Local Government and Regeneration Committee: Call for Evidence on the Air Weapons and Licensing (Scotland) Bill

1. COSLA would like to offer the following observations in response to the Local Government and Regeneration Committee’s call for evidence on the Air Weapons and Licensing (Scotland) Bill.

2. The Bill was considered by the Community Well-Being Executive Group which generally welcomed the intent and content. Several aspects of the Bill are discussed in detail below.

COSLA Vision
3. The single focus of COSLA and local authorities is to improve outcomes for [communities]. Local government is at the heart of the government’s focus on prevention, service integration and “place”, effective reform and strong local services are more important now than ever. National governance should enhance the ability of local government to achieve this as effectively as possible and deliver those benefits to communities thorough:
   - Empowering local democracy
   - Integration not centralisation led by community planning
   - Focus on outcomes not inputs
   - Local democracy needs to be at the heart of improvement and accountability

Air Weapons
4. COSLA have no concern over the proposal to require licenses for air weapons, provided that sufficient time is given to individuals to apply for licenses and the charge is proportionate. There is however a question as to whether licensing air weapons will deliver the outcome desired, as the main misuse of air weapons is generally from those under 18 this misuse may not be prevented as it is the parents who will hold the license and those under 18 may continue to have access.

Alcohol Licensing
5. COSLA welcomes the return of the “fit and proper person” test in relation to alcohol licensing along with the clarity provided by the changes to how Boards can consider potential overprovision in their areas as this will help in protecting and improving public health, addressing some of the concerns raised around the risk to Boards of legal challenge.

6. There are some concerns that the introduction of a duty for Boards to publish a financial report may be administratively difficult for local authorities depending on current accounting procedures. COSLA does recognise that this increases the transparency and would provide evidence for any future fee increases.

7. COSLA agrees that the requirement for Boards to publish a policy statement within 18 months of a local government election, lasting up to 5 years will result in the policy statements better reflecting the current views of the Licensing Boards.

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8. COSLA would also request that this Bill is used as an opportunity to make an amendment to the functions of a Licensing Standards Officer (LSO) as defined in the Licensing (Scotland) Act 2005 to explicitly make it clear that local authorities can give LSO’s additional functions if they see fit. This would be used to facilitate LSO’s enforcing the Gambling Act (2005), which due to drafting errors, has not been possible in Scotland as it would enable LSO’s to be authorised officers for the purpose of gambling enforcement using the Advice Note which was published by the Gambling Commission. The issue of gambling in Scotland is of concern to both local and national government and we therefore hope that the Scottish Government will support an amendment of this nature to enable enforcement of the Gambling Act in Scotland.

Civic Licensing
Taxis and Private Hire Cars
9. COSLA welcomes the power to refuse to grant private hire car licenses on the grounds of overprovision where a local authority choses to do so and the extension of taxi driver testing to include private hire car drivers.

10. The removal of the contract exemptions to the licensing and regulation of taxis and private hire cars has received a mixed response from local authorities. Those that support the felt that it was necessary to ensure the quality of the service and those who it is provide it. However, those opposed, generally rural councils, felt that bringing contracts into the regime would disincentivise or prevent current providers from continuing to operate, leaving a gap in market or driving up costs. It is therefore requested that the Committee consider giving local authorities the flexibility to decide whether they feel contracts should be exempt within their own areas.

Sexual Entertainment Venues
11. Licensing and regulation is an important work stream in COSLA’s anti-human trafficking work and we welcome the creation of a separate licensing framework for sexual entertainment venues. This new framework gives local authorities proper powers to effectively regulate lap dancing clubs, tackle forced prostitution and minimise the potential for trafficking in human beings.

12. COSLA welcomes the ability of local authorities to determine the number of sexual entertainment venues permitted in their local area, including the power to set the number to zero. We view this as a major advantage in the regulation of such premises and for local decision-making and accountability in Scotland more widely.

13. By giving local licensing authorities capacity to consider local conditions and manage the total number of permitted venues, councils will be able to act on community preference and develop a position that reflects local attitudes. COSLA supports this flexibility which gives autonomy to local councils and supports local democracy.

14. Additionally having oversight of sexual entertainment venues will allow local authorities to regulate more effectively and promote standards that help protect the safety of those working in these establishments. It will also give strength to local authorities’ response to human trafficking with better opportunity to identify exploitative practices.

15. However, COSLA is concerned that the exemption for venues that host sexual entertainment three occasions or less per year will create a loophole and allow organisers to evade licensing by using multiple venues. Trafficking is transitory in nature, often with victims moved from place to place for the purpose of sexual exploitation. This exemption would allow for this occur, unchallenged and is unhelpful in Scotland’s strategic response to human trafficking. COSLA would therefore request that this concession be removed or
that local authorities are able to set a lower number of occasions that trigger the requirement for a license if they chose.

Civic Licensing Standards Officer
16. Several Local Authorities have shown support for this proposal due to the success of the Licensing Standards Officer role, however there is the potential that this new role may require some restructuring of current posts with potential cost implications for local authorities. Moreover, although the Bill states these posts are to be funded through license fees this may be difficult to calculate and any increase in fees is likely to affect SME’s more. This has resulted in several local authorities objecting the new role. Presently the enforcement of the Civic Government (Scotland) Act is managed across various regulatory services, including Trading Standards and Environmental Health where appropriate, it is suggested that this role should not be mandatory for local authorities.

17. In summary, although COSLA are broadly supportive of the main aims of the Bill we have some concerns around the proposal to remove contract exemptions for licensing of taxies and private hire cars and the introduction of a mandatory Civic Licensing Standards Officer, we feel that both of these should be optional for local authorities so they can best reflect local circumstances and structures.

18. COSLA also request than the opportunity be taken to amend the functions of Licensing Standards Officers to facilitate the enforcement of the Gambling Act in Scotland, this will assist local authority in addressing some of the concerns around problem gambling in communities.