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 #awlbill.

*1. Please supply your name and contact details:

Name: Michael McDougall
Organisation: Glasgow City Council
Address 1: 
Address 2: 
City/Town: 
Postcode: 
Country: 
Email address (if no email leave blank): 
Phone Number: 

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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”:

x Yes

3. Please confirm whether you are content for your name to be published with your submission:

x Yes

□ No

4. Which of the three categories below best describes your interest in the Bill (please tick only one)?

□ Personal

x Professional

□ Commercial

5. Do you wish your email to be added to the Committee’s distribution list for updates on progress of the Bill:

x 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: Glasgow City 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?

Glasgow City Council’s Licensing Authority (“the Licensing Authority”) respectfully suggests that the 1982 Act is not fit for purpose. The Authority notes that the Act is over 30 years old and while it has been updated by various provisions, the Authority is of the view that the underlying structure of the Act requires to be updated and refreshed. The most straightforward way of achieving this is through a new consolidated act.

The Authority would also suggest that consideration should be given to converting the 1982 Act into an objective based regime and allowing the Authority to have regard to these objectives when determining applications. Such objectives would allow the Authority to tackle issues that are fundamental to the licensing regime where those issues fall out with the scope of the fit and proper person test. Such objectives would also help guide the formation of the Authority’s policies.

The Authority also has specific concerns relating to the 1982 Act’s compatibility with the European Union Service Directive, enforcement and fees.

24. Should a licensing system seek to regulate individual behaviour or communities of space (eg. ‘city space’ etc.)?
While the Licensing Authority believes that the priority of the licensing regime should be the regulation of the activity, it does see the merit in regulating communities of space however, the focus should be upon determining whether the activity is safe. Regard should also be had to the suitability of the individual / origination behind that activity, i.e. it is a fit and proper person.

The Authority would welcome the Scottish Government consulting on innovative proposals relating to the licensing of open spaces. However, any proposal should allow the licensing authority to retain the ability to regulate the type of activity that is taking place at the open space.

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

Both the Licensing Authority and the Licensing Board have a concern that a specific focus upon the above objectives may potentially detract from the primary purpose of the licensing regime, i.e. to uphold the licensing objectives whether they be the ones set down in the Licensing (Scotland) Act 2005 or implied, i.e. the 1982 Act. Ultimately, licensing regimes are concerned with determining whether the application is compatible with the aims of the licensing regime.

The Authority and Board would respectfully submit that in order to ensure public confidence in the licensing regime, that they should remain free from statutory obligations to consider the above matters.

Furthermore, both the Licensing Authority and the Board are aware of a body of case law that dictates that they cannot consider planning matters when considering licensing applications.
26. How does the licensing system in Scotland assist with the delivery of sustainable development and economic balanced areas?

As above.

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

As above.
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 Licensing Authority considers the primary objective of the licensing regime to be the protection of public safety.

The Authority is of the view that the licensing of Booking Offices is an essential part of the licensing regime of taxis and PHCs. This licence type is important in ensuring that the public can travel safely and that bookings are evidenced and recorded. However, in keeping with its view of the importance of public safety, the Authority would suggest that the exemption where a booking office licence is not required where there are less than 3 cars is removed. It is the Licensing Authority’s experience that, from time to time, operators who claim this exemption do in fact have more than 3 cars. The Authority is of the view that all operators should require a booking office licence. It is hoped that this would help to improve general accountability.

The Authority would also suggest that the Booking Office concept helps protect the public against rogue operators. The Authority has concerns that suspended drivers or drivers with expired licences are able to continue to trade by utilising a mobile phone from which they take bookings. By virtue of not being subject to the standard conditions of a Booking Office licence, the licensing and enforcement authorities cannot evidence illegal activity. Furthermore, this mobile phone may be located out with the licensing authority’s area.

In preparing for the near future, the Authority would suggest that the Scottish Government examine the interface between the Booking Office legislation and app based booking systems. The legislation should be amended to ensure that any future booking systems are delivered in a way that public safety is protected and that both licensing and enforcement authorities have access to the information that they require to effectively regulate the trade.

Furthermore, the Authority is aware that the licensing regime could be further improved to ensure that it meets the needs of the Authority, the trade and customers. In meeting these needs the Authority would suggest that transfer provisions are introduced into the 1982 Act. The Authority considers this to be a serious deficiency in the Act and while the Authority works around these constraints, it is of the view that proper transfer provisions would be a great help.

