



Pubs Code
Adjudicator

The Pubs Code Adjudicator Annual Report and Accounts

01 April 2019 to 31 March 2020





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01 April 2019 to 31 March 2020

Presented to Parliament pursuant to Section 62 of the
Small Business, Enterprise and Employment Act 2015.

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Performance Report

The Pubs Code Adjudicator: overview

This section of the report explains the role and purpose of the Pubs Code Adjudicator (PCA). The Performance Analysis sets out how the PCA has performed during the year against its statutory reporting requirements along with other key activities. The main risks to the achievement of the PCA's objectives and the adoption of the going concern basis are set out in the Governance Statement.



Foreword by Fiona Dickie, Pubs Code Adjudicator



This is the fourth annual report by the Pubs Code Adjudicator and the last under the auspices of my predecessor as Adjudicator, Paul Newby. Publication of this report and the associated PCA accounts for the year 2019/20 has been significantly delayed as a result of Covid-19.

The pandemic delivered a sudden and devastating impact to the sector I now regulate in the final days of this reporting period. The bulk of this report for the year ending 31 March 2020 consequently refers back to a very different trading and regulatory environment. Time has moved on. So have the priorities and concerns of the industry. In light of Covid-19 the PCA has taken the option to streamline the annual report in line with guidance issued by HM Treasury in response to the impact of the pandemic.

Consequently, while the narrative below does specifically highlight work that the office of the PCA undertook to preserve the integrity of the Pubs Code regime immediately after the closure order of 20 March 2020, a full recounting of how the PCA has promoted the core Code principles in the face of Covid-19 restrictions on the industry and of the yet to be fully understood impact of the pandemic is for the 2020/21 reporting cycle.

Similarly, the report also references two other major projects that commenced during the 2019/20 reporting period but that were concluded later in 2020 – the Government's first [triennial review](#) of the Pubs Code and Adjudicator, between April 2019 and November 2020; and the PCA's first [statutory investigation](#) into Star Pubs & Bars (Heineken UK) between July 2019 and October 2020. Again, I will report fully on both of these in the 2020/21 annual report.

Every day since spring, the industry is demonstrating what it can achieve in adversity. I have been overwhelmed by the constant ingenuity of tenants in working out new and safe ways to trade; by the diverse ways they have used their place at the heart of their communities to support their neighbours; and above all by the sheer determination not to be beaten with which they have met every setback.

The pandemic has demonstrated beyond question the fortitude and resilience of the tenant community. But it has also shown that the principles of fairness and transparency that underpin the Pubs Code are more crucial than ever, and that the protections and options the Code gives tenants have never been more important. My focus as Pubs Code Adjudicator continues to be on ensuring that tied tenants have full access to all of their Pubs Code rights.

A handwritten signature in black ink, appearing to read 'Fiona Dickie'.

Fiona Dickie,
Pubs Code Adjudicator
21 January 2021

Introduction to the 2019/20 PCA annual report and accounts

This annual report and accounts cover the period 01 April 2019 to 31 March 2020. During this reporting period, the office of Pubs Code Adjudicator was held by Paul Newby and the office of Deputy Pubs Code Adjudicator was held by Fiona Dickie. Mr Newby stepped down as Adjudicator on 02 May 2020. Ms Dickie assumed office as the second Pubs Code Adjudicator on 03 May 2020.

In exercising her statutory responsibilities as Adjudicator to sign off the PCA's annual report and accounts for 2019/20, Ms Dickie sought and received assurances from Mr Newby relating to the accounting period.

The PCA's annual report and accounts are normally published and laid before Parliament prior to Parliamentary recess commences in the summer following the end of the reporting and accounting period. For the PCA's 2019/20 annual report and accounts, the completion of the process has been delayed as a consequence of disruptions associated with the Covid-19 pandemic.

The PCA launched its first statutory investigation during this reporting period in July 2019. The investigation, into the stocking policies applied by Star Pubs & Bars when offering free of tie Market Rent Only tenancies under the Pubs Code, was concluded outside the reporting period in October 2020. The PCA will report fully on the conduct, findings and enforcement of [this investigation](#) in its 2020/21 annual report.

The Department for Business, Energy and Industrial Strategy (BEIS) consulted on the first statutory review of the Pubs Code and Adjudicator on 30 April 2019. The review covered the period from 21 July 2016 to 31 March 2109. The PCA's July 2019 submission to the BEIS review can be read [here](#). BEIS published its report on the review on 03 November 2020. The PCA will report fully on its response to the BEIS review in its 2020/21 annual report.

The Health Protection (Coronavirus, Business Closure) (England) Regulations 2020 ordering the closure of all pubs came into force on 21 March 2020 in the final days of this reporting period. The office of the PCA worked closely with the regulated pub-owning businesses during the final days of the reporting period to secure declarations from them that had the effect of pausing and preserving many Code rights of tied tenants that might otherwise be lost as a consequence of the extensive take-up by pub-owning businesses of the Coronavirus Job Retention Scheme in respect of their headquarters and estates staff. These declarations came into effect on 01 April 2020 and remained in place until 30 June 2020.

The PCA will report fully on its work to preserve key Pubs Code rights and to promote fairness and transparency in the provision of financial support to tied tenants as a consequence of Covid-related restrictions on trading in its 2020/21 annual report.

Purpose and activities of the PCA

The following reporting reflects the arrangements in place throughout the 2019/20 reporting and accounting period. Throughout this period the office of Pubs Code Adjudicator was held by Paul Newby and the office of Deputy Pubs Code Adjudicator was held by Fiona Dickie.

1. The Pubs Code Regulations

The Pubs Code regulates the contractual relationships between all pub-owning businesses with 500 or more tied pubs in England and Wales and their tied pub tenants – of which on 31 December 2019 there were 9,126.

Pub-owning businesses

The six pub companies governed by the Pubs Code on 31 March 2020 were:

- Admiral Taverns
- Ei Group
- Greene King
- Marston's Plc
- Punch Pubs & Co
- Star Pubs & Bars (Heineken UK)

Two regulated pub-owning businesses changed ownership but remain governed by the Pubs Code during the reporting period. Greene King Plc was acquired by CK Asset Holdings and was delisted in October 2019. Ei Group Plc was acquired by Stonegate Pub Company and was delisted in March 2020.

Tied pub tenants

Tied tenants are those who are obliged to purchase some or all of their beer, other drinks and other products and services from their pub company landlord.

The Pubs Code has two over-arching principles – to ensure:

- (1) fair and lawful dealing by pub companies in relation to their tied tenants;
- (2) that individual tied tenants should not be worse off than they would be if they were free of the tie (the 'no worse off' principle).

An important element of the 'no worse off' principle is the right for a tied tenant to request a Market Rent Only (MRO) option. Under a MRO tenancy a tenant pays only a commercial

rent for the pub premises and is free to buy beer and other products and services on the open market.

The Pubs Code gives the tenant the right to choose which of the options – tied or free of tie – is the right one for their business.

In addition to the MRO option, the Pubs Code provides for transparency in respect of the financial and other information about the tenancy that pub-owning businesses must provide to new and existing tenants. Specifically, the Pubs Code prescribes the form and content of the tied rent proposals that must be provided to new tenants and the tied rent assessment proposals that must be provided to existing tenants as part of their regular rent reviews under the tenancy. In all cases, these must include a forecast profit and loss statement for the pub in question. The Pubs Code further specifies that there must be no more than five years between the conclusion of one rent review and the start of the next.

The Pubs Code framework includes further provisions governing the compliance obligations of the pub-owning business – including the submission to the PCA of an annual Compliance Report; the training of their staff who have business dealings with tenants; and the duties and responsibilities of their Business Development Managers. Amongst the other obligations on pub-owning businesses are the duty not to require a tied pub tenant to purchase or rent gaming machines in its new tenancies or renewals; requirements in relation to premises insurance, the use to which pub-owning businesses may put evidence gained from monitoring equipment and circumstances in which terms in a tenancy will be deemed void or unenforceable.

The Pubs Code also sets out the nature and duration of the Pubs Code protections that a tied tenant will continue to enjoy if their tenancy ceases to be held with a pub-owning business covered by the Pubs Code; and the circumstances in which certain types of agreement by which the tenant occupies and operates the pub will be exempt from the Pubs Code.

More detailed information on Pubs Code provisions can be found at:

<https://www.gov.uk/government/collections/pubs-code-factsheets>

2. The PCA and DPCA



Paul Newby was the independent, statutory Pubs Code Adjudicator in England and Wales throughout this reporting and accounting period. The Adjudicator is a Ministerial appointment and a corporation sole. The statutory office of the Adjudicator was created by section 41 of the Small Business, Enterprise and Employment Act 2015 (SBEE Act 2015), which places statutory, financial and reporting obligations on the holder of the office.

Fiona Dickie was the Deputy Pubs Code Adjudicator in England and Wales throughout this reporting and accounting period. The Deputy Adjudicator is a public appointment pursuant to paragraph 4 of Schedule 1 to the SBEE Act 2015. Ms Dickie succeeded Mr Newby as Adjudicator on 03 May 2020.

The Registered office of the PCA is:
 Lower Ground Floor,
 Victoria Square House,
 Victoria Square,
 Birmingham
 B2 4AJ.

The PCA is responsible for ensuring compliance with the Pubs Code. To do this, the Adjudicator has broad statutory powers to issue advice and guidance on aspects of the Pubs Code and the regulatory framework; to require pub-owning businesses to provide information on their compliance with the Pubs Code and on the management of their tied pub estates covered by the Pubs Code; and to monitor the day to day operation of the Pubs Code.

