



Pubs Code Adjudicator

Office of the Pubs Code Adjudicator
Lower Ground
Victoria Square House
Victoria Square
Birmingham
B2 4AJ
Email: office@pca.gsi.gov.uk

13 December 2017

Dear XXX

Thank you for your email, received on 16 November 2017, in which you requested information from the office of the Pubs Code Adjudicator (PCA) under the Freedom of Information Act 2000.

The Freedom of Information Act 2000 entitles you to:

- know whether the information you have requested is held by the PCA; and
- be provided with that information, subject to any exemptions in the Freedom of Information Act 2000 which may apply.

You have requested the following information:

Please send us a list of POB meetings with Mr Newby and or PCA staff. When outlining any POB meetings with Mr Newby or the staff at PCA, please indicate who was attending, the date they took place and a copy of any minutes taken from those meetings.

I can confirm that the office of the PCA does hold information relevant to your request.

Annex A provides a list of meetings held between the PCA and/or his office and pub-owning businesses regulated by the Pubs Code between 2 May 2016 and 16 November 2017, the date your request was received. The names of PCA officials below a certain grade have been withheld pursuant to section 40(2) of the Act as the information meets the first condition in section 40(3) of the Act (because it would be unfair to process the personal data of those individuals in breach of the first data protection principle in the Data Protection Act 1998).

The PCA is committed to being transparent in his operations, where the law allows, and publishes records of meetings held with stakeholders, including pub-owning businesses where appropriate. These records are available to view at www.gov.uk/pca. Annex B provides additional records of meetings not currently



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available to view on the PCA website but which are being disclosed in response to your request.

Some of the information within the scope of your request is exempt from disclosure under section 31(1)(g) of the Act because the information would or would be likely to prejudice the exercise of the PCA's functions for the purpose specified in section 31(2)(c) of the Act. That purpose is ascertaining whether circumstances which would justify regulatory action in pursuance of any enactment exist or may arise. The PCA has statutory powers to regulate the pub-owning businesses covered by the Pubs Code and information relating to your request relates to the PCA's consideration in respect of regulatory action.

Some of the information is also exempt under section 36(2)(b)(ii) and/or (c) of the Act because, in the opinion of the qualified person (in this case the PCA), its disclosure would, or would be likely to, inhibit the free and frank exchange of views for the purposes of deliberation, and/or would otherwise, or would be likely otherwise to, prejudice the effective conduct of public affairs. This is because the information includes discussions with regulated pub-owning businesses, which, if disclosed, may inhibit the PCA from the most effective regulation of those businesses in the future.

Additionally, the PCA considers some of the information held is exempt under section 43(2) of the Act because release of the information would, or would be likely to, prejudice the commercial interests of one or more of the pub-owning businesses.

The information exempt under the Act specifically relates to bilateral meetings between the PCA and pub-owning businesses identified at Annex A.

The PCA has considered whether the public interest lies in disclosing the information or favours maintaining one or more of the exemptions and withholding it. In doing so the PCA has taken into account the views of those whose information is held by the PCA and falls within the scope of your request.

The PCA recognises the public interest in transparency, which assists people in understanding the impact of the Pubs Code since it came into force. The PCA also recognises the importance of holding his public role, as well as those pub-owning businesses regulated by the Pubs Code, to account. However, the PCA considers there to be a greater public interest in preserving the confidentiality of certain meetings so that pub-owning businesses will continue uninhibited to discuss Pubs Code issues that affect their business.

In his role as a regulator, the PCA is also mindful of the need to hold full and frank discussions with pub-owning businesses, and to fully explore and test issues arising in relation to regulated entities and the industry generally to support best regulatory action. Preserving the safe space in which to debate difficult issues will enable such discussions to continue uninhibited and ensure the PCA has the best possible information in undertaking his regulatory activities.



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For the reasons outlined above, the PCA is of the opinion that exemptions under sections 31(1)(g), 36(2)(b)(ii) and/or (c) and 43(2) of the Act apply to some of the information referenced at Annex A and that the public interest favours withholding it.

