



## **Pubs Code Adjudicator and Code Compliance Officer meeting 5 June 2018, 10:00 – 11.45**

### **Attendees:**

Paul Newby	PCA	Rob May	Ei Group (by phone)
Fiona Dickie	DPCA	Sara Kitchen	Ei Group
Stephen Childerstone	Office of the PCA	Lynne Winter	Star Pubs & Bars
Laura Campbell	Office of the PCA	Julie Jolly	Greene King
	(notes)	Mark Brown	Admiral Taverns
Andy Tighe	BBPA	Stuart Gallyot	Punch Taverns
		Caroline Southwell	Punch Taverns
		James Edwards	Marston's

### **Apologies:**

James Richards	Punch Taverns
Chris Moore	Star Pubs & Bars
Christine Stevens	Marston's

## **Key decisions and actions**

### **1. Actions from previous meeting**

**Action:** *BBPA to send aggregated figures on rent reviews and lease renewal information to PCA. Action complete.*

**Action:** *POBs to confirm positions on waiving confidentiality and report individually to PCA by 19 April. Action complete. Issue to be discussed further at agenda item 2.*

**Action:** *CCOs agreed to consider further how mediation and a low-level ADR scheme could operate and put a proposal to the PCA. All POBs have agreed that the PCA can refer low-level TPT concerns which do not fall under the Pubs Code to the relevant POB's internal complaints process. The meeting agreed that specific examples of complaints received by the PCA to date should not be shared as TPTs had not provided consent for the PCA to share the information; however, the PCA is developing a signposting process for any future concerns which fall under this category.*

**New Action:** *The PCA to circulate its suggested signposting process for low-level TPT concerns which do not fall under the Pubs Code to the relevant POB's internal complaints process.*

POBs also agreed that they would use mediation as an alternative dispute resolution scheme where this was appropriate.

**Action:** CCOs agreed to come up with proposals for a more standardised approach to waste calculation, provision of Schedule 2 information and examples of how this is embedded into relevant training by 19 April. To be discussed at agenda item 6.

**Action:** Where tenants were on short agreements that could engage reg 54, CCOs agreed to ensure that they write to tenants at 9 months informing them about their Code rights from 12 months. Action complete.

**Action:** CCOs to consider how they could raise profile and report back to PCA by 19 April. Action noted.

## **2. Waiving confidentiality of arbitration awards**

The DPCA thanked POBs for their views on this issue and for the progress made. The DPCA advised the meeting that the PCA had considered all views received it would be writing to POBs shortly to set out its formal proposition on waiving confidentiality. The DPCA noted that there is not currently consensus amongst all POBs on the issue which is disappointing. The DPCA reminded the meeting of the Minister's interest on this issue and that an update will be provided to the Minister before summer recess (24 July 2018).

**Action:** The PCA to write to POBs setting out its formal proposition on waiving confidentiality of arbitration awards, with a request for POBs to provide their final positions to the PCA.

AT asked whether the PCA had moved away from publishing 'golden threads'. The PCA's position is that publication of 'golden threads', as they have been referred to in the past, is not in the interests of the industry as they are not immediate, do not provide sufficient detail and do not encourage behavioural change.

The meeting agreed that specific issues raised by individual POBs on this issue should be considered bilaterally with the PCA.

## **3. Compliance data, including MRO data**

The meeting discussed the letter sent by the DPCA on 22 May 2018 which requested POBs to:

- provide monthly and cumulative MRO data
- publish above data monthly
- issue a confidential questionnaire to all TPTs who have issued a MRO Notice and received a MRO Proposal, and agree a process for incorporating this into the MRO process

AT confirmed POBs' agreement to the above in principle, subject to clarity on some issues.

### Questionnaire

SC and the DPCA thanked CCOs for agreeing to issue the questionnaire and explained that its purpose was to provide a feedback mechanism for TPTs so that the PCA can identify any areas of concern for the exercise of its regulatory powers. The questionnaire is based on the tenant survey with questions picked out from those which highlighted greatest concern to the PCA. The PCA wants to drill down further with these issues and understand whether TPTs are getting a genuine choice in the MRO process and why TPTs may not be using arbitration

where this might be appropriate. The PCA also wants to identify any TPT experiences, including positive experiences, of the MRO process. This forms part of the PCA's powers under Schedule 1 of the SBEE Act.

The PCA is also considering publishing the questionnaire on the PCA's website to enable TPTs to complete it directly via the PCA.

LW suggested further scope for free-text in the questionnaire, which the meeting agreed would be useful.

**Action:** The PCA to include more free-text provision in the questionnaire.

SG queried the frequency of the PCA's requests and the potential administrative impact on POBs and TPTs. The DPCA advised that such requests will continue until the PCA is satisfied that the MRO process is flowing freely, in accordance with the principles of the Pubs Code. However, the PCA wants any administrative processes to be as light as possible.

