



OFFICIAL REPORT
AITHISG OIFIGEIL

Economy, Energy and Fair Work Committee

Tuesday 18 August 2020

Session 5



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ECONOMY, ENERGY AND FAIR WORK COMMITTEE

24th Meeting 2020, Session 5

CONVENER

*Michelle Ballantyne (South Scotland) (Con)

DEPUTY CONVENER

*Willie Coffey (Kilmarnock and Irvine Valley) (SNP)

COMMITTEE MEMBERS

*Colin Beattie (Midlothian North and Musselburgh) (SNP)

*Rhoda Grant (Highlands and Islands) (Lab)

*Alison Harris (Central Scotland) (Con)

Dean Lockhart (Mid Scotland and Fife) (Con)

*Richard Lyle (Uddingston and Bellshill) (SNP)

*Gordon MacDonald (Edinburgh Pentlands) (SNP)

*Andy Wightman (Lothian) (Green)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Jamie Delap (Society of Independent Brewers)

Maurice Golden (West Scotland) (Con) (Committee Substitute)

Keir Greenaway (GMB Scotland)

Jamie Hepburn (Minister for Business, Fair Work and Skills)

Emma McClarkin (British Beer & Pub Association)

Marie McHugh (Scottish Parliament)

Edith Monfries (Hawthorn Leisure Limited)

Lawson Mountstevens (Star Pubs & Bars Limited)

Greg Mulholland (British Pub Confederation)

Tom Stainer (Campaign for Real Ale)

Paul Waterson (Scottish Licensed Trade Association)

Chris Wright (Pubs Advisory Service Limited)

CLERK TO THE COMMITTEE

Alison Walker

LOCATION

Virtual Meeting

Scottish Parliament

Economy, Energy and Fair Work Committee

Tuesday 18 August 2020

[The Convener opened the meeting at 09:00]

Decision on Taking Business in Private

The Convener (Michelle Ballantyne): Good morning. I welcome members, witnesses and those who are joining us online to the 24th meeting in 2020 of the Economy, Energy and Fair Work Committee.

Agenda item 1 is a decision on taking items 3 and 4 in private. Do members agree to that? I will pause to allow for any objections.

As no members object, we agree to take items 3 and 4 in private. Thank you.

Tied Pubs (Scotland) Bill: Stage 1

09:01

The Convener: Agenda item 2 is consideration of the Tied Pubs (Scotland) Bill. I am pleased to welcome our first panel of witnesses: Tom Stainer, chief executive of the Campaign for Real Ale; Keir Greenaway, GMB Scotland organiser; Jamie Delap, Scotland regional director of the Society of Independent Brewers; Paul Waterson, Scottish Licensed Trade Association; Greg Mulholland, campaign director of the Campaign for Pubs and chair of the British Pub Confederation; and Chris Wright, head of the Pubs Advisory Service.

We are constrained by time today as we have two busy panels and we will also take evidence from the Minister for Business, Fair Work and Skills, so I ask members and witnesses to keep their questions and answers succinct. Unfortunately, we had to move the panels around. I apologise to our witnesses that there was an oversight in informing some of you, but we had to do that in order to ensure that we get adequate evidence from everybody.

I will invite each member to ask their question and I will then go to the relevant witness and, where possible, allow other witnesses to respond. The member will then get a chance to follow up on their question. I will not be able to ask every witness to respond to every question, but if witnesses indicate to me that they wish to comment, I will do my best to ensure that they get the chance.

The first question will be from Alison Harris.

Alison Harris (Central Scotland) (Con): Good morning. Does the existing voluntary code protect the rights of tied tenants? I am happy to take answers from whoever feels most strongly about that.

Tom Stainer (Campaign for Real Ale): Good morning and thanks for the opportunity to speak to you.

It is important to understand that the system in Scotland is not regulated by legislation. That creates a power imbalance as the pub companies have a monopoly on supply and cost of tied products. The voluntary code is simply not working. A voluntary code was tried in England and Wales before the introduction of the pubs code and the Pubs Code Adjudicator—it ran for about 10 years, and there were six versions of it. The English and Welsh Governments decided that it was necessary to bring in legislation—a pubs code and the adjudicator—because the voluntary code was not working.

The voluntary code does not rebalance the relationship between licensees and tenants. The surveys that you have seen show that licensees in Scotland believe that the Government needs to act to ensure that the protections that are enjoyed by licensees in England and Wales also apply in Scotland, which seems fair. Some 74 per cent of respondents to a 2014 survey considered themselves to be worse off because of the tie, which again suggests that the voluntary code is not working, and 96.5 per cent believed that paying a reduced rent did not fully take into account the higher prices that they have to pay for beer, which can be 50 per cent more than prices on the open market.

The experience in England and Wales shows that voluntary codes seem not to work, and the same situation applies here. The voluntary code is being administered by the same organisations that administered it in England and Wales, which is why the bill is important.

Greg Mulholland (British Pub Confederation): Thank you for inviting us and for fitting in this important session. Put simply, the voluntary code in Scotland, much like the one in England and Wales, was deliberately devised by the large pub companies and their trade association to appear to be taking some action on some of the concerns that had been expressed by committees at Westminster and in Scotland and by members of the Scottish Parliament.

Cleverly and deliberately, the voluntary code does not deal with the fundamental problem. It may be useful if I say at the outset what the problem is. The problem is that the large companies operate an unfair model whereby they take too much of pubs' profit, leaving the tenant—the small business—unable to make a living. Often, we are talking about the large company taking 80 to 90 per cent of the profit, which is why so many tenants are on such low incomes despite their pubs having reasonable turnover and profit.

Of course, no voluntary code will do anything about that. Voluntary codes deliberately exclude any mechanisms to deal with it, which is why the market-rent-only option is crucial—the option for an independent rent assessment and the right to take that assessment. No voluntary code will include that; it is a question of rearranging the deckchairs to look like something is being done, but avoiding the fundamental problem. That is why legislation was essential in England and Wales—even though, sadly, I can tell you at first hand that it was botched.

We are looking to the Scottish Parliament to do it properly—to do it more cleanly and effectively. Legislation is essential in Scotland too, to give Scottish tenants rights to not be exploited and to

take a fair share of the profit that they make from their pubs.

The Convener: Chris Wright and Paul Waterson also wish to comment. As the question was our introductory question, I will allow you all to speak.

Chris Wright (Pubs Advisory Service Limited): Good morning and thank you, convener. The voluntary code that has been in operation has been proved not to tackle important issues relating to unfairness, especially risk and reward, which is one of the key planks of the bill. The voluntary code cannot offer MRO to tenants. In committee sessions at Westminster, the British Beer & Pub Association has said that the profitability of tenants was not of any concern for BBPA members.

Self-regulation is not universally loved and there is often low take-up. Before the Groceries Code Adjudicator came into being, there were zero complaints through the former self-regulation for groceries code, yet Scotland still approved the groceries code for suppliers. We are looking for parity. It is important to make that point—you have already agreed that there should be a groceries code, and there should be parity, so there should be a pubs code.

Paul Waterson (Scottish Licensed Trade Association): On a point of detail, I note that the pub code in Scotland is now governed by the Pub Governing Body. As you probably know, the pub code was introduced in July 2016. The SLTA knew nothing about the Pub Governing Body until we got an email in 2019 telling us that we were on the governing body. One of the problems has been that tenants do not know about procedures and how the pub code works. People such as us did not know anything about it and we were on the panel, so it is easy to see why the pub code has not worked.

Nothing was done about that until October 2019. The first meeting should have been in March or April this year, but it was cancelled for obvious reasons.

The Convener: Alison, do you want to follow that up?

Alison Harris: No. I am happy with the responses, convener.

Gordon MacDonald (Edinburgh Pentlands) (SNP): I have a question about what Paul Waterson said about the voluntary code. It is concerning that you did not find out about that until October 2019 and that the first meeting has not taken place yet because of the pandemic. Has there been an opportunity for the code to be tested? I believe that there have been no rent reviews under the code.

Sixteen licensees have submitted written evidence directly to the committee, 10 of whom are against the bill. We asked the licensees of the 750 tied pubs to take part in a survey and 39 responded. We asked seven licensees to speak in a focus group last week and only three turned up. If there is really a problem in Scotland, why have we not heard from the licensees?

Paul Waterson: We have tried to co-ordinate people responding to different things as much as we can. The biggest problem that we have is that tenants are genuinely concerned that they will be victimised if they answer any of the questions or if they get involved at all, even anonymously.

It is such an unfair system, and it is a terrible situation when tenants are telling us that they do not want to say anything publicly. They are in a difficult position. Usually, when they end up leaving the pub, we completely lose contact with them. Therefore, what you refer to is not a reason not to look positively on the bill. We have seen what happened in England and we know that there is a problem here and that people do not want to get involved publicly. We hear that all the time. That is why there seems to be a dearth of complaints.

Regarding the pub code, half of the tenants that we have spoken to do not even know that there is a pub code in Scotland. To go back to my previous point, if we did not know that we were on the panel, what chance do tenants have? Pubs are insular places and the world ends at the front door. People tend to stay involved in their own businesses and not look outside for help. That is part of the culture of pubs.

The Convener: I will bring in Chris Wright and Greg Mulholland quickly, as it is an important issue.

Chris Wright: I agree with Paul Waterson, but I also want to ask whether the 10 people who are against the bill are actually tied tenants. I saw an article in a Scottish feature a few months ago, and the person who was opposing the bill was not a tied tenant who would be affected by the bill. They were in a joint venture with a pub company, so they were outside the scope of the bill. It would not affect them, yet they were coming forward to say that they were against it, even though it has no bearing on their business model. The bill is not there to stop people who want to enter a joint venture. I do not see why anyone who is in a joint venture would oppose it. It has nothing to do with them.

The other reason that most tenants have given me for not coming forward is that they fear having benefits taken from them. We must remember that many of the so-called tied benefits are operated on a whim by the regional managers and business

development managers. They are not in the lease and they can be taken away at the discretion of the pub company, which is a key issue. People fear having the little bit of support that they have, which is not in the lease, removed from them for speaking out or for attending a campaign or saying something on social media.

09:15

Greg Mulholland: I absolutely understand why Gordon MacDonald asked his question. One reason that we have found for not getting responses is that the past four months or so have been the most awful period for licensees in Scotland, England, Wales and many other places, as the committee will know. It has been a desperate time with people worrying about the closure of businesses.

Pub code tenants have had to pay rent through the Covid period. To give you a sense of the discrimination against tenants who exercise their right in England and Wales—I hope that the committee will bear this in mind—I note that tenants who managed to get a market-rent-only lease, or a free-of-tie lease, are being discriminated against, including by Star Pubs & Bars, which is owned by Heineken. As you will have Lawson Mountstevens on the next panel, you might wish to ask him about that. Tenants who have exercised their legal right to have a market-rent-only lease are being charged full rent through the entire Covid period. That gives you a sense of why tenants are anxious and why they do not want to speak out.

On the 10 people who wrote in, I note that, for the Westminster legislation, one of the large regulated pubcos sent its tenants template responses and asked them to insert their details and send those in saying how happy they were and how unnecessary the legislation was. I am afraid that that is rife.

There are far fewer tied pubs in Scotland. There are fewer pubs in Scotland as a whole. However, why should a tenant of Star Pubs & Bars, Greene King or one of the other companies who is two miles north of the Scotland and England border have no right to go free of tie and have no statutory protection, when someone who is just the other side of the border, in England, can? They should have the same rights. As tenants' submissions state powerfully, the fact that people do not have the same rights has consequences. It puts Scottish tenants and Scottish pubs in an unfair position. I hope that MSPs, the Scottish Parliament and the Scottish Government will seek to rectify that.

The Convener: Tom Stainer also wants to comment. We are running over our time for this

question, but it concerns a key issue, so I will bring him in.

Tom Stainer: In our 2014 survey of 200 tied tenants, 99 per cent felt that the Scottish Government needed to act to ensure that Scottish licensees were afforded the same protections as licensees in England and Wales. A Scottish Parliament committee's statistics showed that 93 per cent of tenants felt that legislation was necessary in order to strengthen their hand in their relationship with their pub-owning business, and 63 per cent felt that the bill would improve their relationship with their pub-owning business. Furthermore, 94 per cent welcomed the provision in the bill for a right to request a market-rent-only lease, again because they felt that it would improve their position in their relationship with their pub-owning business.

The Convener: Thank you, Tom. We have run over time on that by quite a lot, but I think that that has set the scene with regard to why the witnesses feel that we need a bill. Colin Beattie has question 2.

Colin Beattie (Midlothian North and Musselburgh) (SNP): Thank you, convener. On investment in pubs, the committee has heard that one impact of the bill might be that pub tenants increase investment in the pubs that they lease as a result of being able to negotiate a better deal with their pub-owning company. Given that the tenant does not own the underlying asset—the pub—is there a risk that this investment would be limited and short term? Perhaps Jamie Delap could answer that.

