



FULLER SMITH & TURNER PLC

Pubs Code and Pubs Code Adjudicator: Statutory Review

To: The Department for Business, Energy and Industrial Strategy

July 2019

1. INTRODUCTION

In this report Fuller, Smith & Turner P.L.C. is pleased to take the opportunity to respond to the Pubs Code Review Team's call for evidence relating to the implementation of The Pubs Code.

2. HISTORY

Fuller Smith & Turner PLC has been running pubs from its Chiswick headquarters since 1845. Today we run 380 pubs throughout the south of England. We are one of a number of successful independent family pub companies who, like similar independent companies in other industries, are passionate about their people, their pubs and their business model.

The model revolves around an agreement to purchase drinks and takes its origin from a desire to sell Fuller's cask ale beers at the finest possible quality. In buying pubs, brewers such as Fuller Smith & Turner were able to produce and distribute quality beers to be enjoyed locally by their customers. Our estate of pubs is made up of 200 Managed and 180 Tenanted houses. All but four of our Tenanted houses operate under this agreement to purchase drinks solely from Fuller's and this is

supported by our strategic alliance with Asahi that will ensure continued access to the high-quality premium beer brands Fuller's has always produced.

3. THE AGREEMENT TO PURCHASE

With the security of this agreement, Fuller's buys, insures and maintains the properties operated by our Tenants. The system provides a lower cost of entry for a Tenant setting up in business and creates new employment opportunities for entrepreneurs. As business increases or decreases, the system allows for the financial impact to be shared between company and Tenant, thus decreasing the risk of failure and closed pubs.

4. THE CURRENT SITUATION IN THE PUB INDUSTRY

Since the implementation of The Pubs Code, taxes across a variety of areas, such as business rates and duty, have risen and, with VAT, tax in general has risen to £1 in every £3 spent in the pub. Allied with National Living Wage rises and aggressive pricing strategies by supermarkets, this has put an enormous strain on the pub market and more than 50% of beer by volume is now purchased in the off-trade. There is no escaping the impact these changes are having on the continuing trend of licensed premises closures.

While we have not been immune to pub closures within our own estate, we do firmly believe that the number of closures has been far greater in the free market where banks and property landlords remain less understanding than pub companies such as ourselves. There is no advantage to us to see good licensees suffer and leave our business as our fortunes are so closely aligned. This is why, in the main, we have increased the support available during these trying times.

5. FULLER SMITH & TURNER SURVEY OF TENANTS.

In the past year we participated in two independent surveys of our Tenants by KAMedia, the latest version of which is the Tenants Licensee Index, a survey of 1500 Tenants across 16 Pub Companies (including all six of the Pub Companies under The Pubs Code).

Highlights from the report for Fuller, Smith & Turner (scores out of 10) were a Pub Company rating of 7, an overall BDM quality rating of 7.6 and a likelihood to recommend the Pub Company of 7.2. All of these scores were higher than the average of the report at a time when the installation of a new ERP (IT) system had caused us operational challenges internally.

6. UNDER 500 PUBS CODE AND EVIDENCE OF COMPLIANCE

We would now like to include sections relating to England and Wales of the October 2018 published report from the Pub Governing Body (PGB) on compliance with the Under 500 Pubs Code. Fuller Smith & Turner is a signatory to the Code and therefore a participant in the findings:

2nd ANNUAL AUDIT REPORT
Pub Sector – England & Wales TENANTED Code of Practice (1-499 Tied Pubs)
Pub Sector – England & Wales LEASED Code of Practice (1-499 Tied Pubs)
Pub Sector – Scotland Code of Practice

INTRODUCTION

This is the annual audit of companies operating tied public houses covered by the above code(s) of practice which was carried out between August and September 2018.

This is therefore the second audit to take place since the new codes of practice came into effect for those companies operating 1-499 tied leased or tenanted pubs, and/or tied pubs in Scotland. The audit covers the period 1st August 2017 – 31st July 2018. A full list of those companies covered by each code can be found in Annex A.

Those companies not covered by the Pubs Code (i.e. those operating under 500 tied pubs) and the Pub Governing Body agreed that the good practice enshrined in the Industry Framework Code that preceded them should continue, and therefore developed the three new Codes based on the Industry Framework Code, with additional improvements and elements being brought up to date.

This report has been prepared by the Pub Governing Body, and summarises the data received from the annual audit.

COMMENTS FROM THE BOARD

The Board is pleased to see that the second annual report once again shows there is a high level of compliance, as evidenced by the data below.

Of note once again was the full compliance regarding business plans, and the number of rent reviews settled within the audit period. On BDM training, it was noted that there has been an improvement on the number trained to the required standard. However, at the request of the PGB, trade bodies, individual tenants and trainers have formed a working group to look in to training going forward which is due to report back to the PGB imminently.

Comments from [Redacted] of the Pub Governing Body:

"Once again, the results of this annual report underline the crucial role the Pub Governing Body continues to play following the implementation of the statutory Pubs Code two years ago.

