



Pubs Code  
Adjudicator

## RESPONSE 12





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

Consultation under section 61(4) of the Small  
Business, Enterprise and Employment Act 2015

### **Response Form**



## Annex C: Response Form

Name: [REDACTED]

Organisation (if applicable): Ei group plc

Address: 3 Monkspath Hall Rd, Solihull, B90 4SJ

Email: [REDACTED]

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

Pub-owning business with 500 or more tied pubs	<input checked="" type="checkbox"/>
Tied pub tenant	<input type="checkbox"/>
Interest group, trade body or other organisation	<input type="checkbox"/>
Other (please describe)	<input type="checkbox"/>

### Accounting for Duty Paid

**Question 1: Do you believe that these proposals will ensure that tied pub tenants are fully informed of the duty that has been paid on the alcohol supplied to them under their tied agreement?**

The consultation concerns the sediment allowance on cask ales. Duty paid on all other draught beers, all draught ciders, wines and spirits is charged at rates that are readily available to all via HMRC's website.

Duty has already been fully paid on all alcohol supplied to us. The same duty rates apply when it is sold onward to our customers.

In relation to paragraph 6.2, Ei does not submit any duty paid information to HMRC and therefore the exact information on sediment allowances for all cask ales supplied for the last three years is not reasonably available.

Ei Group plc relies on the cask sediment allowances the brewers tell us they have agreed with HMRC and we now understand that some SIBA brewers' products do not have any agreed sediment allowance with HMRC. It is optional for brewers to ask HMRC for such allowances.

We supply over 1,000 different products of cask ale. Some of those are sourced directly from brewers and some through intermediaries like SIBA. Some cask ales are seasonal or specials and therefore have a very short lifespan.

Notwithstanding paragraph 11.3.5 of Excise Notice 226, Ei Group plc does not always receive information regarding sediment allowances and changes thereto. The information is not on cask labels as a matter of course.

There is no easy way for Ei Group Plc to collect exact sediment allowance information for all products for the last 3 years.

The problem with the proposal is that it would impose an unreasonable bureaucratic burden and the information provided to the tenant would still be an estimate rather than the exact figure.

**Question 2: If not, please explain what additional or different approaches you think would ensure compliance with Pubs Code requirements.**

We do make freely available, to our tied pub tenants, via our website and Publican Channel, all the product-specific cask sediment allowance information that is provided to us. At present the table lists sediment rates for the 154 cask ale products that are sold through our primary supply chain, (i.e. not offered via SIBA, Flying Firkin or seasonal offers such as Poppy Ale).

Ei Group plc can provide an estimate of the average sediment allowance on the products delivered and we could explain to the tenant that a 3 year delivery history for cask ales is available by product on request, and now attach an example of such a report. Sediment allowances change from time to time. In the analysis enclosed, half of the products sediment allowances changed over a 3 year period.

We can separate out sediment and operational waste in the P&L.

**Question 3: Can you foresee any unintended ways in which these proposals might have a detrimental effect on tied pub tenants? If so, how might such effects be mitigated?**

The provision of such additional information or estimates at product level risks overburdening the tenant with detail on the point and confusing them more than delivering clarity.

If we are required by the Pubs Code only to resell cask ales for which we can provide a sediment allowance at the time of delivery, the TPTs might not be able to buy from us the very wide range of SIBA ales and seasonal brews they can buy from us currently. This could also curtail a substantial route to market for the minor brewers.

### Accounting for Waste

**Question 4: Please indicate whether you agree with the proposal to account for sediment and operational waste separately.**

Yes

**Question 5: If not, please explain your objections.**

N/A

### Sediment Waste

**Question 6: Do you believe that these proposals will ensure that tied pub tenants have a clear and consistent approach to information about the volume of cask ales supplied under their agreement that will be unsaleable for reasons of sediment waste?**

Given the issues with providing the exact figures identified above, the suggestion in paragraph 7.7 of producing a consolidated figure representing an estimate of the sediment allowance for the particular pub is welcome.

As to para 7.8 the accounting for sediment in the P&L itself reflects the hypothetical tenant's product mix, not that of the actual tenant. Therefore the estimated percentage sediment allowances may differ from the figure referred to in question 2 above. Ei Group can include a disclaimer to that effect. The estimate in the P&L is not necessarily based on the cask products actually supplied (para 7.8(a)) and could be lower than the estimate of sediment allowance on the actual supplies (para 7.8(b)).

