



Pubs Code  
Adjudicator

## RESPONSE 13





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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: Greene King PLC**

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

Pub-owning business with 500 or more tied pubs	<b>X</b>
Tied pub tenant	
Interest group, trade body or other organisation	
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?**

What is under consideration would appear to go beyond the remit of the Pubs Code and the provisions of Schedule 2 which applies where the pub-owning business (POB) is required to provide a rent assessment. Paragraph 5 of Schedule 2 requires the POB to provide a forecast profit and loss account for the tied pub for the forecast period (as defined). This must include information on the volume and sales of alcohol. In certain circumstances the POB must also provide a figure for the volume of alcohol in respect of which duty was paid during the last three years. We are able to provide this information when required to do so under the Pubs Code. However, we are unable to identify any other provision in the Pubs Code, which obliges the POB (in its capacity as a POB rather than a brewer) to ensure that TPTs are fully informed of the amount of duty that has been paid.

You will appreciate that not all POBs are brewers and not all brewers are POBs. Indeed of those POBs under the jurisdiction of the Pubs Code and the PCA, Admiral Taverns, Ei Group, Punch and New River are not brewers. In addition, POBs that are brewers also sell products that they have not themselves brewed. Those POBs that are brewers will be responsible for accounting to HMRC for the duty on the products that they brew. Where a product is sold by Greene King that

has been brewed by another brewer, that brewer will be responsible for accounting for the duty and not Greene King. This is in line with the obligation to provide the information under paragraph 11.3.5 of Excise Notice 226 that is placed on the producer of the cask ale. It is not the duty of the POB to ensure the producer has complied with this notice.

The PCA appears to be working on the premise that (a) the POB only sells its own products and (b) is responsible for ensuring that duty is paid on all the products that it sells. As explained above this is not the case.

There is a further practical issue. It is increasingly common for small independent producers of cask ale to supply our TPTs under the Society of Independent Brewers Association (SIBA) scheme. SIBA represents approximately 830 brewers and in addition has approximately 300 supplies who are supplier associate members. We have broadened our stocking lists of cask ales over recent years to include both products brewed by Greene King and products produced by small independent producers who are members of SIBA. This is a popular scheme and it provides greater choice to our TPTs and their customers. It is quite common for TPTs to rotate brands of cask-conditioned ale, often on a weekly basis, so it is difficult to calculate the actual duty paid on all products sold to a TPT.

The arrangements for this scheme enable our TPTs to purchase cask ale directly through SIBA, with specific parameters, such as within a minimum radius of the pub or a geographical area. The producer of the cask ale delivers the product directly to the TPT. We receive notification from SIBA of the products purchased, by ABV only, so that the appropriate charges can be raised to the TPTs trade account. We do not know the specific products that have been purchased as our pricing structure works on ABV only.

Where TPTs benefit from the flexibility we provide under the SIBA scheme, we cannot guarantee to be able to provide the level of information required because this scheme does not touch our supply chain. Given the numbers of SIBA member brewers it would not be possible to control the information that is provided to TPTs by all those members.

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

To deliver compliance with the Pubs Code would require a complete change to the operation of the SIBA scheme that our TPTs currently enjoy, and would therefore place the provision of this scheme in jeopardy. If the scheme were not available, it would restrict the product choice of the TPT and their customers and have a negative impact on those businesses.

**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?**

We have broadened our stocking lists of cask ales over recent years and in doing so we have provided increased choice for our TPTs and their customers.

There are around 830 brewers who are members of SIBA who produce a wide variety of cask-ales with different ABV strengths and volume which would make providing information about duty difficult to maintain and supply regularly to those POBs who subscribe to the SIBA scheme.

The only suggestion would be that SIBA make attempts to obtain the required information and supply it to the subscribers in an easily available format. The alternative would be withdrawal from the scheme, which would affect the choice available to TPTs and their customers and not something that we would want to do unless there was no other option available. However if the PCA's requirements were such that we could not use the SIBA scheme and comply with the requirements of the Pubs Code/PCA we would have no option but to do so. That would have a very detrimental effect. As we say though, we have not been able to identify any obligation under the Pubs Code that requires the POB to ensure that this information is provided.

### Accounting for Waste

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

Our shadow profit and loss report does already provide a sediment and operational waste allowance, which demonstrates the effect on total sales turnover and gross profit. This is currently provided as a combined waste line, shown separately to the generic product lines in the calculation, which we believe complies with Schedule 2 (5)(f).

However, we have no objections with the proposal to account for sediment and operational waste separately by product category as set out in Schedule 2 (5)(d) for draught beer and cider. We would note that in applying the changes proposed we will require significant system changes which will take time to implement. Therefore, we request that this is taken into consideration when the PCA publishes the conclusions and guidance.