Jamie Delap (Society of Independent Brewers): Thank you for inviting us to be a part of the forum to discuss the bill. Broadly speaking, at the Society of Independent Brewers, our members are suppliers to pubs. Few of our members operate a significant number of pubs. We are cautious about that matter. On the investment question, there is the potential for unintended consequences. Two forms of tie exist in the market. There is the property tied to beer, which is what the bill addresses, but there is another model, which has investment and loans tied to beer. In a perfect world, we would like to see that property is property, finance and investment are investment, and beer is beer. The three things should be considered separately as far as is possible. However, there are many different funding models in the market, and there have been many different sources of investment in the market. One would hope that the market would adjust and find the right routes to put investment into the right pubs, but I would be cautious—

Colin Beattie: How is that going to happen?

Jamie Delap: As I said, being totally honest about our limitations, we do not run pubs. Where that investment would come from is not an area where we have direct expertise, as we said in our evidence.

The Convener: We have several witnesses who, presumably, can give some answers on that. Greg Mulholland, Tom Stainer and Chris Wright might want to come in.

Greg Mulholland: It is a key question, and it is one that the pub companies and the trade association, the Scottish BBPA, will always trot out as a reason why the tied model is of such value. However, the reality of what they term “investment” is that it is just a form of loan, and it is crucial to understand that. I have challenged pub company bosses, and I have worked directly with tenants, as have some of the other witnesses here. When a pub company says that it will invest in a pub, the reality is that the person who pays for that investment over time is the tenant, the lessee, because it is added to their rent or their “wet rent”—the huge mark-up that tied tenants have to pay for beer.

There is also a myth here, because it is important to remember that there are plenty of tenants who are free of tie. There are smaller companies that operate free of tied tenancies. Some community pubs and some individuals who own pubs operate free of tied tenancies, and it is equally possible to invest in pubs on a free-of-tie basis. The issue is whether the pub is successful, and pubs are generally more successful if they can offer what customers want. However, in England and Wales, we have seen that, where licensees have been freed and they are paying a fairer rent and are no longer having to pay these hugely inflated beer prices, they can invest, finally, in their pub business with the confidence that they will be able to make a living. The biggest factor that prevents investment in pubs is licensees struggling and not making a living. That is why pub company pubs have been so underinvested in over the years.

Colin Beattie: How does it work if they do not own the asset and they are making significant investments in the asset? Surely they will limit their investment to the terms of their outstanding lease, so there are risks involved in that.

Greg Mulholland: It is a model that balances risk and reward, or it is supposed to balance risk and reward. That is the point, and it is the point of the Tied Pubs (Scotland) Bill. Without going through the history, United Kingdom tied pubs—well, pubs in Great Britain, certainly, as Northern Ireland has a different operating model that is more similar to pubs in the Republic of Ireland—moved from short tenancies on brewery leases, where the brewery had a direct interest in selling

beer and invested in the pub. It was the beer orders that were botched and allowed the larger pub companies to set up. They then moved tenants onto these 25-year, full repairing and insuring leases, and put all the risk onto the pub companies.

If you speak to the likes of Greene King and Marstons and Star, which are hugely profitable, they will have a manager and they will take all the profit. With more marginal sites, they will put in a tenant and the risk goes on to the tenant. The problem with that type of model is that that does not allow the licensee to make a fair living, because of the huge amount extra that they have to pay for beer. I am sure that the committee has seen price lists comparing brewery prices—genuine free house, free-of-tie prices—with the tied prices. There is a huge mark-up on every single keg, which makes it very difficult to make a living. If you are free from that, you can make a living. Licensees want to continue to operate, they want a good relationship, and they want to continue running pubs. However, they can do that only if they are making a living. The way that large companies operate the tie makes that impossible.

Therefore, even where there is investment, tenants do not see the benefit because, in too many cases, they cannot afford the rent and they throw back the keys and have to move on. We must stop that cycle, because it is very damaging for pubs and publicans, and, of course, we see more pubs closing.

The Convener: Tom Stainer wants to come in. Please be brief, Tom.

Tom Stainer: I will do my best. To build on what Greg Mulholland has just said and to give you some perspective, in the survey that we did of 200 tied tenants, 54 per cent said that their annual take-home earnings were between £10,000 and £15,000, and 10 per cent of respondents earned under £10,000. I think that that gives some perspective on how little money is being made by these licensees and, therefore, how little money they have to invest in their business.

I think that it is important to remember that, like a lot of retail business where you rent the premises, you make a business decision about investment. You might not own the bricks and mortar, but you invest in your business, and that does not have to be in the bricks and mortar. It can be in staff, employing local people, offering a better service, and therefore making your business more attractive to customers. Therefore, a tied pubs bill and a market-rent-only option would give licensees the ability to sustainably invest in their businesses in the right way, increase their profits and reinvest money in local economies.

The other side of that coin is that it will encourage the pub-owning businesses to give great offerings to these licensees. Therefore, the people who own the bricks and mortar, the pub-owning businesses, will need to have a very attractive offer to ensure that licensees do not want to go for the MRO option. That means giving them the investment and the support for their businesses to show licensees that it is worth staying with them.

Another statistic from the committee survey that I referred to earlier is that 62 per cent of licensees said that they had received no investment in the pubs that they had rented or that, if anything had been offered, it had been offered on the terms of loan agreements, which, as Greg mentioned, were not acceptable to them. Therefore, we are not getting the investment into the sector that we need now, and that is because of the lower earnings and the inability of licensees to build successful businesses.

Chris Wright: One of the so-called benefits of being tied is access to capital investment. Most pub companies—including the largest one in the United Kingdom, Enterprise Inns, or Ei Group—say that that is a benefit of being tied. As you can see, it is operated on a whim. Tom Stainer just pointed out that most tenants do not get access to that. It is not in the lease, which is another crucial point. It is not the type of benefit that you can rely upon; it is operated on a whim. There is no competition in lending. High street banks and other independent sources of funding do not want to touch tied tenants. As soon as a tenant is free of tie, they have access to the whole of the market, which is clearly a beautiful and lovely competitive situation that we would all desire in business.

09:30

Tied tenants are basically left with one lender, their landlord, who operates on a whim at incredibly onerous rates. When I did a study of this some years ago, the capex, which was the investment that was added to the rent, worked out at 24 per cent APR, which is the same as pay-day lending rates. That is ridiculous. If you go to the free market in Scotland and seek to borrow money from, say, Tennent Caledonian, as a free trader, you are probably looking at 4 per cent above the base rate. A tied tenant is looking at rates of interest that are seven times higher than what they could get in the free market.

So, it is a myth to say that pub companies invest. They invest at incredibly high rates that are not competitive and which often weigh down the publican with too much debt commitment, which they cannot resolve, and therefore, often, they decline and fail. There is an awful lot of money

loaned to free houses. In the tied trade, it is incredibly restrictive, and the bill proposes to rebalance risk and reward.

The Convener: Thank you. Finally on this question, I will bring in Paul Waterson.

Paul Waterson: It is worth illustrating the difference in the prices that tied pubs are paying. A keg of beer could be anywhere from £35 and £40 dearer for a tied tenant to buy from the pub-owning company. Therefore, for every 1,000 kegs that they do not get, which goes directly to the pub-owning company. If the pub-owning company is a brewer, it has profits all the way down the line. We are talking about money and investments, but there is £35,000 taken straight from the tied tenant, which is totally unfair. That does not give them the same basis to work on as the free trade, and the bill tries to address that.

The Convener: Thank you. We will move to the next question now, which is from Richard Lyle.

Richard Lyle (Uddingston and Bellshill) (SNP): Thank you, Convener. My question is for Jamie Delap. The Society of Independent Brewers operates Beerflex, which some tied tenants can utilise to stock local beers outside of the beer tie. To what extent would a statutory guest beer right change the situation for tied pub tenants and small brewers, and is this necessary?

Jamie Delap: The situations that our members face are varied. The experience for someone who runs a larger brewery, such as mine, is different from the experience of many of our smaller members. Looking across the trade, we estimate that, on more than 90 per cent of all the lines in Scotland, we are unable to make a commercial offer to service those lines. We face very restrictive competition. Therefore, across the whole sector, where there is a small independent business running a bar, in 90 per cent of cases, our members are unable to make a commercial offer to supply that line. Beerflex provides an element of access—we acknowledge that—but it is relatively small at under 5 per cent of the sales of all our members across the UK, and in Scotland it is probably about half that, partially because there are far fewer tied pubs in Scotland than there are south of the border.

We would broadly welcome anything that enables fair competition, to allow our members to make commercial offers to what are, effectively, independent businesses. The proposal for a guest beer option, as well as the market rent option, potentially makes it more flexible for tenants in such a way that they can put on a range of beers and craft their offer to suit the audience for their bar, rather than having a fairly standard range of products that would be the same in any other

English pub or any pub on the high street. I hope that that answers your question.

The Convener: Greg and Chris want to come in, and then I will come back to you, Richard.

Greg Mulholland: I think that Tom wanted to come in. I do not want to jump in front, if Tom wants to go first.

The Convener: I missed Tom. Do you want to come in first, Tom?

Tom Stainer: Thank you, Greg. That is very kind. Jamie said just about everything that I wanted to say, but I would add that it is important to bear in mind that, when we are talking about guest beer rights, we are talking about draft beer. We need to be careful that we provide the right support. Scotland has a great choice of brilliant breweries now, and we need to ensure that a guest beer right is for draft beer from local breweries and that it gives licensees flexibility that they do not currently have by allowing them to offer customers the great beers that they want to drink and enjoy.

Greg Mulholland: It is important to realise that the market-rent-only option, which would give tenants the right to an independent assessment and then to go free of tie, is the best way to allow for the many wonderful brewers that there are now in Scotland. I had three very happy years in Scotland 20 years ago, and I have watched the wonderful proliferation of Scottish brewers and beer over that time—it is an absolute joy—and Jamie Delap's brewery is one of those. It is staggering to think that 90 per cent of the beer lines in Scotland are tied. When you consider that the biggest beer brand in Scotland, Tennent's lager—[Inaudible.]—there are many tenants now—[Inaudible.]—to stock that their customers want—whether it is Tennent's lager or one of Jamie Delap's beer's, such as Jarl, or beer from some of the small microbrewers, because people do want local choice. That is because of the dominance of the larger tied pubs.

Therefore, a guest beer right would be welcome, but, to go back to something that Tom Stainer said earlier, in the end, if we rebalance the risk and reward and allow people to take a fair share, the pub companies would be forced to come back with fairer offers, if they really wanted people to stay tied. They would then offer tied deals and part-tied deals, but you would see a better negotiating position for tenants, as well as the right to go free of tie. In the end, the best way to do it is to have more pubs able to buy directly from local breweries at fair prices, because that is better for the pubs and the publicans and the viability of pubs, but it also means that—[Inaudible.]—breweries—[Inaudible.]—pub companies. At the moment, small breweries are forced to sell at very

low prices, and then the pub companies sell at hugely inflated prices. Therefore, in both cases, it is the small brewer and the publican losing out and being exploited by the big pub-owning company.

The Convener: Finally on this question, Chris Wright wants to come in.

Chris Wright: Thank you. It was wonderful to hear a senior member of SIBA describing and calling out anti-competitive issues to MSPs here today. That is clearly beyond the scope of the bill, but I hope that committee members will now make a call for a competition inquiry into the wholesale beer market. We have not had one since 1989, and, from what Jamie Delap has just said, I think that it is long overdue. I hope that members of the committee will take what he has said and push that forward, because it is clearly much needed.

The Convener: Richard, do you want to add anything?

Richard Lyle: No, for the sake of time, convener, I am happy. Thank you.

Willie Coffey (Kilmarnock and Irvine Valley) (SNP): My question is on an issue that is mentioned in the policy memorandum to the bill. There was a suggestion by a small number of respondents to the consultation that the bill could lead to some pubs closing, and the member proposing the bill acknowledges that. Do the witnesses have a view on that? Is it a risk worth taking to introduce a bill that leads to pubs closing in Scotland?

Greg Mulholland: One thing that we had to deal with in Westminster was the consistent scaremongering by the British Beer & Pub Association—the pubco trade association—and the pub companies that, somehow, the legislation would be disastrous and would close pubs. That is nonsense, because the issue that so many tied pubs face in Scotland, England and Wales is that the publican cannot make a living. You will see “To let” boards outside pubs, where the tenant has failed and moved on, and then a new tenant is sought. That is very damaging, and it is what has led to many pub closures.

If you allowed the sitting tenant to make a fair living from the pub and to take a fair share of the profit, which is surely what should happen in every case, you would have far fewer pub closures. The only threat that the pubcos have is that they sometimes say that if they cannot make as much profit as they would like, they will shut the pub and sell it for alternative use. That is simply a threat, and planning protection is needed to deal with that. Pubs are sustainable only when the publican makes a fair living from the pub. Therefore, the proposed legislation will actually mean far fewer temporary closures and, in the longer term, as more sustainable pubs can deal directly with

breweries, it will mean far fewer pub closures overall.

The Convener: Thank you, Greg. We have turned off your camera so that we can hear your audio properly.