If you do not believe that the office of the PCA has provided an appropriate response to your request, as set out above, you are entitled to ask for an internal review. Internal review requests should be submitted within two months of the date of receipt of the response to your original request and should be made in writing, quoting the above reference, to office@pca.gsi.gov.uk or:

PCA
Lower Ground
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If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe



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Annex A: meetings held between the PCA and/or his office and pub-owning businesses regulated by the Pubs Code between 2 May 2016 and 16 November 2017

2016

Date	Meeting type	Pub-owning business/attendees	PCA attendees
11/05/16	Bilateral meeting	Greene King: Clive Chesser Mark Blythman	Paul Newby Official from the office of the PCA
12/05/16	Bilateral meeting	Star Pubs & Bars: Lawson Mountstevens Chris Moore	Paul Newby Official from the office of the PCA
16/05/16	Bilateral meeting	Punch Taverns: Duncan Garrood Stuart Gallyot James Richards	Paul Newby Official from the office of the PCA
17/05/16	Bilateral meeting	Admiral Taverns: Kevin Georgel Andy Clifford Mark Brown	Paul Newby Official from the office of the PCA
23/05/16	Bilateral meeting	Marston's: Peter Dalzell Andy Carlill Christine Stevens	Paul Newby Official from the office of the PCA
27/05/16	Bilateral meeting	Ei Group (formally Enterprise Inns): Simon Townsend Rob May Sara Kitchen	Paul Newby Official from the office of the PCA



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12/07/16	PCA and Code Compliance Officer forum meeting	<i>See Annex B</i>	
23/09/16	PCA and Code Compliance Officer forum meeting	<i>See Annex B</i>	
12/12/16	PCA and Code Compliance Officer forum meeting	<i>Record of meeting published at www.gov.uk/pca</i>	

2017

Date	Meeting type	Pub-owning business/attendees	PCA attendees
19/01/17	Bilateral meeting	Marston's: Peter Dalzell Christine Stevens	Paul Newby Officials from the office of the PCA
31/01/17	Bilateral meeting	Admiral Taverns: Kevin Georgel Andy Clifford	Paul Newby Officials from the office of the PCA
01/02/17	Bilateral meeting	Greene King: Clive Chesser Julie Jolly	Paul Newby Officials from the office of the PCA
06/02/17	Bilateral meeting	Ei Group: Simon Townsend Rob May Sara Kitchen	Paul Newby Officials from the office of the PCA
07/02/17	Bilateral meeting	Star Pubs & Bars: Lawson Mountstevens	Paul Newby Officials from the office of the PCA



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		Chris Moore David Patterson	
08/02/17	Bilateral meeting	Punch Taverns: Duncan Garrood Stuart Gallyot James Richards	Paul Newby Officials from the office of the PCA
03/03/17	Bilateral meeting	Ei Group: Simon Townsend Rob May Sara Kitchen	Paul Newby Official from the office of the PCA
28/03/17	PCA and Code Compliance Officer forum meeting	<i>Record of meeting published at</i> www.gov.uk/pca	
20/04/17	Bilateral meeting	Ei Group: Simon Townsend Rob May Sara Kitchen	Paul Newby Officials from the office of the PCA
20/06/17	PCA and Code Compliance Officer forum meeting	<i>Record of meeting published at</i> www.gov.uk/pca	
20/09/17	PCA and Code Compliance Officer forum meeting	<i>Record of meeting published at</i> www.gov.uk/pca	
27/09/17	Bilateral meeting	Punch Taverns: Steve Dando Stuart Gallyot James Richards	Paul Newby Officials from the office of the PCA



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02/10/17	Bilateral meeting	Ei Group: Simon Townsend Rob May	Paul Newby Officials from the office of the PCA
04/10/17	Bilateral meeting	Greene King: Clive Chesser Julie Jolly	Paul Newby Officials from the office of the PCA
09/10/17	Bilateral meeting	Admiral Taverns: Kevin Georgel Andy Clifford Mark Brown	Paul Newby Officials from the office of the PCA
10/10/17	Bilateral meeting	Marston's: Andrew Carlill James Edwards Christine Stevens	Paul Newby Officials from the office of the PCA
11/10/17	Bilateral meeting	Star Pubs & Bars: Lawson Mountstevens Chris Moore Sophie Goodall	Paul Newby Officials from the office of the PCA



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Annex B: records of meetings held between the PCA and/or his office and pub-owning businesses regulated by the Pubs Code not currently published on the PCA website (between 2 May 2016 and 16 November 2017)

