



**SUBMISSION ON PUBS CODE AND PUBS
CODE ADJUDICATOR
Consultation Part 2**

**TO THE BUSINESS, INNOVATION & SKILLS
SELECT COMMITTEE**

December 2015

Introduction

The Independent Family Brewers of Britain (IFBB) was formed in 1993 to represent a distinct and unique sector of the UK brewing industry - the family owned brewery – and to defend the Tie and highlight its importance to the longevity of breweries and success of tenant licensees. We represent the interests of 28 members, who between them own around 4,100 pubs throughout England and Wales, providing employment for around 36,000 people. The majority of these pubs – around 74% - are run under the brewery Tied tenancy system (where the Brewer maintains the fabric of the public house), with both new and experienced pub licensees benefiting from comprehensive training and support from their local brewer – our member. In addition, our members brew over 450 brands of beer and are working hard to introduce these brands to a new generation of beer drinkers, thus providing excellent choice for the consumer in both our pubs, within the free trade (including pub companies) and in bottle and can, to be enjoyed at home.

The Pubs Code and Pub Code Adjudicator.

You will be aware that as all of the companies we represent operate less than 500 outlets we will not be subject to the Code and Adjudicator but are committed to maintaining a robust system of self-regulation, when the Statutory Code comes into effect, with a Code of Practice for the operation of tied tenancies and leases. Self-regulation will involve the continued operation of PICAS to resolve complaints against member companies and PIRRS to resolve rent review disputes.

We are also pleased to inform you that we are in discussions with other companies that have less than 500 pubs that are not IFBB members with a view to joining together under the voluntary arrangements we are putting in place.

The Consultation

We thank the Government for giving companies the opportunity to comment on Part 2 of the consultation and whilst we will not be affected by the majority of the proposals we would like to make reference to two areas where we feel legislation will be difficult to work within.

Question 13

Do you have any views on the extent of the extended protection that is proposed?

Answer - Whilst the Voluntary Code of Practice will be robust and provide considerable protection for tied tenants/lessees, we believe that there are elements of the “extended protection” set out in Section 10.9, which would not be appropriate or proportionate for members of companies with less than 500 pubs.

We argued the case that certain conditions should not apply to smaller companies during the passage of the Bill through the House. Government understood our concerns and decided to exclude us from the legislation. However, the legislation as now re-introduces those concerns if just one pub is purchased from a company with greater than 500 pubs.

The areas of concern are:

10.9 (a): The requirement that rent assessments be “signed off” by “a suitably qualified valuer registered with the RICS”. This requirement would be extremely onerous for small companies that do not employ RICS qualified members of staff.

10.9 (d): The Role of the Business Development Manager (BDM). We are fully committed to training BDMs and dealing with tenants/lessees in a transparent manner. However, the requirements in Section 42 (4) would impose a disproportionate burden on smaller companies.

Likewise, the cost of maintaining a Code Compliance Officer would be disproportionate and it would be anomalous to have such an Officer for possibly one pub.

10.9 (e): Given our commitment to the continuation of PICAS, we would suggest that this be available as a route for the resolution of disputes.

Question 18

For how long should tenancy at will or other agreements be granted exemption from the Pubs Code?

Answer - We made the case in previous submissions for Temporary Agreements, often called Tenancy at Wills (TAW's) to be excluded from the list of agreements subject to legislation and we thank Government for listening and agreeing to those proposals. We believe 12 months is a fair compromise and intend to include the same length of term for a TAW in the new voluntary code.

Question 19

Do you think it is appropriate that a tenant entering into a tenancy at will or short-term agreement with a pub owning business should have completed pre-entry awareness training prior to being offered the agreement?

Answer - NO.

In the pre-amble to Question 18 Government accepts the argument from pub-owning businesses and some tenant groups that these agreements are valuable to pub-owning businesses because they are typically used to keep a pub open and trading while a longer-term tenant is being sought and due diligence is being carried out – for example, if the previous tenant has left at short notice or has died. In addition, it is agreed that by their very nature, these agreements require more flexibility than longer-term agreements.

To introduce pre entry awareness training (PEAT) for a TAW will once again slow the procedure down and result in pubs closing in the short term whilst potential tenants are asked to take a course that concentrates solely on Full Tenancy and Lease agreements.

TAW's have very few contractual liabilities, can be terminated at short notice and are not long-term contracts requiring any investment from the tenant.

Schedules 1 and 2

We have already expressed our concern in our answer to Question 13 that we believe that there are elements of the "extended protection" set out in the consultation document which would not be appropriate or proportionate for members of companies with less than 500 pubs. This also applies to Schedule 2 in its entirety and parts of Schedule 1 and we ask that Government re-considers the procedure to be adapted when a pub is sold to a smaller company.



James Staughton
Chairman - IFBB

Appendix – IFBB Members

Our members are as follows:

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| • Arkells Brewery | Swindon, Wiltshire |
| • George Bateman & Son | Wainfleet, Lincolnshire |
| • Black Sheep Brewery/ | Masham, North Yorkshire |
| • Charles Wells | Bedford |
| • Daniel Batham & Son | Dudley, West Midlands |
| • Daniel Thwaites | Blackburn, Lancashire |
| • Donnington Brewery | Stow on the Wold, Gloucestershire |
| • Everards Brewery | Leicester |
| • Felinfoel Brewery | Llanelli, Dyfed |
| • Frederic Robinson | Stockport, Cheshire |
| • Fuller Smith & Turner | Chiswick, London |
| • Hall & Woodhouse | Blandford Forum, Dorset |
| • Harvey & Sons | Lewes, East Sussex |
| • Holden Brewery | Dudley, West Midlands |
| • Hook Norton Brewery | Hook Norton, Oxfordshire |
| • Hyde's Brewery | Manchester |
| • JW Lees | Manchester |
| • Joseph Holt | Manchester |
| • McMullen & Sons | Hertford |
| • Palmers Brewery | Bridport, Dorset |
| • SA Brain & Co | Cardiff |
| • Shepherd Neame | Faversham, Kent |
| • St Austell Brewery | St Austell, Cornwall |
| • T& R Theakston | Masham, North Yorkshire |
| • Timothy Taylor | Keighley, West Yorkshire |
| • WH Brakspear & Sons | Henley-on-Thames, Oxfordshire |
| • Wadworth & Co | Devizes, Wiltshire |
| • Young & Co | Wandsworth, London |