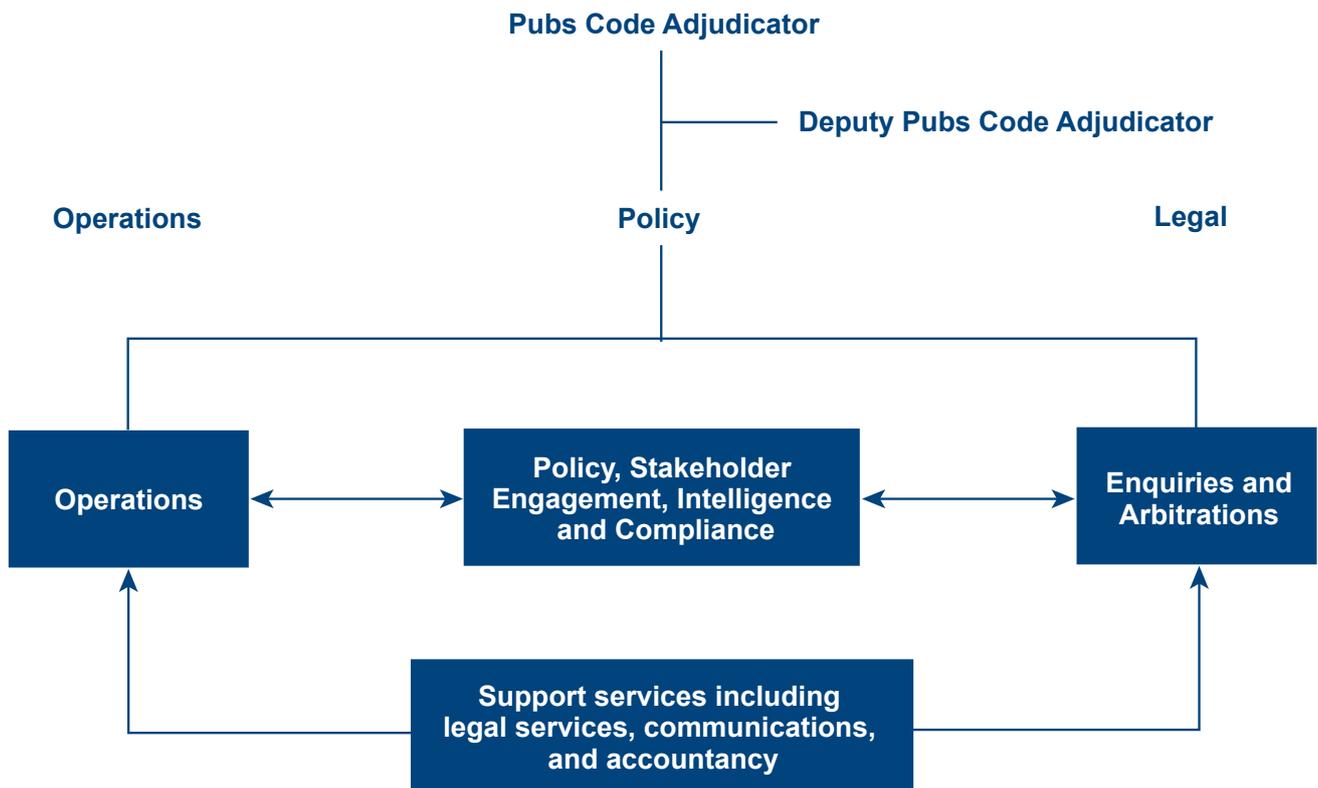
The Adjudicator has a statutory duty either to arbitrate disputes between tied tenants and their pub-owning businesses under the Pubs Code framework that are referred to the PCA or to appoint an alternative arbitrator.

The PCA has statutory powers to investigate, where the Adjudicator has reasonable grounds to suspect that there have been breaches of the Pubs Code; and subsequently to take the enforcement action the PCA considers necessary in the event that a breach is found.

The PCA has a statutory duty to report to the Secretary of State any practices by pub-owning businesses that, while Pubs Code-compliant, the Adjudicator believes meets the test for an unfair business practice set out in section 71A of the SBEE Act 2015.

3. The office of the PCA

Throughout the 2019/20 reporting period the office of the PCA had the following operational structure, reflecting the delivery of its key statutory functions.



Enquiries and Arbitrations: The PCA operated an enquiry call back service providing information on the Pubs Code and its processes. This service was accessed by telephone, email, or via an online form on the website. While the service was mainly used by tied pub tenants, it was available to anyone needing information about the Pubs Code or the PCA.

Arbitration referrals to the PCA continued at a steady pace in 2019/2020, with the majority relating to the Market Rent Only (MRO) option. To enable an increased focus on regulatory activity, the PCA and DPCA continued to exercise their statutory powers, appointing alternative arbitrators in new and existing cases.

Where a referral was made in relation to a MRO Full Response (which included a proposed MRO compliant tenancy) a three-month initial stay was offered. This allowed the parties to agree this further period to negotiate the proposed tenancy. If the parties reached a settlement during this time and the referral was withdrawn, there were no arbitrator costs charged and the referral fee was refunded (minus a £50 administration fee). Also, where the methodology for calculating the levy (by which the PCA is funded by the pub-owning businesses) was in whole or in part by reference to the number of accepted arbitration cases involving that pub-owning business, the case was treated as a referral only and not an accepted arbitration case. This recognised that a timely settlement not only benefitted the parties, but also reduced the impact on the PCA's resources.

The PCA continued to publish arbitration awards on its website where possible and within its resource capacity, helping the industry to understand previous decisions made by arbitrators. Tenants have increasingly referred to published awards, indicating that the improved transparency enabled a more equal understanding between pub-owning businesses and tenants as to the application of the Pubs Code. The PCA continued to work towards the timely publication of awards in the fullest detail possible.

Policy, Stakeholder Engagement, Intelligence and Compliance: The PCA adopted a modern regulatory approach which reflected the principles of the Regulator's Code. The PCA worked collaboratively, where appropriate, with pub-owning businesses to bring about beneficial change in the sector. It is therefore important that the PCA had regular contact with senior leaders in all of the pub-owning businesses in order to maintain a dialogue with those regulated under the Pubs Code.

During the reporting period the PCA engaged in bilateral discussions with pub-owning businesses on regulatory issues arising out of arbitration cases, statutory compliance reports, the PCA's survey of tied tenants and other sources of intelligence.

Operations: The Operations team continued to manage the many systems and processes in place to ensure the smooth running of the PCA office throughout the reporting period. There was also a comprehensive programme of engagement with stakeholders from across the regulated sector – including quarterly meetings with the Code Compliance Officers of the six pub-owning businesses. The PCA and DPCA also attended industry events in order to be as accessible as possible to tied tenants. Since the inception of the Code, the PCA/DPCA have been very careful never to discuss individual cases which are or may be the subject of arbitration under the Pubs Code.



Key issues and risks



The PCA Management Board (see page 23 Governance Statement) is responsible for identifying, monitoring and mitigating issues and risks associated with the operation and administration of the office of the PCA and the exercise of the statutory functions of the PCA and DPCA during this reporting period. The office of the PCA established a formal structure for the management of operational risks during 2019–20.

As in previous years, an important challenge for the office of the PCA has remained the reputational risk associated with managing stakeholder expectations about the impact of the Pubs Code in general, and in particular the take-up of MRO.

The key strategic risks which impacted on the reputation of the PCA during this reporting period were:

Staffing and Operational resilience

The office of the PCA continued to face challenges during the 2019/20 reporting period in recruiting and retaining staff in key operational and policy positions. The PCA worked hard to mitigate these constraints on its capacity by building resilience through adopting more flexible and innovative ways of working. The BEIS sponsorship team and the PCA agreed to and developed a people strategy approach to better support the recruitment and retention of its staff. Effective learning and development objectives for staff linked to the PCA's strategic objectives and the development of cyclical Code training are all measures adopted for PCA staff.

Managing the responsibilities of arbitrator and regulator

New cases have continued to be referred to the PCA for arbitration in significant numbers and alternative arbitrators have been appointed for new referrals made during 2019–20. Despite the introduction of the option of an initial stay in MRO proceedings to incentivise negotiation and settlement, and the publication of arbitration awards, the overall volume of cases being referred for arbitration has continued to impose a heavy burden on the resources of the office of the PCA. The appointment of alternative arbitrators has enabled the PCA to realign resources to undertake the full range of its regulatory responsibilities.



The Pubs Code Adjudicator: Strategic Objectives and Performance Analysis



The principal purpose of the PCA is to be an effective enforcer of the Pubs Code in line with the core Code principles: fair and lawful dealing by pub-owning businesses in relation to their tied pub tenants; and that tied pub tenants should be no worse off than if they were “free of the tie”.

In achieving this, the PCA strives to be an excellent place to work where our people can thrive and fulfil their potential.

The PCA has four strategic objectives:

- i. To Inform
- ii. To Influence behaviour
- iii. To Implement the Code
- iv. To Invest in our people

The PCA works with stakeholders from across the regulated industry to inform – by ensuring that tied pub tenants have the information and support they need to exercise their statutory rights and options under the Pubs Code; and to influence and implement – by securing compliance by pub-owning businesses with their Pubs Code obligations. The PCA invests in its people to provide them with the opportunity to fulfil their potential.

