



Pubs Code  
Adjudicator

# **Annual Report and Accounts for the period 2 May 2016 to 31 March 2017**

*Presented to Parliament pursuant to Section 62 of the Small Business, Enterprise and  
Employment Act 2015.*

*Ordered by the House of Commons to be printed 20 July 2017*

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# PERFORMANCE REPORT

## The Pubs Code and Adjudicator: overview

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

### Foreword by Paul Newby, Pubs Code Adjudicator



It is now a year since the Pubs Code – a Code that so many people in the industry have waited so long to see and worked so hard to achieve – finally came into force.

The Code is there to provide tied pub tenants with a level playing field and to ensure a fair balance of risk and reward within tied tenancies. At its heart are two core principles – of fair dealing by pub-owning businesses with their tied tenants; and that a tied tenant should be no worse off than they would be if they were free of tie.

As the first Pubs Code Adjudicator (PCA), it is my responsibility to promote these principles by ensuring that the Code delivers its important rights and protections for tied tenants. I am committed to providing fair, impartial, accurate and timely information to tenants about their Code rights, and access to effective redress when things go wrong. At all times I will go where the evidence takes me when arbitrating, investigating and enforcing the Code.

I took up the role of PCA on 2 May 2016. At that time there was no Pubs Code, no office of the PCA, and no certainty as to when the Code would actually come into force. My priority was therefore to build a PCA Office from scratch and ensure that I could offer those covered by the Code a viable 'Day 1 Service'. When the Pubs Code came into force on 21 July 2016, my office was ready to support tenants with a dedicated Enquiry Line to answer Code queries; a PCA website with Pubs Code Factsheets that can be downloaded; and an office ready to handle arbitration referrals under the Code. Since then, the office of the PCA has continued to increase and develop these resources – with additional factsheets and flowcharts on key elements; formal Code clarifications; and the consultation on, and publication of, the statutory guidance on my approach to investigation and enforcement.

I also used that initial period to begin to introduce both myself and the Pubs Code to the industry. A Code will only ever be as good as the extent about which it is known to and understood by the people who it seeks to serve. My continuing focus throughout this first year has therefore been to reach out to the industry – and to tied tenants in particular – to promote the Code. This work does not stop. The office of the PCA continues to develop its information, clarification and guidance on the Code; and to build relationships with all sides of the industry and through the media to further the reach of the Code.

I cannot over-emphasise my readiness to engage with everyone and anyone who can help me to promote the Code. This includes all of the tenant organisations. The campaigning tenant bodies were a driving force behind the Code – their role in its creation was a significant achievement. I hope they will now feel able to take a constructive place in the new settlement that they had a huge role in creating. My door is open.

We are beginning to see the impact of this effort during the first year. Interest in the Code is high. The office has answered a large number of enquiries, and is receiving an increasing number of referrals for arbitration. Early in 2017 I began to make the first arbitration awards, and this continues.

I know that there are concerns within the tenant community about the way the Code has operated and some frustration over the time that arbitrations can take to resolve. But the PCA must deal with all cases in a proper and lawful manner. To do otherwise would simply increase the risk of challenge with the inevitable consequence of greater delay and cost.

The Code is new law that is being tested robustly by both tenants and pub-owning businesses and their solicitors. I am confident that we will be able to move more speedily as that new law beds in, cases are completed and key issues resolved.

Stakeholders tell me that they want more detailed and comprehensive information on Pubs Code provisions and processes. I want to work with them to produce and promote this. It is also important that I maintain a high quality arbitration service that responds to and meets stakeholders' expectations.

Through all of this engagement I am starting to build a solid evidence base about the impact the Code is having on the industry, and that can be used to drive the future strategy of the PCA. A priority for the coming year is to conduct a thorough validation of information about the operation of the Code – and in particular of the Market Rent Only provisions – on which to base judgements about further action to ensure Code compliance.

2017/18 will be another busy year, but I am confident that it will also be when the Pubs Code comes into its own and demonstrates the tangible benefits and real options it gives to tied tenants. I look forward to working with everyone with an interest in the good health of our pubs sector to make a reality of that success.



Paul Newby  
Pubs Code Adjudicator

7 July 2017

## Background

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. A Monopolies and Mergers Commission report 'The Supply of Beer' in 1989 therefore recommended that no brewer should own more than 2,000 pubs. The resulting 'Beer Orders'<sup>1</sup> that required the divestment by brewers of many of their tied pubs ultimately led to the emergence of the first pub companies (or 'PubCos'); and mergers and acquisitions during the 1990s and early 2000s created a number of large pub companies with estates of several thousands of tied pubs.

The growth of the pub companies and the PubCo model itself raised concerns about competitiveness and transparency in the sector. In 2002, the Federation of Small Businesses (FSB) asked the Office of Fair Trading (OFT) to investigate the market impact of the concentration of pub ownership in the pub companies; whether tied tenants were paying too much for their beer and in rent; and whether the beer tie restricted choice and competition.

While the OFT decided against conducting an investigation, the FSB's concerns were taken up by the House of Commons Trade and Industry Select Committee in 2004 – the first in what would become a decade of enquiries by the Committee and its successors focusing on the balance of risk and reward between the pub companies and their tied tenants; and the parallel development by the industry of a system of self-regulation and dispute resolution.

This culminated in the finding by the Business, Innovation and Skills Select Committee (BISCOM) in September 2011 that self-regulation had failed; and its recommendation that the Government should introduce a statutory Pubs Code to provide a framework for the assessment of tied rents; rules on information and transparency; and a process for dispute resolution.

Although the Government initially elected to give self-regulation one final chance, in June 2013 it announced its intention to legislate and consulted on the terms of a statutory Pubs Code that would include dispute resolution and enforcement by an independent Adjudicator. Legislation to give Ministers the power to enact a Pubs Code and creating the office of the Pubs Code Adjudicator was included in Part 4 of the Small Business, Enterprise and Employment Bill in 2014.

