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&lbill.

*1. Please supply your name and contact details:

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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
3. General Licensing Issues

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).

23. Is the current Scottish licensing regime, as set out in the Civic Government (Scotland) Act 1982 and the Licensing (Scotland) Act 2005, fit for purpose?

The Civic Government Licensing Framework remains resilient but could do with up-dating to make sure that the provisions purposively reflect modern requirements including means of communication, EU Services Directive and Data Protection.

The fact that the Licensing (Scotland) Act 2005 has undergone substantial changes since its commencement in 2009 and this Bill’s proposes to add other significant changes speak loudly that it remains not fit for purpose.

24. Should a licensing system seek to regulate individual behaviour or communities of space (eg. ‘city space’ etc.)?

Need these be mutually exclusive? Groups of individuals impact on city space. Is this relevant to a consultation on a specific Bill?

25. In what way should the licensing system in Scotland interact with the support the land use planning system, community planning and regeneration?

Licensing must relate to a well-defined activity and have a clear well-understood purpose. It should only adversely impact on other regimes when this is necessary but must always be recognised as independent of those other regimes and not subservient to them.
26. How does the licensing system in Scotland assist with the delivery of sustainable development and economic balanced areas?

Licensing should lead to benchmarking standards, improvement to service delivery and increased professionalism of staff.

27. In what way does the licensing system in Scotland support health and planning, addressing health inequalities and public health wellbeing outcomes?

Many licensing systems, for example Skin Piercing and Tattooing, have these elements at their core.
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?

The new offence of supplying alcohol to a child or young person outwith licensed premises is welcome but will the police and courts have the resources to prosecute to the extent required to provide deterrence?

The other side of this is that it is designed to address proxy purchases; it would also criminalise responsible parents introducing young persons to alcohol within a family picnic setting.

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

Before considering new measures, there must be a proper assessment of the existing measures.

30. In what ways will the provisions in the Bill enhance the licensing objectives set out in the Licensing (Scotland) Act 2005?

Adding Young Persons to Licensing Objective (e) will strengthen that objective.
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?

In its present form, the link with the licensing objectives is likely to frustrate its re-introduction as there is already one and only one ground of refusal relating to the Licensing objectives: the logic of the leading case of Brightcrew would prevail—what exactly has this to do with the sale of alcohol?

An expert legal opinion is needed on whether the proposed linking of the objectives and the fit and proper test would bring the results heralded and fill the vacuum created by the 2005 Act or lead to confusion and frustration in practice.

The proposal that a revocation must flow from a Premises Licence Review or Personal Licence Review finding that the licence holder is not a fit and proper person is draconian. It also would be an unjustified restriction on the Board’s authority and decision making powers.

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

One which will be addressed by the Bill is the mandatory premises licence review proposal for any conviction for a relevant or foreign offence by giving the Board discretion in stated circumstances.

One which will be created by the Bill is the negation of the refresher training requirements for a personal licence holder. The proposal to enable a personal licence holder to re-apply immediately on revocation of their licence because of their deliberate failure to comply with the refresher training requirements, would render refresher training nugatory by statutory approbation of failure to comply.

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?
The Board will get full information on which to decide an application. Other decision making bodies can decide that justice cannot be done unless reference is made to spent convictions and alternatives to prosecution and the Bill would extend this to Boards. The procedure to consider whether spent conviction should be disclosed is pre-existing - Section 7 of the Rehabilitation of Offenders Act.

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

This has not been a helpful questionnaire: it would have been better to seek views on each of the proposals rather than ask very open ended, almost exam type questions. It is likely to be difficult to collate the responses cohesively.

The proposal to require the Board to forward a copy of a personal licence application to the LSO to report to the Board does not appear to be closing a gap. It would make perfect sense if the proposal required the Board to forward a copy of a premises licence application or an application for major variation of a premises licence. This is already supported by the LSO’s extensive powers in relation to inspection of premises to prepare an assessment on the impact on the Licensing Objectives.

If it is designed to assist with “renewal” of personal licences towards the end of their 10 year duration, this really merits detailed analysis. The present provisions are a legislative nightmare. The most obvious defect is that if the renewal application were processed within the current licence duration, the renewal application must be refused as the applicant already has a personal licence.

The Bill contains proposals to amend the time within which the “renewal” application can be lodged. This is tinkering with a cumbersome, immediately otiose process: there is still time for a proper assessment and introduction of an effective renewal process. At the same time there should be consideration of how the second 5 year refresher training requirement would fit within the renewal process.

The proposal that the Board can recognise its whole area as a locality for assessment of overprovision should be recognised as a fundamental development and not the addressing of a lacuna.

The change of the term of a licensing policy statement from 3 to 5 years and the link to the Local Government Election appear immediately attractive and practical. However, 5 years is a long time not to be seeking views of the community stakeholders and trade on the policy. In practical terms it is likely that supplementary statements would be necessary. Linking with the Local Government Election would draw the licensing policy statement within the political cycle following the election. Although appointment of Board Members must follow the setting up of the new council, it is generally recognised that a Board is politically neutral; this proposal may give the impression that this is not the case.