SK asked whether the questions contained in the questionnaire would also be included in future PCA tenant surveys. SC advised that no decisions had yet been taken on next year's tenant survey.

JJ asked how findings will be shared with POBs and whether these findings would be shared before wider publication. The DPCA advised that the PCA would consider any emerging patterns and discuss these with the POBs concerned in the relevant forum(s). As a regulator, the PCA is not however required to share findings before publication or when considering other regulatory action.

RM suggested that the PCA is provided with the number of questionnaires issued by POBs so that responses rates can be identified.

**Action:** POBs to each provide the PCA with the number of questionnaires issued, to enable response rates to be identified.

RM queried the status of TPTs who had not received a MRO Proposal. The DPCA confirmed that only TPTs who had received a MRO Proposal should be sent the questionnaire. The tenant survey and previous arbitrations indicate that this is the area where the PCA should place particular regulatory focus.

MB suggested that BDM engagement in the process would also be helpful to encourage returns from TPTs.

The DPCA requested further suggestions and an agreed approach is shared with the PCA outside the meeting.

**Action:** BBPA to collate any further questions, suggestions and an agreed approach to issuing the questionnaire, and send to the PCA.

**Action:** The PCA to consider how to inform and encourage TPTs to complete the questionnaire.

## MRO data

The PCA would also like POBs to publish, each month, the average time taken to complete a MRO request, from MRO Notice received to the end of the MRO process.

MB queried why the MRO data was being requested monthly and not quarterly. The DPCA replied that the PCA and wider industry want to see evidence of progress over a short time period. The frequency of this data collection and publication could however change in the future, where the PCA considers this appropriate.

The meeting discussed whether the MRO data should sit on individual POB websites or the PCA website and agreed to consider this further outside the meeting.

**Action:** BBPA and the PCA (LC) to identify a suitable website location for published MRO data.

LW asked whether the PCA would be considering the MRO process from a POB's perspective. The DPCA advised that the PCA has regular CCO interaction to identify any issues; however, the whole TPT community does not have the same, structured representative processes in place for the PCA to engage with.

**Action:** Requested MRO data to be provided to the PCA by Friday 8 June 2018.

The PCA also noted that they would like to collect data from POBs on the average time taken to complete an MRO request.

## **4. Timelines for arbitration settlements**

The PCA advised that an appeals factsheet will be published shortly. RM welcomed the publication of an appeals factsheet and noted that, in his experience, many TPTs don't understand the impact of requesting stays on subsequent MRO agreements (which will not be backdated). TPTs would also welcome greater clarity on arbitration timelines.

## **5. Stamp Duty Land Tax (SDLT)**

Both the DPCA and the PCA want to see greater clarity and consistency on this issue for TPTs across all POBs, including calculations and how information is presented. This ensures that TPTs can make an informed choice.

**Action:** BBPA to provide proposals to the PCA on SDLT information given to TPTs by 22 June 2018. This could include any outstanding points that the PCA should consider further.

## **6. Operational and sediment wastage calculations**

The PCA thanked POBs for the information provided on this issue and confirmed that a letter would be issued shortly on the PCA's position.

**Action:** The PCA to write to POBs outlining its position on operational and sediment wastage allowances, beer duty and TPT support and training.

## 7. Dilapidations

The PCA advised that TPTs have raised concerns about unexpected and high dilapidation costs. The PCA would like to understand POB positions in relation to dilapidations and, where necessary, look to improve processes.

**Action:** The PCA to write to POBs requesting information on how they comply with Schedule 1 and how they manage dilapidations in their tied estate.

## 8. 2018/19 Levy

SK requested greater notice from the PCA on any expected increases in the levy in future years, so that POBs can budget for this.

**Action:** The PCA to review what information it might be able to provide to POBs earlier in the levy notification process, noting statutory and financial framework constraints.

## 10. AOB

### Meeting notes

The PCA reminded the meeting of the meeting notes review process.

### BDM presentations

SK thanked the PCA for presenting at Ei Group's recent BDM training event and noted the positive feedback received from BDMs.

The PCA reminded the meeting of the open invitation to meet with other POB BDMs to explain their role in delivering the Pubs Code.

### Code Compliance Reports

MB raised some questions relating to the completion of the Code Compliance Reports. The DPCA suggested that CCOs put any questions in writing or alternatively annotate their submitted reports to explain why they have answered certain questions as they have.

**Action:** CCOs to write to the PCA with any questions relating to completing the Code Compliance Reports.

### Change of PCA email addresses

JR noted a piece of correspondence received from the PCA referencing the previous PCA email address. LC apologised and advised that all templates would be re-checked.

### Signposting TPTs to the right information at the right time

The PCA is considering how a network of relevant professionals can be brought together to better support the tied tenant community, similar to the BII's membership marketplace. The PCA suggested that the BBPA may have a role to play in this.

**Action:** BBPA to consider its role in signposting tenants to the right information at the right time, and revert to the PCA.