Part 4 enshrined the twin 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 they would be free of the tie. However, Parliamentary debate largely focused on whether the Code should give tied tenants the right to opt to go free-of-tie, and the Act as passed in 2015 required Ministers to provide for this 'Market Rent Only' option in the statutory Code. Following further Government consultation, the Pubs Code Regulations<sup>2</sup> came into force on 21 July 2016.

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<sup>1</sup> The Supply of Beer (Tied Estate) Order 1989

<sup>2</sup> 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 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 there are currently around 11,500. Six of these large pub companies are currently covered by the 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 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 new right that the Code grants a tied tenant to request a market rent only (MRO) option. Under an 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 Code gives the tenant the right to choose which of these options is the right one for their business.

In addition to the two core principles and the MRO option, the Pubs Code introduces new transparency rules covering the financial and other information about the tenancy that pub-owning businesses must provide to new and existing tenants. Specifically, the 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 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 Code includes further provisions governing the compliance obligations of the pub-owning businesses and the duties of their Business Development Managers; 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 Code also sets out the nature and duration of the 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 Code; and the circumstances in which certain types of agreement by which the tenant occupies and operates the pub will be exempt from the Code.

More detailed information on Pubs Code provisions can be found at: <https://www.gov.uk/government/collections/pubs-code-factsheets>

## **2. The new Pubs Code Adjudicator**

Paul Newby is the independent, statutory Pubs Code Adjudicator (PCA) in England and Wales. His is a Ministerial appointment and the PCA is a corporation sole. He took up his role on 2 May 2016. The office of Pubs Code Adjudicator was created under section 41 of the Small Business, Enterprise and Employment Act 2015 (the SBEE Act), which places statutory financial and reporting obligations on the holder of the office.

The Registered Office of the PCA is at:

Victoria Square House  
Victoria Square  
Birmingham  
B2 4AJ

The Adjudicator is responsible for ensuring compliance with the Pubs Code. His main functions are to:

1. Arbitrate disputes between tenants and their pub companies under the Pubs Code framework that are referred to him; and decide on any redress or remedy.
2. Investigate, where he has reasonable grounds to suspect that there have been breaches of the Pubs Code; and take whatever enforcement action he considers necessary.
3. Report evidence of unfair business practices to the Secretary of State.

## **3. The office of the PCA**

A key priority for this reporting period has been to set up the office of the PCA to enable the Adjudicator to manage business successfully and deliver his statutory responsibilities.

Work began on 3 May with only Paul Newby in post. At that point the Pubs Code Regulations were not complete and had not been laid before Parliament.

The Department for Business, Innovation and Skills (BIS) had previously undertaken the preliminary set up including identifying office location, securing IT and recruiting to the two most senior appointments in the team, the Head of Legal and Head of Policy and Operations.

As a corporation sole the SBEE Act allows the PCA to recruit staff on secondment from public or private sector organisations. Recruitment to an unknown organisation with roles still partly defined was not straightforward and our commitment to bring in only the highest quality staff meant that recruitment was lengthy and time-consuming before being ultimately successful. Over this reporting period the office of the PCA recruited 9 members of staff with start dates varying from 2 May 2016 to 20 March 2017. In addition we were supported by one long term temporary member of staff (covering until it was possible to recruit a suitable permanent member), a temporary secondee from Department for Business, Energy and Industrial Strategy (which succeeded BIS in July 2016 and referred to from here on as BEIS), and specialist consultants.



An initial top priority was to make sure that there was a high quality “Day 1” service once the Code came into force. To ensure we were able to do this we drew on the expertise available through the Regulatory Delivery Directorate of BEIS (RD) who have world-wide expertise working with all types of Regulators. In addition to coaching and support on developing Regulatory expertise, RD provided us with two front line services. RD managed the PCA Enquiry Line from 21 July 2016 to 31 March 2017 which allowed interested parties, primarily tenants or their representatives, to ring or send email enquiries requesting information about the Code. They also provided some Casework support as we built our casework team.

PCA work is structured around our 3 priority functions:

**Enquiries and Arbitrations:** our front line service dealing with calls, written and email enquiries asking for information about the Code; referrals and arbitration case work.

**Intelligence and Compliance:** looking at the information we have, ensuring it is valid, informing judgements about the type of intervention that will be most effective to bring about change within the industry

**Operations and Engagement:** running our business well, engaging with stakeholders and prioritising tasks according to our resources to ensure tied tenants know about the Code.

# Key issues and risks

## Risk and assurance

The PCA Management Board (see below in “Corporate Governance”) has responsibility for identifying and monitoring issues and risks associated with the roll-out of the Pubs Code, the creation of the PCA office and the exercise of the Adjudicator’s statutory functions during this reporting period. The office of the PCA is moving to a formal structure for the management of operational risks during 2017/18 through our revised governance structure.

### Reputational Risk

The principal strategic risk faced by the PCA during this reporting period has been to manage the expectations of stakeholders about the immediate impact of the Code. The PCA has addressed this by maintaining a regular dialogue on the Code with stakeholders from across the industry.

Other key strategic risks addressed by the PCA during this reporting period can be characterised as follows:

#### **A short transition period and uncertainty over the date on which the Code would come in to force**

The Adjudicator took up post on 2 May 2016. However there was some uncertainty about the final form of the Regulations bringing into force the Pubs Code, and these eventually came into force on 21 July. The delay in implementing the Code and overall brevity of the lead-in time had a significant impact on the office of the PCA in the following ways

*a) The PCA needed to have information on core aspects of the Code accessible via [www.gov.uk](http://www.gov.uk) on the Code’s first day in force. Preparation was undertaken without certainty until hours before the Regulations were to be made.*

The office of the PCA mitigated this risk by preparing the draft information on the basis of the final draft regulations laid before Parliament; by liaising with the Department for Business, Energy and Industrial Strategy (BEIS) to understand the likely Parliamentary reception for the regulations and the timetable for the Parliamentary process; and by working with the gov.uk publishing team in BEIS on a joint understanding of the publishing contingencies.