Inform – The PCA keeps tied pub tenants and pub-owning businesses informed of their rights and obligations under the Code:

The PCA publishes information, advice and guidance to help tenants understand and access their rights under the Code; where possible and in the interest of the public the PCA makes arbitration awards publicly available and makes clear to pub-owning businesses the PCA’s expectations regarding Code compliance. Information obtained from stakeholders tells the PCA how well the Code is understood and is used to guide the PCA’s approach to disseminating information. In February 2020, a tender was released to procure a third party organisation to undertake an Agile Discovery project to understand how tied tenants want to receive information from the PCA. The successful organisation started work in early June and the output from this project will provide the PCA with recommendations on the next steps.

Influence – The PCA influences pub-owning businesses to behave in ways that give tenants information about, and the freedom to exercise, all of their Code rights:

The PCA is in regular contact with the Code Compliance Officers, convening all six of them together where this supports communication and regulatory development; and holds regular bilateral meetings with their chief executives to discuss matters relating to Code

compliance. The PCA issues specific advice on Code compliance individually and collectively to the industry as required.

Implement – The PCA will act to implement change through appropriate means, from informal corrective interventions through to formal investigation and enforcement action in line with its published statutory guidance, and through arbitrating individual cases:

The PCA will intervene where there is a suspected breach of the Code, arbitrating (or enabling arbitration) of individual disputes, taking informal action and through formal investigations where appropriate. Where a breach of the Code is found, the PCA will consider effective remedies and seek mechanisms to make those decisions and outputs understood across the industry.

Invest – The PCA aspires to be an excellent place to work building a strong team with key Code skills and a culture where it supports its team to excel:

We will provide and facilitate training and experiences that enhance the skills of staff in relation to the Pubs Code and enables our people to grow and develop.

Statutory performance summary of PCA activity for the period 01 April 2019 to 31 March 2020

Section 62 (Annual Report) of the SBEE Act 2015 sets out the statutory reporting requirements for the PCA.



62 annual report

- (1) *After the end of each reporting period, the Adjudicator must prepare and publish a report describing what the Adjudicator has done during the period.*
- (2) *The report must include a summary of—*
 - (a) *arbitrations conducted by the Adjudicator,*
 - (b) *investigations carried out by the Adjudicator,*
 - (c) *cases in which the Adjudicator has taken the enforcement measures mentioned in section 55, and*
 - (d) *cases in which the Adjudicator has exercised functions in relation to the offer of a market rent only option or the provision of parallel rent assessments.*
 - (e) *If the Adjudicator has made recommendations under section 56, the report must include an assessment of whether they have been followed.*
- (3) *As well as publishing the report, the Adjudicator must send a copy to the Secretary of State.*
- (4) *The Secretary of State must lay a copy of the report before Parliament.*
- (5) *In this section “reporting period” means—*
 - (a) *the period beginning with the day on which section 41 comes into force [i.e. the date on which the PCA was created] and ending with the following 31 March, and each successive period of 12 months.*

The reporting in this annual report covers the period 01 April 2019 to 31 March 2020.

For the year 2019/20 the PCA is reporting on both:

- the arbitration activity specified in section 62(2)(a); and
- the cases in which the specific arbitration functions under section 45(1) in relation to the MRO option have been exercised (as required in section 62(2)(d)).

During this reporting period, the PCA launched an investigation (section 62(2)(b), see page 15 but it will not conclude in this reporting year); nor has the PCA exercised any of the enforcement measures available to it (section 62(2)(c) – including recommendations (section 62(3))).

Section 42(5) of the SBEE Act 2015 gives the power to include provision in the Pubs Code in relation to parallel rent assessments. This power has not been exercised by the Secretary of State and therefore no functions exist in respect of parallel rent assessments in relation to the reporting requirements in section 62(2)(d) of the SBEE Act 2015.



Summary of arbitrations conducted by the PCA during the period 01 April 2019 to 31 March 2020 (section 62(2)(a)) compared with the same reporting period in 2018–19:

	2019–20	2018–19
Total number of cases (including those related to the offer of a (market rent only option) accepted by the PCA for arbitration during the reporting period	82	96
Number of arbitration cases in which an award was made, including referrals received in 2016/17, 2017/18 and 2019/20	101	130
Number of arbitration cases in which an award was made following the withdrawal of the referral by the referrer, including referrals received in 2016/17, 2017/18 and 2019/20	3	12
Number of arbitration cases in which the referral was withdrawn due to a settlement being reached within the initial stay period	15	0

* The offer of an initial stay was introduced in November 2018 for new MRO referrals.

Summary of cases in which the PCA has exercised functions in relation to the offer of a MRO option during the period 01 April 2019 to 31 March 2020. (section 62(2)(d)) compared with the same reporting period in 2018–19:

	2019–20	2018–19
Total number of cases accepted by the PCA for arbitration in relation to the offer of a market rent only option, during the reporting period	73	84
Number of arbitration cases in which an award was made	85	115
Number of arbitration cases in which an award was made following the withdrawal of the referral by the referrer, including referrals received in 2016/17, 2017/18 and 2019/20	3	9
Number of arbitration cases in which the referral was withdrawn due to a settlement being reached within the initial stay period	15	0

* The offer of an initial stay was introduced in November 2018 for new MRO referrals.

Duration of arbitration cases that were on-going on 31 March 2020 compared with 31 March 2019: (not a statutory reporting requirement)

	31.03.20	31.03.19
Number of arbitration referrals (accepted cases and referrals under consideration) on 31 March 2020	73	91
Of which:		
Less than 1 month	6	6
Between 1 and 3 months	9	24
Between 3 and 6 months	24	23
Between 6 and 12 months	15	23
Longer than 12 months	19	27

The PCA has further reduced the arbitration work in progress over the reporting year, with 73 open arbitration cases as of 31 March 2020, a decrease of 18 compared to the previous reporting year. Improvements have been made in the number of cases open longer than 6 months, with 34 such cases open as of 31 March 2020, a decrease of 16 compared to the previous reporting year.

The PCA recognises that the length of arbitrations is often impacted by the parties making repeated requests to place the proceedings on hold. In many cases these requests are in addition to the three-month upfront 'initial stay', which is optional to the parties where a referral has been made in relation to a MRO Full Response. The PCA is continuing to monitor the impact of the initial stay on early settlements. It is recognised that there is more to do to ensure that disputes are avoided or resolved by the parties, and where they recur that they are resolved with reasonable time and expense.

There remains a significant number of arbitration referrals in relation to the Market Rent Only (MRO) option, with 73 accepted this year. In November 2019, the PCA introduced a new Regulatory Compliance Handbook chapter on MRO proposals, which included a MRO Compliance Record and Declaration, a copy of which is provided to the arbitrator on request. The PCA is monitoring the impact of this initiative on MRO Full Response referrals.

The appointment of alternative arbitrators has continued with 99 appointments made in total up to 31 March 2020. The appointment of alternative arbitrators in new and existing cases significantly reduced the arbitration caseloads of the PCA and DPCA, allowing for an increased focus on regulatory activity over the year.

The PCA launched an investigation July 2019

The PCA announced a statutory investigation into Star Pubs & Bars (Heineken UK) in July 2019.

The PCA's Notice of Investigation can be read [here](#).

This was the PCA's first investigation under section 53(1)(a) of the SBEE Act 2015, which gives the PCA the power to carry out an investigation if it has reasonable grounds to suspect that a pub-owning business has failed to comply with the Pubs Code.

The then Adjudicator and Deputy Adjudicator commenced the investigation having concluded, in accordance with the PCA's published Statutory Guidance on Investigations & Enforcement of November 2016, that there were reasonable grounds to suspect that Star



had failed to comply with the Pubs Code by using unreasonable stocking terms in proposed Market-Rent Only (MRO) tenancies. While a stocking term is permitted in a MRO agreement, to be compliant it must both meet the statutory definition of a stocking term in section 68(7) of the 2015 Act and also satisfy the tests of reasonableness in regulation 31(2)(c) of the Pubs Code.

The investigation covered the period from the introduction of the Pubs Code on 21 July 2016

to the date of launch of the investigation on 10 July 2019. It looked at stocking obligations that required all (or virtually all) of the keg beer stocked by the tenant to be produced by the Heineken group; that related to non-Heineken beers; that required tenants to stock an unreasonably high proportion of brands covered by the terms; and that may influence the re-selling price of products covered by the terms.

The PCA was supported by Fieldfisher LLP in the conduct of the investigation.

The investigation was concluded outside this reporting period in October 2020. The Investigation Report can be read [here](#). Invoiced costs to the PCA (not including other associated investigation costs) in 2019-20 amounted to £287,191.84.

The PCA will provide a full report on the conduct and outcome of the investigation in its 2020/21 Annual Report as required under sections 62(2)(b)&(c) of the 2015 Act.

Statutory Review

The PCA made its submission to BEIS in response to the statutory review of the Pubs Code in July 2019, and published this in full in October 2019.

Based on the PCA's practical experience of operating the Code during its first three years, the submission, which can be read [here](#), offered suggestions for changes to the Pubs Code regime to clarify what is required for a Market Rent Only (MRO) proposal to be Code-compliant; to the MRO timetable to reduce the scope for disputes; and to the formal dispute resolution process to make it less burdensome for tenants to exercise their Code rights.

