

Scottish Government submission of 5 October 2022

PE1971/A: Take robust action to stop motorcycle theft

Under the Police and Fire Reform (Scotland) Act 2012, Section 17, the Chief Constable of Scotland is responsible for the policing of Scotland, and is accountable to the Scottish Police Authority rather than Scottish Ministers. As some of the issues raised by the petitioner refer to operational matters for Police Scotland, the Committee may therefore wish to explore these further with the Authority and the Chief Constable.

However, I am happy to outline our current position on this issue. Firstly, there are already a wide range of effective actions currently available to Police Scotland to prevent and reduce motorcycle theft, empowering officers to lawfully pursue and tactically engage thieves, where it is deemed necessary. Theft is a criminal offence under Scots law, which has developed over centuries through operation of the courts rather than being provided for in statute.

I understand that Police Scotland has a comprehensive Standard Operating Procedure in relation to Vehicle Pursuit, including a separate section on Quad Bikes and Motorcycles. All pursuits must be justified, proportionate and conform to the principle of least intrusion. Every pursuit has to be authorised and is closely managed with it being stood down as soon as it has been identified that the level of risk is disproportionate to the reason for undertaking it. Pursuits involving motorbikes present additional challenges and risks.

Secondly, the petitioner considers there is a need to review sentencing policy to allow the courts to implement tougher punishment for those convicted of motorcycle theft, including the use of mandatory custodial sentences.

It might be helpful if I explain that theft is a common law offence and, as such, the maximum sentence a court can impose on conviction is only limited by the sentencing powers of the court where the case is tried. A similar position applies with regard to the common law offence of assault in cases where violence is used.

Judges are best placed to decide on the appropriate sentence for each offender before them as they hear all the facts and circumstances of a case before making their sentencing decisions within the overall legal framework provided by Parliament.

In determining the appropriate sentence, the judge may consider, for example, the offender's previous criminal convictions, any criminal justice social work report or victim impact statement, the background to the particular offence including the convicted person's motive in committing the offence, and the financial means of the offender. Mandatory sentencing removes discretion from the court and has been previously rejected by the Scottish Parliament on that basis.

I hope that the information I have set out in this letter is helpful to the Committee and would suggest, as above, should further details on police procedure in this area be required, contacting the Chief Constable.