*b) Given the novel and complex technical nature of the Code, the PCA needed to have a fully functioning Enquiry Line ready to receive calls on the first day the Code came into force, to give tenants immediate access to information. The PCA needed to be ready to receive formal referrals for arbitration under the Code as soon as it came into force. Again this was undertaken without certainty about when this would be.*

The office of the PCA mitigated this risk by agreeing a roll-out programme with the service provider – Regulatory Delivery Directorate (RD) a part of BEIS – that was sufficiently flexible to adapt to changes to the go live date; and by putting in place procedures to receive and log referrals for arbitration. During the early months of the Code, the office monitored the demand for and performance of the RD-delivered Enquiry Line; and kept the functioning of the arbitration process under close review, adapting procedures and adding resources as required to ensure that this responded to stakeholder demands. In light of this operational experience, and of the complex nature of many of the enquiries received, the office of the PCA subsequently took the decision that

it would offer a more effective and cohesive approach service to stakeholders by transferring responsibility for delivering the Enquiry Line service to its own Casework team.

- c) *The PCA's statutory duty to consult on and publish guidance within six months on the policy on investigation and enforcement ran from the date on which the PCA was appointed (2 May), and not the date on which the Code came into force (21 July). It was not possible, however, for the PCA to launch that consultation until the Code was in force – which reduced the available time for consultation to a little over three months over the summer.*

The office of the PCA mitigated this risk by ensuring that a draft consultation document based on the final draft regulations was ready for publication as soon as the Code came into force; by drafting that consultation in such a way that the issues and questions were as clear as possible; by preparing stakeholders for the publication of the consultation and for the shortness of the consultation period; and by organising stakeholder workshops facilitated by the BEIS Innovation Space early in the consultation period to allow stakeholders to register their early feedback and to seek clarification from the office on the terms and content of the consultation.

## **No independent PCA funding during the first part of the reporting period**

*The PCA is primarily funded by a levy on the six pub-owning businesses within scope of the Pubs Code in this reporting period. Each financial year, the PCA seeks approval from the Secretary of State for the proposed levy before it may be imposed. The PCA had no statutory authority to research, prepare, submit or raise the levy before his appointment on 2 May. The PCA therefore relied upon BEIS for funding and financial administration during the initial part of the reporting period – including when the Code came into force – until the levy was raised in December 2016.*

The office of the PCA mitigated this lack of financial independence by working closely with BEIS to ensure that they understood the demands that the Adjudicator was likely to make on their budgets, over what period, and to agree a timeframe for repayment.

## **Securing the co-operation of pub-owning businesses**

*The passage of the primary and secondary legislation creating the Pubs Code and the PCA had been characterised by significant scepticism and outright opposition from the pub-owning businesses. Their relationships with HM Government had been difficult. There was a risk that this confrontational approach might carry over to their relationships with the PCA.*

The office of the PCA mitigated this by an early series of bilateral meetings with the pub-owning businesses and their trade body beginning in the week that he was appointed. The PCA used these meetings to deliver a clear message that his focus would be on making a success of the Code, and that he wanted to work with all stakeholders across the industry to achieve this. This has been assisted by supporting the establishment of a Code Compliance Officer network to provide a forum in which the pub-owning businesses can discuss their Code issues with the office of the PCA or refer to recommendation groups.

## **Low confidence in the PCA by some tenant representatives**

*Historically, pub tenants have been represented by two groups of stakeholders – trade and professional bodies, and campaigning groups. The latter have not supported the appointment of the PCA, and have consequently limited their dealings with the PCA office to specific cases and have rebuffed offers to engage more widely or to co-operate with the PCA to promote the Code. This has hampered the ability of the PCA to get his message about the Code to the wider tenant community.*

The office of the PCA has mitigated this risk by working with trade and professional bodies, and with the trade media, to inform tenants about the Pubs Code. The Adjudicator has also secured the co-operation of the pub-owning businesses to send the PCA information leaflet direct to all of the tenants covered by the Code.

# The Pubs Code and Adjudicator: Performance analysis

## Statutory performance summary of PCA activity for the period 2 May 2016 to 31 March 2017

Section 62 (Annual Report) of the SBEE 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 covers the period 21 July 2016 (when the Pubs Code came in to force) and 31 March 2017. For the year 2016/17 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 market rent only 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 Act gives the power to include provision 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 respect of the reporting requirements in section 62(2)(d) of the SBEE Act arise. .

### **Summary of arbitrations conducted by the PCA during the period 21 July 2016 to 31 March 2017 (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	<b>116</b>
Of which:	
Number of arbitration cases in which an award was made	16
Number of arbitration cases in which an award was made following the withdrawal of the referral by the referrer	3

### **Summary of cases in which the PCA has exercised functions in relation to the offer of a market rent only option during the period 21 July 2016 to 31 March 2017 (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	<b>102</b>
Of which:	
Number of arbitration cases in which an award was made	14
Number of arbitration cases in which an award was made following the withdrawal of the referral by the referrer	3

### **Duration of arbitration cases that were on-going on 31 March 2017:**

Number of arbitration referrals (accepted cases and referrals under consideration) on 31 March 2017	<b>117</b>
Of which:	
Less than 1 month	19
Between 1 and 3 months	21
Between 3 and 6 months	68
Longer than 6 months	9

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 a particular case to reach a conclusion. The duration of an individual arbitration will depend on a number of 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 a proposed Order and 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 the Order and Directions, the PCA is facilitating a timetable between the tied pub tenant and pub-owning business, but the PCA only has limited influence over how fast the case progresses from then on. The parties control the arbitration process, within the statutory framework, and are the main drivers for how fast an arbitration case reaches a conclusion.

Delays can and do happen, largely where parties vary the timetable subsequently or where cases are stayed by agreement. 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. All of these delays can impact on the length of time a case remains open.

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. Where the PCA believes that delays are unnecessary, these will be raised with the party or parties concerned.

