

**Meeting between the Pubs Code Adjudicator, Pubs Advisory Service, Punch  
Tenant Network and Forum of Private Business  
18 June 2018**

**Attendees**

Paul Newby – (PN) Pubs Code Adjudicator  
Fiona Dickie - (FD) Deputy Pubs Code Adjudicator  
Stacy Rigby – (SR) Office of PCA (notes)  
Ian Cass – (IC) Forum of Private Business (FPB)  
Dave Mountford – (DM) Forum of Private Business (FPB)  
Chris Wright – (CW) Pubs Advisory Service (PAS)  
David Law – (DL) on behalf of Punch Tenant Network (PTN)  
Paul Crossman – (PC) Punch Tenant Network (PTN)  
Carol Ross – (CR) Punch Tenant Network (PTN)  
Olivia Tyler – (OT) Fair Pint 2.0 (FP)

**Apologies:**

Stephen Childerstone – PCA  
Laura Campbell – PCA  
Chris Lindesay – Punch Tenant Network

**Key Decisions and Actions**

**1. Welcome**

Before the meeting commenced it was established that there had been a misunderstanding as to which individual stakeholders were invited and confirmed as attending the meeting. The PCA confirmed that there needs to be clear terms of reference for those who attend future meetings.

FD stressed that individual current or future arbitrations must not be discussed at the meeting.

FD confirmed that the PCA had addressed raising the profile of CCOs in the CCO meetings and invited suggestions for what level of information TPTs would like. PAS/PTN suggested a PCA CCO factsheet containing a profile, background information and contact details.

The PCA advised that they had received information from pub-owning businesses (POBs) about how many Tenancies At Will are being extended beyond 12 months. PAS/PTN agreed that a 9-month notification deadline was appropriate.

**Action:** IC and LC to agree protocol for future meetings to include attendance and agenda items.

**Action:** PCA to draft a proposed summary of the role of a CCO to be forwarded to POBs for their consideration.

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

The PCA thanked PAS/PTN for their comments on this issue and explained that since the last meeting, further exploration has taken place with POBs on operational and sediment wastage calculations.

*FD left the meeting to prevent a potential risk of compromising a current arbitration referral.*

PN explained that his focal aim was for calculations to be consistent, transparent and clear between the six POBs. PAS/PTN agreed and the meeting discussed methods of reviewing fluctuating sediment levels and how to verify calculations provided by POBs. PN confirmed that he will be writing to POBs outlining his position on operational and sediment wastage allowances, beer duty and TPT support and training.

## **3. Waiving confidentiality**

*FD re-joined the meeting.*

The PCA updated the meeting on progress and confirmed that he remains committed to publishing awards in full. The meeting discussed the issue of non-disclosure agreements being issued to TPTs and whether this affected a TPT's Code rights. FD confirmed that TPTs cannot be contracted out of their statutory rights.

**Action:** OT to forward copy of non-disclosure agreement to the PCA.

## **4. PCA 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 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 meeting also explored alternative ways of ensuring that TPTs who meet the criteria have an opportunity to complete the questionnaire.

## **5. 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. PAS/PTN raised concerns about the effectiveness of this process; however, PN explained that this mechanism will be enforced through the compliance reporting process and if found to be unsuccessful will be reviewed. FD clarified the PCA powers and policy in relation to investigations proceedings.

## **6. TPT views on 'compromise agreements' and the use of unfair business practices by POBs in reaching these agreements**

DM explained that in his experience there was no attempt by POBs to negotiate with TPTs and that as a result of complex processes, high costs and psychological pressures TPTs were being forced to accept unreasonable settlement offers, which are then being used by POBs as comparable evidence of the market. The PCA reiterated the need for transparency for both parties and across the industry. The meeting discussed the potential need for more independent assessors.

## **7. Dilapidations**

PN confirmed that he has received concerning reports from TPTs about dilapidation costs when seeking MRO. PN stated that this was an issue he was eager to collaborate on, in particular the establishment of a dedicated cross-industry focus group. DM confirmed that he would be happy to contribute.

**Action:** PCA to consider dedicated cross-industry focus group in relation to dilapidations.

## **8. AOB**

The PCA confirmed that there will be two new factsheets which will be published on the PCA website shortly. One will deal with the arbitrator's usual approach to awarding costs and the other a TPT's guide to what to expect from their POB in relation to the Code.

PN invited suggestions on the method of communicating to all TPTs and DM proposed that the PCA could attend a PAS event and/ or the PCA could run their own event which the TPTs could attend.