



Pubs Code
Adjudicator

The Pubs Code Adjudicator

Annual Report and Accounts

01 April 2017 to 31 March 2018





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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 and Adjudicator: overview

This overview provides information about the entity, the main objectives, strategies and principal risks that the Pubs Code Adjudicator (PCA) has faced during the reporting period.



Foreword by Paul Newby, Pubs Code Adjudicator



In my Foreword to the PCA's first annual report last year I said it was my ambition that the Pubs Code would come into its own in the following year. After another busy and challenging twelve months – which I am delighted to say also saw the appointment of Fiona Dickie as the Deputy Pubs Code Adjudicator – our belief is that the Pubs Code is beginning to take root and to influence industry practice and improve tied tenant experiences. We are not complacent, and there is always more work to be done, but we can point to the continued growth in the capability of the PCA office – with additional staffing, streamlined processes and significantly more information to support tied tenants accessing their Pubs Code rights.

Specifically, for tied tenants, we have produced a number of short introductory videos on key aspects of the Pubs Code. We are committed to providing fair, impartial, accurate and timely information to tied tenants about their Pubs Code rights, and access to effective redress when things go wrong, and this work continues at pace for my office. We are grateful to have a dedicated and hard-working team behind us, who remain resolute in their commitment to the Pubs Code and its core principles.

A key objective over the last year has been to widen and deepen my relationships with the tied tenant community. I have continued to take every available opportunity to attend and address events where tied tenants will be present; and I am particularly pleased that the PCA now has a formal relationship as part of its core stakeholder strategy with the campaigning tenant groups who did so much to bring about the Pubs Code in the first place. Effective engagement with tied tenants will continue to be a priority for me in the coming year – and I would like to work with those who represent the tied tenant community to help them establish a voice within the industry that can balance that of the British Beer and Pub Association (BBPA) on behalf of the pub-owning businesses.

As a regulator, I have a statutory responsibility to ensure that those I regulate are clear about what is expected of them. I have therefore gone to considerable lengths during the last year to meet this demand for information about how the Pubs Code should be interpreted and what compliant processes and behaviour look like. Over the last twelve months, I have published a wide range of bulletins, other information and statutory advice covering – amongst other things – the Market Rent Only (MRO) process (this is the process that the pub-owning business and tied pub tenant must follow to enter into a MRO tenancy); the fee structure for independent assessors of MRO rent; the form and content of MRO-compliant proposals; stocking requirements in MRO agreements; the investment exception; and the PCA's interpretation of the Pubs Code provisions on detriment and the definition of an unfair business practice.

I have additionally issued the first chapter of the PCA's Regulatory Compliance Handbook to all of the regulated pub-owning businesses. This sets out what I expect of them in their relationships with tied tenants and on the conduct and training of their Business Development Managers. I plan to supplement this first chapter over the coming months by meeting business development

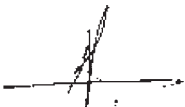
managers and setting out directly to them the crucial role that they play in ensuring the principles of the Pubs Code are met. I intend to add further chapters to this Handbook over the coming year, with the issue of dilapidations a particular focus.

This year I have also addressed behaviours that I consider contrary to the principles of the Pubs Code. This includes issuing advice on tied rent contractual dispute resolution clauses and the clarity required in the use of Calderbank Offer letters and making a clear statement on the use of technicalities by pub-owning businesses to obstruct or delay MRO requests. In both cases I have seen changes of behaviour by pub-owning businesses.

The PCA cannot act on anecdote and so the gathering of evidence from across the industry is critical to the effective enforcement of the Pubs Code. My office has conducted its first independent tenant survey with almost 400 tied tenants. It is encouraging that this survey, together with other research, shows that large numbers of tied tenants are aware of the Pubs Code. This is further evidenced by the large numbers of enquiries and referrals received by the PCA. The role of the Business Development Manager was also highlighted in the findings as being critical to the relationship between the tied pub tenant and the pub-owning business. Raising the profile of this role will be a priority for the PCA in the next reporting year. The findings from the survey have been published on the PCA website and, moving forward, we will be conducting an annual survey to identify progress and emerging areas of concern. This evidence base has been supplemented by a MRO verification exercise undertaken during the summer.

I said last year that I expected 2017/18 would be when the Pubs Code demonstrated what it had to offer tied tenants. I am encouraged that our tenant survey and other research have shown that large numbers of tied tenants are aware of the Pubs Code and the options that it gives them; and that increasing numbers are interested in exploring their statutory rights. But I also said last year that I will go where the evidence takes me when arbitrating, investigating and ultimately enforcing the Pubs Code.

Twelve months on, I have a much clearer picture about the extent and the nature of the barriers that tied tenants are facing when exercising their Pubs Code rights. This is what will shape my approach to regulatory action in the coming year.



Paul Newby
Pubs Code Adjudicator

17 July 2018

Fiona Dickie, Deputy Pubs Code Adjudicator



The focus of both the Adjudicator and myself since I took up the role of Deputy Pubs Code Adjudicator last November has been two-fold – not simply getting to grips with the large volume of existing arbitration casework, but also taking proactive steps to create a regulatory environment in which there will be fewer referrals for arbitration in the future. We expect to see evidence of the latter in the coming year as issues identified in arbitrations continue to inform our regulatory work and in turn influence how pub-owning businesses and their tied pub tenants conduct their interactions and negotiations under the Pubs Code. The Adjudicator and I have also invested significant time and effort since my appointment in a renewed effort to deepen relationships with stakeholders

from across the industry, and we look forward to building on these in the coming year.

We understand the concerns raised about the time that disputes referred to the PCA for arbitration have been taking to resolve and are mindful of this in dealing with cases in a proper and lawful manner. Nevertheless, we have listened to these concerns and introduced a range of new case management disciplines – including tighter timetabling and greater interaction with parties through case management conferences and oral hearings. These are now delivering results in terms of more and faster conclusions of arbitrations. Up to 31 March 2018, 122 awards had been issued since inception.

There are a significant number of referrals coming to the PCA – in particular, on the MRO elements of the Pubs Code. We have issued a number of arbitration awards to address the question of MRO compliance directly and also issued an advice note under our advice powers in the light of recent awards. The Pubs Code is still relatively new and technical law which is being rigorously tested by all sides. We are working tirelessly to give clarity to the industry, but this must be through the correct legal processes prescribed by Parliament. I am however confident that next year will bring more clarity to the industry – and to tied tenants in particular on significant aspects of the Pubs Code.

Together with Paul Newby, I am also supporting the publication of full awards so that parties have the same level of transparency and understanding. Having made a number of awards, we have been concerned that pub-owning businesses and tied tenants do not have the same access to award decisions, and they will therefore have different levels of information and understanding of the positions taken by the arbitrator on aspects of the Pubs Code in the particular circumstances. This has real potential for unfairness. There is also a real need to expedite information into the public domain.

*Fiona Dickie
Deputy Pubs Code Adjudicator
12 July 2018*

Review of the Year

During 2017/18 reporting period the PCA has prioritised activities to support the embedding of the Pubs Code into the everyday communications and interactions between pub-owning businesses and their tied pub tenants.