The PCA appreciates that there were a large proportion of open cases at the end of the reporting period. The PCA believes, however, that this is largely a consequence of delays associated with the parties' unfamiliarity with both the Code and the arbitration process; and of uncertainty about the extent and effect of a number of key elements of the Code – for example, the type of terms that are 'uncommon' in a free-of-tie agreement.

The PCA expects these delays, and therefore the proportion of open cases, to reduce during 2017/18 as parties become more comfortable with the process and as the outcomes of individual arbitrations bring greater certainty to the interpretation of the Code. 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.

# ACCOUNTABILITY REPORT

## Corporate Governance

### 1. Director's Report

The Pubs Code Adjudicator is a corporation sole and is an independent statutory regulator sponsored by BEIS.

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 which is my governance body responsible for ensuring that my statutory obligations are met and that decision-making and financial management are carried out appropriately and that the PCA office is managed effectively. For the set-up and initial operation needed in our first year I also convened a single Project Board which used well established project management techniques for identifying formal workstrands across our areas of operation and managing risks on a project basis. Membership of the Project Board varied across the period of set-up and consisted of project strand leads and key external advisors at the time.

For 2017/18 I have organised operational governance across 4 sub-boards mirroring our key functions. In 2016/17 I did not operate an Audit and Risk sub-committee but this will also form part of my governance arrangements for the coming financial year.

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 Adjudicator; Head of Policy and Operations; Head of Legal

### 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?departments%5B%5D=pubs-code-adjudicator&publication\\_type=transparency-data](https://www.gov.uk/government/publications?departments%5B%5D=pubs-code-adjudicator&publication_type=transparency-data)

The Adjudicator is the only Senior Civil Service level member of the Management Board and is the only person 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 ICO.

## **2. Statement of the PCA Accounting Officer Responsibilities**

The SBEE Act at Schedule 1, paragraph 15(1) requires the Pubs Code Adjudicator (PCA) to keep proper accounts and proper 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 that 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, and in particular to:

- 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 Government Financial Reporting Manual have been followed; and disclosing and explaining any material departures from these;
- d) preparing the statement on a going concern basis.

The Accounting Officer for BEIS has designated the Pubs Code Adjudicator 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 that 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**

#### **Responsibilities of the Pubs Code Adjudicator**

The independent, statutory Pubs Code Adjudicator (PCA) in England and Wales was formally established on 2 May 2016 under Part 4 of the Small Business, Enterprise and Employment Act 2015. The PCA was appointed by the Secretary of State for Business, Innovation and Skills. The organisation is a corporation sole based in the UK with one employee – the Adjudicator.

The PCA is responsible for ensuring compliance with the Pubs Code Regulations 2016, which came into force on 21 July 2016.

The Code regulates the contractual relationships between all pub-owning businesses with 500 or more tied pubs in England and Wales and their tied tenants. Six of these large pub companies are currently covered by the 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 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 new right that the Code grants a tied tenant to request a market rent only (MRO) option. Under an 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 Code gives the tenant the right to choose which of these options is the right one for their business.

The main functions of the PCA are to:

- a) Arbitrate disputes between tenants and their pub companies under the Pubs Code that are referred to the PCA; and decide on any redress or remedy.
- b) Investigate, where the PCA has reasonable grounds to suspect that there have been breaches of the Pubs Code; and take whatever enforcement action the PCA considers necessary.

- c) Report evidence of unfair business practices to the Secretary of State.

## **Our approach to governance**

2016/17 has been a year of set-up and initial delivery for the Adjudicator and the office of the PCA. Governance has been proportionate to reflect this, and to reflect the size of our organisation which grew gradually from one person to eight people over this reporting period. So in the early days staff were not in post to define, set-up or attend formal management structures, and our initial work was directed personally by the Adjudicator, drawing in those responsible for different areas of work as appropriate.

Quite early during the year we adopted a formal, simplified method of project management, categorising work into workstrands. Each workstrand had a nominated lead with responsibility for delivery, defining and managing risk and mitigation. This work reported to and was managed by my single Project Board approach. The information collected under these workstrands – including reliable and consistent data on calls to the PCA Enquiry Line, visits to the PCA website and case management data on referrals for arbitration – allowed me to prioritise and facilitate rapid delivery across the range of our activity.

Membership of the Project Board evolved during the year, reflecting changes to workstrand leads, but always included the Adjudicator, Head of Policy and Operations, Head of Legal, Lead Caseworker, drawing in consultants, secondees and subcontractors when they led on project strands. The Project Board met weekly until February when I reviewed the necessity for such a regular review as initial set up was complete, and now meets less frequently,

In addition to our Project Board considering immediate priorities, part way through the year I formalised the PCA Management Board to formally take strategic decisions ensuring we deliver our statutory functions and achieve financial probity. Membership of the Management Board is the Adjudicator, Head of Policy and Operations, and Head of Legal. This means it currently has 1 male and 2 females as members. The Board has corporate administrative support from the Finance and Stakeholder Manager. The Management Board meets fortnightly with standard agenda items covering business operations (including financial compliance), stakeholder engagement, intelligence and compliance and enquiries and arbitrations. The Board also maintains an overview of organisational risk. However these will move to monthly as the sub-board structure becomes embedded. The principal strategic risk to the PCA remains the reputational risk associated with managing the expectations about the impact of the Code and the take-up of MRO. The PCA will continue to mitigate this risk, and to understand the views and expectations of all those who use and operate within the Code by maintaining and developing its channels of communication with stakeholders from across the industry.

## **Sources of funding (subject to audit)**

### **Levy**

The full cost of the PCA is funded through a levy on 6 designated pub-owning businesses as landlords to 500 or more tied pubs. 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).

The PCA raised a total levy of £1.5 million in 2016/17. The pub-owning businesses were required to pay shares of the total levy ranging between 7% (£105,000) and 40% (£594,000) based on the proportion of tied pubs covered by the Code owned by each.