Chris Wright: Could Mr Coffey explain whether, when he uses the word “closure”, he means it in the sense that the pub would be closed completely and moved to an alternative use, or does he just mean that it would be closed off for a tenant taking the pub but that it would still be a pub?

Willie Coffey: I have the policy memorandum in front of me. Paragraph 101 refers to pub businesses closing and the member proposing the bill acknowledging that that is a risk. Therefore, the idea that that is just scaremongering needs to be challenged. I would appreciate your response to that.

Chris Wright: When the word “closure” is used, people can conflate the issue of a pub physically disappearing from the community and a pub being taken back by the owners. When the pub is taken back, that is often at the end of a lease and is done under section 25 of the Landlord and Tenant Act 1954. Under ground (g) of section 30 of that act, a landlord can take back a pub for their own use. I am sad to say that that has been a feature of the legislation since the 1950s, and the bill does not aim to reform that. However, if it can be shown that the provision is being abused by landlords, I am up for reform of the 1954 act as well.

There is little to say other than that, if a property owner wants to take back a site and lose their own money, and to have their own style of operation and manager, they are at liberty to do so. The positive element is that at least the manager of a pub company running that pub will have a decent wage, income and rights, as opposed to an exploited tied tenant, who is living off tax credit and has no savings or pension.

It would cost pub companies huge amounts of money to take back pubs. The companies would have to pay compensation and refurbish the pubs, and they would lose wet rent and the rent from the tenant. They would have to take account of the staff, and there is all the hassle with recruitment and training, which has obviously been an issue in Scotland as well.

The issue is sometimes a little overplayed. Some sites are taken back by their landlords, but that involves a separate piece of legislation and not one that the bill is trying to reform.

09:45

Paul Waterson: Regarding the comments by the author of the bill, he went on to say that the bill would help to sustain or increase pub numbers, so

the comment about closures may have been taken a bit out of context. He also said that the risk does not outweigh the need for action. That is the important part. To give tenants, who are the most vulnerable because of their financial situation, the opportunity of the proposed protections will help them in many ways, as we have heard. It will certainly help to increase the number of viable pubs rather than result in pubs closing.

Jamie Delap: SIBA's primary interest is to see a healthy and thriving pub sector, which should be our guiding principle, particularly after the challenging months of the Covid crisis. In many ways, we see the most important word in the term "market-rent-only option" as "option", because it is about providing information so that tenants and landlords can share information and clearly understand the benefits or otherwise of the tied model. We hope that that information leads to happier tenants and better landlords and that the two can coexist and thrive equally well. We are not arguing against the tie, per se. We hope that the bill provides the opportunity for the Government to put in place a structure that will assist the tenant-landlord relationship and improve it for the future.

Tom Stainer: I thank Paul Waterson, who, like me, spotted paragraph 102 in the policy memorandum. As Paul said, that points out that the member responsible for the bill acknowledges the potential risk but

"believes that the Bill could help to sustain, or increase, pub numbers."

The memorandum goes on to state:

"His view is that it is pub-owning businesses' reaction to the Bill which will determine any likely pub closures, and that it is in the interests of pub-owning businesses to ensure that their businesses are successful and that the sector is as healthy as possible."

Therefore, there may have been a bit of selective quoting from the memorandum in relation to the claim that it will lead to pub closures, and we do not believe that that will be the case.

The Convener: Willie, do you want to come back on that?

Willie Coffey: My question was a fair one to ask, because the issue is raised in the policy memorandum, but the witnesses have given thorough responses.

On the previous conversation about guest beers, what is to prevent the guest beer from simply becoming an alternative high-volume lager? There is nothing in the bill that would prevent that.

If the witnesses do not answer that now, perhaps they could include it in their comments or answers to other members. I am happy for us to move on, convener.

The Convener: Thank you. If the witnesses have taken that question on board, they can perhaps pop it into their next answers. We will move on to Andy Wightman.

Andy Wightman (Lothian) (Green): My question is to Greg Mulholland, but others can pick it up if they wish. In your opening remarks, you said that you hope that the Scottish legislation would be an improvement on the English and Welsh legislation. That has been in place for some time now, and we have some experience of it. Could you be more explicit about the extent to which the bill improves on the English and Welsh legislation?

Greg Mulholland: I was directly involved in campaigning for the legislation for England and Wales and in some of the discussions with ministers and civil servants about that. It is important to say that what is on the statute book is not what we campaigned for. It is not the simple and clear market-rent-only option that we called for. It is a fudge and a botch, I am afraid. The English and Welsh pubs code then overcomplicated the process and threw in the ability for pubcos to force arbitration for everything. To put it simply, I recommend that the Scottish Parliament ensures that there is a simple market-rent-only option, which means the right to an independent rent assessment. Once that is triggered, the tenant must have the right to pay that rent, and only that rent with no other changes to the lease, as they are not necessary, within a set time. The original suggestion in England and Wales was 90 days.

In England and Wales, people are applying for the market-rent-only option, and then, either the pub company is chucking in unreasonable terms, which leaves the tenant having to go to arbitration, or the level of rent that is set by the pub company leads to arbitration. Some of those arbitration processes are going on for up to two years, which is a farce and is denying people their legal right. Therefore, some strengthening of the market-rent-only option in the bill is needed, and I have said that to Neil Bibby. There is a much cleaner and simpler way to achieve the aim.

That said, the bill has learned some lessons. We have had problems in England and Wales with the adjudicator, who many tenants feel was not appropriate for the job and had conflicting interests. I hope that the Scottish legislation would avoid that situation.

Compared to the legislation in England and Wales, the bill is better and simpler and gives a clearer right to tenants, but further clarification of the market-rent-only option is needed to ensure that it is a right, and a simple right. To go back to Jamie Delap's point, it should be a simple right to go free of tie on what would be the commercial

free-of-tie rent on the pub in the current trading conditions versus a tied deal. The tied deal then has to be attractive for people to want to take it. Otherwise, the legal right to go free of tie must be there. It must be a legal right that can be taken within a set time, and it should not need any changes to the lease, other than to the rent and the tie. In England and Wales, pub companies are putting people on shorter leases and putting in detrimental terms, such as insisting on people paying quarterly up front and various other things. That was not supposed to happen under the legislation, but it has.

Therefore, my simple message is that Scotland can do it much better and more cleanly and simply. In the end, that will give everybody clarity, which, in the longer term, is in everybody's interest.

Andy Wightman: If the bill were to become law broadly in the way that it is framed, what is the future for the tied pub sector? There are only 750 tied pubs in Scotland. We have heard that many tenants are earning poor amounts of money. If the bill were to be enacted, would there be a growth in tied pub arrangements or would the numbers remain relatively stable, or is the long-term future bleak either way?

Chris Wright: While I am absorbing that question, I will comment on the issue of improvement on the English and Welsh legislation. I probably speak from the most experience, because I have been involved in about 40 arbitrations in England and Wales, so I have first-hand knowledge of how the code in England and Wales does not work.

The advantages of the bill for Scotland are clear: it introduces the rebalancing of risk and reward, which we do not have in the English code as a principle. That is vital. In England and Wales, there have been long drawn-out arbitrations, with endless appeals and cost threats to the tenants. The provision in the bill would be self-policing. It would enable the tenant to simply opt to go free of tie. If the tenant gets it wrong, they will go out of business and hand the pub back to the pub company. That is self-policing, and there is no cost to the Scottish Government at all.

Tom Stainer pointed out the incredibly low earnings, which the member just commented on. Enterprise Inns—or Ei Group, as it is now called—said in its annual accounts that it makes £83,000 per pub in its tenanted estate, whereas the tenants make about £17,000. The bill is vital, as it would rebalance the risk and reward. The tenant makes 20 per cent of what the pub company makes from the same pub. It is vital that the bill goes through to rebalance that. That is the key difference, and that is why we need it in Scotland.

Tom Stainer: To echo what Greg Mulholland and Chris Wright have said, the bill is a chance for the Scottish Government to learn from the English and Welsh experience and to show how things can be done better, for reasons that have been outlined, which are about clarity of process, the right communication to licensees, giving the adjudicator teeth and ensuring that the adjudicator has the independence that gives licensees confidence in the decisions that are taken and confidence that they can go to the adjudicator to sort out problems.

On the second question, we must remember that the tied pub system is important, because it enables good licensees, who perhaps do not have the resources to buy a pub outright and go free trade, to access the pub market and run successful businesses. Our hope is that, if you can rebalance the risk and reward and make it a viable or sustainable business, more people will be interested. People are put off because of the horror stories that they hear about the way that licensees can be treated, how difficult it is to make money, the convoluted contract that they have to enter into and the restrictions that are placed on their entrepreneurial ability to run successful pubs. If the bill goes forward, and if it is right—I am sure that it will be, because you can learn from the experience of England and Wales—you will create a much more vibrant market and a more attractive business proposition for people looking to get into the pub trade at entry level.

Paul Waterson: Tom Stainer has said what I was going to say. We must remember that the model, in its original form, worked very well. It let people get into the business who did not have large sums to invest. Therefore, there is a place for that model. We are trying to make it viable. As Tom rightly says, we are trying to attract more people, because people are being put off. We have an opportunity to look at problems with the English situation, and we can definitely do better and make tenancies a lot fairer on all sides.

The Convener: I remind witnesses that we are tight for time, so if you basically want to agree with the previous speaker, you can use the event chat. You can comment there, rather than speak.

Greg Mulholland: One of the exciting things that we are seeing now in England and Wales—partly due to the legislation and partly due to market forces—is pubs that were previously owned by the large pub companies being bought freehold by small entrepreneurial pub companies. They operate a very different model—not a tied model, but often a managed model and sometimes a free-of-tie tenanted model. Many of the new breweries are buying pubs. There are two in my town that were pub company pubs that have just been bought—one by a local restaurateur and

the other by a local brewery. They are now thriving, and they have had significant investment.

There is a real opportunity for the many entrepreneurs in Scotland. Because there are fewer tied pubs in Scotland anyway, there is an opportunity for some of the pubs that have been struggling for years under the yoke of the pubco tie to be bought by more responsive owners, be they the small pub companies that already exist in Scotland, entrepreneurs or some of the fabulous Scottish breweries, which are able to buy the freehold of a pub, invest in it and make it a wonderful pub again. If the pub companies do not want those opportunities and do not want to invest in the pubs, that would be the best future for those pubs.

10:00

Jamie Delap: We absolutely think that the tied model is valid and that it has its place in the market. Therefore, we hope that the purpose of the bill is more about improving the relationship between landlords and tenants and helping them to understand how they can put together an offer that reflects what their customers want, looking to develop as varied an offering as possible. We hope that, as a result of the bill, we will not necessarily see a significant decline in tied tenancies because, as was said, to our understanding, it is a valid route into the market for many potential tenants. Overall, we hope that the bill leads to development in the market.

I would like to address Willie Coffey's question about the guest beer, because it is important. The wording of that provision, if it is to be included in the bill, will be incredibly important. If it just leads to another macro lager being offered on the bar, which is being brought in at a cheaper price, that will simply devalue the tied tenancy and therefore alter the economics, but it will not enhance the offering. It would be important to word the provision in such a way as to avoid serious unintended consequences that could be very damaging.

Gordon MacDonald: Before I ask my questions, I would like Jamie Delap to clarify how many Scottish brewers and how many pub-owning businesses in Scotland are members of Beerflex, because I want to get an understanding of the position.

Jamie Delap: I do not know exactly. SIBA has 60 members in Scotland, all of whom would be eligible to use Beerflex, if they chose to. Off the top of my head, I think that there are about four pub groups in Scotland that use Beerflex, but I would have to get back to you with better numbers.

Only about 1,000 barrels of beer a year are sold through Beerflex into Scotland, so it is not a huge feature of the market. Pub companies such as Star and Greene King buy other SIBA members' beers through other routes, so Beerflex by no means provides the entirety of the supply to those estates. There is no method of influencing how well that works. It is a very tricky relationship for us to navigate commercially, and that is easier for a large brewery, such as mine, to do than it is for many of our small members.

Gordon MacDonald: In England, the legislation covers only pubcos that have a certain number of pubs, but there is no threshold in the Tied Pubs (Scotland) Bill. Given that six of the 10 pubcos that operate in Scotland have fewer than 50 pubs, should there be a threshold in the bill? Perhaps I could hear from Paul Waterson on that.

Paul Waterson: We have always said that we do not think that there should be any threshold. If landlords are running their pubs properly, they should have nothing to fear from the pub code or the new bill. Everybody should have the opportunity to be treated fairly, and if they think that they are not being treated fairly, they should have recourse to somebody who can try to sort that out for them.

Therefore, there should not be a threshold. It is really important that everybody who is tied in whatever way has such recourse and is protected by the bill. As was rightly said, we have a different framework from the one in England and Wales. As far as we are concerned, that threshold just would not work up here. I repeat that if people have nothing to fear as a result of how they are running their businesses, they have nothing to fear from the bill.