The Authority also welcomes the Scottish Government’s commitment to modernising the provisions of the 1982 Act in respect of taxis and PHCs. In keeping with this, the Authority hopes that the Scottish Government examines developments in both the United States and European countries in relation to online taxi booking apps. Such apps will doubtless be introduced to Scotland in the near future and the Authority would suggest that the Government begins to consider whether these apps would require any legislative amendments.
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?

As noted above, the Licensing Authority is of the view that the primary objective of licensing taxis/PHCs is public safety. All stakeholders benefit from a licensing regime focused on this objective, whether it being the Authority knowing that drivers are fit and proper persons or the trade knowing that the public have faith in securing a safe journey home. In meeting this objective, the Licensing Authority is of the view that the two-tier licensing regime for taxis and private hire cars is vital. It is only through restricting private hire cars (PHCs) to saloon like models and prohibiting them taking “there and then hires” that the public can be confident that the vehicle they flag down on the road is indeed a genuine taxi. Any move to remove this differentiation, in the Authority’s view, will compromise public safety by creating uncertainty in the public’s mind.

The Licensing Authority is of the view that this two tiered approach offers other benefits, for example the PHC regime offers a lowers the barrier of entry to potential applicants given that an applicant can use their own vehicle. PHCs also offer a less expensive option to customers given the price differential.

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?
The Licensing Authority agrees with the Scottish Government contention that any such overhaul would cause large scale disruption. In the event that the Authority is required to radically alter its two existing forms of licensing for these activities then the Authority has concerns ranging from the need to update its IT systems to needing to overhaul the signage used by PHCs and taxis.

The Authority would submit that it is not merely a case of updating its existing policies but would involve extensive research and consultation to ensure that public safety is maintained. This would doubtless lead to new signage being required and therefore it would need be developed and contracts agreed for its supply. Furthermore, the Licensing Authority is under contractual obligations in relation to the supply of the current signage. This contract must be honoured unless the Licensing Authority wishes to suffer severe financial penalties.

Further, the Authority would suggest that there would be a need to embark on a large-scale education campaign of the public. The focus of this campaign would be on educating the public as to what is a safe vehicle to hail on a public carriageway.

As well as engagement with the public, there would need to significant retraining of both taxi and PHC drivers to ensure that they are aware of their new role and responsibilities.

All of the above will require the Authority to expend significant resources to achieve. In short, any change to the two tier licensing regime would, in the Licensing Authority’s view, require a substantial lead in period – two years or more.

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 Licensing Authority is concerned that the Scottish Government’s proposal to require the testing of PHC drivers erodes the difference between PHC and taxi drivers. The Authority understands that taxi drivers are tested as they are subject to “there and then hires” and therefore do not have an opportunity to research a route. However, PHC drivers by the very nature of being pre-booked, have the opportunity to make investigations into how to reach a destination. Therefore, by imposing the same requirement on PHC drivers, it creates an impression that they are trained to an equivalent standard. In short, the Licensing Authority respectfully submits that it sees no reason to impose this requirement upon PHC drivers.

In relation to the proposal to introduce the ground of refusal on the grounds of overprovision, the Licensing Authority would suggest that firstly there is no need for such a ground of refusal and secondly, the difficulty in determining if such overprovision exists makes it impractical for the Licensing Authority to adopt such a policy.

The Licensing Authority is of the view that overprovision of PHCs is best left to the regulation of the marketplace. If there are too many PHCs then the number of drivers required will decrease and therefore the demand for licences will lessen. In the Licensing Authority’s experience, most applicants have an indication of whether employment is available thereby, suggesting that there is a need for drivers. Further, the Licensing Authority is not aware of any evidence to suggest that there is an overprovision of PHCs or that such an overprovision is causing an issue.

Furthermore, determining the provision of PHCs is a very different matter from determining the provision of taxis. Unlike taxis, PHCs do not congregate at ranks and therefore an assessment developed by a specialist third party would be required and it likely that ongoing assessments would require to be carried out by this party to keep the data up to date and relevant. The Licensing Authority would respectfully submit that such a process is unnecessary given its view that overprovision of PHCs is not an issue of import.

