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: Willie Taylor
Organisation: Dumfries & Galloway Council
Address 1: Municipal Chambers
Address 2: Buccleuch Street
City/Town: Dumfries
Postal Code: DG1 2AD
Country: Scotland
Email address (if no email leave blank): Willie.taylor@dumgal.gov.uk
Phone Number: 01387 245913
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: Dumfries & Galloway Council

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.

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

10. Do you consider that the Bill has any implications for preventative spending and/or public services reform? Please explain.
11. Do you consider that the Bill has any implications in relation to European Union issues? Please explain.

12. Do you have any other comments on the impact of the proposals contained in the Bill relation to Scottish Government objectives?
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?
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 Licensing Framework remains resilient but could do with up-dating to make sure that the provisions purposively reflect modern requirements including means of communication, EU Services Directive and Data Protection.

The fact that the Licensing (Scotland) Act 2005 has undergone substantial changes since its commencement in 2009 and this Bill’s proposes to add other significant changes speak loudly that it remains not fit for purpose.

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

Need these be mutually exclusive? Groups of individuals impact on city space. Is this relevant to a consultation on a specific Bill?

25. In what way should the licensing system in Scotland interact with the support the land use planning system, community planning and regeneration?
Licensing must relate to a well-defined activity and have a clear well-understood purpose. It should only adversely impact on other regimes when this is necessary but must always be recognised as independent of those other regimes and not subservient to them.

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

Licensing should lead to benchmarking standards, improvement to service delivery and increased professionalism of staff.

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

Many licensing systems, for example Skin Piercing and Tattooing, have these elements at their core.
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 new offence of supplying alcohol to a child or young person outwith licensed premises is welcome but will the police and courts have the resources to prosecute to the extent required to provide deterrence?

The other side of this is that it is designed to address proxy purchases; it would also criminalise responsible parents introducing young persons to alcohol within a family picnic setting.

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

Before considering new measures, there must be a proper assessment of the existing measures.

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

Adding Young Persons to Licensing Objective (e) will strengthen that objective.
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?

In its present form, the link with the licensing objectives is likely to frustrate its re-introduction as there is already one and only one ground of refusal relating to the Licensing objectives: the logic of the leading case of Brightcrew would prevail - what exactly has this to do with the sale of alcohol?

An expert legal opinion is needed on whether the proposed linking of the objectives and the fit and proper test would bring the results heralded and fill the vacuum created by the 2005 Act or lead to confusion and frustration in practice.

The proposal that a revocation must flow from a Premises Licence Review or Personal Licence Review finding that the licence holder is not a fit and proper person is draconian. It also would be an unjustified restriction on the Board’s authority and decision making powers.

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

One which will be addressed by the Bill is the mandatory premises licence review proposal for any conviction for a relevant or foreign offence by giving the Board discretion in stated circumstances.

One which will be created by the Bill is the negation of the refresher training requirements for a personal licence holder. The proposal to enable a personal licence holder to re-apply immediately on revocation of their licence because of their deliberate failure to comply with the refresher training requirements, would render refresher training nugatory by statutory approbation of failure to comply.

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 Board will get full information on which to decide an application. Other decision making bodies can decide that justice cannot be done unless reference is made to spent convictions and alternatives to prosecution and the Bill would extend this to Boards. The procedure to consider whether spent conviction should be disclosed is pre-existing - Section 7 of the Rehabilitation of Offenders Act.

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

This has not been a helpful questionnaire: it would have been better to seek views on each of the proposals rather than ask very open ended, almost exam type questions. It is likely to be difficult to collate the responses cohesively.

The proposal to require the Board to forward a copy of a personal licence application to the LSO to report to the Board does not appear to be closing a gap. It would make perfect sense if the proposal required the Board to forward a copy of a premises licence application or an application for major variation of a premises licence. This is already supported by the LSO’s extensive powers in relation to inspection of premises to prepare an assessment on the impact on the Licensing Objectives.

If it is designed to assist with “renewal” of personal licences towards the end of their 10 year duration, this really merits detailed analysis. The present provisions are a legislative nightmare. The most obvious defect is that if the renewal application were processed within the current licence duration, the renewal application must be refused as the applicant already has a personal licence.

The Bill contains proposals to amend the time within which the “renewal” application can be lodged. This is tinkering with a cumbersome, immediately otiose process: there is still time for a proper assessment and introduction of an effective renewal process. At the same time there should be consideration of how the second 5 year refresher training requirement would fit within the renewal process.