Stakeholder engagement

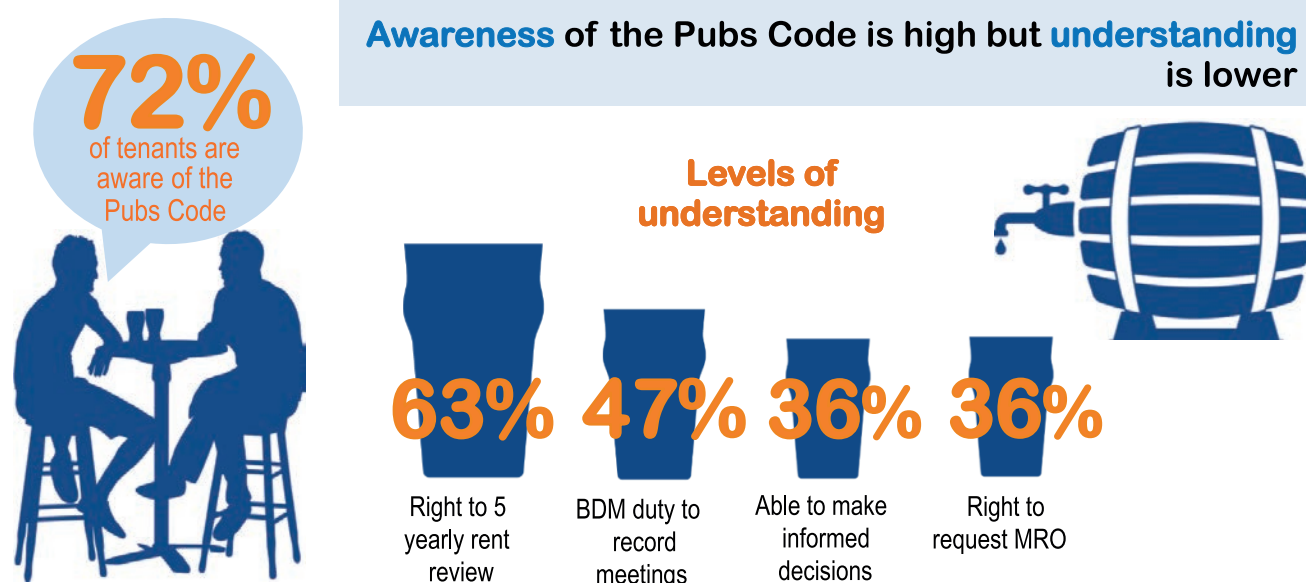
The PCA and DPCA have undertaken a programme of quarterly meetings with the Pubs Code Compliance Officers of the pub-owning businesses and with organisations who collectively represent the tenant community. The minutes of these meetings have been published on the PCA website. The PCA has additionally held twice-yearly meetings with the chief executives of each of the Code pub-owning businesses.

During the reporting period, the PCA and the DPCA embarked on an outreach programme to engage with interested stakeholders, including attending a number of tenant events and forums, and providing updates to Parliamentarians. The PCA and DPCA plan to continue this stakeholder engagement in the coming reporting period, with a particular focus on the Business Development Manager community.

Measuring tenant attitudes and experiences

The PCA conducted a verification exercise during the summer of 2017 to gain insights into the experiences of tied pub tenants who had pursued their MRO option under the Pubs Code. The PCA spoke to individual tenants, their advisers and tenant organisations. The verification exercise revealed concerns that the form and content of the MRO agreements being offered by pub-owning businesses, along with the up-front costs quoted, were acting as a barrier to tied pub tenants exercising their MRO rights. These lessons are now informing our approaches to shaping the regulatory environment.

Our regulatory priorities are also being informed by the survey of tied pubs tenants, conducted by the research company GfK on behalf of the PCA during November and December 2017. The survey questioned 388 tied pub tenants on their experiences of the Pubs Code; and 27 follow-up interviews explored key aspects of the Pubs Code, including the MRO process, in more detail. The survey findings, which were published by the PCA in March 2018, provide a benchmark against which to assess the effectiveness of PCA activities. They have revealed that while there was an encouraging level of general awareness on the part of tenants about the Pubs Code and of the PCA, there was significant interest from tenants for further and more accessible information.



The survey echoed the findings of the verification exercise that the MRO process is not currently giving tied pub tenants an effective choice between their tied and free-of-tie options. It also revealed the importance that tied pub tenants place on their relationship with their pub-owning business's Business Development Manager.

The role of the Business Development Manager is important to successful tenant/landlord relationships and accessing Code rights

Tenants rated BDMs



Responsive

Consistent



Knowledgeable

Supportive

Attributes of a good BDM

“The more information you have, the better you are set up to succeed”

PCA advice and resources

This engagement and intelligence-gathering has informed the PCA's strategy during the reporting period for publishing information and advice on the application of the Pubs Code.

The findings of the verification exercise led to the PCA publishing its Regulatory Compliance Handbook in December 2017. This is a statement of the PCA's minimum expectations of pub-owning businesses in respect of their day-to-day Pubs Code interactions with tied pub tenants.

The PCA has also used the verification exercise, as well as the findings of the tenant survey, to produce the framework for the annual Pubs Code Compliance Reports to be submitted by pub-owning businesses, which go beyond the minimum requirements in the Pubs Code itself, to enable the PCA to have a detailed picture of how pub-owning businesses are managing all aspects of their tied estates covered by the Pubs Code. Pub-owning businesses are required to submit their first Compliance Reports no later than 31 July 2018.

In March 2018, the PCA published a statutory Advice Note under section 60 of the SBEE Act 2015 providing pub-owning businesses and tied pub tenants with additional information on the factors it will take into account when asked to arbitrate on the form and content of a MRO-compliant agreement. This reflects the decisions of the PCA and the DPCA in individual arbitration cases; and builds on the changes to MRO practices as a result of arbitration awards in individual cases.

The PCA has published regular Bulletins providing pub-owning businesses and tied pub tenants with information on a range of Pubs Code issues – including ensuring that the conclusion of tied rent negotiations does not terminate, unless explicitly agreed, any MRO process running in parallel; the approach to independent assessments of the MRO rent; and the definition of a qualifying investment under the Pubs Code provisions on the MRO investment exception. The PCA has also introduced a revised process for the management of arbitration cases to maintain the pace of proceedings. A revised referral form guides parties to ensure an effective referral is made leading to a reduction of cases that are rejected for lack of jurisdiction.

The PCA has produced a range of resources aimed specifically at increasing tied pub tenants' awareness of the Pubs Code and its key provisions. The PCA has produced an introductory leaflet on the Pubs Code, with information about the role of the PCA. It provides links to the PCA website and the PCA Enquiry Line and has been delivered directly to every tied pub tenant covered by the Pubs Code, by their pub-owning business. The PCA has also posted a number of short explanatory videos on its website, each of which explores a key aspect of the Pubs Code.



Background

Historically, the UK pubs sector has been dominated by the ‘tied model’ under which pub tenants are required to purchase their beer and often other products and services from the company that owns their pub premises.

Until the early 1990s, these companies were typically the brewers of the beer sold in the pub. By the late 1980s, the UK beer market had come to be dominated by six national brewers who collectively accounted for 75 per cent of UK beer production as well as controlling more than half of all UK pubs.