Greg Mulholland: It is important to point out that the limit in Scotland was deliberately devised to exclude the medium-sized so-called family brewers that operate in England. That was partly a political decision, because of the influence that they have with politicians in Westminster. However, the situation in Scotland is very different.

It is worth considering the Covid crisis. The Campaign for Pubs is calling for the right to an independent rent assessment for all publicans, because rents are being left in place for all types of pub, and that is hugely damaging when trade is down. There is a need for an independent rent assessment for many publicans and for tenants, whether they are tied or free of tie. They should have the right to find out whether their rent is fair, based on the current trading conditions. Many publicans are struggling with trade, which is hugely reduced compared with this time last year, yet it is all too easy for their landlord, whether that is a pub-owning company or a commercial

landlord, to simply leave the rent as it was. That is unsustainable.

Given that there is a very different marketplace in Scotland, we would argue that all pub tenants, tied or free of tie, should have the right to pay a fair rent. In the end, if it is a fair rent, no one has anything to argue with. If a tied model is fair and offers a considerably lower rent than that independently assessed rent for the price of paying exorbitant tied prices, so be it, and that is a decision that the licensee can take. However, we think that all tenants need the right to a fair rent, so that should apply to all.

The Convener: Gordon, do you want to come back on that?

Gordon MacDonald: The running costs of the adjudicator and their salary are estimated to be about £375,000, which is not a great deal of money in the scheme of things. However, when you calculate it per pub, it works out at roughly £500 per tied pub in Scotland. Pubcos, like any business, will want to recover from their customers any additional costs that they incur. Will that make the tied pub rent situation worse, because the pubcos will try to recover the additional cost from their own customers, because they have no other option for recovering it?

Chris Wright: I think that it is a small price to pay. We must understand that what is proposed in the detail is that, with this levy, as Mr MacDonald correctly identified, the polluter will pay. In the case of the groceries code, the levy that is charged is apportioned based on the number of complaints that companies receive. Therefore, it is a fair system, rather than the cost being divided evenly, on a pro rata basis, among all the companies. That is a good system to look at.

Members of the Scottish Parliament must acknowledge that the cost of the model going wrong falls on the Scottish taxpayer. When tenants leave tied pubs, they are often homeless and have to be rehoused; they are often reliant on benefits, as they have no savings and no pension. If we can rebalance risk and reward correctly, people will not fall back on the state for support when their pub deal goes wrong. It is important to acknowledge that there is a cost that is being paid at the moment, and good legislation, such as the bill, will avoid that cost to the Scottish taxpayer.

The Convener: Tom Stainer and Greg Mulholland want to come in. As two members still have questions to ask, I ask them to be very succinct.

Tom Stainer: As Chris Wright said, it is possible to ensure that the legislation protects licensees from having to stump up the cost of the adjudicator. It is right that it should be funded by pub-owning companies. We think that, because

the number of tied pubs is lower than in England, the cost should not be as high in Scotland. The adjudicator might need only to be a part-time position, which would bring the cost burden down. Slightly cheekily, I will suggest that, if the voluntary code is working as well as people suggest it is, we will have next to no complaints for the pub adjudicator to look at.

As Chris Wright said, it is a price worth paying. It is not a huge price, and you can ensure that the right people pay it.

Greg Mulholland: The whole point of having the right to the market-rent-only option is to then have the right to an independent rent assessment and to pay only that to the pub-owning company. That mechanism will stop the ability of the pub-owning company to dump any cost on to the tenant, which is what currently happens, because the independent rent assessment will give the market rent, which the tenant then has the legal right to pay.

Secondly, it is important to get the market-rent-only option in the bill right, to make it a simple right to an independent rent assessment and to have a set period of time—we recommend 90 days—because that will avoid the administrative chaos that exists in England and Wales, where there has been years of unnecessary arbitration and thousands of pounds in costs for tenants, for pub companies and for the adjudicator's office. If you get the market-rent-only option right and allow people to take it within a set period, without the pub company getting in the way, you cut down the work of the adjudicator and their office hugely, which will keep the costs down.

The Convener: Thank you. Rhoda Grant will ask the next question.

Rhoda Grant (Highlands and Islands) (Lab): The market-rent-only option and an independent rent assessment deal with the issues of rent and inflated beer prices, but they do not deal with the issue of the cost of investment. We have heard that interest can be charged at up to 24 per cent APR. Having to pay that level of interest on an investment that is already outstanding could be crippling for someone who is paying a market rent. Some companies say that they provide professional and business advice that would not be available under the market-rent-only option. I am keen to hear the views of Chris Wright and/or Greg Mulholland on that.

Greg Mulholland: That cuts to the heart of the issue and the lie that is peddled by those who favour the existing model. I am not talking about the tie, per se, but the way in which it is operated by the large companies, which is exploitative.

We have already dealt with the investment point: tenants are freer to invest if they can make a

fair living from their pub. That is the basis of the market-rent-only option. The point is a simple one. If the market-rent-only option is available, it gives the right to an independent rent assessment to establish whether it is better to be tied on the current terms or to go free of tie.

A complete myth that is peddled is that, somehow, if a pub-company-owned pub moves to a free-of-tie basis, the pub company will suddenly have no interest in it. There are pub companies that operate free-of-tie tenancies, and they still have business development managers and they still offer the same professional support. The idea that that professional support should be available only if the tenant is forced to pay exorbitant prices for beer is complete nonsense. The provision of such support is perfectly sustainable, and there are pubs in England and Wales that are operated on free-of-tie tenancies where the tenants get support from the pub owner.

10:15

It is also a myth to say that it is a low-cost entry only if the pub is tied. Tenancies are a low-cost entry to the market, regardless of whether they are tied or free of tie. It is still a tenancy; the tenant is still paying rent. The difference is between paying only a dry rent to the pub-owning company and paying a dry rent and a wet rent through the marked-up prices that must be paid for product. That is the discussion to be had, but there is no reason why tenants should not get support and investment. That is a threat that the pub companies hold, but they give the impression that, somehow, if a Star Pubs & Bars pub goes free of tie, suddenly the pub company does not have an interest. It still takes a rent and it still makes a considerable amount of profit from the pub. Therefore, it should still support the tenant.

It is important to debunk that myth, but the bill is about having the opportunity to have a fair, independent rent assessment and to then be able to make the decision as to whether to be tied or to go free of tie.

The Convener: Chris Wright and Tom Stainer want to come in. Do you have anything different to add?

Chris Wright: Yes. I want to point out that the up-front business advice that the pub companies promote is often gerrymandered. There is a pre-selected panel of accountants and business planners.

I can give a live example. A very experienced operator whom I know in Newcastle presented three business plans from his own adviser to the pub company, and all three were rejected. When he asked why, he was told, "You need to use that panel guy." The operator went to the pub-

company-approved panel guy, who produced a business plan, which was then accepted. I looked at the four business plans. There was nothing wrong with the first three; they were realistic and totally appropriate. The fourth plan was unreliable and unsustainable. It is awful. I see many projections and business plans that are not fit for purpose.

Suffice it to say that that is an on-going problem for tenants. Regulation is needed of Royal Institution of Chartered Surveyors qualified surveyors, who are specialists in the area of renting pubs and setting the profit and loss. I have seen so much evidence of unsustainable rents and projections of gross profits within food and drink that mean that the publican can never make any money. The bill is not trying to fix that issue, but I agree that the up-front business information is critical. That must be something that the regulator looks at, investigates and rules on, because it is often a gateway to ruining a deal.

Tom Stainer: The figure of 24 per cent APR that was mentioned in the context of investment relates to the situation in which licensees are unable to access any other money for investment, due to the way in which the tie system works. The bill could fix that.

Secondly, with regard to support for licensees, as we have heard already, the bill would encourage pub-owning businesses to be much more competitive in the package that they offer licensees, because if they want them to stay tied in the traditional sense, they will have to make it worth the while of the licensee, because he will have the choice to weigh up his business decision and strategy in deciding whether to stay tied or to go for the market-rent-only option. It would put the onus on pub companies to deliver a quality experience for licensees to convince them that staying tied is the way to go.

The Convener: Thank you. Rhoda, are you content with those answers?

Rhoda Grant: Yes, thank you.

The Convener: In that case, I will bring in Maurice Golden with the final questions. Maurice, have you previously declared any interests to the committee?

Maurice Golden (West Scotland) (Con): Yes.

The Convener: That is fine. Please go ahead with your questions.

Maurice Golden: Thank you, convener. I will ask my questions together, in the interest of time. Most of them require only a one-word answer, which I am sure you will be delighted to hear.

Paul Waterson mentioned that there is no evidence from tied pub managers because they

are frightened to come forward. Is there any evidence of that? If there is, we would like to have that on record.

Tom Stainer mentioned that there had been a failure in the voluntary code. Has there been enough time to come to that judgment? Secondly, you mentioned the 2014 survey, but do you think that the market and economic conditions are the same now as they were in 2014, such that you can make that assessment on the survey?

Would any of the witnesses prefer investment to come through commercial bank loans, rather than from pub companies that are regulated by a voluntary code? Is the pub market in Scotland the same as that in England and Wales? That question, too, is for the whole panel.

The Convener: The first question was for Paul Waterson. It was a yes-or-no question, so is the answer yes or no?

Paul Waterson: There is anecdotal evidence of victimisation. It has been the case for years that people will not put their heads above the parapet. They feel that they will be victimised, and we have heard that their leases could change and that they are put under great pressure. We are seeing that a lot in England, as Greg Mulholland rightly said.

The Convener: There were several other questions in Maurice Golden's list. Does anyone want to address any of those?

Tom Stainer: I can answer, and others can possibly come in as well. I was asked whether there has been enough time for the voluntary code to be assessed. I say that there has, because you do not have to consider only the experience in Scotland; you can also look at the decade of experience of a voluntary code in England and Wales, which we assert proved to be unsuccessful. That is why there is a need for the pubs code in England and Wales.

I was also asked whether we think that anything has changed since the 2014 survey. If you had asked me that three or four months ago, I would have said no, because the situation was very similar, and we see no reason why attitudes would have changed. However, we have had the Covid crisis since then, which has had a massive impact on licensees and the fortunes of pubs, as you would expect. Sadly, any change to the circumstances of licensees is likely to be more negative, which again stresses the need for the bill, to help them to recover and to have as good a chance as possible of running viable businesses over the next few years.

The Convener: After we have heard from Jamie Delap, Greg Mulholland and Chris Wright, I will have to wind up the session, as we are already over time. I will finish by bringing in Keir

Greenaway. As he has managed to remain silent throughout, I will give him the last word.

Jamie Delap: One of the questions was whether there are differences between the Scottish and English markets. We recognise that there are far fewer tied property tenancies in Scotland, whereas the model under which there is a tie between investment loans and the supply of beer is much more prevalent. There are two models, both of which we regard as restricting access for many of our members.

However, there is definitely a distinction between the markets. That leads to the question of whether we would prefer to see a vibrant business lending market, distinct from beer, available to the pub trade. We absolutely would—that is our preferred option. As we said, we would like to be able to compete with other brewers on the basis of our beers, our offering, our commercials and what those do for a pub's individual, distinctive offering on the high street, in the village or wherever it is.

All the elements should be separate, such that investment is investment, property is property and beer is beer. We would love to see a much more vibrant financing market for the pub trade, in the same way as there is for the restaurant trade. Restaurants manage to invest a lot of money in their premises and to grow and develop thriving businesses. We are sure that pubs can, too, with independent sources of finance that are clearly priced.

Greg Mulholland: Maurice Golden asked two good questions. On whether pub tenants—it should be tenants who make the decision—would rather take a commercial bank loan or investment from their pub-owning company, the majority would like the opportunity to choose and to compare. In many cases, the reality is that a commercial bank loan would be on better terms than the current so-called investment that is being offered by the pub companies. However, that may change if people have the market-rent-only option. Tenants are the entrepreneurs; they are the people running the businesses, so let us give them the flexibility and unlock the sense of entrepreneurship that we see in the free trade in Scotland and allow our pubco tenants to have it.

On whether the Scottish and English markets are the same, they are not—they are very different. There is already more freedom in Scotland than there is in England and Wales, because, thankfully, you do not have as many pubs owned by the large companies. Therefore, the position is different, but we still have a situation in which those 750 tenants do not have the same rights as their English counterparts, and that is unfair. That situation cannot be allowed to continue, because it does not allow them to deal directly with Scottish brewers, and that

disadvantages the entrepreneurial Scottish brewers as well. Therefore, although we are talking about a smaller number, Scottish tenants deserve the same rights and opportunities as their counterparts in England and Wales.

Chris Wright: Exploitation of small business owners has no border. Heineken was under investigation for allegedly misleading publicans on how much profit they made selling beer. The City of Edinburgh Council's trading standards department investigated Star Pubs & Bars months ago after being alerted to online adverts that showed false turnover figures related to cask ale in the leasing agreement. As a result of the investigation, Heineken changed its adverts. That is clear acknowledgement of wrongdoing. Heineken also remains under statutory investigation in England and Wales.

