



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

29 August 2017

Dear XXX

Thank you for your emails, received between 27 June 2017 and 1 August 2107, in which you requested information from the office of the Pubs Code Adjudicator (PCA) under the Freedom of Information Act 2000 (the Act).

The Act 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 Act which may apply.

You have requested the following information:

1. *How many Independent Assessor joint appointment requests were made to the PCA service.*
2. *How many Independent Assessor award cases in total have been appealed/referred back to the PCA, please split this number by a) the tenant raising an issue with the market rent b) by the pub-owning business raising an issue with the market rent.*
3. *A copy of the RICS DRS contract held with the PCA service.*

The purpose of our email correspondence between 27 June 2017 and 1 August 2017 was to clarify the information being requested. Based on this correspondence, I can confirm that the office of the PCA does hold information relevant to your first and second requests but does not hold information relevant to your third request. Further details are set out below.

In relation to your first request, we have interpreted your request to be: *How many joint requests has the PCA received to appoint an Independent Assessor, where the parties have failed to agree an appointment themselves?*



Pubs Code Adjudicator

Since the Pubs Code came into force on 21 July 2016 up to and including 1 August 2017, the office of the PCA received 13 joint requests to appoint an Independent Assessor; of these, 9 Independent Assessors have been appointed. The remaining 4 requests were withdrawn before an Independent Assessor was appointed by the PCA.

In relation to your second request, we have interpreted your request to be: *How many referrals for arbitration has the PCA received in relation to an Independent Assessor determination, and were these made by a tied pub tenant or a pub-owning business (and which pub-owning business)?*

Since the Pubs Code came into force on 21 July 2016 up to and including 1 August 2017, the office of the PCA received 15 referrals for arbitration in relation to an Independent Assessor determination. For completeness, it might be helpful to note that the PCA accepted 14 of these referrals.

Information relating to whether these referrals were made by a tied pub tenant or a pub-owning business, and which pub-owning business, is exempt under section 40(2) of the Act because the it constitutes personal data, the disclosure of which would contravene the first data protection principle, namely the fair and lawful processing of personal data where none of the conditions in Schedule 2 to the Data Protection Act 1998 apply. This is because the information relates to a relatively small data set, that is, 14 accepted referrals, and the PCA is of the opinion that individuals and/or pub-owning businesses in arbitration proceedings may be identified as a result.

The PCA is, however, mindful of the need to be as transparent as possible and will review any future requests for this information once the data set increases sufficiently to ensure the confidentiality of individuals.

In relation to your third request, we have interpreted your request to be: *A copy of the contract held between the Royal Institution of Chartered Surveyors (RICS) Dispute Resolution Service and the office of the PCA in relation to the appointment of Independent Assessors.*

This information is not held by the PCA. This is because the PCA's current arrangement with RICS is not contained in a single contract. The support offered to the PCA for the appointment of Independent Assessors is an agreement to provide a recommendation on a case by case basis. It might be helpful to note, however, that the PCA has set out his criteria for appointing Independent Assessors; these include being a member of RICS and being a member of the RICS President's Panel of Independent Experts. Where the PCA has received a request to appoint an Independent Assessor on behalf of both parties, RICS is asked to provide the PCA with a recommended Independent Assessor, having undertaken conflicts of interest checks. The RICS standard fee is paid for by the office of the PCA. The full criteria and supporting guidance for the appointment of Independent Assessors are published on the [PCA website](#). Fee structures where the PCA has appointed and paid for an Independent Assessor are published on the [RICS website](#).



Pubs Code Adjudicator

If you are not content with this response, 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
Victoria Square House
Victoria Square
Birmingham
B2 4AJ

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 House, Water Lane, Wilmslow, Cheshire, SK9 5AF.