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:

Name: Stephen McDonald, Chairman ALAEVsScotland
Organisation: Association of Licensed Adult Entertainment Venues, Scotland
Address 1: 
Address 2: 
City/Town: 
Postcode: 
Country: 
Email address (if no email leave blank): 
Phone Number: 
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
Name/Organisation: ALAEVs Scotland

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.

No comment

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

Yes – the Association of Licensed Adult Entertainment Venues Scotland believe that the proposals in the Bill to enable local government to determine to have a zero number of Sexual Entertainment Venues in their areas will harm Scotland’s proud record on human rights and will drive adult entertainment underground to the certain detriment of human rights and to the detriment of the fight against human trafficking in Scotland.

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

The Bill will add to the cost of local government, will result in contradictory dual licensing for Adult entertainment venues/sexual entertainment venues leading to costly appeals. Adult Entertainment in Scotland is currently well regulated under the Licensing (Scotland) Act 2005.
11. Do you consider that the Bill has any implications in relation to European Union issues? Please explain.

It may be that the Bill is contrary to European law in that by not proposing - in so far as it relates to sexual entertainment licensing - a “grandfather rights” regime relating to existing adult entertainment venues which venues would be forced to close if a zero number approach is taken by local government.

It could be argued this is contrary to Human Rights Act 1998
The First Protocol
Article 1
Protection of property
Every natural or legal person is entitled to the peaceful enjoyment of his possessions.
No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.
The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

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

In relation to the proposals re dual licensing of existing adult entertainment venues could have the result of depriving more than 1500 people of work, driving sexual entertainment underground and into the hands of the criminal classes, and creating the very harms the Bill purports address. This is not in the interests of business Scotland.

The explanatory note re the proposal to create a sexual entertainment licensing regime separate from that already existing to regulate adult entertainment venues is not underpinned by any evidence of harmful practice occurring in the existing
venues. It has brought to light the fact that these premises are well run and offer a safe working environment for performers, staff and the public.
Name/Organisation: ALAEVs Scotland

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?

Not entirely Licensing (Scotland) Act 2005 Transfers need to be re-worked to ensure they take account of business practices to ensure a smooth transfer of licence Licences which have “ceased to have effect” for any reason other than revocation should be capable of revival by transfer or other approved mechanism Provisional licences [with good descriptors] should be able to be made in outline only with no requirement for detailed and costly lay-out or operating plans to be produced to ensure business is attracted to Scotland [both lay-out plans and operating plans frequently change due to the exigencies of planning and building standards applications, aesthetic and commercial interests]. There should be a requirement to confirm the “final” proposal before building works commence to satisfy the need for local licensing boards to be assured that they are content with the final proposals.

24. Should a licensing system seek to regulate individual behaviour or communities of space (eg. ‘city space’ etc.)?
ALAEVs Scotland are not entirely sure what information is sought be this question as the question is not sufficiently clear.

Licensing per force regulates the behaviour of individual licence holders, their staff and customers for the public good.

It is believed that planning committees are best placed to and in fact do regulate communities of space as that is their role.

If this query relates to the “overprovision” or “location” of licensed premises these considerations are already built into both liquor and civic legal regimes.

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

ALAEVs Scotland understands that licensing systems in Scotland already require to interact with planning and local government and notes in particular that local council is a statutory consultee for new applications and their views like those of other consultees would be taken into account.

ALAEVs Scotland believe that licensing regimes should be required to take account of business requirements as part of their determination processes.
26. How does the licensing system in Scotland assist with the delivery of sustainable development and economic balanced areas?

The ALAEVs Scotland are concerned that the proposals to permit a zero number of sexual entertainment venues in any particular area with no provision for grandfather rights flies in the face of any sustainable development aspirations of the Scottish Government and sends a negative message to business and potential investors and funders of all types in Scotland. If adult entertainment businesses which cause no harm in their communities can potentially be closed due to unfounded and unevidenced fears of criminality it is highly likely the business community of Scotland as a whole will suffer harm. Banks and other funders who are risk averse and require surety of business sustainability prior to taking decisions on funding may raise barriers which will serve to prevent inward and home grown investment in business in general and the hospitality and leisure industry in particular. This would harm the Scottish Government’s aspirations for business Scotland.