HM Treasury rules do not permit the PCA to retain surplus levy payments from one financial year to the next. Unspent levy in 2016/17 amounted to £692,627. The PCA will return this – in the same proportions in which it was paid – to the pub-owning businesses by offsetting the amount against their levy payment for 2017/18.

## **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 PCA in cases where tied pub tenants have referred an MRO case to the PCA.<sup>3</sup>

The PCA received a total of £34,150 in fees income during 2016/17. £27,300 of this income consisted of fees paid by tied pub tenants to refer their case to the PCA for arbitration; and £6,850 was recouped from pub-owning businesses.

## **Statement of Internal Financial Controls**

The financial statements in this annual report relate to both the activities of the statutory Pubs Code Adjudicator and the administrative support provided to the Adjudicator by the office of the PCA.

The Pubs Code Adjudicator 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 will:

- use its resources efficiently, economically and effectively, avoiding waste and extravagance
- plan to use its resources on an affordable and sustainable path, within agreed limits
- carry out procurement and project appraisal objectively and fairly, using cost benefit analysis and generally seeking good value for the Exchequer as a whole
- use management information systems to gain assurance about value for money and the quality of delivery and so make timely adjustments
- avoid over defining detail and imposing undue compliance costs, either internally or on its customers and stakeholders
- have practical documented arrangements for controlling or working in partnership with other organisations, as appropriate
- use internal and external audit to improve its internal controls and performance.

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

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<sup>3</sup> The Pubs Code (Fees, Costs and Financial Penalties) Regulations 2016 (2016 No. 802)

## **Accountant and Auditor**

An accountant has been appointed to independently prepare the annual accounts, however they have not audited the accounts. This is undertaken by the NAO and is an important separation of duties, for a small organisation such as the PCA. As part of their audit, the NAO found significant weaknesses in the allocation of costs against financial years. All necessary adjustments identified through audit here have been made and actions are in hand to improve the finance capabilities of PCA staff with regards to the accrual concept.

## **Audit and Risk Committee**

The office of the PCA is moving to the next stage of implementing governance procedures, and as part of this is the setting up of a formal audit and risk committee. Membership will be the PCA Management Board and an external independent member. Meetings will be held quarterly to review financial expenditure and risk. The BEIS sponsor team will be invited to the Audit and Risk Committee meeting.

*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 and Accounting Officer

7 July 2017

# Remuneration and Staff Report

## 1. Remuneration policy

The PCA has no remuneration responsibilities. The remuneration of the Adjudicator is determined by the Secretary of State for BEIS under Schedule 1 to the 2015 Act. The Pubs Code Adjudicator is designated as a statutory Office Holder and is a corporation sole.

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

The PCA is a pensionable position. Pension commitments for secondees to the PCA office are met by their home departments. No calculation of a median staff figure has been made for the year as there is only one member of staff.

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

Single Total Figure of Remuneration (2 <sup>nd</sup> May 2016 – 31 March 2017)				
Public appointee	Salary £'000	Bonus payments £'000	Pension benefits (to the nearest £1000)	Total £'000
Paul Newby	115-120 (125-130 annualised)	£0	46,000	160 – 165 (170 – 175)

## 2. Salary (subject to audit)

“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.

## 3. Benefits in kind (subject to audit)

No allowances, bonuses or benefits in kind have been made to the Adjudicator. Gifts and hospitality are recorded in a Gifts and Hospitality register.

## 4. Pension Benefits (subject to audit)

This is the actuarially capitalised value of the pension scheme benefits accrued by a member at a particular point in time. As the Adjudicator joined the pension scheme on 2 May 2016, there is no information for 2015/ 2016.

Officials	Accrued pension at age 65 as at 31 March 2017 and related lump sum	Real increase in pension and related lump sum at pension age	CETV at 31 March 2017	CETV at 31 March 2016	Real increase in CETV
	£'000	£'000	£'000		
Mr Paul Newby	0 - 5	2.5 - 5	40	0	31

## 5. 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 1 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 is 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](http://www.civilservicepensionscheme.org.uk)

New Career Average pension arrangements were introduced from 1 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:

	Period ending 31-Mar-17 £	Period ending 31-Mar-17 £	Period ending 31- Mar-17 £
	<i>Permanent Staff</i>	<i>Other Staff</i>	<i>Total</i>
Wages and salaries	118,817	269,245	388,062
Social security costs	15,371	-	15,371
Other pension	29,110	-	29,110
	<b>163,298</b>	<b>269,245</b>	<b>432,543</b>

- (i) The Pubs Code Adjudicator is the only permanent staff member.
- (ii) There have been no severance payments in year.

VAT is charged on salaries where levied by the seconding organisation. The PCA is not registered for VAT. Departments that second employees to the PCA have applied different VAT treatments and the PCA has sought a determination from HMRC on the VAT treatment from the department charging VAT on salaries and associated expenses. The advice given is that the PCA must address issues of interpretation with individual departments. It is disappointing that a resolution has not been found in the reporting period. This will now be taken forward and a consistent approach on VAT treatment is expected in time for the next annual report and accounts.

## 2. Average number of staff employed (subject to audit)

### Average number of staff employed

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:

Employed on references:

	2016/17 FTE
Permanent Staff	1
Other Staff	<u>5.1</u>
	<u>6.1</u>

- (i) The total number of staff reported is average FTE's for an equivalent full 12 months.
- (ii) No calculation of a median staff pay figure has been made for the year, as there is only one member of staff.

## 3. Staff composition

The SBEE Act allows the Adjudicator, as a corporation sole, to recruit staff on secondment from public or private sector organisations. Over this reporting period the Adjudicator recruited 12 members of staff, some of which were short term appointments. In addition we were supported by one long term temporary member of staff (covering until it was possible to recruit a suitable permanent member), a temporary secondee from BEIS. Staff were recruited on 2 year secondments from other parts of the Civil Service.