**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?**

We believe that our shadow profit and loss report does already provide a clear approach to applying an allowance for sediment.

However, in an effort to support the requirement around a consistent approach to sediment waste information, we believe the treatment to separate sediment waste and operational waste will support this clarity.

We will continue to calculate sediment waste as a consolidated allowance for all cask-conditioned ale and not on a brand-by-brand basis. This is because the TPT may sell a broad range of cask conditioned ale through-out the year some of which may only be on dispense for a few weeks. It would therefore be impractical to calculate the actual amount of wastage throughout the year.

We would also point out that the assessment of pub rents follows the RICS guidance which is based on the trading potential that can be realised by the Reasonably Efficient Operator, and not referenced to actual trading performance of the TPT in-situ. Our assessment will therefore reflect the facilities and configuration of the pub itself and not the individual operator performance.

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

N/A

**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?**

As stated in our response to Question 3, the possible unintended consequence of these proposals would be our withdrawal from the SIBA scheme, due to the lack of information provided by those smaller independent brewers. This would affect the product range choice available to our TPT's and their customers, and therefore have a detrimental effect.

## 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?**

We agree that information supplied around operational waste should be clear and consistent. However, the approach taken should be at the discretion of the individual POB. We agree that any allowances are made on an individual pub basis and based on the judgement of the person conducting the rent assessment.

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

While consideration to the length and arrangement of beer lines is made, they should not be the deciding factors in the calculation of operational waste.

Our rent assessment will take into account the facilities and configuration of the pub that is operated by the Reasonably Efficient Operator, who should optimise the trading potential and maximise profit by operating in an efficient manner.

In assessing the operational waste, POBs must be able to apply what they believe is reasonable for that pub given the above considerations.

At Greene King, we have invested over the years in intelligent dispense equipment which is able to detect different liquid types. We are now looking at how we are able to use the data collated through this equipment to calculate actual operational waste. This data is also readily available for our TPTs, on a specific web-based portal, providing them with real time transparency on their wastage figures, as well as other insight and visibility of previously difficult to manage elements of their business, such as:

- Line cleaning effectiveness by ensuring the process is performed to industry standards.
- Enhanced yield management through staff pouring performance and tracking operational wastage.
- Track underperforming brands and under-utilised lines.
- Manage cash losses on draught products minimising giveaways.

Our TPTs are shown this valuable tool as part of their induction with us, and its use is followed up on a one-to-one basis by our BDMs and Retail Audit Managers (RAMs).

**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?**

Where POBs start to use more sophisticated intelligence available through dispense equipment, rather than relying on estimations and assumptions for operational waste, it is possible that a TPT may be worse-off as an unintended consequence.

## Training and Support

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

Greene King understands the importance of TPT training and the value it can provide any pub business owner. We operate award winning training which has been recognised on more than one occasion at the BII National Innovation in Training Awards (the NITAs).

Our induction training programme for all new TPTs includes Cellar Management, Essential Finance, Retail Excellence and Go For Growth, a planning for success module. In addition, we operate an annual training programme, which ranges from online, in-classroom and in-pub style training, and can be accessed by our TPTs at any time. This training will be signposted by our Business Development Managers (BDMs), as well as direct communication with our TPTs. Our TPTs are strongly encouraged to attend training where a need has been identified, and our training is open to TPTs staff too.

While we strongly encourage our TPTs to use qualified professionals, such as stock-takers, to support them in their business, it is the responsibility of the TPT to appoint these professionals. For support in this area, we encourage our TPTs to become members of the British Institute of Innkeeping to use their support and professional services.

In regard to access to ongoing technical and other professional services, we provide support through our cellar services department and our Cellar Doctor website ([www.CellarDoctor.co.uk](http://www.CellarDoctor.co.uk)), which provides bite-size training modules on cellar management, and trouble-shooting information. Where a situation occurs in relation to the storage and dispense of beer, which cannot be resolved by the TPT, it will be reviewed on an individual basis and appropriate action taken in accordance with the terms of the agreement.



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

We believe that the training provided to our BDMs fulfils the requirements under the Pubs Code.

All new Greene King BDM's complete an induction programme which includes attendance on the induction training courses we expect our TPTs to attend, including cellar management training. In addition the mandatory Pubs Code training must be completed, and will include specific rent assessment training, which is provided by a RICS qualified Estates Manager. Annual Pubs Code refresher training is conducted, and ongoing briefing sessions on relevant Pubs Code related topics are made through regional and operational meetings during the course of the year.

### **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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