On Mr Golden's point about the voluntary code, he said that it was enforceable, but it has no statutory force; it is operated on a whim. As Mr Waterson explained, he was not told about how it operated years after he had apparently been on the panel. Having a statutory code does not rebalance risk and reward. The difference is that, in Scotland, you can do something tangible instead of upholding the status quo, because all that the status quo has delivered is huge information asymmetry, low rewards and a poor consumer experience. The bill is the chance to do something different, and I recommend that members support it.

The Convener: For the final comment, I turn to Keir Greenaway, who has been with us as a witness, but who has managed not to speak so far. Keir, you have heard everything; do you have anything to add from the GMB's point of view?

Keir Greenaway (GMB Scotland): Thank you, convener. The other witnesses were better placed to answer some of those questions.

From our perspective, we see the proposed legislation as increasing volume for Scottish brewers in Scottish pubs, which will benefit Scottish workers. Our main presence is within Tennent Caledonian, and the bill would result in more of its volume going into Scottish pubs, which is what Scottish consumers want. The bill would address a power imbalance, and we do not think that responsible landlords have anything to fear from statutory regulation.

The Convener: That was nice and succinct—thank you, Keir.

That completes our questions and concludes our evidence session with our first panel of witnesses. We ran over time slightly, but I hope that you all feel that you had an adequate chance to put your point of view. I thank you all for taking part.

I now suspend the meeting for a couple of minutes.

10:29

Meeting suspended.

10:33

On resuming—

The Convener: I am pleased to welcome our second panel of witnesses on the Tied Pubs (Scotland) Bill. Lawson Mountstevens is the managing director of Star Pubs & Bars, Emma McClarkin is the chief executive officer of the British Beer & Pub Association and Edith Monfries is the chief operating officer of Hawthorn Leisure.

We move to questions from members. If anyone has anything that they want to add, they can put a message in the event chat, where we will all read it.

Alison Harris: How has the creation of the pubs code in England and Wales affected levels of investment in tied pubs? I will direct that question first to Lawson Mountstevens.

The Convener: Lawson, can you hear us? We are struggling to find Lawson, so we will go to Emma McClarkin.

Emma McClarkin (British Beer & Pub Association): Good morning from a bright if not sunny Glasgow. I will step in on that question while we find Lawson Mountstevens. More investment has come up to Scotland as a result of the legislation in England and Wales, which has put investment at risk. More money has come into the Scottish pub sector, and that is at risk in the shadow of the proposal.

We already know that £10 million of investment has been held back in Scotland while we wait to see what happens with the proposal. I hope that the evidence from this session will prove that there is no case for a statutory code. As we know, the Government's economic study said that no part of the pub sector was at a disadvantage. We need to base our action on evidence. The evidence is that more investment is coming to Scotland, and that would be at risk if a code came into play in Scotland.

Do we have Lawson Mountstevens now, or should I keep going?

The Convener: Keep going if you have more to say.

Emma McClarkin: I will take a moment to paint a picture of the pub partnership, which has been critical to the survival of pubs, particularly through the Covid crisis. The beer and pub sector in Scotland has been devastated because it had to

be closed for four months. Many pubs survived only with the support of the pub partnership. The discounts and the rent concessions to the tune of millions that were given sustained pubs through the crisis. That is proving to be the strength of the partnership; it is very strong. It is of mutual benefit for the success of such businesses coming together. The partnership allows people to know that their businesses are future proof.

Yesterday, I was in the Thornwood Bar in the west end of Glasgow, and the landlord, Mark, said, "The deal that I have—the tied partnership—future proofs this pub's future. The support that I get helps this pub to remain here, and it helps me to keep it going through this crisis." The bar received more than £300,000 of investment. It is a beautiful bar, which is bringing back a whole area of the west end. It is phenomenal to see that. That is what is being put at risk.

Investment of £15 million a year comes into the sector, and that real investment gives consumers what they want. Ultimately, we have a successful, vibrant and thriving pub sector by giving consumers what they want.

There is not a strong case for the pubs code. There is certainly no evidence for it. Only 7.8 per cent of businesses in the sector responded to the survey, and only 37 of 750 pubs said that there needed to be some action. That is a very small percentage of people on which to base the creation of a whole system and code to deal with what could be only 11 cases a year. I feel strongly that the voluntary code in Scotland can deal with that. We now have the Scottish pubs governing body, which can deal with those cases. There are other resources in Scotland, such as the Pubs Independent Rent Review Scheme, which looks at the independent review of pubs, and the Pubs Independent Conciliation and Arbitration Service. We have in place a code and procedures to deal with such cases.

The Convener: We will go to Edith Monfries. I ask Alison Harris to pop her question in the event chat so that Lawson Mountstevens can catch up on what he missed.

Edith Monfries (Hawthorn Leisure Limited): I thank the committee for enabling me to speak on behalf of Hawthorn Leisure and other pub-owning companies and to explain why the bill is such a threat to our potential future in Scotland.

I will speak to Alison Harris's question about investment. Investment needs certainty of outcome. If the proposals in the bill are introduced, and for the length of time that the shadow of the bill is on us, we cannot have any certainty about the future of our potential investments in Scotland. For that reason, we would have to seriously consider what we did with our investment.

As a pub-owning company, we intended to invest about £2 million in Scotland prior to the shadow of the bill. That has been reconsidered for two reasons: the first is the shadow of the bill, and the second is the terrible events that have resulted from Covid.

Covid is bad in many ways, but it has shown that the relationship between pub-owning companies and their tenants is not as exploitative as people have been led to believe. It is very much a partnership model. It is in our interest to ensure that all our tenants open safely. In fact, almost all of our 96 pubs in Scotland are open; I think that only five pubs are closed in the whole of our Scottish estate. Many of our tenants have welcomed the support that we have given them.

None of them are paying rent for July and August. To enable them to get back on their feet, we have put more than £1 million of support into our tied model. That does not sound to me like an exploitative model. We also offer excellent entrepreneurial opportunities. It is not an onerous relationship; it is a consultative, partnership relationship that is in the mutual best interests of tenants and pub-owning companies. We want to make a profit. However, for us to make a profit it is essential that our tenants make a profit and that the relationship is sustainable and long-term. We invest in that and in the future of those businesses. We enable men and women in Scotland to start businesses from a position that they could not otherwise be in.

We have a bar in Dunfermline. I spoke to its landlord, Andrew, yesterday. In February, we invested £100,000 in that bar. It is a Campaign for Real Ale award-winning pub, and therefore it has quite a lot of choice. In fact, it stocks some of Jamie Delap's beers; it has a Fyne beer on tap and has six taps with different craft beers, which illustrates that there is choice in the tied model. We put product ranges behind the bar on the basis of consultation with our partners, the tenants.

Our mantra at Hawthorn is "putting people first". Those people are the ones in our organisation and, indeed, our tenants whom we seek to protect through these difficult times. We welcome and foster that relationship. We welcome the voluntary code. All of our tenants are fully aware of it, and as are all tenants of all pub-owning companies, because that information is provided to them.

The Convener: I think that Lawson is now back. Can he answer that question too, please?

Alison Harris: I will read the question again for Lawson. How has the creation of the pubs code in England and Wales affected levels of investment in tied pubs?

The Convener: Lawson, I do not think that your microphone is on. Please check that the light on it is white.

Hang on a minute, we seem to have silence again. Lawson, I am afraid that we do not seem to be receiving any audio from you; we can see you, but we cannot hear you. We have to move on. I will come back to you later.

Alison, did you want to come back to your question?

Alison Harris: No, thank you. The other two witnesses stepped in nicely and gave comprehensive answers.

Richard Lyle: The market-rent-only lease has been highlighted as a source of uncertainty that would result in reduced investment in the Scottish pub estate. As the underlying asset, the pub would still be owned by the pub-owning company, so is there not still value in investing to improve the quality of that and drive up the value of the market rent?

Emma McClarkin: In the first year that the statutory pubs code came in in England and Wales, we had 17 cases in which market rent only was activated, and we saw the number of tenanted and leased pubs reduce by 161. That is what happens: managed houses are created. There was an increase in those of 150. The pub-owning companies put a lot on the line in those relationships. There is no guarantee that they will get the return on that investment. Many then switch to a managed relationship.

That could happen in Scotland. We do not have as many managed houses in Scotland. There are already many independent free-trade pubs in Scotland. It is a very different market, and that solution is not necessary.

The proposals in the bill do not provide a solution for any problem. The bill creates more uncertainty for the market, and given the pandemic and the recovery that is needed, we do not need any more uncertainty.

10:45

The Convener: We still do not have sound for Lawson Mountstevens. That is very unfortunate.

Richard Lyle: I have a supplementary question for Emma McClarkin or Edith Monfries.

It has been put to me that, because of the pandemic, most pubs were closed for a number of months and their beers were not sold. They had to dump beer, and they were restocked by their brewer, or whoever they were tied to or were the tenants of. That saved the tenants of the tied pubs a lot of money. Do you agree with that comment?

Was that the case? Do you know what happened when pubs reopened?

Edith Monfries: Yes. It was a massive piece of work, which we co-ordinated on behalf of all our tenants.

The destruction of beer is a complex process; it cannot just be chucked down the drain. Over our whole estate, we assisted our tenants to destroy 700,000 gallons of beer, which will be painful for any beer-drinking colleagues among you to hear. Because of our relationship with the brewers, we were able to ensure that that destruction happened safely, in an environmentally friendly way—that is obviously extremely important—and that the credits were applied to the tenants, so that they are not out of pocket for any kegs that they had to destroy. That has worked really well.

Equally, we have had to work hard with the brewery companies to ensure supply to our pubs and enable them to open with beer on the taps, ready to go. We worked night and day with our distribution partners—in Scotland, C & C Group plc—to ensure that that happened. We still face some challenges when it comes to cask ales and the smaller independent breweries, but we are working hard to ensure that we have what we need on the taps, to fulfil customer demand, so that our customers have their favourite beer. We are managing to achieve that. It is a great result, and we are really proud of it.

Richard Lyle: At the end of the day, being tied to a brewer helped, did it not?

Edith Monfries: Absolutely, yes. In particular, during these challenging times, it is not just that we have been able to give help with the beer and the rent, we have also constantly been able to provide advice.

It has been a fast-changing environment, with the regulations which have come from the Government about how we can open safely and what needs to be done, and we have had to react to the situation in which we find ourselves. We have been on the phones to our pubs and we have issued guidance, signage and personal protective equipment, enabling everybody to open. That is why all our pubs opened on the first weekend.

All our BDMs in Scotland were out throughout that weekend, and we visited all our pubs. We spent hours on the phone throughout lockdown supporting landlords, enabling them to apply for Government grants and helping them to understand the complexities of the furlough arrangements so that they could look after their staff and people did not suffer more than was unavoidable in these terrible times.

The Convener: I will try Lawson Mountstevens again. We will see whether we can get some sound.

We still cannot hear you, I am afraid. Have you tried your slider, to make sure your volume is up?

I am afraid Lawson's sound is still not working. Does Emma McClarkin wish to add anything to what has just been said?

Emma McClarkin: Absolutely. It was a Herculean task to ensure that we could dispose of the 70 million pints that we had, which had to be disposed of in an environmentally safe way. This shows the strength of the tied relationship. Because of it, pubs could get credit notes put back on to their accounts. We created a platform with the Beer and Pub Association, called Returnyourbeer.com, to make it easier for our tenants to log all the beer that they were disposing of.

Tenants get support through that collaboration, and it is that support upon which the model is based. They have a lower rent, plus they get business support, plus we have the arrangement whereby they will get access to investment, which is so critical—and there is no more critical a time than right now.

Willie Coffey: Good morning. Perhaps we could ask Lawson Mountstevens some questions and he could answer them by holding up yes and no cards. That might be helpful.

The Convener: It is worth saying, Willie—and Lawson, if you are listening—that the event chat button may be used. Although we cannot hear you at the moment, Lawson, if you want to enter comments using the event chat button, members will see that, and they will be able to pick up those comments and respond.

Willie Coffey: I want to ask the first question that I asked the first panel, which possibly touched a raw nerve. As is referred to in the policy memorandum, there is a perception that the bill could lead to pub closures. While that was acknowledged by the member in charge, in fairness, he said that the advantages of the bill would outweigh that risk. I would like to hear the views of the panellists whom we can hear on that. What justification is there for the proposals? I put that to both Emma McClarkin and Edith Monfries.

Emma McClarkin: Thank you for that question. It is really worrying to note how many pubs were closing before the crisis. Given the crisis that is happening now, we are expecting many more closures.

Turning to the facts right now, twice as many independent free-trade pubs will close, or have closed, as pubs that are leased and tenanted under a tie. That is just a fact—you cannot dispute

that. Pubs are being put at risk at a time when they are already under extreme pressure. When pubs close, they often close for good, and we do not want to see that happening. The relationship can sustain them. That is why I mentioned the comment from the landlord I spoke to yesterday: the arrangement, with that level of support in place, future proofs their pub and their business.

