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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<th>Guy Jefferson</th>
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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
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?

We believe that the new measures which include steps to tighten record keeping and customer identification requirements are positive. Of upmost importance, is the new prohibition which will prevent a dealer from paying for metal in cash. We opine that this will remove the incentive of ready cash for a potential metal thief as well as making it easier to identify any persons involved in the selling of metal.

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

We consider that the maximum penalty of £5000 for an offence is disproportionate given the implications that the theft of metal can cause. Whilst we do appreciate this is the maximum level afforded by the Criminal Procedures (Scotland) Act 1995 for statutory offences, we understand that the limit for common law offences tried summarily are in fact higher. It is our position that an increase in maximum penalty is required to have any meaningful impact. We believe that the legislation must allow for the application of the full sentencing powers available to the courts, including the additional sentencing powers available under the Criminal Procedure (Scotland) Act 1995 and the Proceeds of Crime (Scotland) Act 1995 than are currently provided for in the bill in order to present a more effective deterrent to offenders. Another area which could be improved is with regards to repeat offenders as the current bill does not deal with harsher penalties for such offenders.

Identity

The Civic Government (Scotland) Act 1982 proposed section 33B (5)(c) says that a dealer must “keep a copy of any document produced by a person to verify that person’s name and address”. We believe that there should be a requirement placed on a dealer to verify the identity of a person supplying or receiving metal for recycling.

If such a requirement is introduced, it is essential that the person whose identity is to be verified, and the form of acceptable documents, is set out clearly and unambiguously. This would be most easily achieved by a photographic identification which we believe should be a mandatory requirement of the bill.
We propose that there may be an opportunity to use credit card style credentials with photographs & authorisations. This could be similar to Energy & Utility Skills register cards or Street Works qualifications register. This would allow for the tracking of holders and location of where the scrap is being disposed of. Ultimately, this would be aligned to a register of fixed base & Itinerate Scrap Metal Dealers (SMD’s) countrywide which would include information on volumes & types of scrap collated. This would permit the authorities / public to ask who is taking their scrap away with a fee or not involved to satisfy themselves of the legitimacy of the itinerate scrap dealer.

**Metal dealer definition**

The Bill’s definitions of a metal dealer and an itinerant metal dealer in the Civic Government (Scotland) Act 1982 section 37 are not changed by the new Bill and require a person both to buy and to sell metal before they qualify. One significant implication is that a typical itinerant who collects from households without making payment for the items or materials he collects would not require a licence, and would thus remain outside the scope of the Bill. Furthermore, there is scope for a person collecting general waste and other materials, but actually earning a substantial proportion of his income from separating out and selling scrap metal, to escape the licensing regime. Similarly, skip hire operators and demolition contractors generating a substantial amount of their revenue from sale of scrap metal could escape the definition and need for licensing.

We note that the Civic Government (Scotland) Act 1982 section 37(2) allows the manufacturers’ buying of scrap for manufacture of other articles to be excluded from the definition of metal dealer, providing scope for creative interpretation of both “manufacture” and “other articles” to evade licensing. For example, a metal dealer who has a small furnace for the manufacture of aluminium ingot would fall outside the scope of the Bill.

We believe that the Bill should be amended to capture “all persons carrying out a business consisting of buying or selling scrap metal”, with some specific exemptions for manufacturers disposing of their own surplus materials or offcuts. A clear and comprehensive definition of metal dealer, to include businesses generating a significant proportion of their income from sale of scrap metal is essential.

One proposal may be to establish and publish a list of fully compliant recommended Scrap Metal Dealers who carry out the functions as described above with any included – Exclusivity as to an ability to smelt etc. This should result in an enhanced set of records to be kept and verified as to who and where materials came from and payments to what registered licence holder(s). This would also improve traceability of the raw materials. The list of Scrap Metal Dealers as already known under the metal theft group we are part of already has an established RAG (Red, Amber & Green) flag system which could be utilised. Should a person engaged in this scrap process not be VAT registered, it would seem logical to require them to pay tax of some description through either a business or home address which can be verified.

**Licences**

The Civic Government (Scotland) Act 1982 section 5(4) allows a person who may be carrying on an activity which requires licensing five days to produce the licence.

By placing an obligation on metal dealers to display copies of their licence on their premises, and for itinerant metal collectors to display their licence/s on their collection vehicles, this may assist enforcement agencies in identifying illegal dealers.
42. **Removal of exemption warrant - do you wish to comment on the proposal to remove the exemption warrant system?**

N/A

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?**

N/A

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?**
Cash trading

We welcome measures that will deter metal theft by removing opportunities for the anonymous disposal of stolen material for cash.

Methods of payment

Electronic transfer definitions and associated record-keeping requirements are poorly defined. As a specific example, ‘payment in kind’ is not addressed.

Payment mechanisms that would be permitted under the Civic Government (Scotland) Act 1982 proposed section 33A are unclear. For example, in proposed section 33A (2)(a) there is no restriction on the person to whom a non-transferrable cheque may be made out; it does not have to be the seller or any person whose identity has been verified.

Furthermore, proposed section 33A(2)(b) fails to link the seller and payee for electronic transfers. It also does not define “account”, nor does it set any parameters for traceability of transfer between an account and the seller.

One of the schemes currently employed in England & Wales is the setting up of cheque cashing facilities by scrap metal dealers “next door” to their existing traditional operations. This allows the thieves to potentially accept a cheque and then cash it almost immediately without question. We do not believe that this issue is addressed in this bill.

Scrap Metal Dealers or Itinerate Scrap Metal Dealers who cannot supply a card or licence to register the scrap against should automatically default and therefore no payment should be made to them. This would also encourage the Itinerate Scrap Dealer to register, and the receiving Scrap Metal Dealer to log what they have received against a registered person. This will result in the payment being made to a known registered licence holder. Taxation should be a matter for the proper authorities.
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?

Record keeping requirements are pragmatic and may potentially be utilised as evidence by the authorities should a case be raised against an appellant.
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'?

With the exception of our belief that there should be a requirement placed on a dealer to verify the identity of a person supplying or receiving metal for recycling; any further obligations should be discretionary.

Should the requirement to provide photographic evidence not be stipulated in the final bill; we would be keen to see CCTV as an alternative and a mandatory requirement.