Code Compliance Officer (CCO) forum meeting **12 July 2016**

Attendees

Jim Cathcart	BBPA	James Richards	Punch Taverns
Mark Brown	Admiral Taverns	Stuart Gallyot	Punch Taverns
Julie Jolly	Greene King	Christine Stevens	Marston's
Sara Kitchen	Enterprise Inns	Paul Newby	PCA
Rob May	Enterprise Inns	Kathy Lee-Cole	PCA
Chris Moore	Star Pubs & Bars	Stephen Childerstone	PCA

Terms of Reference

JC reported that the draft ToR provided by the PCA broadly accorded with the BBPA's views on the role of the CCO forum. However, the BBPA would value more regular contact with the PCA during the early months of the Code. PN said that he envisaged two further meetings before Christmas – one at the end of the summer; and a second after the publication of the PCA's investigation guidance in November. SG suggested that the next meeting should be at the end of August to review the first month of the Code.

It was agreed that nominated deputies should be admitted to the CCO forum.

KLC suggested that the ToR should be adopted on an interim basis; but reviewed after 6 months.

POB reporting obligations to the PCA

SG pressed for (and other CCOs supported) early advice from the PCA, preferably before Day 1 of the Code coming into force, on the form and content of the Compliance Reports to be submitted by the POBs. CCOs were concerned about making their own judgment on the type and format of information to be collected only to be told later that the PCA had different expectations or requirements.

In the absence of definitive advice from the PCA, CM suggested that CCOs might adopt the existing IFC6 reporting structure as a starting point and until advised otherwise by the PCA.



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Day 1 Service

KLC confirmed the PCA's Day 1 priorities:

- A communications strategy to get the message about the Code coming into force to as many tenants as possible;
- Having all of the necessary Day 1 information available via the PCA website:
 - Introductory information about the PCA and the Code;
 - the PCA's arbitration offer;
 - factsheets on all of the key aspects of the Code – including when and how MRO can be invoked;
 - the PCA's statements on handling conflicts of interest and the management of information;
 - the criteria for appointing MRO independent assessors; and
 - links to the Regulations and other helpful sources of information and advice.
- An operational Code Enquiry Line to receive and triage tenant enquiries.

SG asked whether the PCA would publish its service standards – for example, around the 24 hour target to respond to callers. KLC confirmed that this would be made clear in the PCA's publicity about its services.

SK was anxious to have the PCA's telephone and website contact details as soon as possible so that these could be communicated to Enterprise's tenants on Day 1. PN promised to provide these to CCOs in good time before Day 1.

SG reported his understanding that the campaigning tenant groups planned to 'swamp' the PCA with calls on Day 1. PN said that the service had been designed to be as resilient as possible.

SG reported that Punch currently expects to have XXX viable MRO cases; RM said that XXX tenants had told Enterprise that they will seek MRO.

CM asked whether CCOs would have access to the data on how many of their tenants had contacted the PCA and a breakdown of the issues raised. SG said that Punch genuinely wanted to know where it was under-performing and needed to improve. KLC said this was theoretically possible to provide this information - it would be helpful to have an idea of the level of detail that CCOs would be looking for.

RM asked whether the PCA was subject to the Freedom of Information Act. KLC confirmed that it was and that its provisions providing for confidentiality would apply to arbitrations conducted by the PCA.

CM was concerned that the PCA's process for triaging enquiries might encourage formal disputes at the expense of informal resolution at POB level. PN stressed that the PCA's service would be a neutral one – it would not advise tenants on what they should or should not do, but simply set out what their rights or options are. KLC



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added that the PCA would not be measuring its success in terms of the number of formal cases, but rather in terms of overall compliance with the Code. SG re-iterated that Punch would not be giving its tenants any advice on the Code.

POB concerns about interpretation of the Code

PN acknowledged the list of issues on which the CCOs were seeking clarity from the PCA. His focus, however, had necessarily been on providing a Day 1 service; and CCOs would have to accept that there were some areas where the PCA would not be able to provide clarity swiftly.

RM, supported by SG, said that this answer was unhelpful. POBs had a right to expect clarity from the start on the standards that they would be held to. SG highlighted – and other CCOs supported – concerns about the requirements on insurance in Regulation 46. CCOs said that these could not be complied with without resorting to price-matching – which they did not believe was what BIS had intended when drafting the Regulations.