This is of real concern to me. Closed pubs do not contribute jobs to their community—they do not contribute anything to the economy. The reality is that they are losing their social value. That is not a price that I want to see being paid anywhere in Scotland. The Beer and Pub Association in Scotland is doing everything to support as many pubs through the crisis as we can.

Edith Monfries: I would reinforce that comment. We understand that, in the face of the crisis, this is a long game. The advantage for our tied tenants in particular is that we can afford to play the long game with them.

We are delighted at the buoyancy with which trading has returned now that pubs have reopened, but we also recognise that a rocky road lies ahead and that there might be tougher times. As a business, we have committed to continuing to support our tenants through the crisis, however long it takes. We are in a position to do that.

Small independent operators do not have the wherewithal and find it harder to play a longer game. They are more reliant on external lenders with more onerous repayment arrangements. We do not give loans to our businesses; we work in partnership with them so that they succeed in the future. We will stick with them through this crisis. If we need to give them more rent support then we will do that, and if we need to support them with more PPE and advice, we will continue to do that throughout the crisis. We can do that for our tenants. We are in partnership with our tenants: if they succeed and do not close their pubs, then our pubs remain open, and that is in our mutual best interests.

That is the whole point of the tied arrangement—there is mutuality of interest. It is an entrepreneurial and partnership arrangement, particularly in Scotland, where only 17 per cent of the market is tied, so people have a choice and do not have to enter into a tied relationship—they could choose from the 83 per cent of the market that is not tied if they felt that that was the better thing to do.

Yesterday, Andrew, one of my tenants, said to me, "I've worked in my bar for 17 years. I could never have taken this on if it weren't for this arrangement. Yes, I pay a wee bit more for my beer, but you know what, it's completely fair, it's completely transparent and I understand how it all

works and I couldn't have managed without the support of my BDM."

Emma McClarkin: I just wanted to mention the pub closures and the pressures on the industry before the crisis. When we look at the number of free trade pubs that are closing—and at greater volume—we can see other pressures that need further attention, rather than a problem with the tied pub model. There are pressures such as VAT and the high tax burden—we pay 11 times more beer duty than people pay in Germany—and our business rates are astronomical and disproportionate for the beer and pub sector. There are many other priorities in relation to the pressures that businesses face that we could focus on to prevent closures, rather than focusing on this proposal.

Willie Coffey: Convener, I am wondering whether Lawson Mountstevens' connection is back. I would like to hear from him, if that is at all possible.

The Convener: Let us try him again.

Lawson Mountstevens (Star Pubs & Bars Limited): Can you hear me now?

The Convener: Yes! Excellent.

Lawson Mountstevens: It is wonderful to be here and it is a great relief that you can hear me. It was not a great moment for the sound to crash. Thank you for your patience.

Willie Coffey: There is a suggestion in the policy memorandum that, if successful, the bill could lead to pub closures. That was disputed by the first panel. What is your view on that?

Lawson Mountstevens: Our view is that the leased and tenanted pub sector is one of the operating models that exist out there. Successful and vibrant pubs need motivated operators to run them and they also need inward investment from people like us at Star Pubs & Bars. If we bring those two things together we create a vibrant pub ecosystem.

It is a partnership model: we are in it together. We let the pubs on a transparent basis and everyone understands what they are entering into. Look at what has happened with Covid—as Emma McClarkin and Edith Monfries have mentioned, the way in which we have conceded and offered rent concessions right the way through the crisis is the ultimate demonstration of partnership. Star is still offering significantly discounted rents, even though the pubs are now reopening, because we want to see people phasing back to whatever normal looks like and enabling those pubs to survive in the future. If we cut the umbilical cord, our prognosis is that more pubs will close.

Willie Coffey: Thank you for that.

11:00

Andy Wightman: I would just like to pick up on a few points that Edith Monfries made. First, she said that the existing model shows that the tenants make a profit as well as the landlords, but we heard in previous evidence that some tenants are earning as little as £10,000 a year. Will she clarify that?

Secondly, she said that her company does not make loans. Again, witnesses in the previous panel said that some investment is made in the form of loans from landlords.

Edith Monfries: I am very pleased to respond to and clarify that point. I can speak for Hawthorn and I am sure that Lawson Mountstevens will request to speak on behalf of Star. We are representing the pub-owning companies. Obviously, I cannot give details about other pub companies but I can certainly give details about my own.

Under our model for tied pubs, we seek minimum earnings for our tenants of at least £25,000. We put the numbers in our submission to the committee, to illustrate the difference between a tied model and an untied model. I therefore dispute the level of profit that was talked about during the earlier evidence session. It is not the experience of our company. I agree that that level of earnings is inappropriate and far too low; it is not the right level of earnings. We would not seek to perpetuate a relationship in which the tenant was getting as little out of it as that. That would be in nobody's best interests and would not create a sustainable business model. It is not what we are about.

The earlier witnesses also talked about loans, and although they might not have meant it in this way, there was an implication that, in addition to the tied model, in terms of the wet rent and dry rent, we make separate loans and charge interest on them. That is simply not the case and I do not believe that it would be the case for any pub company.

We recoup our investment in a number of ways. Yes, we often increase the rent, but only in conjunction with going through a detailed business model with the tenant prior to the investment, so that everybody is fully aware and the investment is fully transparent. The rent will often increase in steps, but everybody will see exactly the journey. It is predicated on increased levels of trade—and those increased levels of trade will give the pub-owning company more profit as well as giving the tenant more profit.

There was also a lot of talk about the huge difference in prices of a keg of beer. That is also not as simple as it was purported to be. The pricing, the product mix and the discounts that we

offer are all about creating a sustainable business model with our partners.

Our pubs are at the heart of the community and have served the community throughout this crisis. That does not stop at the pub door. The pub is a community asset and that is what we are investing in, for the long-term trade and future of the business. It is in our interests that people make a living income so that they trade with us in partnership.

This is our tied model; it is not a joint-venture model. For the avoidance of doubt, it is what will be covered by the legislation if the bill goes ahead. The lack of certainty that the MRO option would introduce would give us a real problem for our investments. It would mean that we could not have sufficient line of sight to work with the tenant on earning back our investment. We earn that back through a combination of the wet rents and the dry rent, or the pure rent, in collaboration with the tenant, who also benefits.

Lawson Mountstevens: The key point to clarify is that, as Edith Monfries said, these are not loans. Minimum earnings are set in a very transparent way through a process of setting the rent model, where people understand their ingoings and outgoings, they are jointly agreed and there is absolute transparency about the minimum that the tenant should earn out of the pub. As Edith said, the key is to grow pubs and make them more successful and fit for the future. Investment is key if we are to do that.

We all know that consumers want different things. They have higher expectations for the pub environment, and pubs need to adapt. To do that, we invest openly and collaboratively—otherwise we would not find motivated operators to run them with us. It is about growing the profit pool of a pub, so that it is more profitable and sustainable. There must be visibility. Yes, the rent goes up, but the profit potential goes up, too. That is how the model works—openly and transparently.

We are competing for the best operators. It often gets lost in the debate that we are not forcing people to take on our pubs—far from it. We want to work with motivated individuals who see the potential for a pub. That is where the entrepreneurship of the model comes in, and we can recruit brilliant people at the heart of communities, invest with them and create great and sustainable pubs. It is a competitive market for great operators.

Andy Wightman: Obviously, there is an imbalance of power in any relationship between a landlord and a tenant, and we routinely regulate that relationship by varying degrees in statute across the board.

Edith Monfries and Lawson Mountstevens mentioned partnerships, negotiating what the terms will be when making an investment, the consequences for the rent, and all the rest of it. However, if a tenant is not happy with the outcome, they do not have a great deal of leverage. Is it not reasonable for there to be access to arbitration or adjudication to ensure that a fair settlement is reached and that there is—this is one of the adjudication principles—a better balance of “risks and rewards”?

The Convener: Does Lawson Mounstevens want to respond to that?

Lawson Mountstevens: Yes, I am happy to respond.

That balance in the relationship is absolutely needed. Our view is clear: the voluntary code in Scotland works really well. That has been enhanced with the setting up of the Scottish pub governing body. That is in its early days and Covid has caused delays, but we firmly consider that the access to information through the voluntary code is enough. That will free us from the burden of more bureaucracy and legislation, and allow us to focus on recruiting, working with great operators and investing in our pubs.

Emma McClarkin: On Andy Wightman’s earlier question, the average income from the tied pub model is £38,000.

On the question of bringing forward the review, in the four years since the creation of the Scottish pub governing body, only one complaint has been received. Of course, we have the Pubs Independent Rent Review Scheme and the Pubs Independent Conciliation and Arbitration Service dealing with the rent review, the independent pub review and the court and arbitration part. As Edith Monfries mentioned, we have repeatedly made people aware of the code of practice and how they can utilise it if they have any problems.

The Convener: Are you happy with those answers, Andy?

Andy Wightman: Yes. I have a few other questions, but I will leave it there, as I know that time is pressing. I will come back in at the end of the session.

Rhoda Grant: I have a quick supplementary question for Edith Monfries. She mentioned tied pubs having a two-month rent holiday during the pandemic. Does that include market-rent-only tenants and joint venture tenants? What payment holiday has her organisation had from its lenders over that period?

Edith Monfries: First of all, we do not have any joint venture arrangements, so that is not applicable in this case.

We have very few market-rent-only pubs in Scotland, and we have given rent support where required. I cannot comment on the specific nature of the rent support for those individual pubs, as I do not have the information in front of me, but I know that we have provided support to all our tenants.

You asked me about holidays in respect of our own banking arrangements. We have not had those in any shape or form.

Rhoda Grant: We have heard that, when the profits of a tied pub go up, so does the rent. Where is the incentive for the tenant to build the business if they will lose part of that profit to the pubco? My question is for Lawson Mountstevens.

Lawson Mountstevens: I am not sure that that was quite clear in the previous session, and that is not quite how we would position it. As I said, we enter into a rent-setting process: we advertise the pub at a certain rent and we then go through an open process in which the rent is agreed and contractually locked down. The important thing is that the rent is then fixed and, in the majority of our agreements, does not vary with turnover. Therefore, if someone grows the business, they also grow the profitability.

It is not the case that someone would be disincentivised from growing their business. We want people to exceed their business plan. That is the key driver of the business. If someone exceeds the business plan, they are performing well, employing people and building a sustainable business. The challenge then is to retain those people in the pub and agree a sensible renewal with them, if that is what they want. The rent is fixed, they grow their turnover, and they grow their profits.

Rhoda Grant: I must have misunderstood Lawson Mountstevens previously, because I thought that he said that, if a pub's profits increase, there would be a share in the profits between the pubco and the tenant, meaning that the pubco would take a greater share of those profits in rent. Is that not right?

Lawson Mountstevens: The pub's profitability is assessed at the start of the letting process. That is based on the assumption of what we think the pub will make—say £10,000 a week. That is prorated with all the costs, which will drive a profit number, which leads to an agreed rental number. That is the tenant's rent—it is agreed and fixed. Therefore, if the pub performs ahead of that, it is great news and the tenant will be making more profit.

Gordon MacDonald: I want to ask about the extent of the tie with your partners. Pubs serve a wide range of products—wines and spirits, soft drinks, draft beer, bottled beer, alcopops and so

on. What proportion of your tenants are fully tied and how many are partially tied? What types of products tend to be in the tie?

Lawson Mountstevens: We talk about tied pubs, but it is interesting to see the reality of how restrictive the supply contracts are. About 80 per cent of our Scottish pubs are free of a tie on wines and spirits—and that is in a market in which spirits are a high proportion of the choice. Our core supply contract is around beer and cider, which we supply directly. There is also flex and opportunity for regional craft and cask ales, either directly through us or via the SIBA scheme, which was talked about in the previous session.

11:15

The important thing is matching the offer to the pub and seeing how to maximise each opportunity. We have a couple of great examples. There is The Winking Owl in Aviemore, which is let to the Cairngorm Brewery. It has our beer and cider range alongside its beer range, and that works fantastically well. When we are back to normal, if anyone were to walk across the road to the Kilderkin, which is near Holyrood, they would see a huge range of beers. That pub has a free-of-tie deal on Holyrood ales and free-of-tie casks. There is lots of flex in our supply contracts.

Edith Monfries: What I will say is quite similar to what Lawson Mountstevens said. Only 2 per cent of our tied pubs have a full tie; it is not what we would normally do. The vast majority—98 per cent—of our tie is partial and is applied to beer only, while spirits and minerals and, obviously, wines are free of tie. The most commonly drunk beer in Scotland is Tennent's. The second most commonly consumed drink is vodka, and the third is lemonade. Vodka and lemonade are free of tie, while Tennent's is tied.

We offer the opportunity for the pubs to buy available craft beers if they want to for their product mix. Those pubs can choose from a wide range to give their customers choice. Some of our pubs stock Musselburgh Broke, Alchemy Brewing's Ritual and Orkney Brewery's Red MacGregor. Those are all independent brewers with interesting products to give the customer the choice that they want.