The Licensing Authority is also concerned that the implementation of this ground of refusal would lead to a value being attributed to a PHC licence. This, in the Authority’s view, would lead to the creation of a cartel like structure. The relative ease of obtaining a licence helps encourage individuals to apply for a licence and therefore gives the Authority an opportunity to vet applicants. If it became known that the supply of licences was effectively at an end, the Authority would be concerned that this would lead to an increase in unlicensed trading.
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 Licensing Authority has no specific comment to make in relation to this matter however, would suggest that the Scottish Government considers the matter of vehicles that are hired out for the transport of passengers that do not fall within the definition of taxi/PHC, e.g. limousines and party buses. It is suggested that the licensing of these activities would help secure public safety and drive up standards.
5.

Name/Organisation: Glasgow City Council

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 Licensing Authority has for some time been concerned with the extent of metal theft at both a local and national level. The Authority’s concern was reflected in its previous consultation response in relation to this matter and it therefore welcomes the Scottish Government proposal to remove the exemption warrant system, the requirements relating to recordkeeping and the imposition of cashless payments. It believes that the introduction of such measures can help build a more robust licensing regime that will assist in preventing the easy disposal of stolen metal through metal dealer premises, many of which are currently under no duty to maintain records or carry out reasonable enquiries as to the source of the metal.

Furthermore, the Licensing Authority recognises that this is not a uniquely Scottish problem and believes it is one that should be tackled on a UK wide basis. It notes that many of proposals within the Bill reflect those contained within the English and Wales’ Scrap Metal Dealers Act 2013, e.g. cashless transactions. As such, the Licensing Authority urges the Scottish Government to adopt these measures. Such a consistent approach will, hopefully, prevent Scotland being targeted by metal thieves who are deterred by the measures in place in England and Wales.

41. In your view, could the Bill be further strengthened in any way, for example, by including an accreditation scheme for metal dealers?
While the Licensing Authority recognises that the vast majority of metal dealers operate within the law and appreciate the difficulty they face in distinguishing legitimate scrap metal from that which is stolen, it does however have concerns as to metal dealers who facilitate metal theft. The Authority believes that an accreditation system can help tackle this culture by improving the standards of the metal dealing industry.

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

The Licensing Authority is strongly supportive of the proposal to remove that the exemption warrant system.

The Authority can see no justification for continuing to provide for an exemption to the licensing requirements based upon turnover. No other licensed activity has such an exemption and it is unclear what the rationale would be for maintaining an exemption in the future to allow any metal dealer the opportunity to remain outwith regulatory control.

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 Licensing Authority is of the view that the retention of metal requirements should be removed as it recognises that such requirements may not be reasonably practical due to the Metal Dealer’s need to turn scrap metal round quickly and also the requirements of the SEPA Licence in respect of its storage.

The Authority notes that its Trading Standards officers are of the view that once metal has been received and processed by a metal dealer, it is difficult to determine and trace its origin. As such, the retention of metal requirements serves little practical purpose and its aims are best served by robust record keeping requirements.

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 Licensing Authority is supportive of a cashless payment system being applied in respect of all metal and itinerant dealers as the prohibition on cash transactions for the disposal of metal will, hopefully, assist in reducing the likelihood of stolen metal being disposed off through licensed businesses.

The Authority suggests that any exception to the cashless system will only serve to expose the system to abuse. The most straightforward solution is to ban cash payments entirely. Any deviation from the cashless payment system will expose the system to circumvention and thus undermine its purpose.

This, once again, ties in with the Authority’s belief that it is important to view the Licensing Regime in respect of metal dealers on a UK wide basis. It is noted that England and Wales have adopted a cashless payment system and the Licensing Authority would suggest that it is important that Scotland follow suit to ensure that metal thieves are not attracted north of the border to take advantage of cash payments.
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?
As the Licensing Authority has stated throughout this document, it is of the view that only by presenting a united front with England and Wales, can metal theft be deterred and combated. And while it does not wish to impose burdensome requirements upon scrap metal dealers however, if Scotland where to adopt more liberal record keeping requirements than England and Wales then the Licensing Authority would be concerned that “regime shopping” would take place whereby organised crime would be attracted to Scotland. This would be due to a perception that it is easier to dispose of stolen scrap metal.