In addition the office of the PCA entered into a Memorandum of Understanding with the Regulatory Delivery Division of BEIS who provided staff for the Enquiry Line and some case work support.

Work was supported by specialist advice. This included consultancy advice from a communications specialist and policy specialist, legal advice, accountancy support and advice on operating as a new Regulator.

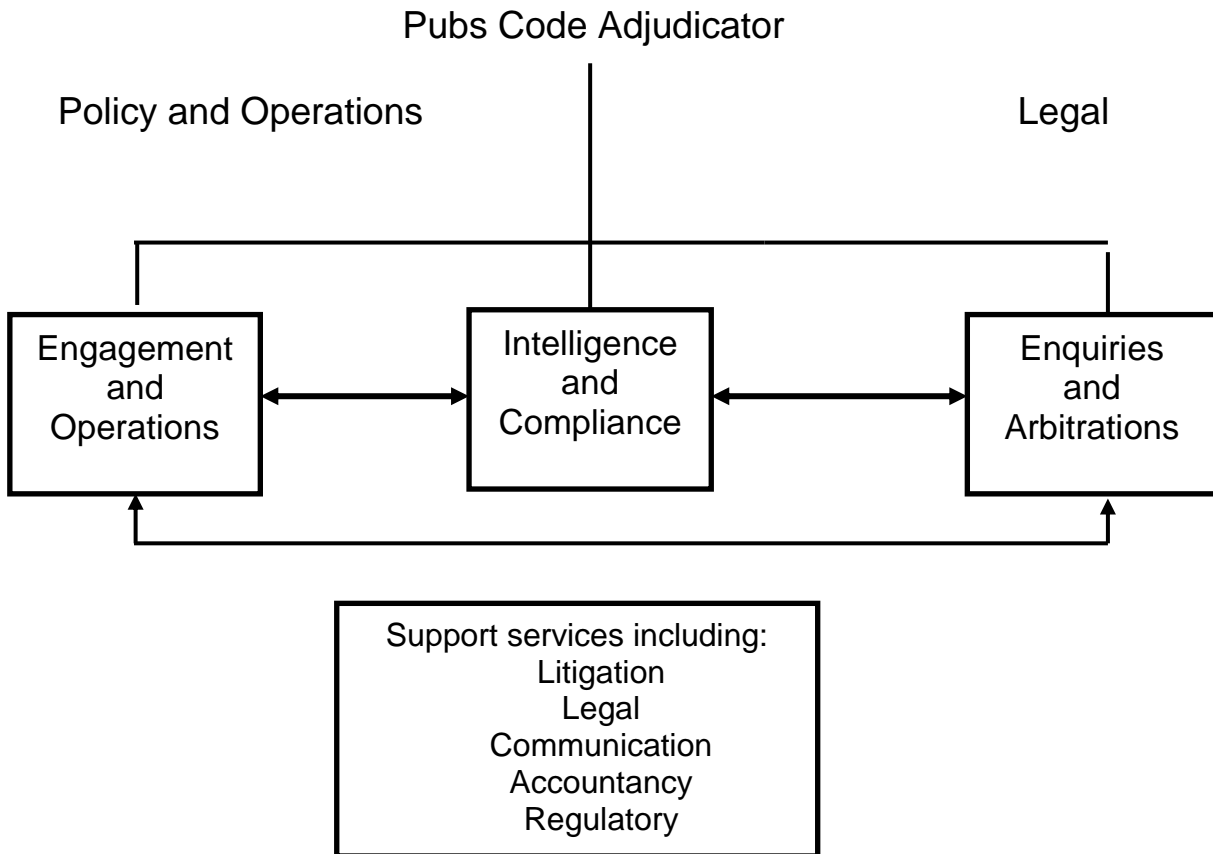
## 4. Exit packages (subject to audit)

No exit packages were paid during the reporting period.



## 5. 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 such a small organisation we have consolidated our operation to reflect the key functions we deliver, as shown below:



# Parliamentary Accountability and Audit Report

There were no losses made and no special payments during this reporting period.

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

During this reporting period, the PCA has met other duties as a public body in the following ways:

## The Regulators' Code

The PCA is a non-economic regulator and will in future years need to have regard to the Regulators' Code. This will oblige 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 BEIS Regulatory Delivery Directorate in BEIS where appropriate in anticipation of meeting the Regulator's Code requirements.

## Business, Innovation and Skills Select Committee (BISCOM)

The Adjudicator was invited to give evidence to BISCOM on 10 May 2016 shortly after taking up post on 2 May 2016.



Paul Newby  
Pubs Code Adjudicator

7 July 2017

# **Certificate of the Comptroller and Auditor General to the Houses of Parliament**

I certify that I have audited the financial statements of the Pubs Code Adjudicator for the period ended 31 March 2017 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. 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.

## **Respective responsibilities of the Accounting Officer and auditor**

As explained more fully in the Statement of 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. My responsibility is to examine, certify and report on the financial statements in accordance with the Small Business, Enterprise and Employment Act 2015 conducted my audit in accordance with International Standards on Auditing (UK and Ireland). Those standards require me and my staff to comply with the Auditing Practices Board's Ethical Standards for Auditors.

## **Scope of the audit of the financial statements**

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. This includes an assessment of: whether the accounting policies are appropriate to the Pubs Code Adjudicator's circumstances and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the Pubs Code Adjudicator and the overall presentation of the financial statements. In addition I read all the financial and non-financial information in the Performance Report and Accountability Report to identify material inconsistencies with the audited financial statements and to identify any information that is apparently materially incorrect based on, or materially inconsistent with, the knowledge acquired by me in the course of performing the audit. If I become aware of any apparent material misstatements or inconsistencies I consider the implications for my certificate.

I am required to obtain evidence sufficient to give reasonable assurance that the expenditure and income 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.

## **Opinion on regularity**

In my opinion, in all material respects the expenditure and income 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.