We respond to customer demands on a pub-by-pub basis. In every pub that we have in Scotland, the product mix and what is available at the bar are set in discussion with the tenant in response to what their customers want to drink. At the end of the day, the customers drive the business and the profits for us and the tenants. That is what we want to see, and that is what creates a sustainable business.

Gordon MacDonald: Emma McClarkin mentioned pub closures. I noted that, since 2001, 20 per cent of pubs in Scotland have closed. In Edinburgh, the figure is closer to a third. How has the size of pubs and bars changed over the past 20 years in Scotland? Has that increased or decreased the size of Hawthorn Leisure's estate?

Edith Monfries: [*Inaudible.*]—has owned Hawthorn Leisure since 2018. We have not been operating in Scotland for that length of time, but our estate in Scotland is growing, and we would like to see it grow further. We have plans for growth in Scotland. We think that Scotland offers a fantastic opportunity to create, grow and develop the community pubs that we love so much. We want to be able to do that in Scotland.

The business as a whole has invested £97 million in Scotland since 2009. As well as our 96 pubs, we have local shopping centres and retail parks, and we want to continue to invest in Scotland. However, the bill is putting that at risk, and that saddens and worries us. The uncertainty that the bill brings makes it very difficult for a business to plan for the future, particularly in these difficult times.

Lawson Mountstevens: To build on that, we are a Scotland-based business and a significant employer in Scotland. Our entire back office is based in Edinburgh, and we employ around 700 people. We have the Caledonian Brewery, as well. With the acquisition of Punch in 2017-18, our pub numbers have increased in Scotland.

Like Edith Monfries, we see a vibrant future across Scotland for well-invested local pubs that are run by local operators. Last year, we invested £5 million in our pub estate in Scotland, because the opportunities and the great entrepreneurs are there, and we want to create local jobs, which is what well-invested pubs do. To labour the point, the bill, with the uncertainty within that framework, would put that in question—there is no question about that. We absolutely want to continue to grow our pub business in Scotland.

The Convener: Emma McClarkin is waving at me; I think that she wants to come in.

Emma McClarkin: I want to make a point about the pressures on businesses of closures. Across the whole United Kingdom, three or four pubs were closing every week before the crisis. A lot of policy changes had been made, including bans on happy hours, changes to the drink-driving law, the smoking ban and changes to workplace pensions. We do not dispute the basis of a lot of those policy changes, but they all impact on how someone runs a hospitality business. Those issues have not gone away. We then had Covid and its impacts.

We have to look at what is necessary to support the sector at this time, and at this time there is no

need for a statutory code that provides no solutions. There are other priority areas, such as business rates and taxation, that could be looked at to help to sustain hospitality businesses across Scotland and lead to the investment that will be vital to the survivability of businesses. Getting that cash and investment flowing back into the pub sector will mean that it can stabilise itself and move on to growth and job creation.

Colin Beattie: Everything that I have heard in this discussion has been about risk and reward and how it is shared or balanced between the tenant and the pub-owning company. We are looking at hard facts, and the data shows that, between 2010 and 2019, 852 independent pubs closed in Scotland, while 330 tenanted and leased pubs closed. There must be wider factors having an impact than those that we are discussing. What might those factors be? Are they the result of any particular operating model? I ask Emma McClarkin to start off.

Emma McClarkin: The elements that I mentioned in my previous answer are the ones that we need to target. They were putting pressure on the sector previously and we can see that pressure during the pandemic, too. How we recover from the pandemic in the next six to 12 months is critical, so the proposals in the bill cannot move past this stage. The proposed legislation would add another level of uncertainty without providing any solutions, and the sector does not need that right now.

We need to consider the tax burden on the sector. We pay 11 times more duty on beer than is paid in Germany or Spain and we need to redress that. We need to invest in our domestic businesses to ensure that we have strong Scottish brewers, so that we can make the offer available to consumers, and to ensure that our pubs, which are the main outlet and route to market, can pass that on. One pound in every three that is spent in a pub goes to the tax man. We need to redress those issues.

Pub businesses also pay disproportionately more in business rates versus our turnovers. That needs to be addressed. There has been a VAT cut to incentivise people into going back to Scottish pubs, and that was very welcome, but, in the long term, we will also need to examine VAT in the sector.

We can do many things to tackle the problems and make it more efficient to run a business and create jobs. That is the ultimate aim, and investment is key to that. We cannot put in jeopardy any of the cash flow or investment that needs to go into the sector at this time in order to sustain jobs and, hopefully, create more of them.

Colin Beattie: You have not addressed the question about the wider factors that are driving the disparity between the number of independent pubs closing and the number of tenanted or leased pubs closing.

Emma McClarkin: That is because they have business support—they have people to help them through and guide that business model. The model is more successful and sustainable, because they share the risk. Our pub-owning members also benefit from their membership of the Beer and Pub Association. It is important to give that advice, to make sure that somebody advocates for the sector and to ensure that the members' voices are heard in the debates on the issues, as they are being heard today. It is enormously important in the model that risk is shared. That is the whole point, and it is why the tied pub is so successful and has been for more than 100 years.

Colin Beattie: Would anyone else like to comment on that? That has silenced them.

I will ask one other question on the back of that. Obviously, we already have a voluntary code. If there is an issue with rent—and rent seems to be a big issue for some—tenants can seek independent adjudication, and the pub company agrees to be bound by that. With regard to the voluntary code, how many tenants take part in the adjudication process and how many tenants does it find in favour of?

Edith Monfries: First, I will go back to the previous question—it was thought that nobody wanted to say any more about that, but I simply did not get my request to speak in on time.

On the structural issues that might have led to pub closures—and the disproportionality between the independents and the L and T model—we all recognise that we need to reinvigorate our local communities. That is a priority and, as we come out of Covid, it will be an even bigger priority.

In terms of independents versus the leased and tenanted model, I agree with Emma McClarkin that it is all about the support and guidance that we can offer, particularly to our tied tenants under the L and T model that we operate, and we will continue to offer that. Consumer demand keeps pubs open; reinvigorated local communities keep pubs at the heart of those communities, serving the men and women who live and work there.

Those are the structural issues that we need to address in our society in order to reinvigorate the pub sector and ensure that it succeeds and thrives, which is what we seek to do.

Can you repeat the second question?

Colin Beattie: It was about the voluntary code. I am trying to get a feel of how often it is used and

how successful it is. Obviously, the pub company agrees to be bound by the results, but does the code answer most of the concerns of tenants who have a problem?

Edith Monfries: The concerns that tenants have should be largely met before it gets to the point at which they would want to appeal under a code, whether it was statutory or voluntary. The voluntary code is communicated clearly to the tenants; they know that it exists. However, in most cases companies and tenants have a successful relationship and have no reason to invoke it.

From my experience, and from talking to all our tenants, including our 10 tenants who wanted to put their submissions to the committee to say that they oppose the bill and that they consider that the relationship is a positive risk-and-reward sharing partnership, the majority of them have no need to invoke the voluntary code. That further underpins the view that there is no need to go beyond the code. It is there if people need it. If they do not need it, there will not be many appeals to it, because we resolve situations long before they get to that point.

We set rents that are sustainable and we have a business model that we work on with our tenants to ensure that their businesses are sustainable and future proof. The Scottish Government's independent report in 2016 concluded that there was no need for legislation in that area. I believe that that is even more true today.

Lawson Mountstevens: Edith Monfries has summarised the situation well. The answer is that few people go through to the voluntary code process. We do not have the exact numbers to hand; we should all commit to getting those numbers to the committee, so that members can see and understand the scale of it.

However, the key point is that it is in our vested interests to agree with the tenants and avoid that process. I think that the headline numbers will show that—the numbers are not big, although they are not leaping to mind. We have an interest in resolving issues and in maintaining positive commercial relationships with great operators. That is because if we do not have great operators running great pubs there is no business. That is the driver of what we are all about.

11:30

Emma McClarkin: I mentioned earlier that only one complaint has been brought under the code since 2016. I think that that is because we have a good relationship between the pubcos and our tenants, but it is also because the Scottish market is different—it is much smaller, so there are fewer complaints. That is the reality of the scale of the issue. There are only 750 tied pubs in Scotland, so

the percentage of those who have felt that they had a dispute, or needed resolution, is also very small. That is why we do not consider that we need a statutory code in Scotland.

Maurice Golden: I have three questions, which I will ask at the same time. They are for any of the witnesses.

First, Chris Wright, one of our earlier witnesses, mentioned that investment decisions were taken “on a whim”. Will you clarify whether you make decisions to invest in your pub estate without any due diligence, without any corporate investment structure and, as was mentioned several times, “on a whim”?

Secondly, Greg Mulholland, another of the earlier witnesses, made the claim that the pub companies are exploiting tenants and making them pay full rent during the Covid crisis. I would appreciate hearing about any evidence that you have on that.

Thirdly, more generally, will you explain the impact of the Covid crisis on pubs? What support have pub companies provided? If possible, will you contrast that with the pubs that are free of tie?

Lawson Mountstevens: I will take the questions in turn.

Star Pubs & Bars is part of Heineken, the global brand. We bid for capital to invest in the UK and in Scotland. One does not get access “on a whim” to the £190 million that we have invested in pubs over the past five years—nothing could be further from the truth.

We have a very structured process, which, in effect, assesses every pub in our estate. We work our way through a proper estates review process. We have a plan for every pub, which shows where the investment opportunities are and where it is right to invest. We are constantly assessing changing demographics and changing consumer needs. That drives our investment process plan, in a five-year outlook, and that crystallises into what we plan in any given year.

For example, last year, as I have said, we invested £5 million in Scotland. We would have been working on that investment in the two years leading up to it. Those are very involved big capital projects of more than £250,000, which create a massive supply chain of jobs in the set-up and delivery of a pub, which are on-going in the successful delivery of that pub. I hope that that shows that there is rigour around the process.

I turn to rent. The Covid period is, without doubt, the biggest challenge that the industry has ever faced. We have had to close businesses to people. Let us hope that we never experience that again. I firmly believe that Covid has crystallised the benefits of the tied pub model. We immediately

suspended rent, as we assessed the situation. We issued a series of significant rent concessions for the closed period, which were either 50 per cent, 75 per cent or 90 per cent. We extended the concessions for the first two months of opening, and, last week, we committed to additional support for September and October, with continued rent concessions, as people build their businesses back up. In Scotland, that is a £2 million-plus investment from us to support pubs.

Most important, we are giving people surety and understanding in a period of massive uncertainty. To reopen a pub in Covid is hugely challenging. We acknowledge that there are increased staff costs and complexity, and an increased onus on the operators to focus on delivery. They do not want to be worrying about the rent, and we have made commitments in that regard.

Alongside that, we have packaged all the support and interpretation of Government guidance to make it simple and accessible, together with a plethora of point-of-sale and “how to” guidance. That has enabled significant numbers—90-odd per cent—of our pubs to open and trade in this very challenging period. Let us be clear: there are more challenges to come over the next six to 12 months as we rebuild trade back.

Emma McClarkin: I will be brief, because Lawson Mountstevens said everything that needs to be said.

On the specific instance of somebody being asked to pay full rent, there was a universal rent deduction, which was made across the board, and support was reviewed on a case-by-case basis. The pubs have received concessions to help support and sustain them through Covid. If a business is in a tied model, they will have that support, which is able to zone in on and understand the business. That is the kind of support that they have to see them through these moments in time.

We do not invest millions—up to £15 million a year that we are investing in Scottish pubs—“on a whim”. I reassure Mr Golden that such business decisions are based on the certainty of the environment, the quality of the investment and how we will make sure that we get the return on it. It is a business decision that is taken in partnership with our tenants. That investment will continue only if we can do it in the full knowledge that we will be able to recoup the extra costs in the future.

Edith Monfries: I will reinforce what Lawson Mountstevens and Emma McClarkin have said. As a responsible company, we would never invest money “on a whim”; that would be anathema to us and very irresponsible, and we would not put our shareholders’ money at risk in that way. We take

investment decisions in the way that Lawson Mountstevens described—we work with tenants to put together a business model so that we understand how it will all work, and we monitor it closely post-investment to ensure that what we thought would happen does happen.

In 2019, we invested £500,000 in our Scottish pubs. Pre-Covid, we had plans to invest another £2 million in 2020. Obviously, we have had to review that in the light of Covid and, particularly, in the shadow of the bill, the outcome of which remains uncertain. The sooner that we have certainty and the sooner that the shadow of the bill can be lifted, the better it will be for our pubs in Scotland, as we will be able to proceed at pace with the investment that we want to make, in order to create more vibrant pubs within our local communities.

I was saddened by the comments of the earlier panel. Much was made about the exploitative nature of the relationship that we purportedly have with our tenants. I have seen no evidence of that and I do not believe that we have such a relationship. I have endless emails from tenants who are grateful for the level of support that we have provided not just through Covid, but throughout our relationship with them. One of the submissions to the committee was from the Victoria Bar. John in the Victoria Bar has been working with us for 13 years and he says that we are “great to work with”. Collette in the Braes has worked in pubs for 30 years; our tied tenancy was the first one that she had taken. Because of Covid, the pub closed 27 days after it opened, and the other day, she phoned me in tears and said, “I do not know what we would have done without you.” That does not sound to me like exploitation—exploitation is not the more than £1 million that we have provided in rent concessions and other support.