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’?
While this Licensing Authority does advocate a universally robust approach to the licensing of Metal Dealers, it does recognise the need to allow licensing authorities to attach additional local conditions to reflect the uniqueness and challenges of their own local area. However, at a national level there should be a suitably robust, mandatory scheme which provides for consistency across all licensing authority areas.

With specific reference to the conditions highlighted in the Scottish Government’s above question, the Authority is of the view that these should form mandatory conditions as they are represent the basic standard of crime prevention that should be expected from metal dealers. A failure to impose these basic standards exposes the dealer and therefore the entire supply chain to organised crime. It is the Licensing Authority’s view that mandatory conditions should seek to protect the supply chain from organised crime and therefore a minimum standard should be imposed.
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?

While the Licensing Authority welcomes the repeal of the Theatres Act 1968 and the introduction of theatres into the public entertainment licence, the Authority would draw the Scottish Government’s attention to the need for the Authority’s present resolution to be amended. As the Government will be aware, the process to amend could take up to nine months.

The Authority would also suggest that consideration is given to the repeal of the Cinemas Act 1985 and the incorporation of cinemas into the public entertainment licence regime. The Authority notes that England and Wales have both seen the repeal of the 1985 Act.

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

As outlined above the Licensing Authority is of the view that its current public entertainment resolution will need to be amended. The lapse in time between the repeal of the 1968 Act and the amendment of the resolution will create real practical difficulties for existing theatres. Therefore, the Licensing Authority suggests that the Scottish Government amend the Bill so to provide for the automatic conversion of existing licences to Public Entertainment Licences. A failure to do so will doubtless impact upon existing theatres’ finances.

49. How should licensing authorities integrate their current fee charging structure into their public entertainment regime?
The Licensing Authority assumes that as the licensing of theatres is being incorporated into the public entertainment licence and therefore is then part of the 1982 Act then it will be subject to the charging structure of the said Act.

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'

Name/Organisation: Glasgow City Council
Financial gain
The Licensing Authority is concerned that by linking the performance to financial gain this will provide an avenue for venues to argue that performances do not generate any such gain where such an activity is auxiliary to a primary activity, i.e. the sale of alcohol or that the event is free to enter. It is suggested that financial gain is expanded to include where such entertainment is provided auxiliary to another activity where there is a financial gain.

Further, the Authority is concerned that by connecting “financial gain” to the organiser then there may be an argument by the licence holder that the entertainment is done for the financial gain of a self employed performer.

Premises
It is suggested that for the avoidance of doubt, the definition should include reference to private member clubs.

Display of nudity and live performance
In the view of this Authority, the terms “display of nudity” and “live performance” require to be further defined. It is submitted that the aforementioned terms are interlinked and that without clear definition, the term “live performance” is subjective to the reader. It would appear to the Authority that as drafted the definition turns upon the performer’s state of dress. Clear definition is therefore required in order to avoid potential issues regarding interpretation from arising once introduced.

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?
In the view of the Licensing Authority, no such cap should be placed on premises that are used for sexual entertainment. The Authority is of the view that to do so would be contrary to the premise behind the introduction of the proposed licensing provisions and the overarching principles of the 1982 Act, i.e. the preservation of public order and safety and the prevention of crime. It is also the view of this Authority that the potential for criminality can exist during one performance or one hundred performances in a SEV and the number of performances does not reduce that risk. Likewise, the potential for public order and public safety to be compromised can exist during one performance in a SEV or many. SEVs should therefore always be subject to the requisite licensing regime. Further, in the view of this Licensing Authority, if a cap were to be introduced, it would be extremely difficult to monitor in practice which SEVs had fulfilled their quota of three performances and which had not.

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?

Whilst the Licensing Authority acknowledges Glasgow City Council’s policy on violence against women and is acutely aware of the risk of criminality and criminal activities such as exploitation, prostitution and trafficking that can be associated with SEVs, it recognises that these venues currently form part of Glasgow’s economy. This Authority is of the view that the ability to introduce a policy setting a cap at zero should be made available to Local Authorities. Transitional provisions for existing premises would need to be considered and the Authority requests that the Scottish Government explicitly states whether such premises benefit from “grandfather rights”. It is important that there is clarity as to whether these premises’ right to trade can be removed. The Authority would suggest that there is the possibility of extensive litigation taking place in the event that a licensing authority, if it decides to set the level of SEVs at zero, refuses to grant an existing SEV a licence. However, the Authority stands by its view that it is important that Local Authorities have this discretion.

