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: Andrew Mitchell
Organisation: City of Edinburgh Council
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
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.

The bill has some impact on climate change commitments with reference to those sections which deal with possible controls on the number of private hire vehicles.

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

No responses

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

Several aspects of the bill will increase the costs of the licensing systems and therefore the fees recovered from applicants and licence holders.
11. Do you consider that the Bill has any implications in relation to European Union issues? Please explain.

No response

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

No response
2. Air Weapons 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).

13. In what ways will the creation of an air weapons licensing system in Scotland contribute to preserving public order and safety, reducing crime and advancing public health policy?


14. Is there sufficient provision, or sufficient capacity to provide, suitable numbers of air weapons clubs across all areas of Scotland for use by registered air weapons owners/users?


15. How will the air weapons licensing system affect those using air weapons for personal/recreational use?


Name/Organisation: The City of Edinburgh
16. How will the air weapons licensing system affect those aged 14 to 17 who use air weapons?

17. How will the air weapons licensing system affect those using air weapons for commercial/professional reasons (for example: for pest control; as part of the tourist/hunting season; as part of fairs, paintballing centre, entertainment sector etc.)?

18. How will the air weapons licensing system affect those using air weapons for competitive sporting purposes?

19. Is it equitable for those applying for an air weapons certificate to pay a fee which cannot be refundable irrespective of whether a certificate is granted or not?
20. Will the air weapons licensing system have a positive or negative impact on other areas of the public sector in Scotland (eg. The work of local government, public agencies etc.)?


21. What, if any, might the unintended consequences of introducing an air weapons licensing system in Scotland be?


22. Do you have any other comments to make on air weapons licensing aspects of the Bill?


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 is a useful tool which has served its purposes well. There are a number of features which are out of date and the Council’s view is that continued amendment of the Act is not helpful.

There is a growing gap between the 1982 Act and the Licensing (Scotland) Act 2005 and the relevant Licensing Provisions of the Housing (Scotland) Act 2006. This variance makes it more difficult for the public to understand the licensing systems.

For example the difference in determination periods for each type of licence, different language for temporary or occasional licences.

The 1982 Act is deficient in that a Licensing Authority cannot revoke a licence and may only ‘suspend’ a licence for its duration.

The Licensing (Scotland) Act 2005 has broad support but it needs to be clear to what extent parliament intends a licence to issued under this Act to cover activity normally licensed under the 1982. For example a practice is common of using an occasional liquor licence, with much reduced fee, to licence what are major events which would otherwise be subject to the Public Entertainment Licence provisions of the 1982 Act. It could be argued that the 2005 is ill suited to regulating that type of activity.

24. Should a licensing system seek to regulate individual behaviour or communities of space (eg. ‘city space’ etc.)?
The Council believes the licensing system should seek to address both. There are normally two concerns for a licensing authority to address themselves to: 
a) Is the Licence holder appropriate, usually referred to as fit and proper and 
b) Will the premises which is licensed have an adverse impact on the community and its environment.

The system needs to address both concerns.

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

There is a complex relationship between each of these aspects. Frequently concerns raised by a prospective applicant will be very similar to those raised in objections to a planning application. Each system is independent of the other and the decisions can sometimes vary.

The licensing system struggles to deal with regeneration issues with applications often being many months or years from the original regeneration commencing.

Clarity in legislation about how these aspects should be considered in the licensing decision making process would be helpful.

26. How does the licensing system in Scotland assist with the delivery of sustainable development and economic balanced areas?

The licensing system is ill suited to these aspects as economic impact is not a ground with which a licensing decision could be made.
27. In what way does the licensing system in Scotland support health and planning, addressing health inequalities and public health wellbeing outcomes?
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?

   The Council welcomes and supports the reintroduction of the ‘fit and proper’ test to the liquor licensing system.

   Similarly the broadening of the objectives to include ‘protecting young people from harm’ is necessary to remove that apparent gap.

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

   The Council would welcome consideration of whether the costs of policing the sale of alcohol could be recovered by means of a levy on relevant license holders. This would include costs for managing the night time economy which disproportionately impacts the City and other similar authorities in Scotland.

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

   The Council supports the broaden of the ‘protecting of children’ to include ‘young people’
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 Council believes this will address public concern that these types of issue should be considered in addition to the licensing objectives when deciding whether or not to grant a relevant licence. It will enhance public confidence in the decision making process.

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

The Council expresses concern that ‘occasional liquor licences’ are increasing being used to licence events which would otherwise be licensed under the 1982 Act.

For example large music events operating on a £10 occasional licence. The Council respects that dual licensing is inappropriate but contends that this system is unsustainable for the following reasons:

a) It involves the Licensing Board in regulating issues beyond the sale of alcohol for which the 1982 Act already exists
b) There is a difference in how an event may be licensed depending on the Act used and this inconsistency is confusing
c) Large commercial events are benefitting from absurdly low licensing fees leaving local authorities to pay for managing these events from the general budgets.

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?

It is important that public confidence in the system is maintained. If you apply for a Taxi or Private Hire Drivers Licences all convictions must be disclosed spent or otherwise this inconsistency is not helpful.

Generally any conviction disclosing violence or dishonesty should be disclosed.
34. Do you have any other comments to make on the alcohol licensing aspects of the Bill?

The Council agrees with the introduction of determination period and the requirement to certify an application is complete, it notes however that these will increase costs for the Board.

The Council agrees that bringing the timescales for the statement of local licensing policy in line with local government elections is sensible.

The Council has no concerns about the introduction of financial reports as a statutory requirement.