This concentration of ownership and market control gave rise to competition concerns and following an investigation by the Monopolies and Mergers Commission, the Government enacted the ‘Beer Orders’¹ in 1989 to loosen the control of the large brewers and to bring new players into the market. This led to the emergence of the first pub companies (or ‘PubCos’), and by the early 2000s the tied pub sector had come to be dominated by a number of large PubCos with estates of several thousands of tied pubs

Following more than a decade of political debate about the balance of risk and reward between these large PubCos and their tied tenants, and after a short-lived experiment in industry self-regulation, the Government announced in June 2013 its intention to legislate for a statutory Pubs Code underpinned by dispute resolution and enforcement by an independent regulatory body. Legislation to give Ministers the power to enact a Pubs Code and creating the office of the Pubs Code Adjudicator was enacted in Part 4 of the SBEE Act 2015.

The Pubs Code gives effect to the twin Pubs Code principles of fair and lawful dealing by pub companies in relation to their tied tenants and that tied tenants should be no worse off than if they would be free of the tie. The Pubs Code requires greater levels of information to be provided to tied tenants and significantly, it also provides for the Pubs Code to give tied tenants the right to opt to go free-of-tie under a ‘Market Rent Only’ option. The first Pubs Code Adjudicator, Paul Newby, took up his position on 03 May 2016; and the Pubs Code² itself came into force on 21 July 2016. The 2015 Act also provides for the appointment of a Deputy Pubs Code Adjudicator; and the first Deputy, Fiona Dickie, took up her role on 01 November 2017.

1 The Supply of Beer (Tied Estate) Order 1989.

2 The Pubs Code etc. Regulations 2016 (2016 No. 790); The Pubs Code (Fees, Costs and Financial Penalties) Regulations 2016 (2016 No. 802).

Purpose and activities of the PCA

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 tenants – of which on 01 March 2018 there were around 11,142. Six of these large pub companies are currently covered by the Pubs Code:

- Admiral Taverns Ltd
- Ei Group Plc (formerly Enterprise Inns Plc)
- Greene King Plc
- Marston's Plc
- Punch Taverns Plc
- Star Pubs and Bars (Heineken UK)

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:

- fair and lawful dealing by pub companies in relation to their tied tenants;
- 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 that the Pubs Code grants a tied tenant to request a (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 these options 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. It sets out the right of tied tenants not to accept a tie for gaming machines; the use to which pub-owning businesses may put evidence gained from flow monitoring equipment and the 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 is the independent, statutory PCA in England and Wales. The PCA is a Ministerial appointment and a corporation sole. The statutory office of the PCA was created by section 41 of the SBEE Act 2015, which places statutory, financial and reporting obligations on the holder of the office.

Fiona Dickie is the DPCA in England and Wales. The DPCA is a Ministerial appointment pursuant to paragraph 4 of Schedule 1 to the SBEE Act 2015.

The Registered Office of the PCA is at:

Lower Ground Floor
Victoria Square House
Victoria Square
Birmingham
B2 4AJ.



The PCA and DPCA are responsible for ensuring compliance with the Pubs. To do this, they have broad statutory powers to produce information and 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 PCA and DPCA have a statutory duty to arbitrate disputes between tied tenants and their pub-owning businesses under the Pubs Code framework that are referred to the them. They also have statutory powers to investigate, where they have reasonable grounds to suspect that there have been breaches of the Pubs Code; and to take the enforcement action they consider necessary. The PCA and DPCA additionally have a statutory duty to report to the Secretary of State any practices by pub-owning businesses that, while Pubs Code-compliant, they believe meet the test for an unfair business practice set out in the SBEE Act 2015.

3. The office of the PCA

As set out in the first Annual Report 2016-17, the priority for the PCA during its first eleven months was to successfully establish the office of the PCA and to provide the Adjudicator with support to manage the business successfully and deliver his statutory functions .

2017–18 has been a year of consolidation and growth for the PCA. As the arbitration caseload has increased and regulatory considerations broadened, the work of the PCA has been structured around three main themes:

Enquiries and Arbitrations: The PCA deals with enquiries through a telephone Enquiry Line service, online enquiry forms via the PCA website, e-mails and written enquiries. This service was taken in-house on 03 May 2017 when the PCA’s contract with the Regulatory Delivery Directorate (now the Office of Product Safety and Standards) came to an end.

The initial high volume of referrals for arbitration that accompanied the introduction of the Pubs Code continued during 2017-18. The PCA has responded to these sustained demands – and has sought to limit the time and expense associated with the arbitration process – by increasing the resourcing of the office of the PCA and by the appointment of the Deputy Pubs Code Adjudicator. There have also been improvements to the management of cases in order to speed up the arbitration process – with revised orders and directions for the management of cases; active case conferencing; and more information to help parties to make effective referrals.

Intelligence and Compliance: The PCA has provided information and issued advice to help tied tenants understand their rights under the Pubs Code and to set out to pub-owning businesses what the PCA’s expectations are regarding Pubs Code compliance. A number of advice notes have been issued; and the PCA has conducted and published the results of an exercise to verify the effectiveness of the Pubs Code’s MRO provisions and a survey of tied tenants to measure their awareness of and views on key Pubs Code provisions. The PCA can investigate where there is reasonable suspicion that a pub-owning business has breached the Pubs Code, with enforcement measures ranging from recommendations to imposing financial penalties on a pub-owning business (or businesses).

Operations and Engagement: The PCA has adopted a modern regulatory approach which reflects the principles of the Regulator’s Pubs Code. The PCA works collaboratively, where appropriate, with pub-owning businesses to respond to issues raised by tied tenants and others to bring about beneficial change in the sector. It is therefore important that the PCA has regular

contact with pub-owning businesses in order to maintain a dialogue with those regulated under the Pubs Code. The PCA also has regular contact with a Tenant Representative Group and other stakeholders and attends industry events in order to be as accessible as possible to tied tenants.

The PCA is aware of both the need to separate the statutory roles of regulator and arbitrator; and to be as transparent as possible about the way it carries out each of these functions. In discussions with pub-owning businesses or any other person or body, the PCA will therefore never discuss individual cases which are or may be the subject of arbitration under the Pubs Code.

Further safeguards have been put in place to provide assurances in this regard. The PCA's Compliance Officer, will take all necessary steps to ensure that there is a clear separation of functions and that neither the PCA nor the DPCA does anything that could compromise confidence in them or give rise to a reasonable perception of bias. The test for apparent bias the courts apply is '*whether the fair-minded observer, having considered the facts, would conclude that there was a real possibility*' of bias. The Compliance Officer will apply this test objectively, but not to the extent that an undue concern for appearances is allowed to interfere unnecessarily with the functioning of the PCA office. Full details of the Compliance Officer's role are set out in the PCA's Conflict of Interest Policy. <https://www.gov.uk/government/publications/pubs-code-adjudicator-conflicts-of-interest-policy-and-register>

The Conflict of Interest Policy is currently being reviewed and revised. An updated Conflict of Interest Policy will be published in the next reporting year.

As a general rule, the PCA will publish the minutes of meetings with stakeholders on the PCA's website. There may, however, be times when it is important for the PCA or Deputy PCA, in order to act as an effective regulator, to be able to discuss matters that are not subsequently made public. This would be for example to allow full and frank discussions with pub-owning businesses on matters of specific commercial sensitivity but will never relate to individual arbitrations. Further details are set out in the PCA's response to a Freedom of Information Act request on meetings between the PCA and pub-owning businesses. This can be found on the PCA website.

