

# Air Weapons and Licensing (Scotland) Bill: Introductory Questions



The Scottish Parliament  
Pàrlamaid na h-Alba

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 #aw&bill.

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

Name:

Andrew Mitchell

Organisation:

City of Edinburgh Council

Address 1:

Address 2:

City/Town:

Postcode:

Country:

Email address (if no email leave blank):

Phone Number:

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SUBMISSION ID  
NUMBER

49

**\* 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

City of Edinburgh Council

**Name/Organisation:**

**1. Equalities, Climate Change and other Scottish Government objectives**

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

**8. Do you consider that the Bill has any implications for meeting Scotland's climate change commitments? Please explain.**

The bill has some impact on climate change commitments with reference to those sections which deal with possible controls on the number of private hire vehicles.

**9. Do you consider that the Bill has any implications for meeting Scotland's equality and/or human rights commitments? Please explain.**

No responses

**10. Do you consider that the Bill has any implications for preventative spending and/ or public services reform? Please explain.**

Several aspects of the bill will increase the costs of the licensing systems and therefore the fees recovered from applicants and licence holders.

**11. Do you consider that the Bill has any implications in relation to European Union issues? Please explain.**

No response

**12. Do you have any other comments on the impact of the proposals contained in the Bill relation to Scottish Government objectives?**

No response

City of Edinburgh Council

**Name/Organisation:**

#### **4. Taxi and Private Hire Car 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).

**35. What benefits should the licensing of taxis and private hire cars deliver for customers?**

The Council strongly supports the continued licensing of these vehicles in order to prevent crime and protect public safety. The Council notes that most other forms of public transport have a licensing or regulatory oversight, e.g. passenger carrying vehicles.

**36. In what ways do customers, providers of taxi/private hire car services and local authorities benefit from the two-tier licensing regime for taxis and private hire cars?**

The Council notes that the separate arrangements appear to work relatively well and does not seek a change to the current system.

**37. The Government states that a radical overhaul of the current two-tier licensing regime would “clearly require a very high level of resource and would cause significant disruption for the trade, local authorities, the police and ultimately the travelling public”. What are your views on this and would the potential costs and disruptions outweigh any potential benefits of a unified system?**

Such a change would require the Council to implement changes to bring its existing licensing system for both types of vehicle into line with the legislation. There are significant differences in types of vehicles, training of drivers, conditions and controls over numbers which would require significant work to harmonise. The Council would be concerned that such a change would require new and substantial resources to implement over a timescale of a number of years.

The Council not clear what the potential benefits are from such a unified system.

**38. Do the changes made by sections 60 (overprovision of private hire car licences) and 61 (testing of private hire car drivers) of the Bill strike the right balance in terms of introducing greater consistency while maintaining justifiable differences?**

The bill implements the position of the Council which it outlined when it responded to the previous Scottish Government Consultation.

The Council strongly support introducing provisions which would allow it to set a minimum standard of training for PHC drivers.

The Council support the power to introduce over provision for PHC but is not prejudging whether the Council would introduce such a cap. At present the number of PHC's in the City have remained stable at approx 950 for the previous three years.

The Council would be concerned that some form of clear guidance would be required for Licensing Authorities to allow them to measuring demand as an initial assessment of whether to introduce a cap.

This guidance should be statutory and the Scottish Government should introduce it under a provision of the Act.

**39. Do you have any views on the section 62 provisions bringing vehicles contracted for exclusive use for 24 or more hours within the licensing regime for taxis and private hire cars, and should any exemptions be included in the Bill?**

The Act implements the position of the Council which it outlined when it responded to the previous Scottish Government Consultation. The Council has concerns that vehicle such as party limos or buses are unregulated.

The Council has no view to offer on exemptions.

Name/Organisation:

## 6. Scrap Metal Dealer 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).

### 40. Taking the proposals in sections 63 to 66 of the Bill together, how will they have the desired effect of strengthening the metal dealers' licensing regime to the extent that metal theft and related criminal activity is reduced?

