



Pubs Code
Adjudicator

RESPONSE 16





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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: [REDACTED]

Organisation (if applicable): NewRiver REIT

Address: 16 New Burlington Place, London W1S 2HX

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 type="checkbox"/>
Tied pub tenant	<input type="checkbox"/>
Interest group, trade body or other organisation	<input checked="" type="checkbox"/>
Pub Owning Business with less than 500 tied pubs in England & Wales	

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 provision of details of alcohol duty paid goes beyond the requirements of Schedule 2 which just requests the volume of alcohol on which duty has been paid.

We do not believe that the provision of information on the duty paid impacts upon any rental calculation proposals and therefore wonder about the benefit of providing such information.

Given the seasonality of cask ales, the large number of brewers of cask ales which have access to our tenanted estate and the varying duty paid, in particular by smaller brewers, this does seem an unnecessary burden to place on POBs for no benefit to TPTs.

Please note that NewRiver is not currently a brewer but we have a wide variety of brewers that have access to our tenanted estate including members of S.I.B.A. Given that the large majority of brewers are also not POBs it would not make

sense to just insist that Heineken, Marstons & Greene King are obliged to provide this information? Likewise would this only be to TPTs or all their customers?

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

NewRiver is already compliant with the Voluntary Code, much of this mirrors the Pub Code requirements.

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 Consultation requiring the provision of duty paid information, may be more onerous and difficult for smaller brewers to achieve and therefore this may limit POBs ability to supply TPTs with their products. This could impact upon TPTs ability to compete in areas where smaller brewers have large market penetration.

NewRiver is not yet a POB but if we do become so in the future we will need a period of time to comply with all the requirements of the Pub Codes Regulations.

We believe the PCA should therefore allow a minimum of 6 months to allow POBs to comply with the proposed actions from the Consultation

Accounting for Waste

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

NewRiver currently reflects in its rent proposals under the Voluntary Code for waste as a percentage of beer sales. This percentage reflects a variety of issues including the mix of cask v keg, length of delivery line, beer raising equipment used, condition of the cellar, cellar cooling equipment used etc.

The PCA's proposal to split sediment and operational wastage for the purposes of the P&L may highlight to TPTs the importance of focussing on the different

aspects of wastage and maximising their yields. If this were the case then we would support this move.

Issues relating to Operational Wastage are usually dealt with by our regular BDMs meetings with the TPTs.

Given the number of variables impacting upon the calculation of both Operational & Sediment waste we don't think that the proposals in 7.12 in relation to individual products and segments is appropriate. If a particular product produces a large amount of sediment waste then you would advise a TPT not to stock/sell it and would reflect in your rent assessment that a REO would not.

Question 5: If not, please explain your objections.

Please see question 4 above.

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?

We would be supportive of sediment waste being consolidated into one overall allowance.

Paragraph 7.8b does not reflect if there are partial ties affecting cask ales therefore given that in some cases the POB would not have this information we suggest that "*to give consideration*" to the duty paid figures under paragraph 5c of Schedule 2 and to be 'not less than the historic figures' is more appropriate

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

Please see response 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?

We believe that the rent assessment should reflect the projected turnover, gross profit margin and costs associated with running a specific pub let to a REO. The rent assessment should not be geared towards a specific operator running a pub in a specific way which would be better discussed at the Business Plan & Review stages.

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?

Please see our response to Question 4 as to how we believe the treatment of Operational Waste appears in the rent assessment.

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

Please see our response to Question 4

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?

We believe that the rent assessment should reflect the projected turnover, gross profit margin and costs associated with running a specific pub let to a REO. The rent assessment should not be geared towards a specific operator running a pub in a specific way which would be better discussed at the Business Plan & Review stages.

We believe that any proposals which increases complexity to the rent assessment without any benefit to the TPTs should be resisted.

If the PCA is considering changing the layout and approach of the rent assessment P&L model, POBs will need time to adjust models, train employees and where necessary re-produce and re-circulate existing P&Ls. Such changes will add unnecessary costs to POBs and complicate ongoing discussions with TPTs . Given these circumstances we would recommend a period of least 6 months to allow POBs to implement any changes.

Training and Support

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

NewRiver support the proposal for necessary training on cellar management, saleable volumes and dispensing best practices prior to taking a permanent tenancy.

Such training requirement should, however, reflect the experience of the proposed TPT and opt out provisions for such requirements be available in these circumstances.

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

We do not disagree with these proposals.

Office of the Pubs Code Adjudicator

This document can be accessed at 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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