

Submission by the Pub Governing Body (PGB) to the Statutory Review of the Pubs Code and Pubs Code Adjudicator – July 2019

1. Introduction

The Pub Governing Body is the organisation responsible for promoting the advancement and improvement of relationships in the licensed retail sector between landlords (Pub Owning Companies) and tied tenants. Since the introduction of the Statutory Code, the PGB has covered signatory companies owning between 1 and 499 tied pubs in England and Wales and the majority of tied pubs in Scotland. The PGB publishes Codes of Practice which both set the minimum standard for landlords and enhance their business relationships with tenants and lessees who are subject to a contractual purchasing obligation. It operates both the Pubs Independent Rent Review Scheme (PIRRS) and the mechanism for resolving disputes involving the Codes of Practice, the Pubs Independent Conciliation and Arbitration Service (PICA-Service).

This submission:

- **Describes the work of the Pub Governing Body**
- **Reports on the work of the rent review mechanism, PIRRS**
- **Reports a very high level of compliance with the voluntary codes the PGB oversees**
- **Expresses concern that the day-to-day issues affecting tenants and lessees of the six largest companies are not currently able to be addressed by either the Pubs Code Adjudicator (who does not have the power to do so) or the Pub Governing Body (which does not have the authority to do so)**

2. Board Members

The PGB Board is comprised of [Redacted], and eight members representing both landlords and tied tenants:

[Redacted] British Beer and Pub Association

[Redacted] Guild of Master Victuallers

[Redacted] Federation of Licensed Victuallers Association

[Redacted] British Institute of Innkeeping

[Redacted] Brighton and Hove Licensees Association

[Redacted] Wadworth & Co Ltd.

[Redacted] Shepherd Neame Ltd

[Redacted] UK Hospitality

3. PIRRS

The Pubs Independent Rent Review Scheme (PIRRS), operated under the jurisdiction of the PGB, offers an accessible, independent, low cost rent review resolution service across Great Britain for pub tenants and lessees of companies who are signatories of one of the PGB's Codes of Practice. It has been extended to deal with rents concerning tenancy renewals under circumstances where terms of the new Lease or Tenancy Agreement have been agreed between the parties. Capped fees enable tenants and landlords to resolve disputes in a fair and timely manner.

Following consultations, from 1st January 2017, PIRRS was extended to tenants and lessees of the six companies with five hundred or more tied pubs and which therefore operate under the Pubs Code Regulations 2016.

The successful and increasing take up by tenants of this introduction can be seen in the following chart.

Dates	Applications	Withdrawn	Settled	Open Cases
01/01/2017-31/07/2017	11	3	8	0
01/08/2017-31/07/2018	12	7	5	0
01/08/2018-30/06/2019	18	6	6	6

The open cases in 2018/2019 are those that have been received recently and are still to be settled. All the open cases are for pubs owned by the companies covered by the Statutory Code.

4. PICA-Service

The Pubs Independent Conciliation and Arbitration Service (PICA-Service), also operated under the jurisdiction of the PGB, offers an accessible, independent, low cost dispute resolution service, to the licensed industry. It resolves disputes between tenants/lessees and landlord companies (with fewer than five hundred pubs) in a fair and timely manner. PICA-Service applies to the England & Welsh Pub Sector Codes of Practice, and the Pub Sector – Scotland Code.

5. The Pubs Code Regulations 2016

Since the introduction of statutory regulation for the larger companies, the Pub Governing Body's engagement with them has been restricted to PIRRS. We therefore have no comment to make on the functioning of any aspect of the regulations. We would, however, like to highlight one shortcoming in the way the regulations are working. This is demonstrated by the large number of enquiries we are unable to take forward. These enquiries come from pubs covered by the statutory Pubs Code, and therefore not by the PGB's Codes, concerning specific matters that the Pubs Code Adjudicator is unable to deal with.

When the Pubs Code was introduced, we highlighted that day-to-day complaints and low-cost tied rent settlements were not covered by the new Pubs Code 2016 and that this would have adverse consequences for individual tenants and lessees.

