



## **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](http://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  
1<sup>st</sup> Floor, Orchard 3, 1 Victoria Street, London SW1H 0ET

Email: [PCAreview@beis.gov.uk](mailto: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: [Click here to enter text.](#)

## About You

[Redacted]

	Respondent type
<input type="checkbox"/>	Tied pub tenants
<input type="checkbox"/>	Non-tied tenants (please indicate, if you have previously been a tied tenant and when)
<input type="checkbox"/>	Pub-owning businesses with 500 or more tied pubs in England and Wales
<input type="checkbox"/>	Other pub owning businesses (please describe, including number of tied pubs in England and Wales)
<input type="checkbox"/>	Tenant representative group
<input type="checkbox"/>	Trade associations
<input type="checkbox"/>	Consumer group
<input type="checkbox"/>	Business representative organisation/trade body
<input type="checkbox"/>	Charity or social enterprise
<input checked="" type="checkbox"/>	Individual
<input type="checkbox"/>	Legal representative
<input type="checkbox"/>	Consultant/adviser
<input type="checkbox"/>	Trade union or staff association
<input type="checkbox"/>	Surveyors
<input type="checkbox"/>	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: The Pubs Code has not been fit for purpose as it has not got the checks and balances necessary to prevent it from not being implemented well. Evidence, no actions against adjudicator for very long delays in acting against pubcos and a very low ratio of actions versus applications for fair rent only agreements

#### 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: The pubs code does not protect the tenant against extremely long delays in adjudication, nor does it allow for recompense for tenants effectively being bullied by pub owning organisations. Evidence. No actions to compensate tenants for unfair and unlawful treatment by pubcos.

#### 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: The code simply has not worked. The evidence is the great suffering of tenants attempting to utilise the code to avoid being worse off ending up being very much worse off. It simply hasn't worked

#### 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: The adjudicator needs to [Redacted] have short and medium term (6 months to 1 year) performance targets which, if not met, would rapidly result in their replacement. Their targets would necessitate proof that they have achieved the goals of the legislation in a timely manner. The adjudicator needs to have the powers necessary to inflict serious punishment upon pubcos that behave in an unfair manner and to obtain proper compensation for tenants for that unfair treatment. It only takes a few such cases for the pubcos to see that they must behave fairly and in accordance with the code or they will suffer severely financially for good behaviour to be the norm rather than the exception.



## **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: The adjudicator needs more powers but that has not been the main problem

**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: The PCA has severely underperformed. There is nothing that appears to have been done well [Redacted]. Cases could have and should have been dealt with rapidly and decisively.

**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: The PCA has been almost unbelievably poor in all the above respects, in particular in its extreme slowness of response and lack of timely action.

### **Question 6**

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

Comments: This system is designed to produce fairness. As such it is guaranteed to fail unless it balances the great advantages the pubcos have of financial clout and security as opposed to tenants who have neither.

## Part C: Pubs Code Regulations

### Question 7

**There are two sets of regulations that relate to the Pubs Code: The Pubs Code etc Regulations 2016<sup>1</sup> and the Pubs Code (Fees, Costs and Financial Penalties) Regulations 2016<sup>2</sup>.**

**You may have commented on some of these provisions in response to questions in parts A and B of this consultation<sup>3</sup>, 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: The biggest change that is needed is to conduct a few very high-profile investigations that expose any degree of unfairness and penalise them so severely that pubcos will behave fairly as a norm and would not risk their financial security by any further breaches.

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

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

<sup>3</sup> 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 Assessments<sup>4</sup> 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: The impact of pub closures on communities and social cohesion needs to be assessed. It is very important to acknowledge that the unfair practices of pubcos have led not just to the loss of tenants' livelihoods but of the unifying effect of the social centres that pubs are, when present. On top of this there are wider consequences like the increase of alcohol consumption at home where it can go unchecked by the friendly gaze of the publican and bar staff and other similar matters.

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<sup>4</sup> <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: All covered above

**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.

None