<https://www.gov.uk/government/publications/meetings-held-between-the-pca-and-pub-owning-businesses>

Key issues and risks

Risk and assurance

The PCA Management board (see page 24 Governance Statement) has had responsibility 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 Adjudicator's statutory functions during this reporting period. The office of the PCA established a formal structure for the management of operational risks during 2017-18.

The key strategic risks addressed during this reporting period are as follows:

Reputational Risk

As in 2016/17, the principal challenge for the PCA has been the reputational risk associated with managing stakeholder expectations about the impact of the Pubs Code in general, and the take-up of MRO in particular. Parliament established the Pubs Code and the role of the PCA/DPCA to create a fair environment for tenants. The introduction of the Pubs Code has naturally released pent-up demand among tenants for change; has required significant change from pub-owning businesses which has also presented the regulated pub-owning businesses with consequent concern to protect their commercial interests leading to greater calls for clarification on the law. Parties are therefore routinely testing the limits of the Pubs Code, and there has consequently been a high and sustained demand for arbitration. This has inevitably led to complaints about the time and cost of pursuing arbitrations.

The office of the PCA has mitigated this risk by significantly increasing office resource during the reporting period, not least by the appointment of the DPCA; and by the implementation of new case management procedures to speed up the progress of cases and awards. These consist of shortening and simplifying the directions timetable; engaging early on with parties to ensure case management is appropriately directed, issues clarified, and negotiation facilitated; providing prompt case management directions and firm enforcement in relation to any breaches; encouraging the parties to seek the means to settle proceedings, and ensuring the parties present their cases in a structured and proportionate way.

The PCA will continue to mitigate this risk, and to understand the views and expectations of all those who use and operate within the Pubs Code, by maintaining and developing its channels of communication with stakeholders from across the industry.

Managing the responsibilities of regulator and arbitrator

Both the PCA and DPCA face the challenge of being statutory adjudicators who are tasked with acting as both arbitrator in individual cases and regulator of pub-owning businesses in respect of the Pubs Code as a whole. It is important that they do not just keep those roles separate but that they are seen to be doing so.

To mitigate this risk the office of the PCA has adopted a policy of transparency regarding meetings with stakeholders, publication of minutes, external oversight on governance (see Governance statement below); the publication of a Conflict of Interest Policy and Register of Interests and the appointment of a Compliance Officer to ensure the regulator/arbitrator roles are strictly observed. As a general rule, the PCA will publish the minutes of meetings with stakeholders on the PCA's website. There may, however, be times when it is important for the PCA or DPCA, in order to act as an effective regulator, to be able to discuss matters that are not subsequently made public. This would be for example to allow full and frank discussions with pub companies on matters of specific commercial sensitivity but will never relate to individual arbitrations.



The Pubs Code and Adjudicator: Performance analysis

Statutory performance summary of PCA activity for the period 01 April 2017 to 31 March 2018

Section 62 (Annual Report) of the SBEE 2015 Act 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.*
- (3) If the Adjudicator has made recommendations under section 56, the report must include an assessment of whether they have been followed.*
- (4) As well as publishing the report, the Adjudicator must send a copy to the Secretary of State.*
- (5) The Secretary of State must lay a copy of the report before Parliament.*
- (6) 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*
 - (b) each successive period of 12 months.*

The activity reported on in this annual report covers the period 01 April 2017 to 31 March 2018. For the year 2017/18 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 has not conducted any investigations (section 62(2)(b)); 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 2015 Act 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 2015 Act.

It is important to bear in mind that the PCA was an evolving entity throughout this reporting period. The Pubs Code remains a relatively new and complex area of law with still unfolding consequences. Key performance measures were not clearly identifiable until some way through the reporting period. The PCA and the Business Energy and Industrial Strategy (BEIS) sponsorship team began working on identifying key performance indicators, or metrics as they were titled by the Governance Board, mid-way through the reporting year.

Non-financial information including social matters, respect for human rights anti-corruption and anti-bribery matters are not relevant to the PCA. Information on environmental matters including the impact of the entity's business on the environment is also not relevant to the PCA.

Summary of arbitrations conducted by the PCA during the period 01 April 2017 to 31 March 2018 (section 62 (2)(a))

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	100
Number of arbitration cases in which an award was made, including referrals received in 2016/17	122
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	11

Summary of cases in which the PCA has exercised functions in relation to the offer of a MRO option during the period 01 April 2017 to 31 March 2018. (section 62(2) (d)):

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	89
Number of arbitration cases in which an award was made	111
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	9

Duration of arbitration cases that were on-going on 31 March 2018: (not a statutory reporting requirement)

Number of arbitration referrals (accepted cases and referrals under consideration) on 31 March 2018	117
Of which:	
Less than 1 month	14
Between 1 and 3 months	21
Between 3 and 6 months	13
Longer than 6 months	69

The primary purpose of arbitration is to obtain settlement without undue delay or expense. There is, however, no set time that it will take for cases to reach a conclusion. The duration of an individual arbitration will depend on several different factors – such as how many people are involved; how quickly the parties agree to procedures and provide relevant information and evidence and how complicated the case is.

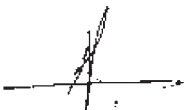
When a referral is accepted, the PCA issues proposed Directions to both parties for them to agree, wherever possible, the procedure to be adopted. This sets out the timetable and actions that the parties are required to follow. By issuing Directions, the PCA is facilitating a timetable between the tied pub tenant and pub-owning business,

Either party can request a stay, during which the parties may continue discussions between themselves but without PCA involvement. Such stays can stretch to a number of months and can impact on the length of time a case remains open. In keeping with the legislative requirements the PCA wants to see meaningful negotiations between parties and information provided as quickly as possible; and to make sure everyone has a fair chance to put forward their case.

Following the appointment of the DPCA a range of new case management disciplines were introduced – including tighter timetabling, earlier case management conferences and increased use of oral hearings – which are now delivering results in terms of more and faster conclusions of arbitrations.

A case management system was procured and went “live” in December 2017. It is intended that this will facilitate the processing of arbitration cases. It also provides a higher level of consistency and security for PCAs arbitration cases, correspondence, enquiries, reporting and information management more generally.

The PCA expects the speed of arbitration decisions to increase during 2018/19 as negotiated settlements taking place sooner increase. The PCA will, however, seek to maintain the pace of arbitration cases by proposing challenging but achievable timetables; and by intervening where there is evidence of behaviour that leads to unnecessary delay and expense.



Paul Newby

Pubs Code Adjudicator

17 July 2018



Accountability Report



Corporate Governance

1. Director's Report

The PCA is a public appointment, designated as a Statutory Office Holder and 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 and attend a Risk and Audit Committee, which 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.

For 2017/18 I initially managed risk across 4 sub-boards mirroring our key functions, but toward the end of the reporting period I reorganised my management team and consolidated local risk into a single Risk Register, updated by the Head of Operations and which now forms a standing item at 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.

PCA Management Board

Ensures the PCA's statutory operations are met and that decision making and financial management are carried out appropriately

Members: The PCA, DPCA, Head of Policy, Intelligence and Compliance, Head of Legal and Head of Operations

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>

The PCA and the DPCA are the only Senior Civil Service level members of the Management Board and as such are the only people subject to disclosure rules.

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.

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).