In terms of supporting evidence under para 7.8(c) Ei Group plc's estimate would be based on the type of products that the valuer thinks the REO would sell and the sediment allowances for the same (where known and estimated where not known). Where the sediment allowance percentage in the P&L differs substantially from the sediment allowance percentage of actual products, we will explain the difference.

As to the proposal at para 7.10 that Ei Group's price list be amended to include sediment allowances on all listed products, we believe that is not the optimal approach. The sediment allowance only applies to cask ales which are only a part of the product list. We believe the better approach is to maintain a separate list of sediment allowances which is published on our website and the Publican Channel.

**Question 7: If not, please explain what additional or different approaches you think would ensure compliance with Pubs Code requirements.**

See above

**Question 8: Can you foresee any unintended ways in which these proposals might have a detrimental effect on tied pub tenants? If so, how might such effects be mitigated?**

Because the sediment allowance figure is an estimate it is always open to challenge by the tenant. It may lead to more referrals to the PCA.

### Operational Waste

**Question 9: Do you believe that these proposals will ensure that tied pub tenants have clear and consistent information about the volume of draught products supplied under their agreement that will be unsaleable for reasons of operational waste?**

Valuers and stocktakers have always made an allowance against costs to reflect the loss of saleable stock arising from line cleaning and fobbing, but not waste that may arise from stock that has been spoiled before delivery or in the cellar, because that should be recoverable from the brewer as ullage.

All competent pub retailers should take regular stock reconciliations the format for which, whether via a professional stocktaker or an on-line tool, shows such wastage as a cost of sales; not as an amount of unsaleable volume taken out of the turnover. Logically that is sound because all the non-sediment content of every container in the cellar can potentially be sold. The level of operational wastage depends largely on how competently the publican manages not only his or her cellar but also cash reconciliation.

In our view the most transparent and tenant-friendly way to show operational wastage in rental P&Ls must be to show it in the same way as it is shown in stock reports, so that the TPTs can make an immediate and straightforward comparison.

I attach a recent press report by Vianet that illustrates these points.

**Question 10: If not, please explain what additional or different approaches you think would ensure compliance with Pubs Code requirements.**

None.

**Question 11: Can you foresee any unintended ways in which these proposals might have a detrimental effect on tied pub tenants? If so, how might such effects be mitigated?**

Rent assessment is based on experience, skill and fair maintainable trade. The provision of information must avoid leading to disputes about the differences between actual performance and that of a reasonably efficient operator.

The provision of information should be proportionate. It should not over-complicate rent appraisals with excessive detail that external valuers and open market bidders would consider to be irrelevant or having an impact which would fall well within the normal valuation margin of error. This potentially imposes costs without adding value for anyone.

Training and Support

**Question 12: Do you have any comments on the proposed approach to access to training for tied pub tenants?**

We have no issue with the proposed approach. We already provide existing and prospective TPTs with access to comprehensive cellar management training and technical services support as well as access to a series of free Pub Principles guides which include best practice on product quality, dispense and pricing. We also offer on-line gross profit calculator to assist TPTs with their product and pricing choices and will ensure that any on-line tools, and any separate training, is updated wherever relevant to reflect the confirmed outputs from this PCA consultation.

We actively encourage all TPTs to utilise the ongoing services of stock takers and accountants who specialise in the licensed trade and we make appropriate financial allowance in our forecast profit and loss statements to cover the reasonable costs of this service. We also draw to our TPT's attention the register of professional, independent stock takers and accountants maintained by the British Institute of Innkeeping.

**Question 13: Do you have any comments on the proposed training requirements in respect of BDMs?**

We have no issue with the general principle of adequate training for BDMs but suggest that the requirement only extends to those BDMs that would ordinarily have a role to explain this information to TPTs as part of their job responsibilities. It should not be applied to BDMs (as defined by the Code) that do not have this role as part of their job.

Our BDMs involved in this process undertake comprehensive training in respect of the preparation and communication of retail profit and loss statements and

associated rent proposals which already includes an allowance for wastage. All BDMs also undertake annual Pubs Code training as required by regulation 41(1)(b) of the Code. All future training would take account of any confirmed outputs from this PCA consultation.

**Office of the Pubs Code Adjudicator**

This document can be accessed at [www.gov.uk/pca](http://www.gov.uk/pca)

If you require this information in an alternative format or have general enquiries about the Pubs Code Adjudicator and its work, contact:

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