



Pubs Code and Pubs Code Adjudicator: statutory review

Response form

The consultation is available at: www.gov.uk/government/consultations/pubs-code-and-pubs-code-adjudicator-statutory-review

The closing date for responses is 22 July 2019.

Please return completed forms to:

Pubs Code Review Team
Department for Business, Energy and Industrial Strategy
1st Floor, Orchard 3, 1 Victoria Street, London SW1H 0ET

Email: PCAreview@beis.gov.uk

Personal / Confidential information

Please be aware that we intend to publish all responses to this consultation.

Information provided in response to this consultation, including personal information, may be subject to publication or release to other parties or to disclosure in accordance with the access to information regimes. Please see the consultation document for further information.

If you want information, including personal data, that you provide to be treated as confidential, please explain to us below why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we shall take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the department.

I want my response to be treated as confidential ☐

Comments: I am happy for this to be shared with others, I have avoided naming my POB.

About You

[Redacted]

	Respondent type
X	Tied pub tenants
	Non-tied tenants (please indicate, if you have previously been a tied tenant and when)
	Pub-owning businesses with 500 or more tied pubs in England and Wales
	Other pub owning businesses (please describe, including number of tied pubs in England and Wales)
	Tenant representative group
	Trade associations
	Consumer group
	Business representative organisation/trade body
	Charity or social enterprise
	Individual
	Legal representative
	Consultant/adviser
	Trade union or staff association
	Surveyors
	Other (please describe)

Questions

Part A: The Pubs Code

Question 1

How well do you think the Pubs Code has operated between 21 July 2016 and 31 March 2019? What evidence do you have to support your view?

Comments: While its always difficult when starting any new venture a Regulator has to be in a position that is deemed to be fair and understanding to its customers. The Code was launched after considerable debate and consultancy. I am looking at this having been one of the early TPT to request an MRO Lease. If it's a measure of how successful I have been in gaining this, well I applied in November 2016 and after two MRO Full responses I still do not have a Lease which is compliant with the code as of today. Answer NOT AT ALL

Question 2

To what extent do you think the Pubs Code is consistent with the principle of fair and lawful dealing by pub-owning businesses in relation to their tied pub tenants? What evidence do you have to support your view?

Comments: I believe they have been fair and honest in their dealings.

Question 3

To what extent do you think the Pubs Code is consistent with the principle that tied pub tenants should not be worse off than they would be if they were not subject to any product or service tie. What evidence do you have to support your view?

Comments: I applied for a MRO Compliant Lease in November 2016 it is now extremely unlikely that I will get to trade free of Tie until 2020. I have been worse off for past three years by this time. This delay is not acceptable and I am unable to gain the compensation under the code that I fully deserve.

Question 4

What, if anything, do you think needs to change to make the Pubs Code operate more effectively and/or better support the principles?

Comments: Since November 2016 I have gone through the MRO Full Response procedure twice and still do not have a compliant lease the period required to address this is completely unacceptable.

Part B: The Pubs Code Adjudicator

Question 5

How effective do you think the Pubs Code Adjudicator has been between 2 May 2016 to 31 March 2019 in enforcing the Pubs Code?

Please comment in particular on:

a) Whether the PCA has sufficient and proper powers to enforce the Code effectively.

Comments: As of today I am faced with my POB now appealing the PCA adjudication regarding my most recent MRO response. The Appeal is to be heard in the High Court in [Redacted] 2019.

b) How effective the PCA has been in exercising his powers. What has been done well and what do you think could be done differently.

Comments: They have not been effective. I think this is obvious?

c) How effective the PCA has been in enforcing the Code. In particular, how effective has the PCA been in undertaking the following:

- **giving advice and guidance;**
- **investigating non-compliance with the Code;**
- **where non-compliance is found, requiring publication of information, imposing financial penalties or making enforceable recommendations; and**
- **arbitrating disputes under the Code.**

Comments: Not at all would be my answer, if after the POB is allowed to appeal to the High Court and delay simple MRO response then they are maintaining revenues while using the system to delay a decision indefinitely.

Question 6

Do you think the regulations relating to costs, fees and financial penalties should be amended? If so, how and why?

Comments: As a business we looked very closely at MRO. At this time we do not receive a discount from our POB. Its our opinion we are losing £500 per week. We have tried negotiation, working with the PCA but we are no further forward. Agreed our rent would increase but not by £24K. I accept there may be delays but I should be compensated for loss of earnings after a set time period.

Part C: Pubs Code Regulations

Question 7

There are two sets of regulations that relate to the Pubs Code: The Pubs Code etc Regulations 2016¹ and the Pubs Code (Fees, Costs and Financial Penalties) Regulations 2016².

You may have commented on some of these provisions in response to questions in parts A and B of this consultation³, but please provide any additional views on the regulations. If you think changes are needed to the regulations, please explain why and how you think they should be changed.

Comments: No Comment

¹ <https://www.legislation.gov.uk/uksi/2016/790/contents/made>

² <https://www.legislation.gov.uk/uksi/2016/802/contents/made>

³ Some elements of the Regulations are covered by review provisions in the SBEE Act 2015, for example, Parts 2 to 10 of the Pubs Code etc Regulations 2016 make up the Pubs Code and must be reviewed under s.46 review provision in the SBEE Act. The review of the Adjudicator set out in s.65 of the SBEE Act states that the review may consider whether it would be desirable to amend regulations about costs, fees and financial penalties.

Part D: Impact Assessment and other information

Question 8

The review will consider the key assumptions made in the Impact Assessments⁴ which were published alongside the legislation and regulations. This will include wider impacts, non-monetised impacts or unintended consequences of the changes made. Specifically, we plan to consider any related impact on:

- costs to businesses and potential pub closures;
- redistribution of income from pub companies to tenants;
- changes in industry structure or ownership status; and
- wider industry trends such as employment and investment.

We welcome any evidence to support the analysis of these areas, or if there are any other elements of the Impact Assessments you think we should consider revisiting as part of this review.

Comments: TPT's should be compensated for delays in the MRO process over and above a stated format. If the POB finds that the PCA have acted outside of its remit the PCA should compensate the TPT and Visa Versa.

⁴ <https://www.parliament.uk/documents/impact-assessments/IA15-002.pdf>
<https://www.legislation.gov.uk/ukdsi/2016/9780111146330/impacts>
<https://www.legislation.gov.uk/ukdsi/2016/9780111146323/impacts>

Part E: Other comments

Question 9

Please add any points that you feel you have not been able to make in response to the earlier questions.

Comments: No Comment

Do you have any other comments that might aid the consultation process as a whole?

Please use this space for any general comments that you may have, comments on the layout of this consultation would also be welcomed.

No