PN stressed that the PCA has a statutory duty to consult on and publish its investigation and enforcement guidance within six months of his appointment (i.e. by 2nd November). This would be a bespoke, and not a standard 12 week consultation. The PCA would provide more details shortly after Day 1 of the Code.

CM asked whether the PCA will share emerging evidence on the operation of the Code with the CCO Forum as a way of driving best practice. PN confirmed that he wanted to do that.

PCA Levy

KLC confirmed that the Levy for 2016/17 was subject to ministerial sign-off. The PCA would formally write to each POB setting out the levy methodology and requesting payment. The PCA would welcome advice on whether these letters should be addressed to Chief Executives or to CCOs. The view was that they should be addressed to CEOs and copied to CCOs.

PCA communications with tenants

KLC asked for ideas about how the PCA could communicate with all of the tenants covered by the Code, given that the PCA could not keep its own database of all of those tenants. It was noted that this could not be a Day 1 action.

SG was wary about the PCA requiring the same form of communication for all of the POBs. PN said this was not the plan – he was interested in working with each POB within their existing structures / channels; for example, regular emails, roadshows. He wanted to be able to demonstrate that he had reached the whole of the Code tenant community.



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JJ said that Greene King would be happy to use its tenant email list to deliver PCA messages – so long as these messages were going to the tenants of all the POBs. RM promised neutral access for the PCA to Enterprise's tenant mailing list. PN stressed that he envisaged a distinct PCA product, not messages incorporated into POB material.

SG said that Punch would be happy to send anything and whenever required to its tenants on behalf of the PCA. He would write to the PCA to invite PN to attend Punch's autumn tenant roadshows.

PCA / POB / Tenant groups' co-operation

PN explained that he hoped to establish a parallel forum with tenant representative groups. He expected that this would at least involve the ALMR, the BII and the FLVA and possibly some of the constituent parts of the British Pub Confederation. He hoped that there could be direct engagement between this tenant forum and the CCO forum (for example, to promote tenant membership of professional bodies) as part of a tripartite relationship with the PCA. JC said that he and the CCOs would have to think further about their involvement in such a tripartite arrangement.



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Code Compliance Officer (CCO) forum meeting 23 September 2016

Attendees:

Paul Newby	PCA	Sara Kitchen	Enterprise Inns
Kathy Lee-Cole	PCA	Rob May	Enterprise Inns
Sunita Kumar	PCA	Jim Cathcart	BBPA
Julia Staniforth	PCA	Andy Tighe	BBPA
Mark Brown	Admiral Taverns	Chris Moore	Star Pubs & Bars
Andy Clifford	Admiral Taverns	Christine Stevens	Marston's
Stuart Gallyot	Punch Taverns	Julie Jolly	Greene King
James Richards	Punch Taverns	David Ingram	Greene King

Governance

The terms of reference were reviewed.

The PCA proposed to facilitate joint POBs/Tenant Representative groups, "Recommendation Groups", hosting and giving secretariat support.

The POBs proposed developing agreed working practices.

It was agreed that in future, the finalised note of each meeting can be published.

Progress so far

The PCA reported that the enquiry line is active and taking a steady stream of tenant code related queries. The PCA reiterated that this enquiry line gives information not advice to tenants.

The PCA are considering how to disseminate data from the enquiry line.

The PCA gave the CCOs information about the top 7 issues emerging from the enquiry line.

The PCA stated that arbitration decisions will not be made public.

POB updates

Each POB gave an update. Key themes were:

- POB staff need training on key Code areas
- Timescales for dealing with Code issues are tight
- The focus for tenants currently are MROs
- Tenants are still not knowledgeable about the Code



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PCA announcement

The PCA will give POBs advance notice of future announcements and discuss individual POB issues with each CCO.

Suitability of Independent Advisors to tenants

The PCA informed the CCOs that the BII are working to create a panel of advisors that tenants can access. The PCA cannot vet advisors and tenants can complain to the advisors professional body if they are concerned.

Enforcement and investigation consultation

All POBs undertook to respond to the consultation by the deadline of 30 September 2016.

Communications update

The PCA has engaged the services of a Communications Consultant to develop and implement a communications plan to ensure as many tenants as possible become aware of the Code.

The PCA considers three main themes as important:

- How to measure the effectiveness of the PCA communications
- How to collate and consistently share information
- Engaging Tenants