

FOI Release
Information released under the Freedom of Information Act

Title: Pubs consultation April 2013 — annexes to consultation

Date of release: 7 August 2013

Information request

The requestor made 12 requests for information relating to annexes to the Pubs consultation paper, including for evidence:

- * about the test for deciding whether premises are used principally for retail sales of alcohol to the public for consumption on the premises..
- * of the analysis justifying the Code requiring the concept of 'lawful' dealing; to explain the concepts of and criteria for a 'sustainable' business plan and a 'significant' alteration to prices.
- * relating to upward only rent assessments and unfair rent calculations and the definition of 'unfairness'; and to the impact/effect of the proposals on property law.
- * about potential alternative outcomes (unexpected consequences of introducing a Statutory Code).
- * about the impact on local microbreweries of the 'guest beer' option.
- * for the unreliability of flow monitoring equipment in determining whether a tenant is complying with purchasing obligations.

Also: When the Government will release a draft Pubs Adjudicator Bill for consultation; and details of studies, reviews, reports, correspondence, internal memoranda, etc relating to Enterprise Inns that were used by BIS in the formulation of the annexes to the consultation paper.

Information released

This request is one of a number of FOI requests relating to Pubs that BIS has received. Many of the documents provided as an answer to this request are also relevant to the others. Therefore, rather than repeat the same documents many times, documents relevant to all these Pubs-related FOI requests have been listed together in a single file of 149 documents.

The large majority of these documents either have no redactions or only redactions made under s.40 of the FOI Act relating to withholding of certain personal information. However, some documents have been redacted either wholly or in part because of one or more of the other exemptions provided by the Act. Ten documents in the attached file (nos 28-37) contain redactions under one

or more of these other exemptions. In each case the document shows clearly where text has been redacted and which exemption is being used.

The exemptions that have been used are as follows:

* s.21 exempts information from the right of access if that information is reasonably accessible to the applicant by other means.

* s.35 covers information that 'relates to' -

(1)(a)— formulation or development of government policy,

(1)(b) — ministerial communications,

* s.36 exempts information if disclosure would prejudice -

(2)(a)(i) the maintenance of the convention of the collective responsibility of Ministers of the Crown, or

(2)(b) inhibit i) the free and frank provision of advice, or ii) the free and frank exchange of views for the purposes of deliberation;

* s.40 exempts the release of personal data where disclosure would breach the Data Protection Act 1998.

* s.41 provides an exemption if release would constitute an actionable breach of confidence.

* s.43(2) exempts information, disclosure of which would be likely to prejudice the commercial interests of any person.

We received some questions about the Pubs Consultation which did not request recorded information and were therefore out of scope of the FOI Act. We have however created a 'Questions and Answers' document – the first one listed in the file of documents – to respond to these questions.