## **Opinion on financial statements**

In my opinion:

- the financial statements give a true and fair view of the state of the Pubs Code Adjudicator's affairs as at 31 March 2017 and of the net expenditure for the period 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 other matters**

In my opinion:

- the parts of the Remuneration and Staff Report and the Accountability Report to be audited have been properly prepared in accordance with Secretary of State directions made under the Small Business, Enterprise and Employment Act 2015; 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 Accountability Report 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**

**Date**

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



Pubs Code  
Adjudicator

# Pubs Code Adjudicator

## FINANCIAL STATEMENTS

for the period from 2 May 2016 to 31 March 2017

# Pubs Code Adjudicator

## STATEMENT OF COMPREHENSIVE NET EXPENDITURE

for the period ended 31 March 2017

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# Statement of Comprehensive Net Expenditure for the period ended 31 March 2017

	Note	Period ending 31-Mar-17 £
<b>Expenditure</b>		
Staff Costs	2	432,543
Other Expenditure	3	408,980
		<u>841,523</u>
<b>Income</b>		
Other income	4	(841,523)
<b>Net Expenditure</b>		
		<u>-</u>
<b>Net expenditure after interest</b>		
		<u>-</u>
<b>Net expenditure after interest and tax</b>		
		<u>-</u>
<b>Total Comprehensive Expenditure for the period ended 31 March 2017</b>		
		<u>-</u>

The notes on pages 35 to 41 form part of these financial statements

There was no other comprehensive expenditure.



Paul Newby  
Pubs Code Adjudicator and Accounting Officer

Date 7 July 2017

**Pubs Code Adjudicator**  
STATEMENT OF FINANCIAL POSITION  
for the period ended 31 March 2017

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## Statement of Financial Position as at 31 March 2017

	Note	As at 31-Mar-17 £
<b>Current assets</b>		<u>          </u>
Trade and other receivables due within one year	5	<u>7,376</u>
Cash and cash equivalents	6	<u>815,749</u>
<b>Total current assets</b>		<u>823,125</u>
<b>Total assets</b>		<u>823,125</u>
<b>Current liabilities</b>		
Deferred income	7	692,627
Trade and other payables	7	<u>130,498</u>
<b>Total current liabilities</b>		<u>823,125</u>
<b>Total assets less current liabilities</b>		<u>-</u>
<b>Assets less liabilities</b>		<u>-</u>
<b>Taxpayers' equity</b>		
Income and expenditure reserve		-
		<u>-</u>

The notes on pages 35 to 41 form part of these financial statements.



**Paul Newby**  
Pubs Code Adjudicator and Accounting Officer

Date 7 July 2017

**Pubs Code Adjudicator**  
STATEMENT OF CASH FLOWS  
for the period ended 31 March 2017

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## Statement of Cash Flows for the period ended 31 March 2017

	Note	Period ending 31-Mar-17 <u>£</u>
<b>Cash flows from operating activities</b>		
Net operating cost		-
(Increase) in receivables	5	(7,376)
Increase in payables	7	<u>823,125</u>
<b>Net cash outflow from operating activities</b>		<u>815,749</u>
<b>Net increase in cash and cash equivalents in the period</b>	6	815,749
<b>Cash and cash equivalents at the beginning of the period</b>		-
<b>Cash and cash equivalents at the end of the period</b>		815,749

The notes on pages 35 to 41 form part of these financial statements



## Statement of Changes in Taxpayers' Equity for the period ended 31 March 2017

	I & E Reserve £	Total Reserves £
<b>Balance as at 02 May 2016</b>	-	-
Comprehensive income for the period	-	-
<b>Balance as at 31 March 2017</b>	-	-

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

# Notes to the Financial Statement

## 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). These financial statements have been prepared in accordance with the 2016/17 Government Financial Reporting Manual (FReM). The accounting policies contained in the FReM apply International Financial Reporting Standards (IFRS) as adapted or interpreted for the public sector context. Where the FReM permits a choice of accounting policy, the accounting policy which is judged to be the most appropriate to the particular circumstances of the PCA for the purposes of giving a true and fair view has been selected. 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 Small Business, Enterprise and Employment Act 2015; and have been laid before Parliament by the Secretary of State.

### 1.1 Accounting convention

These accounts have been prepared under the historical cost convention.

The Small Business, Enterprise and Employment Act 2015 (SBEEA 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*

The Small Business, Enterprise and Employment Act 2015 (SBEEA 2015) [section 63] provides that the full cost of the PCA will be funded through a levy on six designated pub-owning businesses as landlords to 500 or more tied pubs. These are: 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).

##### *Arbitration and Investigations*

The PCA will, in the great majority of cases, recoup the full cost of arbitrations, in accordance with SBEEA 2015 [section 51] through the payment of fees by tied pub tenants when referring a case to the PCA (£200 per referral). 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.

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.

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 situation, 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.

### **(b) Going concern**

The PCA will receive levy income for 2017/18 and arbitration fees and expenses to fund its activities in the coming year. These accounts have therefore been prepared on a going concern basis. The PCA has approval from the Secretary of State for a levy for 2017/18 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 2017/18 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 were initially measured at fair value plus transaction cost unless they were carried at fair value through profit and loss in which case the transaction costs are charged to operating costs.

The categorisation of financial assets and liabilities depends on the purpose for which the asset or liability was held or acquired. Management determined the categorisation of assets and liabilities at initial recognition and re-evaluated this designation at each reporting date.

#### *Financial assets*

The PCA held financial assets, which comprised of cash at bank and receivables. These were non-derivative financial assets with fixed or determinable payments that are not traded in an active market. Since these balances were expected to be realised within 12 months of the reporting date, there was no material difference between fair value, amortised cost and historical cost.

#### *Financial Liabilities*

The PCA held financial liabilities, which comprised 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 were expected to be settled within 12 months of the reporting date, there was no material difference between fair value, amortised cost and historical cost.

## (d) Reserves

### *Income and expenditure reserve*

The Adjudicator accounted for the PCA's accumulated deficit in the income and expenditure reserve.