The Council welcomes proposals to tighten the rules on metal dealers as a necessary response to incidence of theft of metal.

The Council is content that the 48 hour rule is no longer mandatory provided it retains discretion to apply as local condition depending on circumstances.

The form of records are similar to that which the Council currently requires for second hand dealers and the Council supports these.

### 41. In your view, could the Bill be further strengthened in any way, for example, by including an accreditation scheme for metal dealers?

The Council has no objection but notes that self regulating schemes of accreditation are of limited use in tackling problems dealers.

### 42. Removal of exemption warrant - do you wish to comment on the proposal to remove the exemption warrant system?

The Council supports the abolishing of the exemption warrants and has previously responded to a Scottish Government consultation in those terms.

**43. Removal of requirement to retain metal on-site - what impact will the proposal to remove the retention of metal requirement have on the enforcement of the licensing regime and prevention of criminal activities?**

The Council has no view on this.

**44. Forms of payment - what is your view on the proposal to go 'cashless' and is there merit in considering whether metal dealers could be allowed to operate using cash for only very small transactions, which could be limited to a certain number per month?**

The Council would be concerned that the rules are easily understood and enforceable, It may be prudent to restrict cash transactions to those below a small weight and to prevent repeated cash transactions with the same seller of metal.

**45. Forms of identification and record keeping:**

**In line with the Scrap Metal Dealers Act 2013, the Bill adds additional record keeping requirements to a metal dealer's licence including recording the means by which a seller's name and address was verified and retaining a copy of the document, and the method of payment and a copy of the payment document. The Bill will also require a metal dealer to record information in books with serially numbered pages or by means of an electronic device, and to keep separate records at each place of business. Such information and documents are to be kept for three rather than the current two years.**

**How important is it that the record keeping requirements reflect those in the Scrap Metal Dealers Act 2013, and do you agree with the Scottish Government that the proposed record keeping requirements are not unduly burdensome?**

The Council does not think the proposals are unduly burdensome.

**46. Mandatory and discretionary licensing requirements:**

**The Scottish Ministers can impose mandatory licensing requirements, such as those included in the Bill relating to record keeping and the identification of customers. In addition, local authorities can also attach discretionary requirements to licences in their areas.**

**Does the Bill get the balance right between mandatory and discretionary licensing requirements? Should the Bill include other mandatory conditions for obtaining a metal dealer's licence, such as installing CCTV at metal dealers' premises or in relation to labelling of metal and 'forensic coding'?**



Name/Organisation:

## 7. Civic Licensing – Theatre Licensing

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

### 47. Will there be any impacts during the transitional period between ending the current theatre licence and starting the public entertainment licence?

The questions assumes the licensing authorities will amend their public entertainment resolution as required. There is a risk that this process will take up to 18 months to achieve. There is a risk that Theatres will be unlicensed if a particular licensing authority does not include these premises within its public entertainment resolution.

### 48. Are there additional costs or resource implications on theatres or licensing authorities?

This will require a review of licence conditions and there will be some resource implications.

### 49. How should licensing authorities integrate their current fee charging structure into their public entertainment regime?

The Council anticipates that the current fee structure for public entertainment is broadly suitable.

Name/Organisation:

City of Edinburgh Council

## 8. Civic Licensing – Sexual Entertainment Venues

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).

### 50. What are the consequences of operating the new licensing regime using the definitions set out at section 68 of the Bill?

- 'sexual entertainment venue'
- 'audience'
- 'financial gain'
- 'organiser'
- 'premises'
- 'sexual entertainment', and
- 'display of nudity'

**Sexual Entertainment Venue**, comments it is not clear what the difference between and audience and 'live audience' is in the bill. Secondly the definition would allow a loop hole if the Venue argued that the entertainment is provided for the financial benefit of any self employed entertainer as opposed to the organiser.

**Audience**, concern that the definition should include any interaction with the entertainment.

**Financial gain**, would this be sufficient if the organiser argued that this was provided free and the financial gain came from ancillary activity such as the sale of food and alcohol. Need to be clear that 'free to enter' would still be within the scope of this definition.

