



Pubs Code
Adjudicator

RESPONSE 21





Pubs Code Consultation

Guidance: Accounting for duty paid on alcohol and volumes of unsaleable draught products in Pubs Code forecast profit and loss statements

Response form

Name:

Organisation (if applicable):

Address:

Email:

Royal Institution of Chartered Surveyors
RICS, Parliament Square, London, SW1P 3AD

Please tick the box below which best describes you as a respondent to this consultation:

Pub-owning business with 500 or more tied pubs

☐

Tied pub tenant

☐

Interest group, trade body or other organisation

☒

Other (please describe)

☐

PUBS CODE CONSULTATION: ACCOUNTING FOR DUTY PAID ON ALCOHOL AND VOLUMES OF UNSALEABLE DRAUGHT PRODUCTS

RICS RESPONSE

RICS welcomes the opportunity to respond to the subject consultation, confining its observations to issues relating to valuation matters. Given this, an overarching response to all questions rather than an individual answer to each is included below. RICS would be content to expand on any points if the Pubs Code Adjudicator (PCA) would find this helpful. RICS is the leading professional body in terms of standards and guidance relating to the built environment and valuation more widely. The comments below are made within that context, with no view taken on the wider implications or worth of the proposals. RICS has a public interest remit in line with its Royal Charter. In addition to being the body referenced within the *Pubs Code etc. Regulations 2016* (herein referred to as 'the code'), RICS members work as representatives of TPTs (Tied Pub Tenants), POBs (Pub Owning Businesses), tenants and landlords of 'free of tie' public houses and in arbitration and independent assessment proceedings. RICS's response reflects its public interest role and not the views of any one stakeholder. This reply has been prepared by RICS staff in conjunction with members and associates of the RICS Trade Related Valuation Group.

RICS Valuation - Global Standards 2017 state that 'Consistency, objectivity and transparency are fundamental to building and sustaining public confidence and trust in valuation'. RICS welcomes and seeks to assist with reform that furthers these objectives. The primary RICS professional guidance on trade related property is *VPGA 4, Valuation of individual trade related properties*. Specific guidance for public houses is included in the *Capital and Rental Valuation of Public Houses, Bars, Restaurants and Nightclubs in England and Wales, 1st edition, 2010* (referred to from herein as 'the RICS guidance'). Section 7 of the RICS guidance, refers specifically to the 'Tied lease market for public houses'¹. Section 7(11) of the RICS guidance includes a reference to the 'landlord's code of practice' rather than the statutory code, however the advice and methodology to be applied within the guide remains functional. RICS constantly seeks to gain insight from which to develop and update professional guidance and will do so following developments from this consultation and the wider conversation in this area.

The structure and nature of the public house market means a 'profits' valuation is used in most cases, estimating Fair Maintainable Turnover (FMT) for a Reasonably Efficient Operator (REO), from which to derive profit potential (Fair Maintainable Operating Profit or FMOP). Part of an FMT calculation may be derived from 'barrelage', the volume of beer and other liquor the public house is estimated to sell. Expertise is required in assessing each of these matters from raw trade and other relevant data as well as the individual factual circumstances of each location and property. Actual trade and operational detail is a reasonable guide but not the only matter for consideration, valuations usually being based on a hypothetical as opposed to actual operator. RICS guidance states:

'4.15 When actual accounts are used to assist in the formulation of an opinion on future trading potential, they will show only how a property is trading under the particular management at the time. Current and past performance is no guarantee as to the future FMT and FMOP.'

Additional data around duty and wastage which informs and supports valuation is welcome. RICS agrees that detail relating to accounts is important in achieving accurate valuation where the profits method is adopted. Other matters such as the experience, expertise and objectivity of the valuer are also valuable. RICS guidance states:

'5.2 It is important that the valuer is regularly involved in the relevant market for the class of property, as practical knowledge of the factors affecting the particular market is required. Such knowledge will aid in the analysis and review of historic and current trading performance, as well as with forecasts that may show increases or decreases on actual trade. This can assist in forming an opinion of the FMT and FMOP considered achievable by a likely purchaser or REO.'

RICS sees many positives in greater transparency and supply of data but warns against an undue focus on single elements within the assessment of FMT, FMOP and value. RICS guidance states:

'5.3 When preparing a trade related property valuation it is essential that the valuer reviews the cumulative result of the different steps of the valuation process. The valuation should be considered having regard to the valuer's general experience and knowledge of the market.'

The profit and loss estimates upon which FMOP and value are based are not standardised as referenced in RICS guidance:

4.17 Different owners/operators account for their businesses in different ways. There is no formal or predetermined format of a profit and loss statement (P&L). Valuers need to be able to assess the full extent of costs to owners/operators...'

RICS recognises the needs for its members to clearly explain and report on the assumptions made and adopted in a valuation as well as providing supporting evidence and data.

However, there is sometimes a misconception that the 'profits' test as defined in RICS guidance directly transposes actual 'barrelage' and turnover rather than being a construct encompassing and adjusting for numerous factors to determine FMT for the REO.

The proposed rules will only apply to those TPTs under contract with 500+ public house companies. RICS guidance applies to the valuation of all public houses and is used widely. RICS asks that appropriate measure of the expected industry-wide result of suggested changes is taken, testing whether they induce positive outcomes across the wider public house sector.

11th January 2019

References

Capital and Rental Valuation of Public Houses, Bars, Restaurants and Nightclubs in England and Wales, 1st edition, 2010, (ref GN67/2010)

<https://www.rics.org/uk/upholding-professional-standards/sector-standards/valuation/capital-and-rental-valuation-of-public-houses-bars-restaurants-and-nightclubs-in-england-and-wales/>

PCA Advice Note, Market Rent Only-compliant proposals, March 2018

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/685133/2018_03_02_PCA_Advice_Note_MRO_Compliant_Proposals_11.05.pdf

PCA, 'About the Code' guidance, November 2018

<https://www.gov.uk/government/publications/about-the-pubs-code/about-the-code>

RICS Valuation – Global Standards 2017, VPGA 4 Valuation of individual trade related properties

<https://www.rics.org/globalassets/rics-website/media/upholding-professional-standards/sector-standards/valuation/red-book-2017-global-edition-rics.pdf>

The Pubs Code etc. Regulations 2016

<https://www.legislation.gov.uk/ukdsi/2016/9780111146330/contents>

