

Proposed Tied Pubs (Code and Adjudicator) (Scotland) Bill

Page 2: About you

Are you responding as an individual or on behalf of an organisation?

on behalf of an organisation

Which of the following best describes you? (If you are a professional or academic, but not in a subject relevant to the consultation, please choose "Member of the public".)

No Response

Please select the category which best describes your organisation

Commercial organisation (company, business)

Please choose one of the following; if you choose the first option, please provide your name or the name of your organisation as you wish it to be published.

I am content for this response to be attributed to me or my organisation

Please provide your name or the name of your organisation

Gerry Carroll, CEO, Hawthorn Leisure Ltd

Please provide a way in which we can contact you if there are queries regarding your response. Email is preferred but you can also provide a postal address or phone number. We will not publish these details.

Q1. 1. Which of the following best expresses your view of establishing a statutory Scottish Pubs Code and Scottish Pubs Code Adjudicator? Please explain the reasons for your response.

Fully opposed

Comments:

Hawthorn Leisure operates 88 leased and tenanted pubs in Scotland of these 19 are currently free of tie, so the net number of tied pubs is 69, In addition Hawthorn Leisure operate 11 managed pubs in Scotland. Hawthorn already operates free of tie pubs on commercial leases and tenancies where we believe it is the best model for the individual pub and do not believe there is a requirement for further legislation such as a Scottish equivalent to MRO We operate our pubs professionally in Scotland and across the UK, we are

Q1. 1. Which of the following best expresses your view of establishing a statutory Scottish Pubs Code and Scottish Pubs Code Adjudicator? Please explain the reasons for your response.

members of the BBPA, The SBPA and the BII Since our inception in June 2014 we have focused on Investing in our estate and building excellent relationship's with our tenant partners, we generally have very positive relationships with our tenants and have had negligible disputes and any that have arisen we have resolved directly with our Tenant partners. We have signed up to the Scottish voluntary code and the voluntary code in England and Wales as such we are committed to both the PIRRS and PICAS processes should a dispute occur, to date have had no rent, agreement or other disputes referred to PIRRS or PICAS The independent CGA strategy study conducted in November 2015 by the Scottish government did not unearth major issues amongst tenants nor consumers in Scotland We fail to see why we would require further business legislation when there seems to be little if any evidence that it is required, this seems to be nonsensical political interference at it worst

Q2. 2. Could the aims of this proposal be better delivered in another way (without a Bill in the Scottish Parliament)?

Yes (if so, you may wish to specify any possible alternative option(s))

Please explain the reasons for your response.

We have the Scottish voluntary code and that should be given time to settle as it seems to be working. The experience we have operating pubs in Scotland are that in the main our tenant partners are happy, we continue to invest in our whole estate including our Scottish pubs, we have virtually no disputes, we have never had any disputes referred to PIRRS or PICAS in Scotland, England nor Wales therefore further business red tape is not required and most unwelcome from our perspective

Q3. 3. What do you think would be the main advantages, if any, of establishing a statutory Scottish Pubs Code and Adjudicator?

None as we doubt there would be much for them to do and there do not seem to be many issues in Scotland as a whole it would be a waste of time money and effort for both companies, individuals and government.

Q4. 4. What do you think would be the main disadvantages, if any, of establishing a statutory Scottish Pubs Code and Adjudicator?

As above increased unwarranted and costly red tape, not enough work for an adjudicator, the voluntary code seems to be working well so there seems no justification for changing the current situation

Q5. 5. Which of the following best expresses your view of establishing a Market Rent Only option for tenants as part of a Scottish Pubs Code?

Fully opposed

Please explain the reasons for your response

We operate Free of tie commercial agreements where we deem this is the appropriate model, in our experience where fixed costs i.e. the rent is higher to compensate for a free of tie agreement the majority of Tenants prefer a tied agreement i.e. higher variable costs this is also less risky for an individual operator as in a downturn their fixed costs are less likely to over burden the business. In England the MRO process is highly complex and has not been requested by that many tenants, in addition Scottish law is different

Q5. 5. Which of the following best expresses your view of establishing a Market Rent Only option for tenants as part of a Scottish Pubs Code?

from England as their is no Landlord and Tenant act so it would likely require complex changes to the law to be introduced

Q6. 6. What do you think of the proposed contents of the Bill and the Code, and the scope of the Adjudicator's powers, as detailed on pages 17-18 of the consultation document?

As explained previously the only evidence that seems to exist is that their is no requirement, as the complaints are minimal, referrals to PIRRS or PICAS in our case are non existent, other disputes we have resolved ourselves, the voluntary code is working therefore any adjudicator would not have much of a workload therefore we do not see any requirement for the bill nor the code.

Q7. 7. Which of the following best expresses your view of the Scottish Pubs Code Adjudicator being able to impose financial penalties for breaches of the Code?

Fully opposed

Please explain the reasons for your response.

as explained we do not believe there is a case for this bill nor an adjudicator

Q8. 8. In terms of who the Scottish Pubs Code, and Market Rent Only option, should apply to, which of the following best expresses your view? If you choose option (a) you will automatically be taken to question 10. If you choose (b) or (c) you will automatically be taken to question 9.

Please explain the reasons for your response.

None of the above, as explained previously the whole of this proposal is unwarranted and we do not believe there should be a statutory code nor an MRO in Scotland

Q9. 9. How should larger pubcos be defined (e.g. by size of turnover, number of tied pubs owned in Scotland (if so, how many, etc.))?

we do not believe a statutory code nor MRO should be applied to a company of any size

Page 17: Financial implications

Q10. 10. Taking account of both costs and potential savings, what financial impact would you expect the proposed Bill to have on:

	Significant increase in cost	Some increase in cost	Broadly cost-neutral	Some reduction in cost	Significant reduction in cost	Unsure
(a) the pub companies which own tied pubs (Pubcos)	X					

Q10. 10. Taking account of both costs and potential savings, what financial impact would you expect the proposed Bill to have on:

(b) Tied-pub tenants		X				
(c) Tied-pub customers		X				

Please explain the reasons for your response

Administration and red tape for both the pub co and the tenant Customers - eventually any cost increase will be compensated in the cost of products served in pubs

Q11. 11. How do you think the associated costs of the proposal (predominantly the establishment and on-going running costs of a Scottish Pub Code Adjudicator) should be funded?

We think its a complete waste of time, energy and money, any costs should be borne by the Scottish government if this poorly thought through bill is passed

Page 19: Equalities

Q12. 12. What overall impact is the proposed Bill likely to have on equality, taking account of the following protected characteristics (under the Equality Act 2010): age, disability, gender re-assignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, sexual orientation?

Neutral (neither positive nor negative)

Q13. 13. In what ways could any negative impact of the Bill on any of the protected characteristics be minimised or avoided?

Don't put the bill forward as there is no evidence that it is required

Page 21: Sustainability of the Proposal

Q14. 14. Do you consider that the proposed Bill can be delivered sustainably, i.e. without having future disproportionate economic, social and/or environmental impacts?

Unsure

Page 22: General

Q15. 15. Do you have any other comments or suggestions on the proposal?

We are pretty flabbergasted that this proposal can get this far, so we would like to understand how proposals like this can be stopped at an earlier stage given that there is almost zero evidence that it is required