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: Catherine Molloy

Organisation: East Lothian 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 112
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: East Lothian Council

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 (Scotland) Act 1982 and the Licensing (Scotland) Act 2005 requires updating in various areas. The current procedures for advertising in local newspapers etc should be updated to permit technology based options e.g use of e-mail/advertise on the Council website.

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

This is a concept that could be considered if the licence is of a personal nature. At present, there is adequate regulation in respect of land/buildings.

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

The civic licensing system in Scotland can interact so far as it can assist with land use, if the licence relates to land use. There should be an element of caution applied to ensure that there is no “over regulation” which may stifle regeneration.
26. How does the licensing system in Scotland assist with the delivery of sustainable development and economic balanced areas?

The civic licensing system in Scotland can assist as it grants licences for those wishing to carry out economic activities.

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

Presently, the civic licensing system does not directly address the above issue. There may be an indirect effect.
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?

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

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

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

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?

34. Do you have any other comments to make on the alcohol licensing aspects of the Bill?
5. **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?**

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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?**

There is no obvious benefit for customers and/or the local authority

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?**
There may be initial disruption in terms of the administration / resourcing a overhaul/ the trade activities. However, a 1 tier system is an efficient outcome as it would streamline legislation and processes. There is also a beneficial practical effect on the public for hiring a taxi and perhaps an economic benefit.

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 above provisions in traduce consistency and get rid of unjustifiable differences.

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?

This is a proposal that would be welcomed (in terms of licensing) but may put a further strain on resourcing.
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 above proposals are consistent and should reduce criminal activity by targeting all metal dealers, regardless of the turnover.

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

If so, this should not fall within the remit of the licensing authority. If there is a separate accreditation scheme it should be enforced by another body to ensure objectivity and remove a “dual” role for the licensing authority.

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

This is a proposal that would be supported.
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?**

This requirement may not be needed if there are other processes to deal with related criminal activity. However, this is difficult to assess without input from Police Scotland.

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?**

There is merit on this proposal but it depends on the practical effect of it on the metal dealers.
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?

It is a welcome proposal if monitoring criminal activity. It may be viewed as prejudicial if it is not applied to other licences. Consistency should be sought.
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'?

See previous answer. Consistency is required. There will be the potential for complaint if this licence is perceived as being treated differently from others and/or imposing requirements which others do not.
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?**

Only issue is ensuring that the public is aware of it – there should be as much publicity as possible.

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

There may be an immediate resource the transition period but long term benefits should negate this.

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

This should be effected in the usual manner.
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'

Statutory definitions will always allow the possibility of legal loopholes being found or created, and thereafter exploited. The better and more complete the definition, the smaller the opportunity for such opportunities, hopefully.

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?

This will potentially give the opportunity for a venue to avoid the licensing regime while still having lucrative activities, albeit only three times a year. The likelihood however seems somewhat small.
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?

| It would allow a Council to impose/operate a zero tolerance policy if they wish without consideration of individual applications. This may leave authorities open to allegations of bias against such activities or stifling trade of such a nature. |

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 regime mirrors that in place for other licences in terms of Schedule 1 in most respects. Subject to general comments elsewhere regarding the need for some updating and adaption to modern practices, this system should remain adequate. |

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

| The potential for objections from applicants will always remain, but this should not generally be considered to be a barrier to the regime being operated. |
55. Civic Licensing

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

No.