"We are pleased to see strong levels of compliance from the companies governed by these Codes and we will continue to monitor and review the codes themselves to ensure they remain relevant to both companies and tenants. Last year the Board announced they had reached agreement with stakeholders to ensure PIRRS was available for those tenants covered by the Statutory Code, in addition to those governed by self-regulation. The Board is pleased to announce that 12 tenants from Admiral, EI, Punch, Star Pubs and Bars, Marstons and Greene King have taken advantage of this scheme in the year ending 31st July 2018".

HEADLINE STATISTICS – ENGLAND & WALES

The full list of companies covered by the respective codes can be found in Annex A. (Figures in brackets are 2016-17)

Pubs surveyed

- 2,952 (2928) tied pubs are covered by the codes of practice for under 500 companies (England & Wales) which is slightly up on last year.
- Of these, 2,526 (2513) are classified as tenancies and 426 (415) as leases.

Code compliance

- 431 (447) final interviews took place for leases and tenancies in the survey period.
- 431 (446) business plans were completed being 100% with none outstanding.
- PEAT was completed in 313 (285) cases 72.62% (64%). The remaining 27.38% (36%) were waived as applicants were multiple retailers with a number of other pubs, had three years previous tenanted/leased experience or already had an existing successful tied pub with the company concerned.

Rent reviews

- In the survey period, there were 315 (499) rent reviews triggered.
- Of these 311 (488) or 99% (98%) were negotiated and settled within the same period.
- 4 (11) or 1% (2%) were still under negotiation.

Business Development Managers

- 97 (93) BDMs were employed by companies over the survey period.
- 71 (58) of these 73% (62%) were BIIAB Level 4 trained.
- The remaining 26 (35) were either in training, only just joined the company (the Code allows for training within 24 months of being appointed) or waiting for courses to become available.

PIRRS and PICA-Service

- *There were no referrals to PICA-Service in the survey period.*
- *There was one referral to PIRRS in the survey period.*

'Protected' agreements

- *Of the total pubs audited, 2416 (2477) or 82% (85%) are Landlord & Tenant Act 'protected'. The remaining 536 (447) or 18% (15%) are 'unprotected' agreements.*

7. BUSINESS SUPPORT

We believe that during the past three years various companies have introduced new ideas to their tenancies and leases to make them more attractive to applicants. Whether by way of freedom from the agreement to purchase, partial freedom, innovative rental agreements, ownership of fixtures and fittings, or improved allowances and services, it confirms that in a competitive market place the best agreements will prevail. We believe the review should take note of this thought that, if an agreement were not competitive, then new applicants are unlikely to apply.

For our part, we have always had very competitive rent levels together with a host of services, some of which are listed below. This fully justifies the difference between a free of tie and tied rent system.

- Some of the very best pubs throughout the South East of England
- Access to a portfolio of fine beers, arguably the best cask ales in the country
- Tenants and lessees enjoy discounts to wholesale price across beer and wine with higher discounts on Fuller's beers (maintained post-Asahi transaction)
- Capital investment in our houses remains high after the strategic review in 2016 and a record spend in the financial year ended June 2018
- Revenue investment and average repairs per pub continue to grow annually
- Competitively priced property service package covering compliance
- Entry training courses are at an average of £100 per course with additional online courses available for a very competitive £5 per course through FLOW Training
- RPI has been capped at 3% for at least four years
- Free rating advice for all tenants
- Free signage for both lessees and tenants
- Free design advice when a tenant/ lessee wishes to carry out a refurbishment of the house
- Britvic Minerals at a very low wholesale price
- Excellent food pricing from key, high volume Managed House suppliers
- Master Cellarman scheme which pays out over £1,500 at cost in beer (per pub) if achieved
- Access to cellar training, maintenance and support

- PR and crisis support
- Free membership of the BII
- Free O2 wi-fi in the pub

8. CONCLUSION

We believe that we have a strong business model with our Tenants and we have embraced the introduction of the Under 500 Pubs Code, the vast majority of which we had been engaged with under the previous Industry Framework and individual Pub Company Codes of Practice.

As a signatory to the Under 500 Pubs Code, we understand that the Under 500 Pubs Code is due to be reviewed from time to time, and we will take into account anything from the Pubs Code review that could have an implication on the Under 500 Pub Companies (such as sediment and wastage allowance), working to bring suggested amends to the table with our fellow signatories.

The Under 500 Pubs Code is supporting change in the pub sector and current levels of compliance with the Code (extremely low levels of cases reported going to PIRRS or PICAS in the PGB report in section 6) demonstrate that. We believe that it is now important to allow the industry to continue to build on the good start that has been made.

We would finally like to thank the Adjudicator and BEIS for allowing us to take the opportunity to update the position at Fuller's since the new Pubs Code was introduced and would welcome dialogue with any additional member of BEIS should they so wish.

[Redacted]