



The Pubs Code Adjudicator and Tenant Representatives Group meeting 14 June 2018

Attendees

Paul Newby – (PN) Pubs Code Adjudicator
Stacy Rigby – (SR) PCA (notes)
Mike Clist – (MCI) BII
Martin Caffrey – (MCa) FLVA
Kate Nicholls – (KN) UKHospitality

Apologies:

Fiona Dickie – PCA
Stephen Childerstone – PCA
Laura Campbell – PCA

Key Decisions and Actions

1. Actions from previous meeting

Action: TRG members to work with the PCA on making their advice services available to a wider TPT audience.

The PCA (PN) confirmed he was keen to develop this idea further and would like to form an approved group to support the tied pub tenant (TPT) market. MCI clarified that the advice that BII offers is not just for members and that any TPT can access information on their website, including access to a list of accredited industry professionals. MCa and KN confirmed that their respective organisations also take a 'market place approach' to signposting TPTs to industry professionals.

The PCA enquired what kind of accreditation is required for professionals to be on an 'accredited list'. MCI confirmed that all BII-approved surveyors do have to be RICS Chartered and nominated by an existing panel member. The PCA noted that Schedule 2 of the Pubs Code requires input from a Chartered Surveyor. All attendees noted the challenges of getting uptake from professionals in this regard which meant there was limited choice for TPTs. The PCA confirmed that he would like to keep this matter on the agenda as it is a focal point for the PCA.

Action remains open.

Action: TRG members to review the PCA's refreshed factsheets once available.

The PCA confirmed that the factsheet refresh project continues to be a priority for the PCA. The meeting discussed ways of raising TPTs' awareness of the refreshed factsheets once

they are published; MCI suggested more inventive ways of communicating with TPTs such as trade magazines.

Action remains open.

Business Development Managers

The PCA informed TRG members that he is currently giving a series of presentations to BDMs setting out Pubs Code expectations in relation to their role. The PCA will also be analysing feedback from TPTs in relation to their specific interactions with BDMs through the compliance reporting process. MCI stated that BII are driving best practice in this regard and are trying to get TPTs and BDMs to record and agree meeting notes on site.

2. Waiving confidentiality

The PCA updated the meeting on progress and confirmed that he remains committed to publishing awards in full. The meeting agreed that commercial sensitivities and GDPR could be respected through appropriate redaction of published awards.

The PCA noted a potential risk in terms of Independent Assessor (IA) referrals being published in relation to the IA's continued commitment to accepting appointments. However, he acknowledged that there is a lack of transparency for TPTs who do not have the same access to information in relation to market rents. KN confirmed that it would still be helpful to have high level information in relation to IA decisions so that stakeholders were aware of the reasons why a determination has been overturned or not by the PCA.

The TRG members confirmed their support in publishing awards.

3. Compliance data, including MRO data and publication, and questionnaire and feedback mechanism

The PCA wants more transparent information / data to be available to the industry in relation to MRO and also wants to develop a feedback mechanism for TPTs who have gone through the MRO process. The PCA has written to pub-owning businesses (POBs) requesting them to publish monthly and cumulative MRO data and also requested that they issue a confidential questionnaire to all TPTs who have received a MRO Proposal. The PCA invited TRG member comments on the draft questionnaire and asked the TRG if they would encourage TPTs to complete the questionnaire and return to the PCA, which they agreed. The PCA confirmed that the questionnaire would be available in electronic form via the website.

Action: PCA to review the TRG's comments on the questionnaire and make amends if/ where necessary.

4. Signposting non-Code disputes to POB internal complaints procedures

The PCA confirmed that 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 procedure. The TRG members noted that matters which could be considered contrary to the

principles of the Pubs Code, should be dealt with by the PCA. MCI affirmed that the BII usually refer TPTs to their POB's internal complaint procedures in the first instance.

The PCA invited the meeting to consider ways of enforcing the resolution of low-level complaints and the meeting agreed that this could be evidenced through the compliance reporting process. The PCA requested TRG members' support and asked representatives to remind their members that the PCA is unable to deal with non-Code disputes although the Enquiry Line is of course very happy to discuss possible Code-related disputes (where the TPT is unsure).

5. Operational and sediment wastage calculations

The PCA informed the TRG that since the last meeting, further exploration has taken place with POBs on operational and sediment wastage calculations. The meeting discussed the use of appropriate language for Schedule 2 requirements.

The PCA confirmed that he will be writing to POBs outlining his position on operational and sediment wastage allowances, beer duty and BDM/TPT support and training.

6. Dilapidations

The PCA confirmed that he has received concerning reports from TPTs about dilapidations costs when seeking MRO. The meeting agreed that POBs should be working with TPTs continuously on dilapidations and this should be demonstrated via Pubs Code recorded meetings.

The meeting recognised that the issue of dilapidations was wider than the tenanted pub industry, in particular with the introduction of a new Dilapidations Protocol. KN noted that dilapidations can remain for many years and can be passed from TPT to TPT and proposed that this could be addressed as part of the compliance reporting. The PCA explored whether dilapidations generally could be considered by a dedicated cross Pubs Code group.

Action: MCA to obtain evidence of TPTs receiving a schedule of dilapidations at the point of serving a MRO Notice.

Action: PCA and TRG to consider the possibility of a dedicated cross-Pubs Code group to consider the specific issues of dilapidations.

7. AOB

The PCA confirmed that a new arbitration costs factsheet will be published on the PCA website shortly.

The PCA also explained that he believes that more understanding is needed in the industry as to the impact, if any, of SDLT in the MRO process, and is discussing good practice ways of addressing any SDLT liability issues in MRO proposals with POBs.

Remaining 2018 meeting dates confirmed as:

- 13 September 2018 (London)
- 4 December 2018

Action: PCA to confirm point of contact for TRG when they attend the next meeting.