Contract Liability

The PCA must exercise prudence in raising the levy. The consequence is that underspends are more likely to occur as HM Treasury require the PCA to be fully funded within the financial year. The contract liability, (see page 41 Financial Statements) which represents the difference between the levy income collected and the amount expended by PCA for 2019–20 was £767,065. This is largely due to:

- 1) **Staffing** – The PCA budgeted for staffing roles prior to the beginning of the financial year then faced the unknowns of whether the PCA would recruit to those vacancies. Retaining existing seconded staff also remains a challenge for the PCA.
- 2) **Legal costs** – the PCA budgeted for legal proceedings at the beginning of the year before knowing whether these would materialise, and the extent of the costs that were needed.
- 3) **Investigation costs** – the PCA launched an investigation on 10 July 2019 into the suspected use of unreasonable stocking terms by Star in proposed MRO tenancies. The levy included prudent provision for a full investigation, but this was not completed in year, hence there was some underspend.

Modern Slavery

Through robust policies and procedures, we continue to take steps to ensure that neither slavery nor human trafficking (together, referred to as 'modern slavery') take place in our organisation or supply chains. This includes the recruitment of colleagues and in our contracts with suppliers.

Our commitment to the principles of the Modern Slavery Act 2015

The PCA is committed to the principles of the Modern Slavery Act 2015 and the abolition of modern slavery and human trafficking. As an Equal Opportunities Employer, we are committed to creating and ensuring a non-discriminatory and respectful working environment for our staff.

Sustainability

The PCA is committed to sustainability in the way we make policy, procure goods and services. The office of the PCA's accommodation is contractually managed by the Government Property Agency on behalf of BEIS and as a result we are committed to environmental sustainability.

Diversity

We follow the recruitment processes of our sponsor department BEIS. As a Disability Confident Employer, we offer a guaranteed interview to any disabled candidate that meets the minimum criteria. All staff are required to undertake unconscious bias training to increase overall awareness of diversity issues.

Sustainable procurement

We use the Crown Commercial Service framework to procure goods and services where applicable. The procurement service keeps its policies under regular review and works with its partners individually to ensure sustainability goals are achieved.



Fiona Dickie,
Pubs Code Adjudicator
21 January 2021





Accountability Report



Corporate Governance Report

The following Corporate Governance Report and Governance Statement represent the arrangements in place throughout the 2019/20 reporting and accounting period when the office of Pubs Code Adjudicator was held by Paul Newby. The Governance Statement has been signed by Fiona Dickie as the current Pubs Code Adjudicator in reliance on formal assurances given by Paul Newby on 01 May 2020 while he was still in office.

Format of the accounts

The accounts have been prepared in accordance with the direction from the Secretary of State for BEIS and HM Treasury's Financial Reporting Manual (FRoM).

1. Director's Report

The PCA is a statutory office holder appointed by the Secretary of State. The PCA is a corporation sole.

As Accounting Officer, I am responsible for ensuring that there is an appropriate governance structure and systems to ensure I meet my statutory obligations. I am personally responsible for safeguarding the public funds for which I have charge; for ensuring the propriety and regularity in the managing of public funds; and for the day-to-day operations and management of the office of the PCA in line with the requirements set out in Managing Public Money. The PCA governance structure combines efficient decision making with accountability and transparency.

As Accounting Officer, I convene the PCA Management Board; co-chair a Governance Board with the BEIS sponsorship team and attend a Risk and Audit Committee. These are the main means for ensuring that my statutory obligations are met, that decision-making and financial management are carried out appropriately and that the PCA office is managed effectively.

Risk and Audit Committee

The Risk and Audit Committee supports the Management Board and the Accounting Officer in his responsibility for control and governance, risk management and associated assurance. The composition of these boards is detailed in the Governance Statement on page 23.

Rob Powell, the Strategic Director for Resources at Warwickshire County Council continued his role as the Independent Panel Member.

The main areas for the Committee's focus were:

- Risk management including a regular review of the PCA's risk register.
- Finance management based on the quarterly finance reports.

-
- Independent Internal Audit which focused on the PCA's systems and processes for managing risk.
 - National Audit Office (NAO) interim audit early January 2020 and preparation for the end of the financial year processes.

The PCA's case management system holds all information relating to arbitration cases, correspondence, enquiries and Freedom of Information (FOI) requests centrally and securely. It also provides a reporting function sufficient to provide the Risk and Audit Committee with the assurances that the data presented throughout the reporting period was correct.

The composition of this committee is detailed in the Governance Statement on page 23.

For 2019/20 I managed risk using a Risk Register that was coordinated by the interim Director of the office of the PCA and was a standing item on our monthly Management Board meetings.

I am personally responsible for promoting and safeguarding regularity, propriety, affordability, sustainability, risk and value for money; and accounting accurately and transparently for the office of the PCA's financial position and transactions.

Register of interests

The PCA has published a register of interests which can be viewed via the PCA website at: <https://www.gov.uk/government/publications/pubs-code-adjudicator-conflicts-of-interest-policy-and-register>

All relevant Senior Civil Service level members of the Management Board were subject to disclosure rules throughout the period.

Personal data

Any security breaches and near misses are reported to the Management Board with individual breaches considered and escalated as appropriate dependent on their seriousness. All staff are aware of the General Data Protection Regulation (GDPR) and undergo training on an annual basis.

In the period covered by this report the office of the PCA had no data handling breaches or near misses that resulted in a notification to the Information Commissioners Office (ICO).

Audit

The auditor of the PCA is the Comptroller and Auditor General. The audit fee for the period ended 31 March 2020 is £12,500 (2018–19: £11,500).

2. Statement of the PCA Accounting Officer Responsibilities

Schedule 1, paragraph 15(1) of the SBEE Act 2015 requires the PCA to keep proper accounts and records in relation to those accounts. For each financial year, the PCA must prepare a statement of accounts in respect of that financial year. That statement must be in whatever form is directed by the Secretary of State for BEIS; and must be sent by the PCA

within the period specified by the Secretary of State to both the Secretary of State and the Comptroller and Auditor General.

The statement of accounts, when certified by the Comptroller and Auditor General, must be laid before Parliament by the Secretary of State.

The statement follows the form and basis set out in the account's direction. The accounts are prepared on an accrual basis and must give a true and fair view of the state of affairs of the PCA and of net resource outturn, application of resources, changes in taxpayers' equity and cash flows for the financial year.

In preparing the accounts, the Accounting Officer is required to comply with the requirements of the Government Financial Reporting Manual (FReM), and in particular by:

- a) observing the accounts direction issued by the Secretary of State, including the relevant accounting and disclosure requirements, applying suitable accounting policies on a consistent basis;
- b) making judgements and estimates on a reasonable and prudent basis;
- c) stating where the applicable accounting standards set out in the FReM have been followed; and disclosing and explaining any material departures from these;
- d) preparing the statement on a going concern basis.

The Principal Accounting Officer for BEIS has designated the PCA as the Accounting Officer for the office of the PCA. The responsibilities of an Accounting Officer – including for the propriety and regularity of the statutory levy funding; for keeping proper records; and for safeguarding the PCA's assets – are set out in the Accounting Officer's Memorandum issued by HM Treasury and published in Managing Public Money.

As Accounting Officer, I confirm that as far as I am aware, there is no relevant audit information of which the Comptroller and Auditor General and the NAO are unaware, and that I have taken all the steps that I ought to have taken to establish that the NAO are aware of any such information.

I also certify that this annual report and accounts as a whole are fair, balanced and understandable; and that I take personal responsibility for the annual report and accounts and the judgements required for determining that it is fair, balanced and understandable.



Governance Statement

PCA Governance Framework Approach

The PCA is the Accounting Officer for the office of the PCA and is personally responsible for safeguarding the public funds for which the office has charge and for the day-to-day operations and management of the office of the PCA.

The PCA is responsible for ensuring and promoting propriety, regularity, affordability, sustainability, risk, value for money and feasibility in the handling of those public funds; for accounting accurately and transparently for the office of the PCA's financial position and transactions.

The PCA is also responsible for ensuring the office of the PCA as a whole is run in accordance with the standards, in terms of governance, decision-making and financial management that are set out in Box 3.1 of Managing Public Money.

The PCA, and Accounting Officer for the period covered by this annual report was Paul Newby. The new PCA Fiona Dickie took up post on 03 May 2020. Relevant assurances were provided by the former PCA to enable the PCA to sign the accounts covering the previous accounting period.

Management Board

The office of the PCA is directed by a Management Board made up of senior members of the PCA. The Board is responsible for day-to-day operations, including oversight and responsibility for regulatory decisions, finance, risk and people. For the reporting period this consisted of the PCA, the Deputy PCA, the interim Director of the office of the PCA and the Head of Regulatory Policy.

The PCA Management Board follows the Corporate Governance Code of Good Practice 2017 but applies it in a way that is proportionate to the nature and size of the PCA.

PCA Management Board

Comprises of the PCA, the Deputy PCA, the interim Director of the offices of the PCA and the Head of Regulatory Policy and Compliance. The Board ensures the PCA's statutory operations and strategic objectives are met and decision-making and financial management are carried out appropriately.

The Management Board met 11 times in the reporting year and was chaired in rotation by the PCA and DPCA. It oversees the management of the strategic risks and closely monitors income and expenditure. Notes of Risk and Audit Committee meetings held throughout the year are available to the Board.

The Board monitors and receives regular reports and analysis for each area of business, providing the opportunity for robust and constructive challenge and debate amongst board members.

Management Board Attendance 2019–20

PCA	10
DPCA	10
Interim Director of the office of the PCA	10
Head of Regulatory Policy and Compliance	11

The PCA's risk profile is disclosed in the Performance Report – see page 10.

