

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

Public sector body (Scottish/UK Government/Government agency, local authority, NDPB)

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

West Dunbartonshire Licensing Board

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 supportive

Comments:

West Dunbartonshire Licensing Board is fully supportive of any measure which increases the transparency within the Tied Pubs sector. Anecdotally, our officers are aware that there are issues within this sector which may reduce the long-term viability of operators to make a living from operating leased premises which are part of a tied contract. This issue has potential negative outcomes which are of a concern to this

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.

authority, principally that this results in a greater turnover of operators within premises and also this could lead potentially to temptation for an operator of such a venue to cut corners in order to make a profit.

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

No

Please explain the reasons for your response.

West Dunbartonshire Licensing Board notes from the consultation document (pages 12 & 13 - Publication of voluntary Scottish pubs code of practice) that only 6 of the 10 Pub Companies currently operating in Scotland have signed up to the current voluntary code of practice, therefore it is felt that an act of Scottish Parliament is necessary to compel a change of practice within this sector.

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

It is felt that this would lead to a reduction in the turnover of operators in premises, which would be highly beneficial to the promotion and preservation of the objectives of the Licensing (Scotland) Act 2005.

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

We would encourage the Scottish Government to strive to ensure that the administration of the code and the role of the Adjudicator is delivered within minimal impact to all parties, to ensure that Pub Companies and their tenants are not overly distracted from their daily roles and responsibilities.

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 supportive

Please explain the reasons for your response

It is believed that the restrictions currently in place for tenants only to stock products which are within the supply of their Pub Company landlords restricts choice for the customer. With the current purchasing trends moving towards craft producers, in particular within the Gin and Beer sectors, operators of premises should be free to meet these trends fluidly.

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?

It would appear from the outline of the contents of the Bill and the Code that a comprehensive approach has been employed in considering of this subject.

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?

Partially supportive

Please explain the reasons for your response.

A punitive option does require to be introduced to ensure that compliance with the Code is achieved. Careful consideration should be given to how any monies generated from fines levied against Pub Companies should be used.

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.

(b) The Scottish Pubs Code should apply to all tied pubs in Scotland, but the Market Rent Only option should only apply to tenants of larger pubcos.

Please explain the reasons for your response.

On balance, it would appear that option (b) would be fairest and would not impact significantly on the business model and viability of smaller Pub Companies.

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.))?

It would appear that the obvious approach to this would be to define the Pub Companies based on the number of leased premises that they own, however if this definition was based on the number of tied pubs only, Pub Companies could be encouraged to offer more rent-only options by virtue of this more favourable definition.

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

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?

Wherever possible, this should be funded from the Pub Companies solely, with no initial increase in cost to be passed to the tenants.

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)

Please explain the reasons for your response

There does not appear to be any obvious impact on the outcomes of persons who fall under the definitions of protected characteristics as defined by the Equality Act 2010.

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

Not applicable.

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?

Yes

Please explain the reasons for your response

Based on the content of our responses to previous questions within this consultation it is felt that such a Bill could deliver a positive economic impact.

Page 22: General

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

None.