The low-cost rent settlement procedure, PIRRS, has now been extended to cover all tied pubs, but **the opportunity for tenants of the six largest companies to access a dispute resolution mechanism to deal with day-to-day complaints remains unresolved. Recreating this opportunity, provided until July 2016 under the PGB's voluntary code, is an issue that needs to be addressed.**

6. Referrals to PIRRS and PICA-Service since 1st August 2016

There are very high levels of compliance with the letter and the spirit of the PGB's codes. Since the introduction of the Pubs Code in July 2016, among the tenants and lessees of companies who are signatories of the PGB's codes (England & Wales TENANTED Code of Practice (1-499 Tied Pubs) England & Wales LEASED Code of Practice (1-499 Tied Pubs) and Scotland Code of Practice) there has only been one referral of a rent to PIRRS and no referrals to PICAS.

We also take steps to ensure that that this highly encouraging situation is not the product of a reluctance to make complaints by conducting an annual audit of the working of the Codes, and the next, concluding section includes the report of our most recent audit.

7. PGB 2nd Annual Report October 2018

This is the text of our most recent audit and review of the working of our Codes of Practice

We are pleased to confirm that we carry out and are keen to share the audit of all signatories to the

England & Wales TENANTED Code of Practice (1-499 Tied Pubs)

England & Wales LEASED Code of Practice (1-499 Tied Pubs)

Scotland Code of Practice

a. 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 the 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. In Scotland, which is not covered by the Statutory Code, the majority of companies operating tied pubs have signed up to the bespoke Scottish Code which was created specifically for the Scottish tied pub sector.

In Scotland we have now fully established a Scottish PICA-Service and panel as well as adding additional Pub Independent Rent Review Scheme Surveyors that have or do operate in Scotland.

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

b. 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 [Business Development Managers] 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 into 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”.

c. HEADLINE STATISTICS – ENGLAND & WALES

The full list of companies covered by the respective codes can be found below. (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.

d. 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.

e. HEADLINE STATISTICS – SCOTLAND

The full list of companies covered by the respective codes can be found in Annex A.

Pubs surveyed

- 448 (486) tied pubs are covered by the codes of practice in Scotland
- Of these, 246 (310) are classified as tenancies and 202 (176) as leases.

Code compliance

- 55 (89) final interviews took place for leases and tenancies in the survey period.
- 55 (89) business plans were completed (100%).
- PEAT [Pre-Entry Awareness Training] was completed in 43 (78) cases 78% (88%) of the total. The remaining 22% (12%) 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 19 (39) rent reviews triggered.
- Of these, 16 (38) or 84% (98%) were negotiated and settled in the same period.
- 3 (1) or 16% (3%) were still under negotiation.

Business Development Managers

- 16 (18) BDMs were employed by companies over the survey period.
- 16 (13) of these 100% (72%) were BIIAB Level 4 trained.
- The remaining 0 (5) 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 were no referrals to PIRRS in the survey period.
- ‘Protected’ agreements are not applicable, as there is no Landlord & Tenant Act in Scotland.

f. SIGNATORIES TO THE CODES

England & Wales

Adnams plc
Arkell's Brewery Limited
Camerons Brewery Limited
Charles Wells Limited
Daniel Batham & Son Limited
Daniel Thwaites plc
Everards Brewery Limited
Frederic Robinson Limited
Fuller Smith & Turner plc
George Bateman & Son Limited
Gray & Sons Limited
Hall & Woodhouse Limited
Harvey & Son (Lewes) Limited
Hawthorn Leisure Limited
Heavitree Brewery plc
Hook Norton Brewery Company, Limited
Hyde's Brewery Limited
J.C. & R.H. Palmer Limited
J.W. Lees & Co. (Brewers) Limited
Joseph Holt Limited
Liberation Group Ltd/Butcombe Brewery
McMullen & Sons Limited
Mitchells & Butlers plc
NewRiver Retail Limited
St Austell Brewery Company Limited
S.A. Brain & Company, Limited
Shepherd Neame Limited
Timothy Taylor & Co. Limited
Trust Inns Limited
WH Brakspear & Sons Limited

Wadworth and Company Limited
Young and Co's Brewery plc

Scotland

Admiral Taverns Limited
Belhaven/Greene King plc
Hawthorn Leisure Limited
Punch plc
Star Pubs & Bars/Heineken UK Limited
Trust Inns Limited