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

ALAEVs Scotland believe
The 5 objectives which underpin the liquor licensing system no doubt support public health wellbeing.
The proposals to permit local councils to have a zero number of sexual entertainment venues will harm public health well. Closure of these venues will lead unemployment not only of persona working in the venues but those working in supporting businesses whether those business be suppliers of goods and services, or complimentary businesses such as restaurants and bars. Unemployment leads to a lack of public well being and poorer public health.
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?

ALAEVs Scotland note the proposal to bring back the fit and proper test. The Association believes this will be a benefit to the administration of licensing provided information brought to boards and committees is properly evidenced at least to the civil test on the balance of probability.

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

Police Scotland visits are welcomed by ALAEVs Scotland members and believes these visits are generally of benefit to the whole licensed trade.

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

The Association believes the Bill will harm the 5 objectives and in particular will encourage criminality if passed in its current form as regards adult entertainment/sexual entertainment venues as those activities may be driven underground to the certain harm of performers and potential harm to customers.
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 Association considers the reintroduction of the fit and proper test to be reasonable provided the test relates to facts which would affect the running of premises and believes that any submissions must be properly evidenced.

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

The Association’s members do not operate in rural locations however members note that the definition of sexual entertainment or adult entertainment could affect rural premises offering stripograms, kiss-o-grams and the like and the requirement to obtain a sexual entertainment licence for such activities would likely cause many rural premises to cease to permit such activities on their premises which will result in an overall loss of revenue in many already hard pressed venues.

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 Association believes that only those spent convictions which link to current convictions demonstrating a pattern of criminality should be so disclosed.

34. Do you have any other comments to make on the alcohol licensing aspects of the Bill?
The Association is concerned with the proposal that the chief constable can bring any information to a licensing board and believes that any information brought to a board must be relevant to the application and properly evidenced to prevent abuse of police powers.
6. 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'

The Association

1. considers that if adult entertainment venues must be re-defined as sexual entertainment venues and require to be so licensed the administration of that licensing should be carried out by licensing boards to prevent dual licensing and conflict between differing licensing regimes
2. is concerned that the definition for adult entertainment venue in the Licensing (Scotland) Act 2005 is different from the definition of sexual entertainment venue which could lead to difficulties of interpretation
3. has no comment to make on the term “audience”
4. has no comment to make on the term “financial gain”
5. has no comment to make on the term organiser
6. has no comment to make on the term “premises”
7. the association has no comment to make relating to the definition of “sexual entertainment” however wish it noted that members believe the entertainment provided within their premises does not fall within the definition of “sexual entertainment” as the purpose of the entertainment provided within the adult entertainment venues belonging to members is such as to entertain customers by way of exotic dance and performance and not to sexually stimulate members of an audience. Further the Association questions how the term “sexual stimulation” can be determined.
8. has no comment to make on the term “display of nudity”

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 Association

1. is concerned that this proposal would encourage the very criminality the Scottish Government seeks to prevent by permitting this type of entertainment to potentially take place in unlicensed venues where performers and customers might be subject to harm

2. that the Scottish Government is failing to deal with crimes and offences of a sexual nature which take place in private dwellings – vis the recent report by Police Scotland on prostitution and human trafficking

3. that the Scottish Government is basing its proposals for licensing of “sexual entertainment” on a false premise that current adult entertainment venues are venues which are run in such a manner that performers and customers are at risk. This premise is flawed as was demonstrated in the Scottish Government’s own report Working Group on Adult Entertainment which reported in 2005. Adult entertainment venues are amongst the best run establishments in Scotland as evidenced by the complete lack of crimes reported or convictions made relating to the running of these premises.

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?

The Association considers this to be a flawed proposal which if implemented would result in the closure of some 20 venues in Scotland and the loss of some 1500 jobs.

The Association believes that a “grandfather rights” mechanism should be set up to protect the current well run businesses

The Association believes that if current dedicated ‘adult entertainment “venues are to be closed due to this process it should be for the licensing authorities to demonstrate what harm or criminality which would be prevented or was required to be tackled before the decision was taken to close existing businesses.

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 Association believes that the licensing of sexual entertainment venues should be carried out by Licensing Boards and not local authority licensing committees to prevent conflict of regimes and dual licensing.

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

As above the potential for conflicting regimes is high and the proposal does not meet with the terms of the Scottish Government’s desire for better regulation.

55. Civic Licensing

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

The Association has no other comments to make on the Bill.