

Children's Rights Alliance Briefing Note on the Mosquito Device

March 2009

Introduction

The Council of Europe Committee on Youth and Sport will meet at the end of March to discuss the question of prohibition, regulation or guidelines for the use of youth-dispersing Mosquito devices. This meeting is an opportunity to address measures which have a deeply negative effect on children, and on perceptions of children, in European countries.

This briefing note introduces the mosquito device and outlines the arguments for banning it. The Children's Rights Alliance, as a coalition of over 90 NGOs working with and for children in Ireland, wants to firmly raise its voice against the continued use of the *Mosquito Teen Deterrent*, which not only violates the fundamental rights of children and young people but also fosters negative stereotypes towards them. Our opposition is grounded in international human rights law, reflections of the UN Committee on the Rights of the Child, and our vision for Ireland as a society that values children as equal citizens.

The Children's Rights Alliance believes the use of the Mosquito device constitutes an assault on children and young people and should be prohibited by law.

What is the mosquito device?

The *Mosquito Teen Deterrent*¹ is a device that emits a high pitched noise aimed at dispersing young people gathered in public places. The frequency of the device is above the hearing range of people over 25 years, thus it specifically targets young people. The Mosquito device is made by Compound Security Systems (CSS) based in Merthyr Tydfil, Wales. Since its launch in January 2006, 8,000 devices have been sold. Responding to demand, the company produced a more powerful model, with a 50 metre range, designed for use in larger areas like cemeteries and building sites; and a smaller, cheaper model for small shops or private homes.

Who uses it?

In the UK, the police, local Councils, shops and even private home owners are among those to have purchased and installed the Mosquito device. In Ireland, it is used by a variety of bodies including City Councils and well-known supermarket chains. Devlin Retail, the primary supplier of the Mosquito devices in Ireland, claims that a number have already been installed in office blocks, residential areas, schools, universities and shopping centres.² The Alliance is aware of its current use by shops and private residences.³

How does its use impact on children?

The Mosquito causes discomfort to children, and in turn impacts on parents and parenting. For example, an eight-year-old boy in the UK said he had heard the Mosquito device in operation, but was afraid to tell his parents in case they did not believe him. "That buzzing noise", he said, "I've

1 See http://www.compoundsecurity.co.uk/teenage_control_products.html

2 See <http://www.indymedia.ie/article/86200>, [accessed 11 March 2009]

3 Communication from members of the public to the Alliance. See also a short film by Treasa O'Brien which documents the devices usage in the Paul Street Shopping Centre, Cork <http://video.google.com/videoplay?docid=7917455709914839389>

heard it, the other night about one in the morning”. “What were you doing out at that time”, asked the reporter. “I wasn’t”, said the child. “I live over the shops. It’s always waking me up.”⁴

Another child, who has had ear surgery, described how the device sets off her tinnitus (ringing in her ears), and causes her significant pain. Two teenage girls described the noise as ‘going right through you’, like “a sort of screeching noise.”⁵ The device frustrates parents too, who have reported that children become agitated and need to leave public places, like supermarkets or car parks, quickly and without explanation.

Why ban the use of the Mosquito?

It is a violation of Human Rights

The use of the Mosquito contravenes a number of principles protected by international and European human rights law including:

- Right to respect for private and family life (Article 8, European Convention on Human Rights)
- Prohibition of discrimination (Article 14, European Convention on Human Rights)
- Protection from physical or mental violence, injury or abuse (Article 19, UN Convention on the Rights of the Child)
- Freedom of assembly and association (Article 15, UN Convention on the Rights of the Child)
- Right to a high standard of physical and mental health (Article 24, UN Convention on the Rights of the Child)

It is criticised by the UN Committee on the Rights of the Child

The United Nations Committee on the Rights of the Child, in its *Concluding Observations* to the UK in October 2008, came out strongly against the use of the Mosquito device.⁶ The Committee expressed its concern at the restriction imposed by the Mosquito device on the freedom of movement and peaceful assembly of children, and recommended that the UK Government reconsider its use, insofar as it may violate these rights for children. It notes that the right to freedom of movement and peaceful assembly are essential to children’s development, and, according to Article 15 of the Convention can only be subject to very limited restrictions.⁷

It is potentially illegal

In response to a query from the Ombudsman for Children, the Commissioner of An Garda Síochána clarified that members of An Garda Síochána have been directed to investigate fully all complaints received regarding the use of Mosquito devices with a view to seeking the directions of the Director of Public Prosecutions.⁸

