



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

9th July 2019

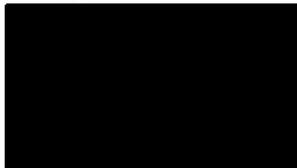
Dear Sirs

Pubs Code and Pubs Code Adjudicator Statutory Review

I am writing to you on behalf of and in my capacity as Chief Executive of Shepherd Neame Ltd. I am aware that the statutory review will consider whether there are any revisions of the Pubs Code, which, in the Secretary of State's view, would enable the Pubs Code to more fully reflect the principles set out in Section 42(3).

Our submission addresses the question of whether companies with less than five hundred tied pubs should no longer be exempt from this legislation.

Yours faithfully
For **SHEPHERD NEAME LTD**



[Redacted]

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Response to Consultation

Shepherd Neame is a vertically integrated family brewer, with fourth and fifth generations actively involved in the company.

Shepherd Neame subscribes to and abides by the Voluntary Codes for the operation of leased and tenanted pubs. Shepherd Neame currently has 230 pubs, which fall under the Codes, of which 17 are held on fixed term leases, with the remainder being operated under a traditional "Brewer's" tenancy agreement, with rolling three or five year terms.

We believe the Voluntary Codes facilitate a productive landlord/tenant relationship for the benefit of both parties to the agreement. This is evidenced by the fact that since the Codes were established on 1st August 2016, no Shepherd Neame pub has sought resolution of operational issues through PICAS (Pub Independent Conciliation and Arbitration Service) or resolution of unagreed rent review through PIRRS (Pub Independent Rent Review Scheme).

Whilst, in our view, the introduction of the Statutory Code has resulted in reduced security of tenure, formalisation of relationship and reduced investment, the Voluntary codes have fostered a continuing positive landlord/tenant relationship, with the provision of significant property and operational support for tenants and lessees, which is illustrated, in the case of Shepherd Neame, as below:

Property

- Shepherd Neame maintains the structure and external decorations of tenanted houses, with an annual spend in the region of £1.2 million over recent years, equating to £5,600 per tenanted pub each year.
- Shepherd Neame makes significant capital investment to develop and maintain its tenanted estate, with projects ranging from toilet refurbishment or car park upgrade to structural redevelopment of trading areas. In recent years, annual investment has been in the region of £3.6 million, equating to £17,000 per tenanted pub each year.
- Shepherd Neame invests significantly in cellar cooling and dispense equipment, with annual investment in the tied estate in the order of £330,000.
- Shepherd Neame provides building insurance free of charge for all tenanted houses, with average replacement value in excess of £1 million. For a sole trader, such cover would be likely to cost £2,000 to £3,000 per annum.
- Shepherd Neame have very recently introduced a Statutory Compliance scheme for tenants and lessees. This scheme ensures that licensees are compliant with legislative requirements concerning Health & Safety, Fire Safety, Legionella and Asbestos, etc. Services are paid for by the licensee, but arranged by Shepherd Neame, with a fully visible portal. It is indicative of the level of trust that within a month, 25% of tied licensees have signed up to a scheme, with a significant financial commitment.

- Total property expenditure, both revenue and capital, on the tied estate, has averaged £5.54 million over the past four years.

Operational

Shepherd Neame's Business Development Managers coordinate a wide range of operational support for tied tenants and lessees:

- Web site development
- Social media support
- Food development
- Food purchasing
- Menu presentation
- Marketing support
- Training

Professional Services

Shepherd Neame provides a full rating service, free of charge, for tied licensees. To date, fourteen assessments have been successfully appealed, resulting in an average cash saving of £18,000 over the four year life of the list. Many further appeals are in process.

Shepherd Neame provides a full licensing service, free of charge, for tied licensees, ranging from minor variations to legal representation at review hearings. In one such case, legal fees, paid by Shepherd Neame, amounted to £8,670.

Conclusion

We do not believe that tied tenants or lessees would derive any benefit from transfer from the Voluntary Code to the Statutory Code. Certainty of the tie enables Shepherd Neame to make very significant financial and operational investments for the benefit of their lessees. In fact, the lessees of houses purchased from companies who fall under the Statutory Code, have expressed great satisfaction for life under the Voluntary Code.

"Having spent the first 5 years of our lease under the auspices of the transformation following our move to Shepherd Neame has been simply incredible! Where once we felt like a single dot on a balance sheet we now feel like we not only belong to an organisation but that we are a respected part of that organisation. Despite it being our lease Shepherd Neame were happy at their own expense to install a new cellar cooling system, a new bar, new dispense equipment, new parking facilities as well as trimming a lot of the surrounding over-hanging trees.
Regards (a very happy landlord)"

Certainty of tie enables Shepherd Neame to continue to grant tenancies with full Landlord & Tenant Act protection, with 87% of tied tenancies/leases falling within the Act (the Act is necessarily excluded where Shepherd Neame has leasehold rather than freehold interest). This is not the case with companies subject to the Statutory Code.