The Management Board is supported by two other bodies:

Risk and Audit Committee

The Risk and Audit Committee (RAC) has a pivotal role in ensuring the PCA applies appropriate accounting and auditing standards and adopts an appropriate risk management strategy. The role of the RAC is to provide critical challenge and support to the PCA on the effectiveness of the risk and financial management arrangements. The risk management framework was established by the PCA Management Board to identify, assess and manage risk, playing an important role in ensuring the PCA's reputation for excellent financial and risk management is maintained.

Governance Board

This group facilitates relationship between the PCA and its sponsorship body within Government including supporting advice to the Principal Accounting Officer and responsible Minister within the Department for Business Energy and Industrial Strategy on the operation of the PCA and the Code of Good Practice for Corporate Governance. The board comprises of staff from the office of the PCA and its BEIS sponsorship team.

Internal Audit

Government Internal Audit Agency (GIAA) has undertaken a proportionate review of the PCA's governance arrangements and risk management strategy between January and March 2020. Final report to be made available in April 2020.

Sources of Funding

The Office of the PCA is funded by an annual levy on pub-owning businesses owning 500 or more tied pubs in England and Wales. Section 63 of the SBEE Act 2015 requires the PCA to seek the consent of the Secretary of State to the raising of the levy for each financial year, based on a business case submitted by the PCA setting out the overall amount of the levy and the shares in which it is to be paid. Section 63 also requires the PCA to publish its levy methodology.

Levy amount for 2019/20

The PCA obtained the Secretary of State's consent to set the levy amount for 2019/20 at £3,000,000. The levy has been raised against the six pub-owning businesses with 500 or more tied pub tenants.

The calculation for the 2019/20 levy apportionment was determined by fixed and variable elements based on:

- The fixed costs of operating the office have been apportioned on a percentage basis reflecting the number of tied pubs each of the six pub-owning businesses owned at 31 December 2018. (17%),
- The variable costs have been apportioned based on a percentage reflecting the number of arbitration cases involving each pub-owning business from 01 April 2018 to 31 March 2019 (30%).

A further step has been introduced in the process of ensuring that the levy burden on individual POBs more accurately reflects the demands placed by them on the PCA's time and resource. A third element to the existing fixed and arbitration-based levy categories focuses on PCA regulatory activity (53%) in respect of each POB.

1	Fixed costs	17%	Based on tied pub numbers as at 31 December 2018
2	Arbitration	30%	Based on: a. the number of new arbitration cases; and b. other arbitration cases open for any time between 01 April 2018 and 31 December 2018
3	Regulatory activity	53%	A measure based upon our experience so far that pub numbers and arbitration cases have been a relevant predictor of the time that the PCA is likely to be involved in regulatory activity*.

* *Regulatory work can arise from a variety of sources but has tended to arise from issues aired in arbitrations. There is also a relationship with the size of POB estates, so for this first year of apportioning regulatory work, using both numbers of pubs and numbers of arbitrations was deemed the most equitable method of apportioning contributions. The total levy contributions levied against the six pub-owning businesses range from 3.5% to 46.6% of the total levy amount. The minimum amount is £104,400 and the maximum is £1,398,150.*

The PCA raised the 2019/20 levy in two equal six-monthly instalments from each pub-owning business. The underspend (or contract liability) due to each pub-owning business arising from the 2018/19 financial year was £804,458 and this was offset against the first instalments in the proportions in which it was raised.

No additional funding issues arise that require reporting in this financial year.

Fee Income

For 2019–20 the funding for managing the PCA's arbitration caseload was intended to include the payment of fees by tied pub tenants when referring a case to the PCA (£200 per referral); and by the recouping from pub-owning businesses of the reasonable fees and expenses of the arbitrator in cases where tied pub tenants have referred a case to the PCA for arbitration.

The PCA received a total of £54,953 in fees income during 2019–20.

£14,600 of this income consisted of fees paid to refer a case to the PCA for arbitration; and £40,353 was recouped from pub-owning businesses as arbitration award fees.

Statement of Internal Financial Controls

The financial statements in this annual report relate to both the activities of the statutory PCA and the administrative support provided to the Adjudicator by the office of the PCA.

The PCA deploys a combination of finance and accounting systems and processes to ensure that standards set out in Managing Public Money are met.

The PCA's financial management criteria are set out below:

- (1) Uses its resources efficiently, economically and effectively, avoiding waste and extravagance
- (2) Plan to use its resources on an affordable and sustainable path, within agreed limits
- (3) Carry out procurement and project appraisal objectively and fairly, using cost benefit analysis and generally seeking good value for the Exchequer as a whole
- (4) Use management information systems to gain assurance about value for money and the quality of delivery and so make timely adjustments
- (5) Avoid over defining detail and imposing undue compliance costs, either internally or on its customers and stakeholders
- (6) Have practical documented arrangements for controlling or working in partnership with other organisations as appropriate
- (7) Use internal and external audit to improve its internal controls and performance

The PCA had a bank account with four bank account signatories – the Pubs Code Adjudicator, the Deputy Pubs Code Adjudicator, the Director of the office of the PCA and the Finance Manager. All outgoing payments require two signatories to approve the payment. All expenses are documented, evidenced with receipts and approved by two signatories. Expenses are payable in accordance with the PCA's expenses policy, which adopts that of its sponsor department, BEIS. The internal processes require that the person receiving the payment is not a signatory.

Accountant and auditor

The PCA contracts with accountants to prepare independent annual accounts and financial statements. The Comptroller and Auditor General examine, certify and report on the financial statements in accordance with the SBEE Act 2015.

Data management

The PCA has processes in place consistent with the requirements of the General Data Protection Regulation (GDPR) and the Data Protection Act 2018. The PCA continues to progress a Memorandum of Understanding (MoU) with BEIS in respect of the data controller and data processor relationship.

Covid-19

The Covid-19 emergency created and continues to create unprecedented challenges to the tied pub trade and therefore on the work of the PCA office. The PCA activated its Business Continuity Plan and followed government guidelines introducing full homeworking for all staff from 17 March 2020. The PCA appointed a Covid-19 coordinator acting as the PCA point of contact with the sponsor department Covid-19 team. An immediate priority for the PCA was to preserve the rights of regulated tied pub tenants in the wake of regulated pub companies informing the PCA that they would be likely to breach the Code (in respect of the timeliness of rent assessment proposals and market rent only full responses). The PCA worked with industry stakeholders and the CCOs of each pub-owning business. Each of the regulated pub-owning businesses has signed a declaration in the same terms, effective from 16 March 2020, which serves to protect certain tenant rights during the emergency period.

These arrangements provide additional protections but expressly do not prevent any tenant from taking any available Code step to access their rights.

The impact of Covid-19 emergency on the activities of the regulated pub-owning businesses will continue to be a main focus of the PCA into the new financial year.

The PCA undertakes a tied tenant survey each year, which is an important tool for understanding the impact of the Pubs Code on those it was introduced to protect. The 2018/19 Tied Tenant survey was devised and run by Ipsos Mori (the successor company to GfK who conducted the 2017/18 survey), with input from the BEIS analysts and sign off from the PCA Management Board. As with the 2017/18 survey both the survey questions and the overall results have been made [public](#). This approach to commissioning and running this research represents a proportionate and compliant approach to compliance with the MacPherson Review of Quality Assurance (QA) of Government Analytical Models. Due to the unfolding impact of Covid-19, the PCA has postponed the implementation of the 2019/20 survey and intends to review the situation in the next financial year.

Statement by the PCA

I have considered the evidence that supports this governance statement, and I am assured that the office of the PCA has effective systems of control in place to support the appropriate delivery of my statutory functions.

I have had particular regard to the circumstances surrounding the UK leaving the EU in making this statement. I have no disclosures of control or funding weaknesses to make for the 2019/20 financial year.



Fiona Dickie,
Pubs Code Adjudicator
21 January 2021

Signed in reliance on assurances provided by Paul Newby as Pubs Code Adjudicator on 01 May 2020.

Remuneration and Staff Report



1. Remuneration policy

The PCA and DPCA have no direct remuneration responsibilities. Their remuneration is determined by the Secretary of State for BEIS under Schedule 1 to the SBEE Act 2015 and both receive a Civil Service pension.

The PCA is a Ministerial appointment, designated as a Statutory Office Holder and is a corporation sole. The DPCA is a public appointment.

Katharine Diamond has continued her role as interim Director of the office of the PCA throughout the reporting year.

The PCA office team are secondees from the public sector, but retain the terms and conditions of their home departments.

The PCA and DPCA are pensionable positions. Pension commitments for secondees to the office of the PCA are met by their home departments. Remuneration decisions are taken by the relevant home department of the secondees.

Remuneration (salary*, benefits in kind, pensions) (subject to audit)

Public appointee	Year	Salary £'000	Bonus payments £'000	Pension benefits (to the nearest £1,000)	Total £'000
Paul Newby	2019 – 20	135 – 140	0	53	185 – 190
	2018 – 19	130 – 135	0	52	180 – 185
Fiona Dickie (prior year disclosure is from 1 November 2017)	2019 – 20	85 – 90	0	34	120 – 125
	2018 – 19	75 – 80	0	31	105 – 110
Katharine Diamond Interim Director (from March 20)	2019 – 20	70 – 75	0	59	125 – 130
	2018 – 19	5 – 10	0	1	5 – 10

* "Salary" includes gross salary; overtime, reserved rights to London weighting or London allowances; recruitment and retention allowances; private office allowances and any other allowances to the extent that is subject to UK taxation.

This report is based on accrued payments made by the PCA and thus recorded in these accounts.