2. Statement of the PCA Accounting Officer Responsibilities

Schedule 1, paragraph 15(1) of the SBEE 2015 Act 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 accounts 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 National Audit Office (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.

3. Governance Statement

Our approach to governance

2017-18 has been a year of consolidation and growth for the Adjudicator and the office of the PCA. Governance has been proportionate to reflect this and has been strengthened to reflect the size of the organisation which has grown from eight to eighteen people over this reporting period.

Key performance measures were not clearly identifiable until mid-way through the reporting period. Once the nature of the work ahead became clearer, the PCA and the BEIS sponsorship team began identifying key performance indicators.

This work was delayed due to staff changes and a reclassification exercise being carried out by Cabinet Office. The outcome of this exercise was and still is unclear and it was considered prudent to delay work on metrics until clearer guidance emerged.

Despite KPIs not having been formalised, the PCA measured performance against a range of factors, grouped largely into three categories: Operations, Policy and Compliance, and Arbitrations. This allowed the Management Board to track staffing and finance, regulatory activity such as the issuing of factsheets and other publications and the number of arbitrations and the case management of their progress.

This data enabled the Management Board to monitor performance and has more latterly informed the data captured on the risk register. The data is quality assured and published on a quarterly basis on the PCA website. This has allowed public scrutiny of:

- a) the number of arbitrations conducted by the PCA /DPCA,
- b) the number of investigations carried out by the PCA/DPCA,
- c) the number of cases in which the PCA has taken the enforcement measures mentioned in section 55 of the SBEE Act 2015, and
- d) the number of cases in which the PCA has exercised functions in relation to the offer of a market rent only option or the provision of parallel rent assessments.

The PCA Management Board, consisting of workstream leads, the PCA and DPCA, convened weekly to discuss upcoming priorities. The Management Board met monthly on 14 occasions for a formal meeting. Standard agenda items included business operations (including financial compliance), stakeholder engagement, intelligence and compliance and enquiries and arbitrations. The Board also maintained an overview of organisational risk through a corporate risk register. The PCA shares its Risk Register with the Risk and Audit Committee and complies with HMT's Code of Good Practice.

Attendance at Management Board Meetings throughout the reporting year.

PCA	13
Former Head of Policy and Operations	13
Head of Legal	12
Deputy PCA from November 2017 onwards	5

As the Management Board evolved to meet the demands of the business other attendees included a temporary Head of Policy and a temporary Head of Intelligence and Compliance.

There are no formal Board committee reports but all meetings are noted, and decisions and actions have been logged from August 2017 (10 occasions).

Management Board agreed that a consistent, more robust method of storing and interrogating PCA data was essential as the organisation evolved. In October 2017, the PCA procured a case management system which enhanced data security and improved the reporting functionality.

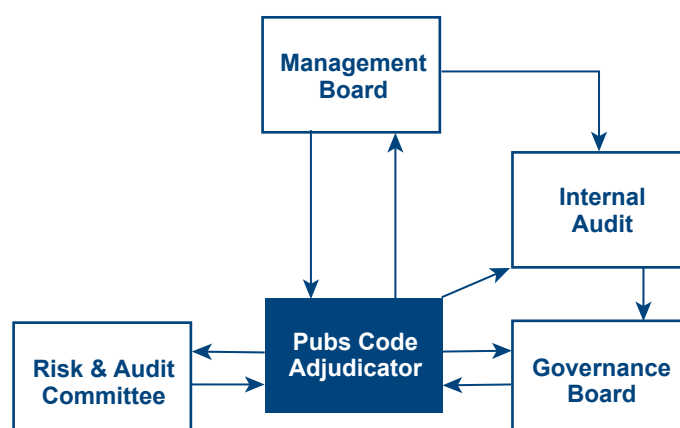
All the above are key to ensuring that the office is run effectively; allowing the PCA and DPCA to concentrate on their dual roles as arbitrators and regulators.

A Governance Board comprising myself, the DPCA, members of the office of the PCA and the BEIS sponsorship team, is the key means by which I provide assurance to the BEIS Principal Accounting Officer that PCA managed resources are used for the purposes intended by Parliament and that these funds are properly accounted for. The Governance Board also provides assurance to the BEIS Principal Accounting Officer, Ministers and to Parliament that the office of the PCA has appropriate, compliant and proportionate arrangements in place to ensure effective governance; financial management; and risk management as is required by Managing Public Money.

A Risk and Audit Committee comprising myself, members of the office of the PCA, BEIS and an independent member was set up in 2017-18 and will meet quarterly going forward. The Risk and Audit Committee oversaw the timetable for implementing the recommendations arising from the NAO 2016/17 audit. The Committee also reviewed the PCA budget forecasting for 2018/19 and the levy proposal and methodology.

Further, I have considered options for internal audit in accordance with the Treasury's Public Sector Internal Audit Standards. In 2018/19 the Office of Product Safety and Standards (OPSS), (previously known as Regulatory Delivery Directorate) will conduct an internal audit. This will take place at the half year point from the annual audit conducted by NAO . As the PCA is still a new organisation and its Management Board has expanded in the year, this will incorporate a formal review of the Board's effectiveness.

Governance structure



The principal strategic risk to the PCA remains the reputational risk associated with managing the expectations about the impact of the Pubs Code and the take-up of MRO. Parliament established the Pubs Code and my role as its Adjudicator to enforce the Pubs Code and underpin a fair

business environment. New and technical legislation has created expectations, and challenges. Specifically, it has unleashed pent-up demand among tenants for change; and resulted in regulated pub-owning businesses determined to use the letter of the law to defend their business interests. As a consequence, there has been a high and sustained demand for arbitration.

I have significantly increased office resources including seeking the appointment of the DPCA. Changes to the management of cases have been implemented offering a more bespoke service to parties in the management of their disputes.

The office of the PCA will continue to mitigate this risk, and to understand the views and expectations of all those who use and operate within the Pubs Code by maintaining and developing our channels of communication with stakeholders from across the industry.

Sources of funding

Levy

The PCA has obtained the Secretary of State's consent to set the levy amount for 2017/18 at £1.74m. The levy has been raised against the six pub-owning businesses with 500 or more tied pub tenants. During this reporting period these were: Admiral Taverns Ltd, Ei Group PLC (formerly Enterprise Inns), Greene King PLC, Marston's PLC, Punch Taverns PLC and Star Pubs and Bars (Heineken UK).

For 2017/18, the levy methodology has been split into two parts based on fixed and variable costs.

- 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 on 01 March 2017.
- The variable costs have been apportioned based on a percentage reflecting the number of arbitration cases involving each pub-owning business from the introduction of the Pubs Code in July 2016 to March 2017.

The total contributions levied against the six pub-owning businesses range from 4.7% to 44.3% of the total levy amount. The minimum amount is £81,900 and the maximum is £770,213.

HM Treasury rules do not permit the PCA to retain surplus levy payments from one financial year to the next. Deferred income (unspent levy) in 2017/18 amounted to £334,629. The PCA will return this – in the same proportions in which it was paid – to the pub-owning business by offsetting the amount against their 2018/19 levy payment.

Fee Income

The PCA's arbitration caseload is intended to be funded largely through 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.³

The PCA received a total of £81,194 in fees income during 2017/18. £19,700 of this income consisted of fees paid by tied pub tenants to refer their case to the PCA for arbitration; and £61,494 was recouped from pub-owning businesses.