Name/Organisation:

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?

The Council strongly supports the continued licensing of these vehicles in order to prevent crime and protect public safety. The Council notes that most other forms of public transport have a licensing or regulatory oversight, e.g. passenger carrying vehicles.

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?

The Council notes that the separate arrangements appear to work relatively well and does not seek a change to the current system.
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?

Such a change would require the Council to implement changes to bring its existing licensing system for both types of vehicle into line with the legislation. There are significant differences in types of vehicles, training of drivers, conditions and controls over numbers which would require significant work to harmonise. The Council would be concerned that such a change would require new and substantial resources to implement over a timescale of a number of years.

The Council not clear what the potential benefits are from such a unified system.

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 bill implements the position of the Council which it outlined when it responded to the previous Scottish Government Consultation.

The Council strongly support introducing provisions which would allow it to set a minimum standard of training for PHC drivers.

The Council support the power to introduce over provision for PHC but is not prejudging whether the Council would introduce such a cap. At present the number of PHC’s in the City have remained stable at approx 950 for the previous three years.

The Council would be concerned that some form of clear guidance would be required for Licensing Authorities to allow them to measuring demand as an initial assessment of whether to introduce a cap.

This guidance should be statutory and the Scottish Government should introduce it under a provision of the Act.

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 Act implements the position of the Council which it outlined when it responded to the previous Scottish Government Consultation. The Council has concerns that vehicle such as party limos or buses are unregulated.

The Council has no view to offer on exemptions.
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 Council welcomes proposals to tighten the rules on metal dealers as a necessary response to incidence of theft of metal.

The Council is content that the 48 hour rule is no longer mandatory provided it retains discretion to apply as local condition depending on circumstances.

The form of records are similar to that which the Council currently requires for second hand dealers and the Council supports these.

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

The Council has no objection but notes that self regulating schemes of accreditation are of limited use in tackling problems dealers.

42. Removal of exemption warrant - do you wish to comment on the proposal to remove the exemption warrant system?
The Council supports the abolishing of the exemption warrants and has previously responded to a Scottish Government consultation in those terms.

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 Council has no view on this.

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 Council would be concerned that the rules are easily understood and enforceable. It may be prudent to restrict cash transactions to those below a small weight and to prevent repeated cash transactions with the same seller of metal.
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 onerous?

The Council does not think the proposals are unduly burdensome.
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’?
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?

The questions assumes the licensing authorities will amend their public entertainment resolution as required. There is a risk that this process will take up to 18 months to achieve. There is a risk that Theatres will be unlicensed if a particular licensing authority does not include these premises within its public entertainment resolution.

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

This will require a review of licence conditions and there will be some resource implications.

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

The Council anticipates that the current fee structure for public entertainment is broadly suitable.
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'
Sexual Entertainment Venue, comments it is not clear what the difference between and audience and ‘live audience’ is in the bill. Secondly the definition would allow a loop hole if the Venue argued that the entertainment is provided for the financial benefit of any self employed entertainer as opposed to the organiser.

Audience, concern that the definition should include any interaction with the entertainment.

Financial gain, would this be sufficient if the organiser argued that this was provided free and the financial gain came from ancillary activity such as the sale of food and alcohol. Need to be clear that ‘free to enter’ would still be within the scope of this definition.

Organiser: See comment above re self employed entertainers.

Premises: Be helpful if it included temporary structures and explicitly private members clubs.

Sexual Entertainment: Would the display of any film or images be caught if the purpose was to stimulate a member of the audience. It would be useful if the definition could be clear as to whether parliament intends the scope of licensing to extend to those premises which charge an entrance fee and thereafter patrons may engage in sexual activity between themselves. NB the Council is not seeking to licence premises which were formerly licences as places of public entertainment before the resolution changed.

Display of Nudity: No comments

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 bill should be clearer, an occasion may be subject. It may be easier to specify ‘on three occasions each occasion being less than 24 hours in total’.
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?

<table>
<thead>
<tr>
<th>Without prejudice to any decision the Council may make the Council supports having the ability to control the numbers of such premises in its area. The Council must be able to take into account the views of residents and the cumulative impact or clustering of these premises.</th>
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<tbody>
<tr>
<td>The Council would like the ability to further control or limits these premises as appropriate within smaller geographically areas within its boundaries.</td>
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<tr>
<td>The Council would request that statutory guidance is provided to assist in exercise of any such power.</td>
</tr>
<tr>
<td>The Council notes that similar powers existing for local authorities in England and Wales.</td>
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</tbody>
</table>

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?

<table>
<thead>
<tr>
<th>The Council has no objection to Sections 44 and Schedule 2 being used for these premises.</th>
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<tr>
<td>The Council notes that there is an limitation on the powers of inspection for premises which ought to have a licence but does not. The Council would prefer that the powers of entry are amended to bring the Act into line with other statues which regulates business activity in respect of its powers.</td>
</tr>
</tbody>
</table>

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

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

The Council would argue that the 1982 Act requires updating in a number of key respects.

The Council would recommend that the powers section of the bill is reviewed in line with the sections above.

The Council would strongly argue that Licensing Authorities should have the power to revoke licences in the case of serious misconduct on the part of licence holders. The current position means that a license authority is restricted to suspending a licence up to and including the ‘unexpired portion’. In practice this has meant that the Council has dealt with cases where it has had entertain renewal or variation application made with respect of licences. The Council is concerned that this allows interested parties to circumvent the decisions of the authority and retain a licence which ought to have been revoked.