The proposal that the Board can recognise its whole area as a locality for assessment of overprovision should be recognised as a fundamental development and not the addressing of a lacuna.

The change of the term of a licensing policy statement from 3 to 5 years and the link to the Local Government Election appear immediately attractive and practical. However, 5 years is a long time not to be seeking views of the community stakeholders and trade on the policy. In practical terms it is likely that supplementary statements would be necessary. Linking with the Local Government Election would draw the licensing policy statement within the political cycle following the election. Although appointment of Board Members must follow the setting up of the new council, it is generally recognised that a Board is politically neutral; this proposal may give the impression that this is not the case.
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?

Inclusivity, safety, affordability, customer care and effective a-b service along the shortest route.

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?

It is argued that one system would lead to congestion due to increased number of vehicles within town centres.

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?

This matter has been the subject of detailed consultation, collation and analysis of responses within the framework of the Scottish Government’s Taxi and Private Hire Car Licensing: Proposals for Change Consultation. It has to be asked whether it is necessary or appropriate to consult on such wide terms at this late stage.

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?

Any answer must be speculative. This would be a complete innovation relating to a service which is now largely hidden: the customer calls the operator to arrange for the hire and agree the fare. Unless undertaking a hire or coming back from one the private hire vehicle need not be on the street. This contrasts with the visibility of taxis which are either on ranks or are seeking hails from the street.

Overprovision is a problem when operators are openly competing on price for fares.

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 going to be a massive area of work: most operations under an exemption are likely to be well hidden: from where are they going to receive notice of the licensing requirements?

Any exemptions should be sorted out before the Bill is passed: it is recognised that Scottish Ministers would be empowered to create exemptions by Statutory Instrument but meantime those operating the hires would be breaking the law if they did not have the necessary licences.
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?

Not the function of a consultee to justify proposals within the Bill. These proposals have followed detailed consultation and reflection on changes 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?

From where has the suggestion of “an accreditation scheme for metal dealers” arisen?

There is a need to look at how different licensing regimes interact: SEPA and licensing authority.

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

No
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?

Not known

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?

Introducing an exemption from the cashless system for small transactions would weaken the system: the cash exemption would be open to abuse by operators.
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?

What is the information from England and Wales about the effectiveness of the 2013 Act requirements?
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'?

Mandatory conditions allow a baseline and local conditions allow authorities to take into account specific local concerns and circumstances.
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 proposal to abolish mandatory licensing for theatres should be recognised as such. Only if licensing authorities are satisfied that local licensing, under PEL, is necessary should their PEL Resolution be extended to cover theatres or certain specification of theatres. This should not be perceived as merely a shift of theatre licensing to PEL.

48. Are there additional costs or resource implications on theatres or licensing authorities?
It is to be noted that the inference that theatres would likely be covered by a Public Entertainment Licence, fails to appreciate fully that theatre licensing is presently mandatory whereas it is up to each licensing authority to determine whether to license places of public entertainment and, if so, what type of entertainment to cover.

The licensing authority will require information upon which to decide whether there is a need to license theatres as places of public entertainment. The fact that mandatory licensing of theatres has been abolished will be a very strong indicator, perhaps even a starting point, that licensing of theatres under PEL is not necessary.

For authorities not licensing places of public entertainment any consultation and decision making process under the 1982 Act is likely to be substantial and detailed.

For those presently with PEL, the process may be less detailed but will still include significant press publication fees for statutory notices if the authority’s resolution is to be widened to include theatres.

Many local theatres are amateur, community based initiative who will not welcome any increase in fees-which must be extremely likely.

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

Local decision taking into account local circumstances.

Name/Organisation: Dumfries & Galloway Council

8. Civic Licensing – Sexual Entertainment Venues
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'

This has been the subject of detailed consultation with responses on these issues having been collated and analysed.

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?

Policing springs to mind.

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?
If Scottish Ministers believe that this activity should be prohibited as exploitation then they should legislate to ban it and not merely allow a licensing authority a tortuous process to introduce the licensing of this activity and then effectively to ban it by agreeing a zero level.

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?

There should be a separate schedule.

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

As it will be a decision of the licensing authority whether to license Sexual Entertainment Venues, this will involves detailed consultation, Committee and officer time and press publication fees for statutory notices and Committee and officer time in preparing and issuing a policy on the appropriate number of SEVs for its area, which limit may be zero.

It is extremely unlikely that an authority would receive an application: most of the wasted effort would be avoided by making it a mandatory licensed activity.
55. Civic Licensing

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

No further views.