³ See section 51(6) Small Business, Enterprise and Employment Act 2015 (c. 26) and regulation 3(3) of the Pubs Code (Fees, Costs and Financial Penalties) Regulations 2016 (2016 No. 802)

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 in the table below.

1	Use 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

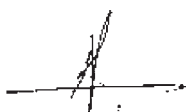
The PCA has four bank account signatories (the Adjudicator, Head of Operations, Head of Legal and the Finance and Operations Manager). Any payment out requires two signatories to approve the transaction. The internal processes require that the person receiving the payment is not a signatory.

Accountant and Auditor

The PCA contracts with accountants to independently prepare the annual accounts. The accounts are audited by the NAO.

To the best of my knowledge, there is no relevant audit information of which the auditors are not aware.

I have considered the evidence that supports this Governance Statement and I am assured that the office of the PCA has systems of control in place to support the delivery of my statutory purposes. Except as disclosed above, I therefore have no disclosures of control weaknesses to make for the 2016/17 financial year.



Paul Newby
Pubs Code Adjudicator

17 July 2018

Remuneration and Staff Report

1. Remuneration policy

The PCA and DPCA have no remuneration responsibilities. Their remuneration is determined by the Secretary of State for BEIS under Schedule 1 to the SBEE Act 2015.

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

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

The PCA and DPCA are pensionable positions. Pension commitments for secondees to the PCA office are met by their home departments.

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

Single Total Figure of Remuneration (1 April 2017 – 31 March 2018)				
Public appointee	Salary £'000	Bonus payments £'000	Pension benefits (to the nearest £1,000)	Total £'000
Paul Newby	130 – 135	£0	51	180 – 185

Single Total Figure of Remuneration (1 November 2017 – 31 March 2018)				
Public appointee	Salary £'000	Bonus payments £'000	Pension benefits (to the nearest £1,000)	Total £'000
Fiona Dickie	30 – 35 70 – 75 (annualised)	£0	12	40 – 45

“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 a Gifts and Hospitality register.

2. Benefits in kind (subject to audit)

Cash Equivalent Transfer Values

A Cash Equivalent Transfer Value (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 related 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 arrangements 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

Officials	Accrued pension at age 65 as at 31 March 2017 and related lump sum £'000	Real increase in pension and related lump sum at pension age	CETV at 31 March 2017 £'000	CETV at 31 March 2016	Real increase in CETV
Mr Paul Newby	5 – 10	2.5 – 5	86	40	35
Ms Fiona Dickie	0 – 5	0 – 2.5	8	0	5

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. 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 Adjudicator joined 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 (subject to audit)

The cost of staff remuneration was:

	Year ending 31-Mar-18 £	Year ending 31-Mar-18 £	Period ending 31-Mar-18 £
	<i>Permanent Staff</i>	<i>Other Staff</i>	<i>Total</i>
Wages and salaries	161,300	837,150	998,450
Social security costs	20,602	–	20,602
Other pension	39,519	–	39,519
	221,421	837,150	1,058,571

i) The PCA and the DPCA are the only permanent staff members.

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

From the PCA's inception until September 2017, home departments that seconded employees to the PCA, using guidance provided by BEIS, applied different VAT treatments to their invoicing process. The PCA sought a determination from HMRC on the VAT treatment and as a result VAT has been charged on salary invoices from September 2017 onwards. The PCA is not registered for VAT.

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, other organisations, staff employed on short-term contracts and temporary staff was:

	2017/18 FTE	2016/17 FTE
Permanent Staff	1.42	1.00
Other Staff	5.42	4.08
	9.84	5.08

3. Staff composition

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

The composition of permanent staff is:

	Male	Female
Pubs Code Adjudicator	1	
Deputy Pubs Code Adjudicator		1

Over this reporting period the Adjudicator recruited 5 additional members of staff:

- the DPCA
- a temporary seconded from BEIS who acted as Head of Policy

- a Policy Lead, and
- two additional caseworkers.

Two temporary contingent workers were recruited short term to provide administrative cover across the organisation.

In addition, the office of the PCA entered into a Memorandum of Understanding for 2017/18 with the Regulatory Delivery Directorate (now the Office of Product Safety and Standards) who provided specialist analytical, programme management and contractual support for the PCA's Tenant Survey and Risk Management.

PCA work was supported by specialist advice. This included advice from a Press and Media specialist and a policy specialist, legal advice, accountancy support and advice on operating as a new regulator.

4. Fair pay disclosure

- (1) The median staff pay figure has been calculated as £32,567 for the year. This calculation is based on the lowest to highest but one of the PCA staff. The highest salary has been discounted for this calculation.
- (2) The range for staff remuneration is from 25-30k to 130-135k
- (3) The ratio between the median staff remuneration and the mid-point of the banded remuneration of the highest paid is 1 : 4.1.

No comparative figures are provided as in previous years the PCA's view was that a median staff pay should not be calculated for the year as there was only one member of staff. We have revised that view to incorporate seconded staff, as we feel this gives a fuller disclosure. Comparative figures will be provided in future years.

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 its preparedness for the General Data Protection Regulation.

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.

New legislation came into effect from April 2017. The reform shifts 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 has ensured that arrangements are in place to determine if contractors are in or out of scope, where relevant that arrangements are in place for the deduction of tax and NI, and that assurances are sought.

The tables below set out the status of off-payroll contractors engaged by the PCA using the standard reporting format. This records new off-payroll engagements, or those that reached six months in duration, between 1 April 2017 and 31 March 2018, 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 2018, for more than £245 per day and that last for longer than six months.

Number of existing engagements as of 31st March 2018.	Pubs Code Adjudicator
Number of existing engagements as of 31st March 2018	2
Of which:	
Number that have existed for less than one year at the time of reporting	1
Number that have existed for between one and two years at the time of reporting	1
Number that have existed for between two and three years at the time of reporting	N/A
Number that have existed for between three and four years at the time of reporting	N/A
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 1 April 2017 and 31 March 2018, for more than £245 per day and that last for longer than six months.