No allowances, bonuses or benefits in kind have been made to the Adjudicator. Gifts and hospitality are recorded in the PCA's Gifts and Hospitality register.

2. Benefits in kind (subject to audit)

Cash Equivalent Transfer Values (CETV). CETV is the actuarially assessed capitalised value for the pension scheme benefits accrued by a member at a particular point in time. The benefits valued are the member's accrued benefits and any contingent spouse's pension payable from the scheme. A CETV is a payment made by a pension scheme or arrangement to secure pension benefits in another pension scheme or arrangement when the member leaves a scheme and chooses to transfer the benefits accrued in their former scheme. The pension figures shown relate to the benefits that the individual has accrued as a consequence of their total membership of the pension scheme, not just their service in a senior capacity to which the disclosure applies.



The figures include the value of any pension benefit in another scheme or arrangement with the member transfers to the Civil Service pension arrangements. They also include any additional pension benefit accrued to the member as a result of their buying additional pension benefits at their own cost. CETVS are worked out in accordance with the Occupational Pension Schemes (Transfer Values) (Amendment) Regulations 2008 and do not take into account any actual or potential reduction to benefits resulting from Lifetime Allowance Tax which may be due when pension benefits are taken.

Real increase in CETV

This reflects the increase in CETV that is funded by the employer. It does not include the increase in accrued pension due to inflation, contributions paid by the employee (including the value of any benefits transferred from another pension scheme or arrangement) and uses common market valuation factors for the start and end of the period.

Public appointee	Accrued pension at age 65 as at 31 March 2020 and related lump sum £'000	Real increase in pension and related lump sum at pension age £'000	CETV at 31 March 2020 £'000	CETV at 31 March 2019 £'000	Real increase in CETV £'000
Paul Newby	10 – 15	2.5 – 5	200	144	40
Fiona Dickie	0 – 5	0 – 2.5	57	30	19
Katharine Diamond	20 – 30 plus a lump sum of 5 – 10	2.5 – 5 plus a lump sum of 0 – 2.5	365	312	34

3. Civil Service Pension Scheme

Pension benefits are provided through the Civil Service pension arrangements. From 30 July 2007, civil servants may be in one of five defined benefit schemes; either a final salary scheme (classic, premium or classic plus); or a whole career scheme (nuvos or alpha).

From 01 April 2015 a new pension scheme for civil servants was introduced – the Civil Servants and Others Pension Scheme or alpha, which provides benefits on a career average basis with a normal pension age equal to the member's State Pension Age (or 65 if higher). From that date all newly appointed civil servants and the majority of those in service joined alpha. Prior to that date, civil servants participated in the Principal Civil Service Pension Scheme (PCSPS). The Adjudicator and the Deputy Adjudicator are in the alpha scheme.

The accrued pension quoted is the pension the member is entitled to receive when they reach the higher of 65 or State Pension Age for members of alpha.

Further details about the Civil Service pension arrangements can be found at the website www.civilservicepensionscheme.org.uk

New Career Average pension arrangements were introduced from 01 April 2015 and the PCA and DPCA are in the new scheme. Further details of this new scheme are available at <http://www.civilservicepensionscheme.org.uk/members/the-new-pension-scheme-alpha/>



Staff Report

1. Staff Costs

The cost of staff remuneration was:

	Year ending 31-Mar-20 £	Year ending 31-Mar-20 £	Period ending 31-Mar-20 £	Year ending 31-Mar-19 £
	<i>Permanent staff</i>	<i>Other Staff</i>	<i>Total</i>	<i>Total</i>
Wages and salaries	223,393	1,172,304	1,395,697	1,163,648
Social security costs	28,430	–	28,430	26,704
Other pension	67,688	–	67,688	51,703
Total	319,511	1,172,304	1,491,815	1,242,055

- (i) The PCA and DPCA are ministerial appointments and both are remunerated via the BEIS payroll.
(ii) There have been no severance / retirement payments in the reporting year.
(iii) The PCA is not registered for VAT, however VAT is charged on all home department salary invoices

2. Average number of staff employed (subject to audit)

The average annual number of full-time-equivalent staff (FTE), including secondees from other government departments and other organisations was:

	2019/20	2018/19	2017/18
Ministerial and public appointments	1.44	1.44	1.42
Other Staff	11.21	11.9	5.42

3. Staff composition

The SBEE Act 2015 allows the PCA to recruit staff on secondment from public or private sector organisations typically on 2-year secondments from other parts of the Civil Service.

The composition of Ministerial and public appointments is:

	Male	Female
Pubs Code Adjudicator	1	
Deputy Pubs Code Adjudicator		1

The composition of the office of the PCA staff is:

Male	3
Female	9

The PCA was supported by specialist advice. This included advice from a Press and Media specialist, legal services and accountancy support.

Over this reporting period the Adjudicator recruited 1 member of staff.
Two members of staff left in the reporting period.

4. Fair pay disclosure (subject to audit)

The median staff pay figure for the year (based on the lowest to highest but one of the PCA staff as the highest salary has been discounted for this calculation), the range for staff remuneration and the ratio between the median staff remuneration and the mid-point of the banded remuneration of the highest paid for 2019/20 and the previous year 2018/19 are recorded in the table below:

	2019/20	2018/19
The median staff pay figure (£)	56,913.17	40,280.5
The range for staff remuneration is from (£)	Min 20 – 25k Max 135 – 140k	Min 25 – 30k Max 130 – 135k
The ratio between the median staff remuneration and the mid-point of the banded remuneration of the highest paid	1:2.42	1:3.29

As a recommendation from the structural review in January 2019, the PCA appointed an interim Director of the office of the PCA in March 2019. The annual salary for this post resulted in an increase in the median staff pay figure for 2019–20.

5. Exit packages (subject to audit)

No exit packages were paid during the reporting period.

6. Expenditure on consultants

This is recorded in section three of the accounts under “Other expenditure”.

7. General Data Protection Regulation (GDPR)

The PCA has reviewed all contracts procured with third party organisations to ensure compliance with the General Data Protection Regulation 2018. No instances of non-compliance were identified.

8. Reporting on the tax arrangements of public sector appointees

All government departments and their arm’s length bodies that employ individuals ‘off payroll’ for more than six months must report to HM Treasury about the financial arrangement, to make sure it is transparent and that the individual in question is paying the right amount of tax and National Insurance (NI). The office of the PCA has reviewed the way we make these appointments to ensure our processes are robust. We have the right to request assurances, and do so, from the individual in relation to monies received by HMRC. We can terminate any contract if these assurances are not provided.

Legislation came into effect from April 2017, which shifted the responsibility for deciding whether tax and NI are due from the individual contractor to the organisation for whom the contractor will work. The PCA ensured that arrangements were in place to determine if contractors are in or out of scope, and that where relevant, arrangements are in place for the deduction of tax and NI, and that requisite assurances were obtained.

The following tables set out the status of off-payroll contractors engaged by the PCA using the standard reporting format. Recorded off-payroll engagements, or those that reached six

months in duration, between 01 April 2019 and 31 March 2020, for more than £245 per day and that last for longer than six months.

Table 1: For all off-payroll engagements as of 31 March 2019, for more than £245 per day and that last for longer than six months.

Number of existing engagements as of 31 March 2019.	Pubs Code Adjudicator
Number of existing engagements as of 31 March 2019	2
Of which:	
Number that have existed for less than one year at the time of reporting	N/A
Number that have existed for between one and two years at the time of reporting	N/A
Number that have existed for between two and three years at the time of reporting	1
Number that have existed for between three and four years at the time of reporting	1
Number that have existed for between four and more years at the time of reporting	N/A

Table 2: For all new off-payroll engagements, or those that reached six months in duration, between 01 April 2018 and 31 March 2019, for more than £245 per day and that last for longer than six months.

Number of new engagements, or those that reached six months in duration, between 01 April 2018 and 31 March 2019.	Pubs Code Adjudicator
Number of existing engagements as of 31 March 2019	0
Of which:	
Number that have existed for less than one year at the time of reporting	N/A
Number that have existed for between one and two years at the time of reporting	N/A
Number that have existed for between two and three years at the time of reporting	1
Number that have existed for between three and four years at the time of reporting	1
Number that have existed for between four or more years at the time of reporting	N/A

9. Staff sickness absences

During the year the average proportion of working days lost to sickness for the PCA for the 12 months to 31 March 2019 was 10.25, which includes one long term absence. The PCA is committed to supporting the physical and mental health of the team and fostering wellbeing is a key element of our focus.

10. Staff policies and other employee matters

The PCA is committed to being a place of opportunities. We value and welcome diversity. We aim to develop all our staff to enable them to make a full contribution to meeting the PCA's strategic objectives, and to fulfil their own potential on merit. We will not tolerate harassment or other unfair discrimination on grounds of sex, marital status, race, colour, nationality, ethnic origin, disability, age, religion or sexual orientation. All staff are encouraged to take additional training on disability awareness and are expected to undertake unconscious bias training to increase overall awareness. We support the use of a range of flexible working patterns to enable staff to balance home and work responsibilities; and we will treat people fairly irrespective of their working arrangements.



Parliamentary Accountability Report

The following Parliamentary Accountability Report relates to the 2019/20 reporting period when the office of Pubs Code Adjudicator was held by Paul Newby. The statement below has been signed by Fiona Dickie as the current Pubs Code Adjudicator in reliance on formal assurances given by Paul Newby on 01 May 2020 while he was still in office.

Parliamentary Accountability Disclosures

The Adjudicator, as Accounting Officer, is responsible for the propriety and regularity of the public finances for which he is answerable and for keeping proper records.