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 Licensing Authority is of the view that the 1982 Act is in need of a refresh and that the inclusion of the licensing of SEVs further stretches the Act. However, the Authority is satisfied that the proposed amendments to establish the licensing regime, is a positive move.

The Authority notes that section 45B(5A)(a) of the Bill states that “from time to time” a local authority must determine the appropriate number of SEVs. The Authority suggests that clarification is required as to what factors the Authority can consider in arriving at the appropriate number of SEV and how often it should carry out a review or what should trigger a review of the number of SEVs.

The Authority suggests that detailed consideration requires to be given to the possible introduction of a national mandatory set of conditions for licence holders of a SEV. It is the view of this Authority that such a set of conditions would go some way to establishing a coherent position on the protection of performers in SEVs. This would be particularly useful when dealing with SEV operators running a chain of establishments in different Local Authority areas. Further conditions should include detailed provision regarding the use and operation of CCTV equipment within SEVs as well as the provision of CCTV tapes and equipment to authorised officers of Local Authorities and the police upon request. Conditions regarding advertising and the distribution of promotional materials should also be contained in such a set of conditions as should the impact of such venues upon children and young persons. A condition requiring each SEV to maintain a list of their performers should also be considered.

In the further view of this Licensing Authority, crucial to the operation of a successful SEV licensing regime are transitional provisions for existing premises as well as detailed enforcement provisions. In order to assist with the regulation of SEVs and to help ensure the protection of performers, members of the public in attendance at the SEV and to reduce the risk of criminality, detailed enforcement provisions akin to those provided in Part 3A of the Bill should be introduced, i.e. Civic Licensing Standards Officers. Transfer provisions for which there is no current provision contained within the 1982 Act should also be considered.
54. Are there any barriers to licensing authorities operating the new licensing regime?

The Licensing Authority welcomes the clarity offered by section 45B(6A) of the Bill namely, that a local authority may refuse an application for the grant or renewal of a licence even if the premises has a licence by virtue of a premises licence under the Licensing (Scotland) Act 2005.

However, the Licensing Authority would suggest that, for the avoidance of doubt, the above section should be amended to reflect the fact that the presence of any other licence does not prevent the Licensing Authority from refusing an application, i.e. a public entertainment licence.

The Licensing Authority would also welcome clarity from the Scottish Government as to whether sexual entertainment venues that are currently licensed under the Licensing (Scotland) Act 2005 should be subject to any quasi-grandfather rights in the determination of their applications for SEV Licences. Clear guidance from the Scottish Government would be helpful in ensuring that the Licensing Authority is not embroiled in expensive litigation.

55. Civic Licensing

Do you have any other comments to make on the civic licensing aspects of the Bill?
The Licensing Authority welcomes the creation of the Civic Licensing Standards Officer. However, the Licensing Authority does suggest that the enforcement triggers in the 1982 Act should be revisited with a process analogous to the review system in the Licensing (Scotland) Act 2005. Such a process would allow for the CLSOs to intervene and work with licence holders in an educational role.

In keeping with the above matter, the Authority would further suggest that it should have the power to revoke licences under the 1982 Act as opposed to merely suspending the licence for the unexpired portion of it. If a matter is serious enough for the Authority to suspend a licence for the unexpired portion, then it follows that the licence should simply be revoked. This would tie in with the above suggest that a review procedure is put in place.

As referred to in previous answers, the Licensing Authority is of the view that licensing objectives should be introduced in relation to civic licensing, e.g. public disorder and public safety. The introduction of such objectives, would allow the Licensing Authority to make decisions to uphold the licensing objectives that may fall out with the fit and proper person test. Furthermore, such licensing objectives would help inform the drafting of policies.

The Licensing Authority welcomes the introduction of provisions that will enable Local Authorities and Licensing Board to comply with certain aspects of the EU Services Directive that was transposed into UK law in early 2010. Whilst the Authority is supportive of these provisions it notes that further work is required before licensing legislation can be considered fully compliant with EU law – particularly in relation to application fees and licence durations.

By way of example Schedule 2 of the Civic Government (Scotland) Act 1982 requires applicants for Sex Shops (and future Sexual Entertainment Venues) to have been resident in the UK for at least 6 months. This is patently at odds with the Directive’s objective of furthering cross-board service provision.