Thank you for responding to the Local Government and Regeneration Committee's Call for Evidence on the Air Weapons and Licensing (Scotland) Bill. All submissions will be examined and considered as part of the Committee's scrutiny of the Bill.

Please be aware that questions marked with an asterisk (*) require an answer before you can submit the form.

Follow the Local Government and Regeneration Committee's Twitter feed - all Committee tweets on this Bill will have the hashtag #awlbill.

**1. Please supply your name and contact details:**

Name: Sylvia Flynn
Organisation: Young & Partners LLP
Address 1: 
Address 2: 
City/Town: 
Postcode: 
Country: 
Email address (if no email leave blank): 
Phone Number: 

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2. Please confirm that you have read and understood the Scottish Parliaments “Policy on the treatment of written evidence by subject and mandatory committees”:

☐ Yes

3. Please confirm whether you are content for your name to be published with your submission:

☐ Yes
☐ No

4. Which of the three categories below best describes your interest in the Bill (please tick only one)?

☐ Personal

☐ Professional

☐ Commercial

5. Do you wish your email to be added to the Committee’s distribution list for updates on progress of the Bill:

☐ Yes

☐ No
6. Invitations to give oral evidence to the Committee on the Bill will be based on the submissions received. If you wish your submission to be included amongst those considered for possible invitation to give oral evidence, please indicate here.

☑ Yes

☐ No

7. You may answer questions on the entire Bill, or on any part of the Bill. Please indicate which parts of the Bill you are responding to? (You may select as many options that apply).

☐ All of the Bill

☐ Equalities, climate change and other Scottish Government objectives

☐ Air Weapons

☐ General licensing issues

☑ Alcohol licensing

☐ Civic licensing – taxi/private hire car licensing

☐ Civic licensing – scrap metal dealers

☐ Civic licensing – theatre licensing

☐ Civic licensing – sexual entertainment venues
4. Alcohol Licensing

You may respond to all questions or only those you have a specific interest in. (Text boxes have no word limit, they will increase in size accordingly).

28. In what ways will the Bill’s provisions on alcohol licensing allow for reductions in crime and the preservation of public order?

29. Are there any other measures which should be taken to assist in the reduction of crime and the preservation of public order?

30. In what ways will the provisions in the Bill enhance the licensing objectives set out in the Licensing (Scotland) Act 2005?
31. In what ways will the re-introduction of the “fit and proper person” test assist with the implementation of the licensing objectives set out in the 2005 act?

The remit of police Scotland is currently very restricted when reporting on an applicant. This will allow them to bring other relevant matters to the attention of the board. Some guidance as to what matters would be considered “relevant” would be helpful. There should also require to be evidence to back this up.

32. Have there been any unintended consequences arising from the 2005 Act, for example, in rural areas or the economic regeneration of areas?

33. Which, if any, types of spent relevant offences should be required to be disclosed and what do you think the benefits of disclosure will be?

I suspect that there may be human rights implications here, especially following the recent Supreme Court case R v Secretary of State for the home Department and another [2014] UKSC 35 in which five justices unanimously held that exceptions to the general rule that a person is entitled not to disclose “spent” convictions or cautions was against Article 8.

34. Do you have any other comments to make on the alcohol licensing aspects of the Bill?

Many opportunities have been missed to tidy up parts of the legislation that those involved in running licensed businesses are finding unduly complex, uncertain or unworkable.

Consolidation – it would have been nice to have a consolidating piece of legislation given the significant amendments already implemented since the 2005 Act came in to force.
Provisional variations – there is still no provision for a provisional variation. Timescales surrounding a variation remain unclear. It is not sensible to carry out work which would be in breach of your existing licence and would require reversed if the variation were to be refused. However, technically as soon as a variation application is granted, there is a breach of licence as the licence will not reflect the actual position. How long does the licence holder then have to complete the work in terms of the variation? We are currently relying on the good grace and common sense of boards and LSO’s etc.

Site only provisional licences – There is no facility to apply for a provisional licence at an early stage without submission of highly detailed plans (that are likely to require amendment and a subsequent variation). This was available under the 1976 Act and it would be helpful to see it return.

Transfer – we are still having to rely on the common sense and co-operation of boards and clerks (and at times their section 135 discretion!) when dealing with transfers in absent tenant situations, company dissolution and more. Timescales can also be problematic. The current systems under s33 and s34 do not sit comfortably with many transactions involving licensed premises sale, purchase, lease etc. Especially where a variation is also sought.