Legal advice provided to Youth Work Ireland concluded that the use of the device is ‘legally questionable’, given that the Mosquito device is capable, in its ordinary use, of perpetrating a criminal assault within the meaning of Section 2 of the Non-Fatal Offences against the Person Act, 1997, and therefore, its users leave themselves liable to criminal prosecution.⁹

It is discriminatory on the grounds of age

Article 14 of the European Convention on Human Rights states that the rights included in the Convention shall be secured, for all, without discrimination on any ground.¹⁰ The right to be free

4 ‘Use of mosquito device splits estate’, *BBC news report*, http://news.bbc.co.uk/2/hi/uk_news/7240930.stm [accessed 18 March 2009]

5 *Ibid.*

6 UN Committee on the Rights of the Child (2008), *Concluding Observations: United Kingdom of Great Britain and Northern Ireland*, 20 October 2008, p. 8 paragraph 34. See <http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC.C.GBR.CO.4.pdf> [accessed 18 March 2009]

7 *Ibid.*, Note: Article 15 of the UN Convention only permits restrictions in the exercise of these rights in the interests of ‘national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedom of others’.

8 Ombudsman for Children (2008) *Hearing Children: Annual Report of the Ombudsman for Children’s Office 2007*

9 Communication from Youth Work Ireland.

10 European Convention on Human Rights <http://www.hri.org/docs/ECHR50.html>

from discrimination is an *unqualified* right and the use of the Mosquito may be considered discriminatory on the grounds of age, as it is targeted specifically at children and young people.

It is indiscriminate

The Mosquito device affects all children and young people, not just those that are engaging in criminal or anti-social behaviour. It is equally disturbing for a baby in a pram as for a teenager throwing stones. A similar device targeting all adults or all elderly people would be likely to be greeted with outrage. Excluding all children, regardless of their behaviour, from shared public space is, quite simply, not fair. It is also unclear if the use of the device would breach the Equal Status Act, 2000.

It devalues children's quality of life

Quality of life depends on the quality of, and access to, shared resources; it is a measure of the health of the public realm. Yet children, through use of devices like the Mosquito are wilfully excluded and segregated from public space by adults. A society that values its children and young people and seeks to instil in them values of dignity and respect does not ban them from shared spaces by using deterrent technology.

It fosters negative stereotypes about youth

Media attitudes to young people are increasingly extreme.¹¹ Use of the Mosquito device reinforces these attitudes, by creating an understanding that all young people, when assembled together in a group, are there to cause trouble and should be dispersed. Degrading children, by denying them access to public space, instead of providing opportunities for them can only be detrimental in the long-term. It may also contribute to the perception among young people that the law is not there to protect them.

It is not yet fully understood

The long-term health implications of being subjected to the Mosquito device are not clear. Nor is it understood how the Mosquito affects some groups more than others. For example, the Co-op supermarket in the UK stopped using the device following complaints from a young person with autism who was made feel ill and disorientated by the high-pitched sound.¹² It is not yet known whether the device can be heard by, or affect, babies in the womb.

What position should the Council of Europe take on the device?

The Council of Europe has a mandate to guarantee an integrated approach to promoting children's rights. Its programme, *Building a Europe with and for Children*, has two closely related strands: the promotion of children's rights, and the protection of children from violence.¹³ The programme's main objective is to help all decision makers and relevant players to design and implement national strategies to protect children's rights, and to protect them from violence.

Prohibiting use of the Mosquito device would demonstrate the Council's commitment to its objectives, and would be a victory for children's rights in Europe.

The Alliance grants permission for the reproduction of quotations from this text, provided due acknowledgement of the source is made and provided such citations do not exceed 400 words in length. This publication may be reproduced in full or in part if accompanied by the following citation: Children's Rights Alliance Briefing Note on the Mosquito Device March 2009

11 For example, G. Carbery, 'You're afraid to say anything to them', *The Irish Times*, 9 December 2008; M. Brennan, 'Call to fine parents for anti-social children', *Irish Examiner*, 25 April 2005; R. Stilling, 'Families of rowdy teens face eviction', *Irish Independent*, 22 November 2007.

12 J. Doward, 'Store drops anti-yob device in autism row', *The Observer*, 4 May 2008. See <http://browse.guardian.co.uk/search?search=mosquito+device+autism&siteSearch-radio=guardian&go-guardian=Search> [accessed 19 March 2009]

13 See http://www.coe.int/t/transversalprojects/children/default_en.asp for further details.