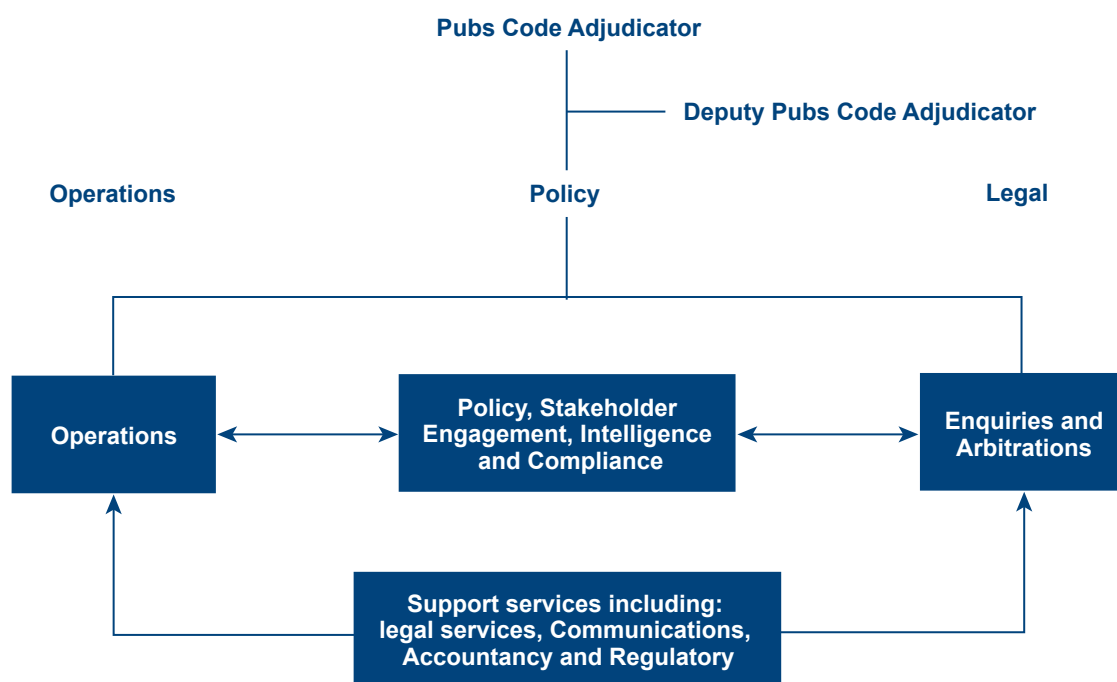
Number of new engagements, or those that reached six months in duration, between 1st April 2017 and 31st March 2018.	Pubs Code Adjudicator
Number of new engagements, or those that reached six months in duration, between 1st April 2017 and 31st March 2018.	2
Of which:	
Number assessed as caught by IR35	1
Number assessed as not caught by IR35	1
Number engaged directly (via PSC contracted to BEIS) and are on the BEIS payroll	N/A
Number of engagements reassessed for consistency/assurance purposes during the year.	0
Number of engagements that saw a change to IR35 status following the consistency review	0

Table 3: For any off-payroll engagements of board members, and/or senior officials with significant financial responsibility, between 1st April 2017 and 31st March 2018.

Number of off-payroll engagements of board members, and/or, senior officials with significant financial responsibility, during the financial year (1).	Pubs Code Adjudicator
Number of off-payroll engagements of board members, and/or, senior officials with significant financial responsibility, during the financial year (1).	0
Total number of individuals on payroll and off-payroll that have been deemed 'board members, and/or, senior officials with significant financial responsibility', during the financial year. This figure should include both on payroll and off-payroll engagements	1

9. Staffing structures

Staff joined, and in some cases where there was a short-term contract, left across this reporting period. Reporting lines were adjusted accordingly throughout the period. Within a small organisation we consolidated our operation to reflect the key functions we deliver, as shown:



10. Staff sickness absences

During the reporting period, the average number of recorded staff absences due to sickness was recorded as 1.1 days.



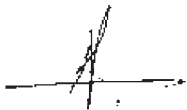
Parliamentary Accountability and Audit Report

The PCA has nothing to report in respect of: losses and special payments; remote contingent liabilities; fees and charges income; or gifts. This has been subject to audit.

Information on the PCA's statutory reporting requirements are set out in the 'Performance Report' section of this publication.

The Regulators Code

The PCA is a non-economic regulator and will in future years likely need to have regard to the Regulators Code, obliging the PCA to follow stated principles when developing policy and operational procedures; and when setting standards and giving guidance that informs PCA regulatory activity. Although the PCA has not been subject to the requirements of the Code for this period, the office of the PCA has worked with the Regulatory Delivery Directorate (now the Office of Product Safety and Standards) in BEIS where appropriate, in anticipation of meeting the Regulators Code requirements.



Paul Newby
Pubs Code Adjudicator

17 July 2018



The Certificate 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 Pubs Code Adjudicator for the year ended 31 March 2018 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 Remuneration and Staff Report, and 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 Pubs Code Adjudicator's affairs as at 31 March 2018 and of 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.

Responsibilities of the Accounting Officer for the financial statements

As explained more fully in the Statement of the PCA Accounting Officer's Responsibilities, the 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 examine, 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.
- conclude on the appropriateness of management'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 auditor's 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 auditor's report. However, future events or conditions may cause the entity to cease to continue as a going concern.
- evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the consolidated financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

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 Accounting Officer is responsible for the other information. The other information comprises information included in the annual report, other than 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 Remuneration and Staff Report, the Governance Statement and the Parliamentary Accountability disclosures 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 Remuneration and Staff Report, and the Parliamentary Accountability disclosures 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.

Sir Amyas C E Morse
Comptroller and Auditor General

18 July 2018

National Audit Office
157–197 Buckingham Palace Road
Victoria
London
SW1W 9SP

Financial Statements

The Pubs Code Financial Statements for the year ended 31 March 2018

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 2018

Statement of Comprehensive Net Expenditure for the year ended 31 March 2018

	Note	Year ended 31-Mar-18 £	Period ended 31-Mar-17 £
Expenditure			
Staff Costs	2	1,058,571	432,543
Other Expenditure	3	427,881	408,980
		1,486,452	841,523
Income			
Other income	4	(1,486,452)	(841,523)
Net Expenditure		–	–
Net expenditure after interest		–	–
Net expenditure after interest and tax		–	–
Total Comprehensive Expenditure for the year ended 31 March 2018		–	–

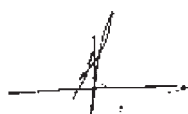
The notes on pages 46 to 51 form part of these financial statements.

There was no other comprehensive expenditure.

Statement of Financial Position as at 31 March 2018

	Note	As at 31-Mar-18 £	As at 31-Mar-17 £
Current assets			
Trade and other receivables due within one year	5	50,612	7,376
Cash and cash equivalents	6	716,646	815,749
Total current assets		767,258	823,125
Total assets		767,258	823,125
Current liabilities			
Deferred income	7	334,629	692,627
Trade and other payables	7	432,629	130,498
Total current liabilities		767,258	823,125
Non-current assets less current liabilities		–	–
Assets less liabilities		–	–
Taxpayers' equity			
Income and expenditure reserve		–	–

The notes on pages 46 to 51 form part of these financial statements.



Paul Newby
Pubs Code Adjudicator

17 July 2018

Statement of Cash Flows for the year ended 31 March 2018

	Note	Year ended 31-Mar-18 £	Period ended 31-Mar-17 £
Cash flows from operating activities			
Net operating cost		–	–
Increase in receivables	5	(43,236)	(7,376)
(Decrease)/increase in payables	7	(55,867)	823,125
Net cash (outflow)/inflow from operating activities		(99,103)	815,749
Net (decrease)/increase in cash and cash equivalents in the year	6	(99,103)	815,749
Cash and cash equivalents at the beginning of the year		815,749	–
Cash and cash equivalents at the end of the year		716,646	815,749

The notes on pages 46 to 51 form part of these financial statements.

Statement of Changes in Taxpayers' Equity for the year ended 31 March 2018

	I & E Reserve £	Total Reserves £
Balance as at 31 March 2016	–	–
Changes in Taxpayers' Equity comprehensive expenditure for the period	–	–
Comprehensive income for the period	–	–
Balance as at 31 March 2017	–	–
Changes in Taxpayers' Equity comprehensive income for the year	–	–
Comprehensive income for the year	–	–
Balance as at 31 March 2018	–	–

The PCA holds no reserves. The PCA is levy funded and unspent levy is reflected in deferred income.

