



Pubs Code  
Adjudicator

## RESPONSE 11





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Adjudicator

# 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:

Organisation (if applicable):

Address:

Email:

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 type="checkbox"/>
Tied pub tenant	<input checked="" type="checkbox"/>
Interest group, trade body or other organisation	<input type="checkbox"/>
Other (please describe)	

### 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?**

**No, this is a welcome start and very welcome admission that there is a problem here.**

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

**Labels should show 'name of beer', 'container size', 'volume of undrinkable' sediment and 'volume of product before operational waste' (Appendix 1)**

**All price lists must show 'volume of product before operational waste'.. If, for example there is a 'guest beer' price list, it must show the 'volume before**

operational waste' of each product. Any advert of a cask to the TPT must show the 'volume before operational waste'.

All communications with TPT or potential TPTs must use 'volume before operational waste' as the basis for discussion. Container size cannot begin any discussion about GP or profit and loss at any stage.

██████████ must write to every TPT explaining that casks do not contain 72 pints of product before operational waste and why they have sold TPTs cask as if it did. The letter must explain exactly what a sediment list is and how it is used to reduce the amount of beer tax paid by ██████████. They must explain how long they have known about sediment lists, why they are only telling TPT's now and the exact impact that not telling TPTs has had on their GPs, profit and losses and rents historically.

██████████ must write to the trade body for stock takers explaining the above.

██████████ must write to the trade body for surveyors explaining the above.

██████████ must take out full page adverts in the national press explaining the above so previous TPTs are aware of the situation. Many will have left the business since the start of the Pub's Code when this information should have been available.

At the moment nearly all trade professionals and TPTs are unaware of the problem and small changes to labels and lists alone will not change that.

**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?**

Yes, I do not see any reason that ██████████ will do any of the above, even if the PCA tell them too. The pub's code is clear about volume of duty paid beer but ██████████ have just ignored it and faced no punishment. If the PCA are not clear about the consequences of ignoring this then there will be more referrals by the TPTs, more costs and more wasted time and money.

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

**Yes, it is absolutely essential, the situation cannot be understood without this separation.**

**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?**

This is what the pub's code requires in schedule 2 and [REDACTED] are obliged to do to claim relief on beer tax duty.

This 'volume of product before operational waste' can be the only figure used to start calculations for p&l. At no stage should container volume be used.

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

P&l proposals must use the sediment amounts in firkins where the TPT buys firkins and then scale these figures up to BB.

Any argument by [REDACTED] that they do not have the resources to do calculations would be fine if they didn't have computers and spreadsheets but it is 2019.

**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?**

I'm worried that a consolidated figure may be gamed by the pubcos and need further referrals. I can imagine a pubco meeting discussing how they can reduce the figure and get away with it and I'm not sure there is enough value in the consolidation to risk that.

I'm worried that a consolidated figure may hide the variance in sediment and lead to the TPT being less informed.

### 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?**

No

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

Operational waste must be itemised under the instruction of the PCA to include

Customer tasting  
Condition testing  
Slips/drops/accidents  
Dirty / wrong glassware

Mis orders  
Fobbing (lagers only)  
Staff training  
Product / equipment failure (cask only)  
Customer complaints.

A value for each must be given and the TPT should not pay rent on this waste that is unavoidable to a Reasonably Efficient Operator. Anything left of this list will lead to unfairness as the TPT will pay rent on operational waste and [REDACTED] will profit from an untrue situation which lacks transparency.

[REDACTED] (Appendix 2) have said to me that my operational waste will be about [REDACTED] of my draught products. (cask [REDACTED] and other draught products [REDACTED] but [REDACTED] insist that operational waste is around [REDACTED] ( No operational waste for lager!!). How will this get resolved? I cannot compromise on the truth and pay rent on sales which cannot exist, TPT's cannot afford to. I see no evidence of [REDACTED] being fair on this or listening to me or the PCA. These proposal do nothing to change that and the PCA must not give [REDACTED] any room to game the system and try to collect rent on sales that cannot exist.

The length of the lines is not the same as operational waste, it is just a small part of it.

**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?**

This will just lead to fights and referrals over the make up of operational waste for a reasonably efficient operator, it is simply not conceivable that [REDACTED] will be fair and reasonable on this judging by their actions up to this point. Please don't give them another opportunity to be unreasonable and TPT another unwanted fight.

TPTs are so used to paying rent on operational waste that they will continue to do so and just accept that this is normal. [REDACTED] will never 'negotiate' this, the PCA need to be prescriptive.

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

I have not seen or heard of anyone in [REDACTED] who admits to understanding this or recognising that it is a problem or admitting that it has an impact on TPTs gross profits and rents. How can they train when refuse to admit it?

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

It is my experience that with [REDACTED] that BDMs, estate managers, senior estate managers, heads of drinks category management and operational directors all need training on this and there is nobody in the organisation who is willing to admit there is a problem.

As an organisation they have ignored the Pub's Code, the HMRC and the PCA on this issue and they cannot be trusted to train themselves now when they feel they have a right to make up the rules as they see fit.

The PCA must insist on the content of this training and make all of the above business roles take it, not just the BDMs.



### **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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