## (e) Expenditure

All expenditure is recognised on an accruals basis. Purchases of capital items over £1,000 will be recognised in the accounts as an asset and appropriately depreciated or amortised.

## 2. Staff costs

The cost of staff remuneration was:

	Period ending 31- Mar-17 £	Period ending 31- Mar-17 £	Period ending 31-Mar- 17 £
	<i>Permanent Staff</i>	<i>Other Staff</i>	<i>Total</i>
Wages and salaries	118,817	269,245	388,062
Social security costs	15,371	-	15,371
Other pension	29,110	-	29,110
	<u>163,298</u>	<u>269,245</u>	<u>432,543</u>

- (i) The Pubs Code Adjudicator is the only permanent staff member.
- (ii) There have been no severance payments in year.
- (iii) VAT is charged on salaries where levied by the seconding organisation.

### 3. Other expenditure

	Period Ending 31-Mar-17 £
Rentals and running costs under the terms of occupation	22,437
Advertising & marketing	12,308
Bank charges	507
Consultancy	82,767
Regulatory delivery	231,629
Subscriptions	1,491
Legal costs	4,116
Printing & stationery	1,664
Staff training	4,364
Travel & subsistence	10,623
IT Evolve helpdesk	20,632
Audit fee	12,000
Accountancy fee	3,540
Other expenditure	902
	<hr/>
Total other operating charges	408,980

### 4. Income

	Period ending 31-Mar-17 £
Levy Raised	1,500,000
Fee income	27,300
Arbitration Fees	6,850
Deferred income	(692,627)
	<hr/>
Total Income	841,523
	<hr/>

## 5. Trade receivables and other assets

	As at 31-Mar- 17 £
<b>Amounts falling due within one year</b>	
Other debtors	320
Prepayments and accrued income	7,056
	<u>7,376</u>

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

## 6. Cash and cash equivalents

	Period Ended 31-Mar-17 £
Balance at 02 May 2016	-
Net change in cash and cash equivalent balances	<u>815,749</u>
Balance at 31 March 2017	<u>815,749</u>

The following balances at 31 March 2017 were held at:

Government Banking Service	£815,749
Balance at 31 March 2017	<u>£815,749</u>

## 7. Trade payables and other liabilities

Amounts falling due within one year

	As at 31-Mar-17 £
Deferred income	692,627
Trade and other payables	4,557
Accruals	125,941
	<hr/> 823,125

## 8. Capital commitments

The PCA had no capital commitments.

## 9. Commitments under leases

Obligations under operating leases for the following period, as at 31 March 2017, comprise:

Not later than one year	£15,247
Later than one year and not later than five years	£2,044
	<hr/>
Total	£17,291

The contract may be terminated on 03/05/2018 subject to six months' notice in writing,

## 10. Contingent liabilities & assets

There are no contingent liabilities or assets to report.

## 11. Related party transactions

The PCA is a corporation sole funded by a levy on 6 pub-owning businesses. During the initial setup the office of the PCA has had various material transactions with BEIS, through the provision of payroll for the Adjudicator and provision of ICT services (from May 2016).

None of the PCA office members or key managerial staff undertook any material transactions with BEIS during the year, except for remuneration paid for their services.

All transactions with BEIS have been completed with market rates.

## **12. Events after the reporting period**

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.

The Accounting Officer authorised these financial statements for issue on the date they were certified by the Comptroller and Auditor General.



## CORRECTION SLIP

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Session: 2 May 2016-31 March 2017

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Correction 1: Change in statistics – Number of cases accepted updated from 119 to 116; number of arbitration cases in which an award was made updated from 14 to 16; number of cases in which an award was made following a withdrawal updated from 1 to 3.

Page 14

Content currently reads:

**Summary of arbitrations conducted by the PCA during the period 21 July 2016 to 31 March 2017 (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	119
Of which:	
Number of arbitration cases in which an award was made	14
Number of arbitration cases in which an award was made following the withdrawal of the referral by the referrer	1

Content should read:

**Summary of arbitrations conducted by the PCA during the period 21 July 2016 to 31 March 2017 (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	116
Of which:	
Number of arbitration cases in which an award was made	16
Number of arbitration cases in which an award was made following the withdrawal of the referral by the referrer	3

Correction 2: Change in statistics – Number of cases accepted in relation to MRO updated from 104 to 102; of those, the number of cases in which an award was made updated from 11 to 14; number of cases where an award was made following a withdrawal updated from 1 to 3.

Page 14

Content currently reads:

**Summary of cases in which the PCA has exercised functions in relation to the offer of a market rent only option during the period 21 July 2016 to 31 March 2017 (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	104
Of which:	
Number of arbitration cases in which an award was made	11

Number of arbitration cases in which an award was made following the withdrawal of the referral by the referrer	1
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Content should read:

**Summary of cases in which the PCA has exercised functions in relation to the offer of a market rent only option during the period 21 July 2016 to 31 March 2017 (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	102
Of which:	
Number of arbitration cases in which an award was made	14
Number of arbitration cases in which an award was made following the withdrawal of the referral by the referrer	3

Correction 3: Change in statistics – Number of referrals as of 31 March 2017 updated from 130 to 117; of those, less than a month updated from 17 to 19, between 1 and 3 months updated from 22 to 21, between 3 and 6 months updated from 79 to 68, longer than 6 months updated from 12 to 9.

Page 14

Content currently reads:

**Duration of arbitration cases that were on-going on 31 March 2017:**

Number of arbitration referrals (accepted cases and referrals under consideration) on 31 March 2017	130
Of which:	
Less than 1 month	17
Between 1 and 3 months	22
Between 3 and 6 months	79
Longer than 6 months	12

Content should read:

**Duration of arbitration cases that were on-going on 31 March 2017:**

Number of arbitration referrals (accepted cases and referrals under consideration) on 31 March 2017	117
Of which:	
Less than 1 month	19
Between 1 and 3 months	21
Between 3 and 6 months	68
Longer than 6 months	9