We are encouraging breweries to provide free umbrellas and chairs to enhance outdoor space, which will allow safe drinking outside and ameliorate the trade in pubs. We are also ensuring that we are on top of all the guidance that we provide and that we can comply with all the latest recommendations, in order to keep our pubs safe so that our customers can return to enjoy their much-loved pints with their friends in their much-loved pubs. We want to be able to continue to do that without the dreadful shadow of this legislation. I thank the committee for listening to us—it has meant an awful lot to us and, I am sure, all the tenants in our pubs in Scotland.

Willie Coffey: Lawson Mountstevens was talking about delaying rent payments during Covid. Did you mean that that rent would be foregone, or will you be recouping it from the tenants at a later stage?

Lawson Mountstevens: To be absolutely clear, that rent is foregone. It is cancelled, it is no longer due and it is no longer payable on the concessions that we have agreed across our pub estate, which amount to rent discounts of 50 to 90 per cent. That is where I got the £2 million-plus number. I am absolutely transparent on that.

The Convener: In the first evidence session this morning, we heard the accusation that the relationship is not a good balance of power. It was said at one point that there is a grocery code in Scotland, so why not a pub code? There was a feeling that a pub code would give parity between the different sectors.

There were comments about the reasons why we had not heard complaints from tenants. It was suggested that there would be concerns about a backlash from the pubcos, that benefits that are individually decided by the pubcos for tied tenants might be changed or removed, and that in cases where tied tenants had exercised their legal rights to challenge the arrangements, they would get no support down the line.

Those are pretty significant accusations. Would any of you like to comment on them?

Lawson Mountstevens: Those are anecdotes and do not reflect the business that we operate, or how pubs and tied pubs operate in 2020. There are a lot of distant and historical references there that are not based on fact.

We spend a huge amount of time surveying, talking to and engaging with our operators right across Scotland. We care how they feel and how we are perceived. We want motivated people, in a transparent commercial relationship, running our pubs. Given the churn and costs that come with pubs closing, there is no commercial benefit whatever in seeing people fail. That is not a business model that I recognise or am part of.

On whether we need something in Scotland that we have in England and Wales, we come back to the fact that the Scottish market is fundamentally different. We are talking about 17 per cent of pubs across Scotland—it is a much smaller proportion than in England and Wales.

In addition, I refer to all the things that we said about the voluntary code. The voluntary code, combined with the Scottish Pub Governing Body working well and functioning, is the framework under which we need to operate and go forward. That will lead to us all remaining committed to investing in a very healthy and successful Scottish pub landscape.

11:45

Emma McClarkin: There is a bit of confusion, because the grocery code does not have anything to do with rent.

I emphasise the scale of the marketplace and of the perceived problem. Even in the committee's survey, 59 people partially responded and 39 fully responded, 37 of whom said that they felt that the bill should go forward. That represents 7.8 per cent of tied pubs. Therefore, 92 per cent of people had absolutely no reason even to respond on the issue, which I presume is because they are happy with the arrangement that they have.

We are trying to support our Scottish pub sector and our beer sector so that they can survive through the current crisis. We need to focus on what we can do that will impact on the majority of people and not on the minority of voices who have a perceived problem with the situation. We have the voluntary code that deals with that, and people can appeal to the Pub Governing Body in Scotland. Under the code, people can go to the Pubs Independent Rent Review Scheme, or PIRRS, and the Pubs Independent Conciliation and Arbitration Service, or PICAS, to get any reviews that they want. That is an independent process. Mechanisms are already in place to deal with issues.

There is an issue of scale. We are dealing with a different situation from that in England and Wales, where 39 per cent of pubs—that is more than 20,000 pubs—are tied. We have only 750 tied pubs in Scotland. We need to focus on how we can bolster the whole sector and what would impact on the whole sector. I have alluded to the issues that should be a priority if we are to have legislation.

The Convener: So you can say categorically to the committee that there is no backlash, no loss of benefits and no removal of support for those who have complained or given evidence suggesting that the current approach is not right and that there should be statutory changes.

Edith Monfries: I was surprised by a lot of what the witnesses on the first panel said today. I did not recognise our business or how we operate our 96 pubs in Scotland in the business that was described earlier. I can say categorically that there is no fear in the relationship with our tenants. It is a collaborative and partnership relationship, because that is in everyone's best interests. I can say categorically that benefits would not be unilaterally withdrawn if somebody said something that we did not like. That is not the sort of business that I run, and I would never run a business like that.

Tom Stainer made much of the survey that was, I think, carried out in 2014 and that predated the

Scottish Government's independent survey, which found that there was no need for legislation. I disagree with Tom. I think that the world is a very different place in 2020. We have had six years of pub businesses recognising the importance of good relationships with tenants and that that drives the best future for our mutual business interest. Certainly, all the evidence that I have from going out to my pubs is that people are supportive, happy and comfortable. If there is an issue, they bring it to our attention.

When I or my chief executive officer, Mark Davies, pop into pubs, people have plenty of opportunity to say that they are not happy with their business development manager or that they think that they are not getting a fair deal. We actually go in and ask questions about those issues—that is why we go out to our estate all the time in Scotland. None of the people on the earlier panel gave many specific examples. We can give specific examples, as can Lawson Mountstevens, because we are living and breathing our Scottish businesses every single day and supporting them every step of the way, and we want to continue to be able to do so.

The Convener: Before I come to Andy Wightman with the final question for this panel, I want to let members know that we have let this panel run on slightly because we have been trying to get the minister's connection working so that we can move on to the next panel.

Andy Wightman: I want to pick up on the evidence of the Beer & Pub Association, particularly the claim that £10 million of planned investment has been paused since the bill was introduced.

First, perhaps not in this oral session but by written follow-up, will you give us more clarity about the nature of that £10 million—that is, what it was for and when it was due to be invested? Secondly, we heard from Lawson Mountstevens that his companies invested £5 million in the past year. Presumably, therefore, there has been no pause on behalf of Star Pubs & Bars. We also heard from the British Beer & Pub Association that it has invested an average of more than £70,000 per pub in the past two years. Is that £10 million real, and do the figures of £5 million and £70,000 per pub predate the introduction of the bill?

The Convener: Who would like to go first? Emma is waving her hand at me.

Emma McClarkin: Something popped up on my screen blocking the chat.

It is key that we get investment right. I will give the committee some examples of what that investment could go into. It could go into a pub that does not have a kitchen, so that it can make a food offer. The kitchen that we put in upgrades the

pub, lifts its profitability and increases its offer to its customers. That is one thing that we could do. We could also do a complete refit of a whole premise, which could—as I mentioned earlier—run into hundreds of thousands of pounds. In fact, I am off to see Spateston Inn this afternoon, in which there is going to be up-front investment to the tune of £400,000 for a complete renovation project.

That investment could be anything. It could even be investment to make sure that our pubs not only are up to date with maintenance and compliant with regulations, but are competitive and have a good offer to put to their customers. That is enormously important.

We can certainly provide a written response to the committee detailing where that money is coming from. The committee has already heard from me about the £2 million that Hawthorn was going to be putting in, and that it now has on hold. There are figures out there that would substantiate that, and that is why we alluded to that in our submission.

May I make one final point in case this is the last time that I get to speak?

The Convener: Certainly.

Emma McClarkin: 57,000 jobs are dependent on the pub sector in Scotland. Those are people's livelihoods, and we need to be very aware that anything that we do that impacts on the pub sector may put those jobs at risk.

Over the next six to nine months, the main thing that we need to focus on is anything that touches on that business model—anything that hampers or burdens it or slows it down. We need to get cash flow and investment into the pub sector to make sure that we can survive through this crisis, which is the biggest crisis to hit the industry in its existence.

We really need to focus on the things that will see the businesses through and retain those 57,000 jobs here in Scotland, as well as those 4,200 pubs, which we want to see alive and thriving in their communities, so that they can be the beating hearts of towns, city centres and villages all across the country.

The Convener: Thank you, Emma—that was heartfelt.

Edith, do you want to make a final comment and respond to Andy Wightman's question before I go to Lawson?

Edith Monfries: Yes. I think that Andy was asking about how specific the investment that is on hold is. The £2 million is not a figure that we picked out of the air and it is certainly not a figure that we arrived at "on a whim". It was very much

pulled from the detailed work that we do through our estates review, which is done on a pub-by-pub basis. Quite a large number of those projects would have been costed and ready to go, but clearly we cannot enter into investments when we do not have certainty of outcome and when there is a risk that, at any time, there may be no line of sight ahead because of the shadow of the bill or, if it goes ahead, the implementation of the bill.

That is why we are so keen to see the bill quashed at the earliest opportunity. That would enable us to get on with the investment in Scotland that our pubs so badly need and that our partners are so much looking forward to. Where we have already invested, it has gone so well. For example, we invested £100,000 in the Commercial Inn in Dunfermline just before lockdown in February. It has opened and it is absolutely buzzing, which is fantastic. It has signed up to the "Eat out to help out" campaign, it has got its cask beers back on tap and its customers have come back in droves.

We want to see that in every single pub in Scotland that we are responsible for, and we believe that the bill will put a complete end to the sort of vibrant recovery that we are currently witnessing in the wake of Covid and the easing of restrictions. We wish to continue to see that recovery and to continue to invest in Scotland.

Lawson Mountstevens: The £5 million was our investment in pubs in 2019. We are absolutely an honourable company. As I discussed in relation to the estates review process, these things take time, and it is absolutely about us honouring the commitments that we made in 2019 and in the first part of 2020. However, as we said, we need to be clear that the shadow of the bill will force us to pause and reflect on investing in Scotland. It poses too much uncertainty and ambiguity and it removes the framework for businesses to invest in the long term.

We therefore urge that that bill be parked and that it sees no more daylight. We need to focus on working with and investing in pubs and on getting the right support for all our pubs, right across Scotland, during what will be a very challenging 12 to 18 months. If we get that right, there will be a fantastic and vibrant future for pubs in Scotland. We see that and we want to invest in them and create local jobs, but we need to do that within the surety of a framework. The framework within which we currently operate is the right one and is fit for purpose.

The Convener: That brings us to the end of this evidence session. I thank Lawson, Emma and Edith for taking part in this meeting. I say to all our witnesses this morning that if you want to follow up on anything that has come out of the session, you can write to the committee and we will take it into

account. That was a useful session and I thank you.

We have been having a few problems with the connection to the minister, so I will suspend the meeting for a couple of minutes to check the connection and see whether we are able to continue.

11:57

Meeting suspended.

12:03

On resuming—

The Convener: Welcome back. I am pleased to welcome our final panel for the Tied Pubs (Scotland) Bill evidence session, from the Scottish Government: Jamie Hepburn, Minister for Business, Fair Work and Skills; Aileen Bearhop, head of good food nation, public and third sector team; and Dr George Burgess, deputy director of food and drink.

We have had some connection problems with the minister this morning, so we might have to turn off his video, but hopefully we will get through the session.

I invite the minister to make a short opening speech.

The Minister for Business, Fair Work and Skills (Jamie Hepburn): Thank you, convener. As I said a few moments ago, turning off the video might have a multitude of advantages as far as I am concerned.

Thank you for inviting me to speak to the committee on Neil Bibby's bill. There were some problems with connection in the previous session, but hopefully that will not happen in this session. The Scottish—*[Inaudible.]*—commercial agreements, we are keen—*[Inaudible.]*

The Convener: We are having problems with the minister's connection. I will ask broadcasting to turn off his video and we will just go with the sound.

Jamie Hepburn: Can you hear me?

The Convener: Yes, we can hear you. Go ahead.

Jamie Hepburn: *[Inaudible.]*

The Convener: We could hear you earlier, minister. Try again.

I think that we might have lost the minister. I will ask broadcasting to confirm whether that is the case.

Jamie Hepburn: I can hear you, convener.

The Convener: You are back. Try again.

Jamie Hepburn: You can maybe hear me, but not see me. I apologise—*[Inaudible.]* Can you hear me?

The Convener: No, you are coming and going. Unless we can improve the connection, I do not think that it will work. I will ask business information technology staff for advice. I do not think that we have any sound at all now.

Jamie Hepburn: I am here.

The Convener: Your voice is breaking up.

Jamie Hepburn: Unfortunately, I cannot hear you now, convener.

Marie McHugh (Scottish Parliament): Convener, this is Marie McHugh from BIT. I have been on the phone to the minister and we have established his network again, but it keeps dropping out. I do not think that there is anything that we can do from a technical point of view.

The Convener: Under the circumstances, it will be extremely difficult to take evidence from the minister today. Unless the minister feels otherwise, I suggest that we postpone the evidence session.

I apologise to Dr Burgess and Aileen Bearhop, but we do not have a clear line to the minister. We will look to reschedule the session with him. I thank everybody who took part and who watched today's evidence-taking session.

12:08

Meeting continued in private until 12:50.

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