Introduction

This briefing discusses Amendments 19 and 22, both of which seek to amend Section 68 of the Air Weapons and Licensing (Scotland) Bill.

As Scotland’s Commissioner for Children and Young People, my role is to promote and safeguard the rights of children and young people in Scotland. In doing so, I must scrutinise law, policy and practice in relation to children and young people.

I believe that Section 68 of the bill, as it is currently framed, puts children and young people at risk of harm.

Section 68

Section 68 will create a new Section 45B of the Civic Government (Scotland) Act 1982. It states that it is not an offence “for the holder of a licence for a sexual entertainment venue to employ a person under the age of 18 in the business of the sexual entertainment venue if the employee’s duties do not involve the employee being in the sexual entertainment venue at a time when sexual entertainment is being provided....”. It goes on to say that it is not an offence “to permit an employee under the age of 18 to enter the sexual entertainment venue at times when sexual entertainment is not being provided.”

As the bill was debated at Stage 1, the Cabinet Secretary stated that whilst SEVs are not generally regarded as suitable places for children and young people, young people should not be prevented from working there when sexual entertainment is not taking place. This was also discussed in Committee at Stage 2. Section 68 provides for this.

1 Section 68, Air Weapons and Licensing (Scotland) Bill, as amended at Stage 2 (http://www.scottish.parliament.uk/S4_Bills/Air%20Weapons%20and%20Licensing%20(Scotland)%20Bill/b49as4-stage2-amend.pdf)
2 Paras 496 & 497 Local Government and Regeneration Committee 3rd Report, 2015 (Session 4)
I am concerned, however, that in focusing on young people’s employment rights, significant risks for young people have been missed.

The Cabinet Secretary himself has acknowledged that very few young people were likely to work in SEVs in this capacity and therefore ‘benefit’ from this provision in the Bill⁴. It would seem, therefore that the benefits of removing this provision would far outweigh those of retaining it.

Amendment 22

Amendment 22 in the name of Cara Hilton, MSP, seeks to do just this. It removes the option of young people being employed by SEVs when sexual entertainment is not taking place. The amendment will ensure that sexual entertainment venues cannot be accessed by children and young people under any circumstances.

N.B. Amendment 22 pre-empts Amendment 19.

Amendment 19

Amendment 19 in the name of Michael Matheson, Cabinet Secretary for Justice, seeks to clarify the circumstances in which young people may enter sexual entertainment venues. References to employment have been removed and in their place, the Amendment suggests that it should be an offence to “knowingly permit any person under the age of 18 to enter the sexual entertainment venue – (i) at a time when sexual entertainment is being provided, or (ii) without reasonable excuse, at any other time.”

Key Concerns

I believe that any perceived restriction on a young person’s liberties needs to be balanced against the need to protect them from harm.

If the current provision is retained, I am particularly concerned that:

- A young person working in an SEV is likely to be at increased risk of grooming/exploitation by their employer or those associating with them.
- Even if sexual entertainment is not taking place at the time the young person is present, it is likely that environment itself is unsuitable. For example, sexually explicit materials may be on display⁵.
- A young person will be working in an environment where sexual entertainment is “normalised” and therefore may form a view that sexual entertainment is an acceptable form of employment for them.

⁵ Stage 1 written evidence, Zero Tolerance (http://www.scottish.parliament.uk/S4_LocalGovernmentandRegenerationCommittee/General%20Documents/68._Zero_Tolerance.pdf)
Further, the approach outlined in the Bill towards young people being employed in SEVs appears in direct contradiction to a range of key Scottish Government policies and legislation, including, but not exclusively:

- Getting It Right for Every Child (GIRFEC)
- the Children and Young People (Scotland) Act 2014

Both seek to prevent harm and to safeguard children and young people's well-being. The approach also appears inconsistent with the Scottish Government’s strategy on Violence Against Women and Girls, known as Equally Safe. This seeks to recognise the links between the discrimination, objectification and violence against women and seeks an end to commercial sexual exploitation.

**Sex Shops**

It has been widely recognised that some places of work simply are not suitable for children and young people. Amongst them are sex shops, where children and young people cannot be present under any circumstances. It is therefore surprising that the Scottish Government has chosen to legislate to allow young people access to sexual entertainment venues, albeit under limited circumstances.

Section 68 of the Air Weapons and Licensing (Scotland) Bill creates an anomaly which does not exist elsewhere. The rationale behind this anomaly is unclear, as it appears to me to offer no clear benefits to children and young people.

**Conclusion**

A sexual entertainment venue is no place for a child or a young person. I believe that the approach suggested by Cara Hilton, MSP, via Amendment 22 is sound and in the best interests of children and young people across Scotland.

*I therefore support Amendment 22, in the name of Cara Hilton, MSP.*

I believe that Amendment 19 has the potential to create more difficulties than it resolves. The use of the word ‘reasonable’ is particularly problematic, as it lends itself to wide interpretation.

Amendment 19 also shifts the focus from young people in an employment capacity to young people more generally. There is therefore a possibility that venue owners could find ways for younger children and young people to be ‘legitimately’ allowed to enter sexual entertainment venues. I would suggest this would be much harder to police than a straightforward ban on children and young people being in these premises.

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I therefore do not support Amendment 19, in the name of Michael Matheson, Cabinet Secretary for Justice.

If you require any further information about the content of this briefing, please contact my Parliamentary & Policy Officer, Pauline McIntyre, via pauline.mcintyre@sccyp.org.uk or (0131) 346 5350.

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