**Organiser**: See comment above re self employed entertainers.

**Premises**: Be helpful if it included temporary structures and explicitly private members clubs.

**Sexual Entertainment**: Would the display of any film or images be caught if the purpose was to stimulate a member of the audience. It would be useful if the definition could be clear as to whether parliament intends the cope of licensing to extend to those premises which charge an entrance fee and thereafter patrons may engage in sexual activity between themselves. NB the Council is not seeking to licence premises which were formerly licences as places of public entertainment before the resolution changed.

**Display of Nudity**: No comments

**51. The Bill specifies that a venue hosting sexual entertainment on three occasions or less within a 12 month period would not be treated as a sexual entertainment venue: does this have any unintended consequences?**

The bill should be clearer, an occasion may be subject. It may be easier to specify 'on three occasions each occasion being less than 24 hours in total'.

**52. Local licensing authorities will be able to set the number of sexual entertainment venues in their area to below the existing level, or zero: are there any advantages or disadvantages to this approach?**

Without prejudice to any decision the Council may make the Council supports having the ability to control the numbers of such premises in its area. The Council must be able to take into account the views of residents and the cumulative impact or clustering of these premises.

The Council would like the ability to further control or limits these premises as appropriate within smaller geographically areas within its boundaries.

The Council would request that statutory guidance is provided to assist in exercise of any such power.

The Council notes that similar powers existing for local authorities in England and Wales.

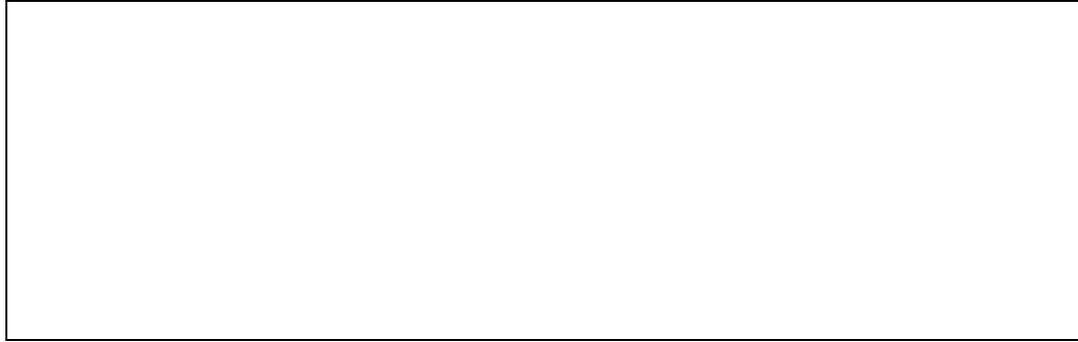
**53. The Bill relies mainly on the existing licensing regime for sex shops as set out in**

**section 44 and Schedule 2 of the Civic Government (Scotland) Act 1982 (application, notification, objections and representations, revocation of licences etc., enforcement and appeals): is this mechanism adequate for the licensing of sexual entertainment venues - if not, please explain why?**

The Council has no objection to Sections 44 and Schedule 2 being used for these premises.

The Council notes that there is an limitation on the powers of inspection for premises which ought to have a licence but does not. The Council would prefer that the powers of entry are amended to bring the Act into line with other statues which regulates business activity in respect of its powers.

**54. Are there any barriers to licensing authorities operating the new licensing regime?**



## 55. Civic Licensing

### **Do you have any other comments to make on the civic licensing aspects of the Bill?**

The Council would argue that the 1982 Act requires updating in a number of key respects.

The Council would recommend that the powers section of the bill is reviewed in line with the sections above.

The Council would strongly argue that Licensing Authorities should have the power to revoke licences in the case of serious misconduct on the part of licence holders. The current position means that a license authority is restricted to suspending a licence up to and including the 'unexpired portion'. In practice this has meant that the Council has dealt with cases where it has had entertain renewal or variation application made with respect of licences. The Council is concerned that this allows interested parties to circumvent the decisions of the authority and retain a licence which ought to have been revoked.