The PCA has nothing to report in respect of losses and special payments, fees and charges income or gifts. For contingent liability see page 53, Contingent Liability.



Fiona Dickie,
Pubs Code Adjudicator
21 January 2021

Signed in reliance on assurances provided by Paul Newby as Pubs Code Adjudicator on 01 May 2020.



The Certificate and Report of The Comptroller and Auditor General to The Houses of Parliament

Opinion on financial statements

I certify that I have audited the financial statements of The Pubs Code Adjudicator for the year ended 31 March 2020 under the Small Business, Enterprise and Employment Act 2015. The financial statements comprise: the Statements of Comprehensive Net Expenditure, Financial Position, Cash Flows, Changes in Taxpayers' Equity; and the related notes, including the significant accounting policies. These financial statements have been prepared under the accounting policies set out within them. I have also audited the information in the Accountability Report that is described in that report as having been audited.

In my opinion:

- the financial statements give a true and fair view of the state of The Pub Code Adjudicator's affairs as at 31 March 2020 and of its net expenditure for the year then ended; and
- the financial statements have been properly prepared in accordance with the Small Business, Enterprise and Employment Act 2015 and Secretary of State directions issued thereunder.

Opinion on regularity

In my opinion, in all material respects the income and expenditure recorded in the financial statements have been applied to the purposes intended by Parliament and the financial transactions recorded in the financial statements conform to the authorities which govern them.

Basis of opinions

I conducted my audit in accordance with International Standards on Auditing (ISAs) (UK) and Practice Note 10 'Audit of Financial Statements of Public Sector Entities in the United Kingdom'. My responsibilities under those standards are further described in the Auditor's responsibilities for the audit of the financial statements section of my certificate. Those standards require me and my staff to comply with the Financial Reporting Council's Revised Ethical Standard 2016. I am independent of the Pubs Code Adjudicator in accordance with the ethical requirements that are relevant to my audit and the financial statements in the UK. My staff and I have fulfilled our other ethical responsibilities in accordance with these requirements. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

Conclusions relating to going concern

I have nothing to report in respect of the following matters in relation to which the ISAs (UK) require me to report to you where:

- the Pubs Code Adjudicator's use of the going concern basis of accounting in the preparation of the financial statements is not appropriate; or
- the Pubs Code Adjudicator have not disclosed in the financial statements any identified material uncertainties that may cast significant doubt about the Pubs Code Adjudicator's ability to continue to adopt the going concern basis of accounting for a period of at least twelve months from the date when the financial statements are authorised for issue.

Responsibilities of the Adjudicator for the financial statements

As explained more fully in the Statement of PCA Accounting Officer's Responsibilities, the Adjudicator, as Accounting Officer, is responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view.

Auditor's responsibilities for the audit of the financial statements

My responsibility is to audit, certify and report on the financial statements in accordance with the Small Business, Enterprise and Employment Act 2015.

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISAs (UK) will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit in accordance with ISAs (UK), I exercise professional judgment and maintain professional scepticism throughout the audit. I also:

- identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Pubs Code Adjudicator's internal control.
- evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by management.

- evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.
- Conclude on the appropriateness of the Pubs Code Adjudicator's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Pubs Code Adjudicator's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my report. However, future events or conditions may cause the Pubs Code Adjudicator to cease to continue as a going concern.

I communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.

In addition, I am required to obtain evidence sufficient to give reasonable assurance that the [income and expenditure reported in the financial statements have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them.

Other Information

The Adjudicator, as Accounting Officer is responsible for the other information. The other information comprises information included in the annual report, but does not include the parts of the Accountability Report described in that report as having been audited, the financial statements and my auditor's report thereon. My opinion on the financial statements does not cover the other information and I do not express any form of assurance conclusion thereon. In connection with my audit of the financial statements, my responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements or my knowledge obtained in the audit or otherwise appears to be materially misstated. If, based on the work I have performed, I conclude that there is a material misstatement of this other information, I am required to report that fact. I have nothing to report in this regard.

Opinion on other matters

In my opinion:

- the parts of the Accountability Report to be audited have been properly prepared in accordance with Secretary of State directions made under the Small Business, Enterprise and Employment Act 2015;
- in the light of the knowledge and understanding of the Pubs Code Adjudicator and its environment obtained in the course of the audit, I have not identified any material misstatements in the Performance Report or the Accountability Report; and
- the information given in the Performance Report and Accountability Report for the financial year for which the financial statements are prepared is consistent with the financial statements.

Matters on which I report by exception

I have nothing to report in respect of the following matters which I report to you if, in my opinion:

- adequate accounting records have not been kept or returns adequate for my audit have not been received from branches not visited by my staff; or
- the financial statements and the parts of the Accountability Report to be audited are not in agreement with the accounting records and returns; or
- I have not received all of the information and explanations I require for my audit; or
- the Governance Statement does not reflect compliance with HM Treasury's guidance.

Report

I have no observations to make on these financial statements.

Gareth Davies

22 January 2021

Comptroller and Auditor General
National Audit Office
157–197 Buckingham Palace Road
Victoria
London
SW1W 9SP



Pubs Code Adjudicator Financial Statements for the year ended 31 March 2020.

Format of the accounts

These accounts have been prepared in accordance with the direction from the Secretary of State for Business, Energy and Industrial Strategy (BEIS).



Statement of Comprehensive Net Expenditure for the year ended 31 March 2020

	Note	Year ended 31-Mar-20 £	Year ended 31 March 20 £
Expenditure			
Staff Costs	2	1,491,815	1,242,055
Other Expenditure	3	796,073	671,063
		2,287,888	1,913,118
Income			
Other income	4	(2,287,888)	(1,913,118)
Net Expenditure			
		–	–
Net Expenditure after interest			
		–	–
Net Expenditure after interest and tax			
		–	–
Total Comprehensive Expenditure for the year ended 31 March			
		–	–

Statement of Financial Position as at 31 March 2020

	Note	As at 31-Mar-20 £	Year ended 31 March 20 £
Current assets			
Other receivables due within one year	5	98,518	115,878
Cash and cash equivalents	6	1,288,124	1,193,511
Total current assets		1,386,642	1,309,389
Total assets		1,386,642	1,309,389
Current liabilities			
Contract liability	7	767,065	804,458
Trade and other payables	7	619,577	504,931
Total current liabilities		1,376,642	1,309,389
Current assets less current liabilities		–	–
Assets less liabilities		–	–
Taxpayers' equity			
Income and expenditure reserve		–	–

The notes on pages 47 to 54 form part of these financial statements.



Fiona Dickie,
Pubs Code Adjudicator
21 January 2021



Statement of Cash Flows for the year ended 31 March 2020

	Note	Year ended 31-Mar-20 £	Period ended 31-Mar-19 £
Cash flows from operating activities			
Net operating cost		–	–
Decrease/(increase) in receivables	5	17,360	(65,266)
Increase in payables	7	77,253	542,131
Net cash inflow from operating activities		94,613	476,865
Net increase in cash and cash equivalents in the year	6	94,613	476,865
Cash and cash equivalents at the beginning of the year		1,193,511	716,646
Cash and cash equivalents at the end of the year		1,288,124	1,193,511

The notes on pages 47 to 54 form part of these financial statements.

Statement of Changes in Taxpayers' Equity

	I & E Reserve £	Total Reserves £
Balance as at 31 March 2018	–	–
Changes in Taxpayers' Equity comprehensive expenditure for the year	–	–
Comprehensive expenditure for the year	–	–
Balance as at 31 March 2019	–	–
Changes in Taxpayers' Equity comprehensive expenditure for the year	–	–
Comprehensive expenditure for the year	–	–
Balance as at 31 March 2020	–	–

The PCA holds no reserves. The PCA is levy funded and unspent levy is reflected in contract liability.

Notes to the Financial Statements for the year ended 31 March 2020

1. Accounting Policies

These financial statements have been prepared in accordance with the direction from the Secretary of State for Business, Energy and Industrial Strategy (BEIS) and the 2019/20 Government Financial Reporting Manual (FReM). The particular policies adopted by the PCA for the purpose of financial reporting are described below. They have been applied consistently in dealing with items that are considered material to the accounts.

The Annual Accounts have been prepared as directed by the Secretary of State for Business, Energy and Industrial Strategy and certified by the Comptroller and Auditor General in accordance with paragraph 15 of Schedule 1 of the SBEE Act 2015; and have been laid before Parliament by the Secretary of State.

There were no new standards issued up to 31 March 2020 and not applied that would materially affect the accounts. The PCA has also not adopted any standards early but has considered future changes in standards.

Standards not yet effective

IFRS 16 Leases as applied by the Government Financial Reporting Manual (“the FReM”) will be effective for PCA for the year ending 31 March 2023. IFRS 16 requires the recognition of a right-of-use asset and a lease liability for all leases in scope of IFRS 16. The adoption of IFRS 16 will result in the recognition of a right-of-use asset and lease liability in respect of the rental of accommodation.

1.1 Accounting convention

These accounts have been prepared under the historical cost convention.

Income

The different income streams are laid out below.

General Levy

The PCA raises income through the form of a levy on the pub-owning businesses it regulates. In 2019/20 the levy was invoiced to the pub-owning businesses in two equal instalments during the year. Levy income is recognised to match the PCA’s net expenditure for the year and any unspent levy at the end of the financial year is returned to the pub-owning businesses in the percentages that it was levied and therefore is shown as a contract liability in note 7, Trade Payables and Other Liabilities.

