibit the use in public spaces of acoustic devices used to disperse gatherings of young people (so-called "mosquito devices")*, in order to guarantee children's right to freedom of movement and peaceful assembly.

In 2010, the Parliamentary Assembly of the Council of Europe's unanimously adopted [a recommendation](#) calling on its 47 member states to:

- ban the use of Mosquito devices in all public places, and
- prohibit the sale and marketing of Mosquito devices, or require clear warnings around their use in non-public places.
- promote, in consultation with youth forums at the local level, the development of indoor and outdoor facilities to increase opportunities for physical, intellectual and leisure recreation, including green areas, gymnasias, swimming pools, playing fields, libraries and multimedia libraries.

It found that the use of the acoustic devices to disperse children and young people is a disproportionate interference with their rights under Article 8 of the European Convention on Human Rights, which protects the right to respect for private life, including the right to respect for physical integrity. The use of these devices may, depending on circumstances, interfere with Article 11 of ECHR which guarantees the right to freedom of peaceful assembly and the degrading nature of the use of acoustic pain may also be a breach of their rights under Article 3 of ECHR to be free from degrading treatment.

The case for a ban

The message sent by the deployment of the device is that children and young people are unwelcome and deserve to be 'repelled'. The use of the device will serve to further entrench the negative and intolerant attitudes towards children and young people in public spaces, which has been raised as a significant problem for children and young people in the UK.

A study undertaken by the German Federal Institute for Occupational Safety and Health concluded that the device particularly affects infants and young children. The report notes that children will be unable to withdraw from exposure to the Mosquito, because accompanying adults may not hear the noise that distresses their children. It further suggests that the noise emitted by the Mosquito may have impacts on children beyond their hearing, potentially causing nausea, dizziness and pain, as well as affecting children's sense of balance. In conclusion, the Institute was unable to

exclude risks to health and safety in the use of such devices. The Minister who commissioned the study concluded that such devices should therefore not be used in localities where children are present.

Past submissions from the Scottish Retail Consortium and the Scottish Grocers Federation have supported the use of Mosquito devices, referring to the pressures on retailers in the financial climate of the time. While the Commissioner fully acknowledges these pressures are real, it is not acceptable to put the freedoms, health and well-being of our children and young people at risk by infringing on their rights in this manner. At present, services and opportunities for children and young people are vulnerable to cuts. Our focus should be on ensuring that children and young people have access to what they need to thrive and develop, and to grow up into healthy, achieving and well-rounded adults. Places for play, leisure and meeting with friends for all children and young people are essential to their development, as is their right to move freely, which often relies on public transport. This requires the effective management of public spaces, which takes account of all users, including children and young people.

Together Scotland's [State of Children's Rights in Scotland 2016 report](#) documents the views of young people around Mosquito devices. In this, the young people say the device's use is unfair, negatively impacts health and fails to tackle the root causes of antisocial behaviour.

It also notes that a Scottish Youth Parliament survey suggested children are encountering Mosquito devices in areas where public bodies believe none are installed: 303 Respondents from Aberdeenshire, Clackmannanshire, Dundee, East Renfrewshire, North Ayrshire, Renfrewshire, West Dunbartonshire and South Ayrshire reported either encountering the devices or awareness of their use. Additionally, respondents reported encounters with Mosquito devices or awareness of their use in six of the eight council areas that did not hold information on the use of such devices.

Finally, the report noted that lack of regulation around Mosquito devices means their use is not normally known to local councils, and that these councils have little power to stop their use even when aware of their existence.

Banning the Mosquito and similar devices

The Scottish Government must work with the UK Government and Public Bodies in Scotland to ban the Mosquito and any similar devices as the use of them breaches the human rights of children.

Secondly, the Scottish Government should consider whether the [Public Sector Equality Duty](#), which covers age as a protected characteristic – including for people under 18 – could be an additional lever to ensure that public sector organisations and their private sector partners and suppliers do not use the Mosquito. The duty may be equally relevant in relation to children and young people whose disabilities may make them more vulnerable to the impacts of the devices. Finally, the Scottish Government should consider the position of the Mosquito and any similar devices in terms of environmental legislation and the law relating to noise

nuisances in the [Antisocial Behaviour \(Scotland\) Act 2004](#). This is a matter that potentially affects all children and young people, and one where Government needs to take responsibility and do the right thing— to safeguard their health and well-being, to respect their dignity and to protect their rights.