

23rd February 2015

Your Ref:

Our Ref:

Mr Sean Wixted
Assistant Clerk
Local Government and
Regeneration Committee
Room T3.40
The Scottish Parliament
Edinburgh
EH99 1SP



Assistant Chief
Constable
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Dear Mr Wixted

**LOCAL GOVERNMENT AND REGENERATION COMMITTEE
AIR WEAPONS AND LICENSING (SCOTLAND) BILL**

I refer to the Committee's meeting of 29 January 2015 and its consideration of the above noted Bill when Police Scotland was requested to provide some additional information following the evidence session.

In pursuit of the request, I would offer the following information:

Registered Clubs

The Licensing (Scotland) Act 2005, brought Members Clubs within the licensing mainstream and now require a Premises or Occasional Licence to permit the sale and supply of alcohol. However there remain a few anomalies in the licensing regime specifically pertaining to prescribed Members Clubs, such as:

- Members Clubs are not included in an assessment of overprovision and cannot be refused a Premises Licence or variation on those grounds;
- There is no requirement to have a DPM; and,
- There is no requirement to have the sale and supply of alcohol authorised by a personal licence holder (also applies where an occasional licence is in effect).

This creates a potential situation where Members Clubs can use Occasional Licences to circumvent obtaining a Premises Licence and the statutory safeguards that this would place on them by the 2005 Act for the responsible sale or supply of alcohol, by applying for multiple Occasional Licences to cover extended periods or not necessarily having them managed by a properly qualified person.

It would be advantageous if these legislative loopholes were addressed, ensuring that Members Clubs were subject to the same regulation as other licensed premises.

Occasional Licences

An application for an Occasional Licence in respect of unlicensed premises may be made by the holder of a premises or personal licence or by a person representing a 'voluntary' organisation. The term "voluntary organisation" has never been defined and it would be helpful if this was clarified, as otherwise there may be room for dispute as to the types of organisation entitled to make an application.

In some cases, use of Occasional Licences under the 2005 Act has enabled situations where this type of licence has been used as a substitute for a Premises Licence or even for a Public Entertainment Licence (PEL).

This can result in a position where organisers for large scale events, such as music festivals where alcohol can be sold, are able to apply for an Occasional Licence and circumvent the requirement for a PEL. A PEL ensures appropriate safeguards are in place regarding the operation of such events. Furthermore, in light of the "Bright Crew" decision, Licensing Board's can only challenge issues directly concerning the sale and supply of alcohol. An Occasional Licence for a large event would not provide sufficient scope to address other safety related issues that occur, unless a PEL was in place.

In addition the use of Occasional Licences is open to potential exploitation; for instance, where the applicant is associated with, or linked to, organised crime, or is believed to be sympathetic towards proscribed organisations within the UK. Such applications are not common place; however there have been applications made from Members Clubs under the auspices of fundraising events, i.e. for a charity, which coincides with football fixtures or other noticeable religious or "cultural" events.

Often there is little information provided by the applicant to confirm who they are fundraising for, as this is not a legislative requirement or required to be completed on the application. Whilst this in itself is not indicative of dubious fund raising activity, there may be circumstances where police held intelligence would present some concern.

Taxis and Private Hire Vehicles/ Booking Office Licences

Sec 21(1) of the Civic Government Scotland Act makes it an offence for a private hire car driver to pick up passengers in an area for which they do not have a licence. Furthermore, an operator and booking office is only permitted to use taxi or private hire cars licensed by the authority in whose area it operates and cannot use those licensed by an adjacent authority.

Following an extensive police enquiry regarding a particularly problematic booking office, a report was submitted to a Local Authority Regulatory Committee regarding a Private Hire Car Booking Office operating outwith the conditions of licence. Their website listed various telephone numbers which detailed numbers outwith their licensed area of operation and the practice of accepting bookings for journeys that commenced and concluded outwith their conditions of licence was specifically confirmed. Following the hearing, their licence was suspended, however this is now subject to appeal.

This practice is not unique and there remain ongoing issues where booking offices have taken hires, via phone or on-line, with the journey commencing and ending in another Local Authority area for which they are not licensed to operate.

Given some of the work that is taking place to introduce Civic Enforcement Officers across Scotland, this is perhaps an area of business that could be considered suitable for that role.

UBER

The Local Government & Regeneration Committee (LGRC) raised a related issue whereby taxi companies were using mobile phone applications (apps), to receive, accept and allocate Private Hire Car (PHC) bookings and made specific reference to UBER.

UBER is an American based company, founded circa 2009 and backed by Google, and operates a Taxi/Private Hire app service in over 50 countries with a global turnover in excess of \$40 billion. The company has attracted considerable interest and publicity in the media where there have been numerous reports that have generated concern specifically regarding their alleged use of unlicensed drivers.

Media reports claim that UBER has been banned from operating in many countries including some EU states, such as France and Germany. In the UK, UBER currently operates in London, Manchester and Leeds. At present there is insufficient information to substantiate the claims documented in the media, given that different licensing regimes exist within both a UK and worldwide context.

It would also appear that much of the concern surrounding this company stems from Taxi and PHC drivers who are naturally apprehensive as to the competitive nature of UBER and the potential threat to their livelihood.

UBER has recently made application to Glasgow and Edinburgh, as well as in Bristol and Newcastle, for booking office licences in each respective city. The Chief Constable's primary concern is public safety and dialogue is currently ongoing to obtain assurances that UBER will operate within the confines of the Civic Government Scotland Act 1982 and Local Authority imposed conditions.

If so satisfied, then any subsequent breach of conditions or offending would be addressed, as they would with existing operator or booking offices, and a report submitted to the relevant regulatory authority for consideration and disposal.

Sexual Entertainment Venues

Sexual Entertainment Venues (SEV) can be licensed in terms of the Licensing Scotland Act 2005 if they wish to provide for the sale or supply of alcohol. Licences are granted in accordance with the submission of an operating plan. An operating plan details what activities are to take place on the premises where alcohol will be sold for consumption. Police Scotland will monitor such premises to ensure they are complying with the requirements of the 2005 Act and respond to any allegations of criminality.

Sexual Entertainment Venues have reputedly been associated with criminality and concerns have been raised from third parties regarding potential exploitation issues. However, most of the information regarding SEV's is anecdotal. Police Scotland relies on intelligence gathering to establish whether there may be criminality involved and then can take appropriate action. Furthermore, issues relating to the operation of a SEV which have come to the attention of the police, have also encountered

difficulties when making representation to Licensing Boards when not directly related to the sale and supply of alcohol (Brightcrew).

I trust the foregoing is helpful, should any further information be required, or should you wish to discuss any aspect of this matter in more detail, then Police Scotland would be pleased to assist and Chief Inspector Morag Stewart of the Licensing and Violence Reduction Division will facilitate any requests. Chief Inspector Morag Stewart can be contacted by e-mail on morag.stewart@scotland.pnn.police.uk or by telephone 0141 532 2424.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Nelson Telfer', with a long horizontal stroke above the main text.

Nelson Telfer
Assistant Chief Constable