The general levy and associated rebate are variable consideration under IFRS 15. The variable consideration is determined using the most likely amount, being the net

expenditure incurred in a levy period. There is a constraint on the variable consideration, with the income from the general levy determined at the end of the financial year once the financial statements have been finalised and the uncertainty associated with the levy rebate has been resolved.

Further information on the levy income is contained in the PCA's Annual Report.

Arbitrations

The PCA will recoup the arbitrators' reasonable fees and expenses in respect of arbitrations excluding those undertaken by Alternative Arbitrators from pub-owning businesses except where the referral is vexatious in accordance with SBEE Act 2015 [section 51]. All costs of the Arbitrator are to be borne by the pub-owning business which is the party to the arbitration; unless the arbitrator decides that the tenant's claim was vexatious or wholly without merit, in which case costs will be assigned at the arbitrator's discretion. The other costs of the arbitration such as the parties' legal costs, can be apportioned in the final award.

The costs of arbitration are recognised in full over the course of the arbitration based on the enforceable right to receive payment for performance completed to date. The income from arbitration cost recovery is recognised over the course of the arbitration based on time incurred and agreed recharge rates. Amounts receivable in respect of incomplete arbitrations is shown as a contract asset in note 5, Other Receivables and Other Assets.

Investigations

The PCA has the discretion to charge the applicable pub-owning business(es) the full costs of an investigation, when it is concluded, which results in a finding that there has been a breach of the Code. Any appeals will be funded initially by the general levy and usually litigation costs follow the event. Costs required to be paid are recoverable by the Adjudicator as a debt.

The income associated with the recoverable costs of an investigation is a variable consideration. Until the investigation has been completed and findings published, there is uncertainty in respect of what, if any, income arises from cost recovery. Income from investigation cost recovery is recognised at the point the PCA is entitled to recover the costs. Any income received from investigation cost recovery will be taken into account in determining the general levy rebate at the end of the financial year. Costs associated with investigations are recognised in full over the course of the investigation.

Provision for an investigation was made in the 2019/20 levy submission, which received Ministerial approval. The PCA launched an investigation in July 2019 against Star Pubs & Bars (Heineken UK), and this was ongoing at 31 March 2020. All costs up to and including 31 March have been recognised in this financial year.

Going concern

The PCA is a statutory body with ongoing duties and therefore is a going concern with arrangements for funding. The Secretary of State has confirmed that a levy will not be raised on the pub-owning businesses in 2020–21 due to the uncertain effect of Covid-19 on the pubs sector. The PCA will be funded by the provision of assistance from BEIS and a loan to be repaid through the levy mechanism over the next two years.

Financial instruments

Financial instruments are initially measured at fair value plus transaction cost.

The categorisation of financial assets and liabilities depends on the purpose for which the asset or liability was held or acquired. Management determined the categorisation of assets and liabilities at initial recognition and re-evaluate this designation at each reporting date.

The categorisation of financial assets is determined based on both the business model and nature of the contractual cash flows.

Financial assets

The PCA holds financial assets, which comprise of cash at bank and receivables. These are non-derivative financial assets with fixed or determinable payments that are not traded in an active market. Since these balances are expected to be realised within 12 months of the reporting date, there was no material difference between fair value, amortised cost and historical cost.

Financial Liabilities

The PCA holds financial liabilities, which comprise of payables and a contract liability. Contract liability relates to un-spent levy funds which will be brought forwards against the levy amounts due in future periods. Since these balances were expected to be settled within 12 months of the reporting date, there was no material difference between fair value, amortised cost and historical cost.

Reserves

Income and expenditure reserve

The Adjudicator accounts for the PCA's accumulated surplus or deficit in the income and expenditure reserve. In the current and previous year the PCA's expenditure has equalled its income, so the income and expenditure reserve is nil.

Expenditure

All expenditure is recognised on an accruals basis. Purchases of capital items over £2,000 will be recognised in the accounts as an asset and appropriately depreciated or amortised. There are none to date as there is no Property, Plant and Equipment (PPE) in the financial statements.

VAT

As the PCA is not registered for VAT, all input VAT is irrecoverable and therefore charged to expenditure.

Operating leases

Payments for the building lease and the PCA's case management system are accounted for as an operating lease and therefore charged to expenditure.

2. Staff costs

The cost of staff remuneration was:

	Year ended 31-Mar-20 £	Year ended 31-Mar-20 £	Year ended 31-Mar-20 £	Period ended 31-Mar-19 £
	<i>Permanent Staff</i>	<i>Other Staff</i>	<i>Total</i>	<i>Total</i>
Wages and salaries	223,393	1,172,304	1,395,697	1,163,648
Social security costs	28,430	–	28,430	26,704
Other pension	67,688	–	67,688	51,703
Total	319,511	1,172,304	1,491,815	1,242,055

(i) The PCA is a ministerial appointment and the DPCA is a public appointment.

(ii) There have been no severance payments in the year.

The PCA is not registered for VAT, however VAT is charged on all home department salary invoices.

3. Other expenditure

	Year ended 31-Mar-20 £	Period ended 31-Mar-19 £
Accountancy fees	9,100	8,160
Alternative arbitrators	24,955	7,920
Annual licence fees	1,274	1,619
Audit fees	12,500	11,500
Bank charges	723	1,053
Consultancy	17,462	14,832
General expenses	50	27
Independent assessor fees	5,880	(572)
IT software & consumables.	77,604	81,575
Legal fees	57,542	57,870
Raising tenant awareness	75,504	21,693
Printing, postage & stationery	6,044	10,219
Procured legal resource	42,300	203,880
Recruitment	1,164	1,296
Regulatory activity	381,934	164,378
Rental costs	53,540	46,351
Repairs and maintenance	482	567
Staff training	2,871	13,913
Subscriptions	2,153	1,454
Travel & subsistence	22,991	23,328
Total other operating charges	796,073	671,063

4. Income

	Year ended 31-Mar-20 £	Period ended 31-Mar-19 £
Levy raised	3,000,000	2,553,000
Contract liability	(767,065)	(804,458)
	2,232,935	1,748,542
Arbitration fees	40,353	145,776
Referral fee income	14,600	18,800
Total income	2,287,888	1,913,118

5. Other receivables and other assets

Amounts falling due within one year

	Year ended 31-Mar-20 £	Period ended 31-Mar-19 £
Trade and other receivables	53,933	25,381
Prepayments	16,572	3,429
Contract asset*	28,013	87,068
Total income	98,518	115,878

*The amount shown as contract asset is sums accrued in respect of incomplete arbitrations

Trade receivables of £3,919 are past due and are aged within 0–3 months. Other receivables are not past due nor impaired. The expected credit losses on trade and other receivables are not considered to be material.

6. Cash and cash equivalents

	Year ended 31-Mar-20 £	Period ended 31-Mar-19 £
Balance at 1 April 2019	1,193,511	716,646
Net change in cash and cash equivalent balances	94,613	476,865
Balance at 31 March 2020	1,288,124	1,193,511

The following balances at 31 March 2020 were held at:

Government Banking Service	1,288,124	1,193,511
Balance at 31 March 2020	1,288,124	1,193,511

7. Trade payables and other liabilities

Amounts falling due within one year

	Year ended 31-Mar-20 £	Period ended 31-Mar-19 £
Contract liability	767,065	804,458
Trade and other payables	79,357	71,689
Accruals	540,220	433,242
Total	1,386,642	1,309,389

Contract liability solely relates to the unspent levy due to be returned to the pub-owning businesses. The accruals mainly relate to invoices for the secondment of staff and a more detailed explanation can be found in the Performance Report on page 3.

8. Capital commitments

The PCA had no capital commitments (2019: none).

9. Commitments under leases

Obligations under operating leases for the following year, as at 31 March 2020 comprise:

	Year ended 31-Mar-20 £	Period ended 31-Mar-19 £
No later than one year	48,804	29,045
Later than one year and not later than five years	–	–
Total	48,804	29,045

The PCA has a service Memorandum of Terms of Occupancy for rent and services. The initial lease term ends on 13 July 2023 but can be terminated at any time after 31 December 2020 subject to six months' notice by either party. The note shows only the lease commitments for the PCA's building lease. The PCA also holds a lease for their case management system but these commitments are not material so have not been included in the note.

10. Contingent liabilities & assets

A contingent liability exists in relation to ongoing litigation. The cost is dependent on the outcome, which currently cannot be reliably estimated. Future funding arrangements in any relevant years will take into account any outstanding liability.

11. Related party transactions

The PCA is a corporation sole funded in the current reporting year by a levy on 6 pub-owning businesses. The PCA has had various material transactions with BEIS, through the provision of payroll for the Adjudicator and ICT services.

Key management personnel are the members of the management board which include permanent staff. None of the PCA members or key managerial staff undertook any material transactions with BEIS during the year, except for remuneration paid for their services – see the Remuneration and Staff report on page 28.

12. Events after the reporting period and Accounting Officer declaration

The Accounting Officer authorised these financial statements for issue on the date they were certified by the Comptroller and Auditor General. The investigation into Star Pubs &

Bars was completed in October 2020 and income in respect of this is expected to be recognised in the 2020–21 financial year.

There are no other post-balance sheet events to report.

In accordance with the requirements of IAS10 ‘Events After the Reporting Period’, post-Statement of Financial Position events are considered up to the date on which Accounts are authorised for issue. This is interpreted as the same date as the date of the Certificate Report of the Comptroller and Auditor General. There are no post-Statement of Financial Position events between the balance sheet date and this date.



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