Notes to the Financial Statements for the year ended 31 March 2018

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 2017/18 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. The accounts' for 2016/17 were for an eleven-month period due to the date of inception of the PCA.

Standards not yet effective

The PCA has not applied any new IFRS standards that have been issued but are not yet effective, this includes changes to IFRS 9, IFRS 15 and IFRS 16 as they either do not affect the accounts or have a material impact.

In relation to IFRS 9, the PCA does not hold complex financial instruments, and significant judgements aren't required in respect of bad debts as the PCA is solely funded by 6 pub-owning businesses.

In relation to IFRS 15, the SBEE Act 2015 does not impose specific performance measures on the PCA which would impact on its current revenue recognition policy.

The adoption date of IFRS 16 is anticipated to be 2019–20.

1.1 Accounting convention

These accounts have been prepared under the historical cost convention.

The SBEE Act 2015 [section 62] provides that the PCA is required to prepare and publish a report describing what the Adjudicator has done during the reporting period. The Adjudicator must send a copy to the Secretary of State and it must be laid before Parliament.

(a) Income

General Levy

Income is recognised in full in the year that it is billed, and that the adjudicator may repay some or all of any surplus income. In such situations, these repayments will be shown as levy repayable in the PCA accounts. 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 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.

Income is recognised when the costs are incurred.

Investigations

The PCA has the discretion to charge the applicable pub-owning business(es) the full costs of an investigation which results in a finding that there has been a breach of the Code. It is expected that this will be the approach adopted. Any appeals will be funded initially by the general levy. If successful, the Adjudicator would expect to recover most of the PCA's costs from the losing party. Costs required to be paid are recoverable by the Adjudicator as a debt. The PCA did not launch an investigation in this reporting period

(b) Going concern

The PCA has approval from the Secretary of State for a levy for 2018/19 that fully takes into account anticipated net pressures on the PCA's arbitration and investigation budgets; and will publish the methodology for the levy on its website. The PCA will receive levy income for 2018/19 to fund its activities. It has been accordingly considered appropriate to adopt a going concern basis for the preparation of these financial statements.

(c) 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 is held or acquired. Management determine the categorisation of assets and liabilities at initial recognition and re-evaluate this designation at each reporting date.

Financial assets

The PCA hold 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 is no material difference between fair value, amortised cost and historical cost.

Financial Liabilities

The PCA hold financial liabilities, which comprise of payables and deferred income. Deferred income relates to un-spent levy funds which will be brought forwards against the levy amounts due in future periods. Since these balances are expected to be settled within 12 months of the reporting date, there is no material difference between fair value, amortised cost and historical cost.

(d) Reserves

Income and expenditure reserve

The Adjudicator accounts for the PCA's accumulated surplus or deficit in the income and expenditure reserve.

(e) 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.

f) VAT

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

g) Operating leases

Payments for 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-18 £	Year ended 31-Mar-18 £	Year ended 31-Mar-18 £	Period ended 31-Mar-17 £
	<i>Permanent Staff</i>	<i>Other Staff</i>	<i>Total</i>	<i>Total</i>
Wages and salaries	161,300	837,150	998,450	388,062
Social security costs	20,602	–	20,602	15,371
Other pension	39,519	–	39,519	29,110
Total	221,421	837,150	1,058,571	432,543

i) The PCA and the DPCA are the only permanent staff members.

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

From the PCA's inception until September 2017, home departments that seconded employees to the PCA, using guidance provided by BEIS, applied different VAT treatments to their invoicing process. The PCA sought a determination from HMRC on the VAT treatment and as a result VAT has been charged on salary invoices from September 2017 onwards. The PCA is not registered for VAT.

3. Other expenditure

	Year ended 31-Mar-18 £	Period ended 31-Mar-17 £
Annual licence fees	1,656	–
Accountancy fees	6,720	3,540
Audit fees	10,000	12,000
Bank charges	923	507
Consultancy	40,833	82,767
General expenses	2,036	902
Independent assessor fees RICS	2,672	–
IT software & consumables.	79,008	20,632
Legal fees	2,297	4,116
Marketing	18,116	12,308
Printing, postage & stationery	3,874	1,664
Procured legal resource	70,240	–
Recruitment	3,744	–
Regulatory Delivery	94,282	231,629
Rentals and running costs under the terms of occupation	53,544	22,437
Repairs and maintenance	1,545	–
Staff training	7,724	4,364
Subscriptions	1,807	1,491
Travel & subsistence	26,860	10,623
Total other operating charges	427,881	408,980

4. Income

	Year ended 31-Mar-18 £	Period ended 31-Mar-17 £
Levy raised	1,739,887	1,500,000
Fee income	19,700	27,300
Arbitration fees	61,494	6,850
Deferred income	(334,629)	(692,627)
Total income	1,486,452	841,523

5. Trade receivables and other assets

Amounts falling due within one year

	Year ended 31-Mar-18 £	Period ended 31-Mar-17 £
Other debtors	880	320
Prepayments and accrued income	49,732	7,056
Total income	50,612	7,376

Other debtors are incurred from arbitration fees due to PCA at the year end.

6. Cash and cash equivalents

	Year ended 31-Mar-18 £	Period ended 31-Mar-17 £
Balance at 1 April 2017	815,749	–
Net change in cash and cash equivalent balances	(99,103)	815,749
Balance at 31 March 2018	716,646	815,749

The following balances at 31 March 2018 were held at:

Government Banking Service	716,646	815,749
Balance at 31 March 2018	716,646	815,749

7. Trade payables and other liabilities

Amounts falling due within one year

	Year ended 31-Mar-18 £	Period ended 31-Mar-17 £
Deferred income	334,629	692,627
Trade and other payables	36,044	4,557
Accruals	396,585	125,941
Total	767,258	823,125

8. Capital commitments

The PCA had no capital commitments.

9. Commitments under leases

Obligations under operating leases for the following year, as at 31 March 2018 comprise:

	Year ended 31-Mar-18 £	Period ended 31-Mar-17 £
No later than one year	29,045	15,247
Later than one year and not later than five years	2,246	2,044
Total	31,291	17,291

The contract terminates on 3 May 2019.

10. Contingent liabilities & assets

There are no contingent liabilities or assets to report.

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.

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.

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.

There are no 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.

Annex

PCA TENANT SURVEY

The PCA commissioned a survey to find out how much tied pub tenants know about the Pubs Code 18 months in and how it is working for them. This graphic presents some of the key findings.



Awareness of the Pubs Code is high but **understanding** is lower

72%

of tenants are aware of the Pubs Code



Levels of understanding

63%

Right to 5 yearly rent review

47%

BDM duty to record meetings

36%

Able to make informed decisions

36%

Right to request MRO



The role of the Business Development Manager is important to successful tenant/landlord **relationships** and **accessing Code rights**

Tenants rated BDMs



Positive at following administrative functions



Less positive at giving general support

Responsive



Consistent



Knowledgeable



Supportive



Attributes of a good BDM

“The more information you have, the better you are set up to succeed”

Tenants say they need to receive the right information at the right time to make a **genuine choice**

26%

of tenants who said they experienced a MRO event but did not request MRO did not know that they could



Do tenants feel that they had a genuine choice?

55%

No

36%

Yes

9%

Don't know



