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

Page 2: About you

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

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".)
Politician (MSP/MP/Peer/MEP/Councillor)

Please select the category which best describes your organisation
No Response

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
Patrick Harvie MSP

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:
As a longstanding CAMRA member I have been extremely pleased to see the increasing diversity in Scottish brewing over recent years. However tied arrangements can reduce the availability of beers produced by independent brewers, and limit the number of outlets which these brewers are able to reach. Ensuring that all pubs are able to choose an alternative to tied arrangements has the potential to improve this situation, and give more venues the ability to offer small brewers a place to sell their products, and to

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.

offer customers wider choice at the bar instead of a limited range dominated by the brand names of large multinationals.

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.
There are many other actions which could be taken to promote diversity in beer, brewing and pubs. For example the Scottish Parliament could explore measures to allow communities to take over local pubs which are threatened with closure and operate them as social enterprises; Scottish Government business support services could be refocused away from large businesses toward smaller independent ones; changes could be made to the licensing regime to recognise the different kinds of social and cultural value that different types of licensed premises offer. However none of these would deal directly with the issues relating to tied pubs, and even if all other measures were taken to promote diversity and to create an environment where the alcohol industry is dominated by independent businesses which prioritise quality and responsible operation rather than large remote corporates whose profits are driven by volume sales, there would still be a strong case for ensuring that every licensed venue is able to choose to offer the widest range, instead of being tied to particular suppliers.

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

A statutory basis would address the current lack of compliance with the voluntary code and would give clarity to owners, operators and customers alike about how the code is to be enforced.

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

I see no significant disadvantages.

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
This is a critical part of the Bill. Failure to ensure that all tenants can exercise this option would result in a Code which was largely concerned with regulating the current tied pub model, and as the consultation document notes the 2014 CAMRA survey found very little support for the tied model among pub tenants in Scotland.

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?

I support the general approach, but as with the regulations relating to the operation of the private rental housing market, I would make the case for regulations to be subject to an affirmative or superaffirmative procedure, to ensure adequate scrutiny of the details. Post-legislative scrutiny should also be considered by a relevant parliamentary committee once the system comes into operation.

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 supportive

Please explain the reasons for your response.
The goal should be to ensure that compliance is achieved without the need for financial penalties. However this is more likely to happen if the option of financial penalties does exist.

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.

(a) The Scottish Pubs Code - including the Market Rent Only option - should apply to all tied pubs in Scotland

Please explain the reasons for your response.
If there are particular venues for which the MRO option is not appropriate, they should be under no obligation to exercise it. In line with my previous comments, I can see no reason why any pub operator wishing to exercise this option should be denied it by legislation.

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.))?

No Response

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			

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?

My preference is for the costs to fall on larger pub companies, based on turnover. However if it proves impractical for this to generate enough resources for a fully self-financed system, I would have no objection to a share of the cost falling on the public sector. Options to co-locate the functions of the Adjudicator with another existing regulator might also be explored as a way of reducing the setup or operational costs.

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?

No Response

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

Page 22: General

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

No Response