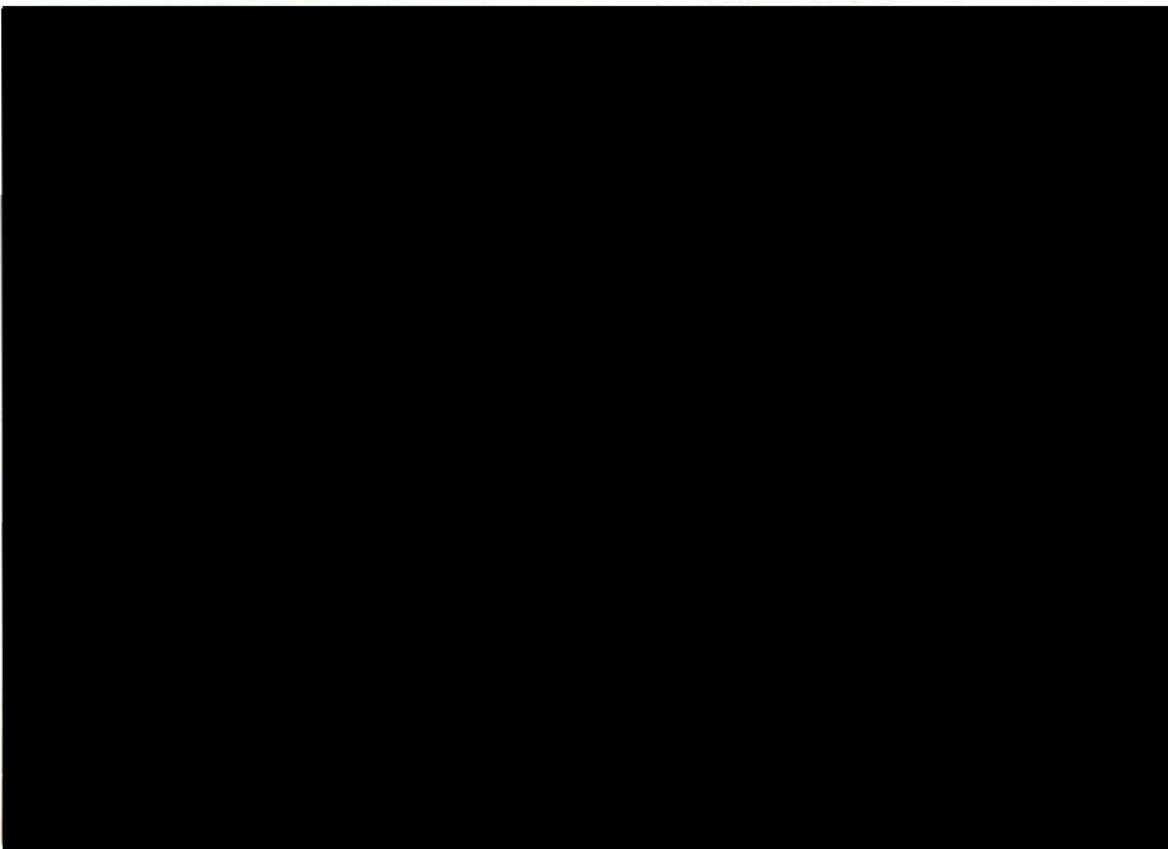
Since the Statutory Code came into force, Shepherd Neame has had 144 rent “events” for tied licensees. In each and every case, the rent review has been settled in advance of the review date. Since 1st August 2018, 42 rent reviews have become due and have been concluded, with 33% of these rent discussions, resulting in the rent payable being frozen or reduced. This is in stark contrast to free of tie commercial leases held by Shepherd Neame, where it is not unusual for the rent to be finally agreed a year or more after the review date. All such leases are subject to Upwards Only Rent Review provision.

Although Shepherd Neame tenants have a permanent break clause of six months’ notice, which can be issued at any time, the turnover of tenants is low and this is proof that the Voluntary Codes for Tenants and for Lessees operate effectively to ensure that tied tenants are no worse off than those who operate on a free of tie basis. Since 2016, the average length of tenancy has increased from 5.4 years to 6.5 years.

It is significant that the report prepared by KAM Media concludes with an overall rating for companies operating under the Statutory Code of 6.1, as opposed to 7.6 for those companies operating under the Voluntary Codes. Shepherd Neame achieved a score of 8.1. The KAM Survey is conducted on an anonymous basis, with robust samples selected by KAM, rather than the companies being surveyed.

No formal complaints have been received during the period under review. For Shepherd Neame to be successful, it is necessary that their tied licensees are equally successful. This approach is illustrated by the picture of award winners below, which were taken at our annual licensees’ party.

Shepherd Neame Pub Awards 2019



Shepherd Neame has an open culture, with issues discussed and resolved before there is any need to initiate a formal complaint. We believe that there is no evidence that our licensees would benefit from imposition of the Statutory Code. We do not consider that there is any justification for legislative interference in the commercial relationships we enjoy would be to the benefit of either party.