



Pubs Code Adjudicator

Office of the Pubs Code Adjudicator
Lower Ground
Victoria Square House
Victoria Square
Birmingham
B2 4AJ

Email: office@pubscodeadjudicator.gov.uk

23 March 2021

██████████,

Request under the Freedom of Information Act 2000; ██████████

Thank you for your email, received on 25 February 2021, in which you requested information from the office of the Pubs Code Adjudicator (PCA) under the Freedom of Information Act 2000 (the FOI Act).

The FOI Act entitles you to:

- know whether the information you have requested is held by the PCA; and
- be provided with that information, subject to any exemptions in the Act which may apply.

On 25 February 2021 you made the following request for information held by the PCA:

1. *I believe Stephen Childerstone works for the PCA's office on a consultancy basis, can we ask how long he has worked with the PCA what projects he works on and how much the PCA has spent on his consultancy services to date.*
2. *Can we also ask, when your office decided to investigate Heineken, the PCA decided to use a Legal firm, Field Fisher, rather than the investigation officer who had just been appointed, can we ask why this was done, was there a tendering process for the investigation or were Field Fisher appointed for a specific reason and how much was spent on their services to conduct this investigation.*
3. *Finally does the PCA still have her role as a road user charging adjudicator and if so how much of her time is spent carrying out this role in a year.*



Pubs Code Adjudicator

Question 1

The PCA does hold information relevant to your request. By way of providing advice and assistance to you we can advise that Mr Childerstone has carried out work for the PCA, including covering the role of Head of Regulatory Policy for the PCA Office. However, information held about the employment status/arrangements and/or remuneration of an individual person is their personal data. In deciding whether to release personal data, the PCA must ensure there is a lawful basis for doing so. The most relevant lawful basis to consider in this case is whether disclosure is “necessary for the purposes of the legitimate interests pursued by the [PCA] or by a third party except where such interests are overridden by the interest or fundamental rights and freedoms of the data subject which require protection of personal data...” (GDPR Article 6 (1)(f)).

There is a legitimate public interest in transparency about the staffing arrangements of public bodies and about apportionment of money across such organisations. The approach should be proportionate, in order to meet the legitimate interests in transparency while protecting the personal data of individuals.

The PCA has considered whether it is “necessary” to disclose the requested personal data in order to serve the legitimate interests identified. The PCA fulfils this aim via the publication of information about staffing in the PCA annual report; the report for April 2019 to March 2020 can be accessed [here](#). This includes information about staffing and service arrangements, including overall staffing costs and salary details for certain senior members of staff. It is not considered necessary to disclose details of the exact arrangements under which this individual named staff member was engaged and of their remuneration in order to achieve the legitimate interest.

You may be aware that the PCA Office cannot employ any staff direct. Under paragraph 9 of Schedule 1 to the Small Business, Enterprise and Employment Act 2015 the PCA may make arrangements for persons to be seconded to the PCA Office to serve as staff. The arrangements may include provision for payment by the PCA to the organisation who employs the staff member, to an agency where that is relevant, or direct to the seconded staff member. The PCA Office therefore does not have any employees. PCA staff have been seconded from government departments, from private sector organisations or are agency workers.

Information about the arrangements and terms under which the person you have referred to was engaged is exempt from disclosure under s.40(2) of the FOI Act as disclosure would



Pubs Code Adjudicator

contravene data protection principles (s.40(3A)), namely that processing of data must be lawful and fair (the first principle, as set out in s.35(1) of the Data Protection Act 2018). It is considered that release of this information would cause an unwarranted interference with the individual's rights, in particular the individual would have a reasonable expectation that this information not be disclosed and release of it is not considered necessary in order to achieve the legitimate interest in transparency. The legitimate public interest would not be advanced by this information beyond information that is already in the public domain in respect of PCA staffing.

Question 2

FieldFisher were instructed by the PCA Office to support it with the statutory investigation under s.53(1)(a) of the Small Business Enterprise and Employment Act into potential breaches by Star Pubs & Bars of the Pubs Code. By way of information, this investigation was the first conducted under this legislation. It was launched in July 2019 and concluded in October 2020. A detailed report was published in October 2020 setting out the investigation process and the PCA's findings. This report also explains the PCA's decision to use appropriate enforcement measures, including making eight recommendations under s.56 of the 2015 Act, imposing information requirements and imposing a financial penalty of £2 million on Star Pubs & Bars. A copy of the report can be accessed [here](#).

The PCA may seek external services to support its regulatory work as appropriate. FieldFisher were appointed from the relevant Legal Services Crown Commercial Service framework under a call-off contract to provide support with the investigation. They were appointed having regard to their experience in the area of relevant investigation work. The PCA annual report for 2019/2020 (linked [here](#) for ease of reference) details the invoiced costs to the PCA in 2019-2020.

Further costs incurred in connection to the investigation for the period 2020-2021 will be published in the PCA's next annual report. This information is intended for future publication and I consider it is reasonable in all the circumstances that the information should be withheld from disclosure until the publication of the 2020/2021 annual report. The information is therefore exempt from disclosure in accordance with s.22 of the FOI Act.

I have considered whether the public interest lies in releasing the information or whether it lies in maintaining the exemptions and withholding the information. I am of the opinion that the public interest favours withholding the information requested. When the full details of costs



Pubs Code Adjudicator

incurred in respect of the investigation for 2020-2021 are released, at that time the PCA will also provide a full report on the conduct and outcome of the investigation as required under sections 62(2)(b) and (c) of the 2015 Act. I consider that it would be in the public interest for the requested information to be disclosed only once the NAO's auditing process is complete and be provided to the public at the same time as the full report in order to ensure the information is provided in a useful context.

Question 3

Details of professional appointments and time spent by Fiona Dickie on activities outside of fulfilling the role of the PCA is not information held by the Office of the PCA. In the interests of providing advice and assistance to you we can advise that it has been publicly reported that Ms Dickie holds a number of appointments. These can be seen [here](#) in the public announcement of her appointment to the role of PCA, and they are fully understood by the appointing body.

Further in the interests of providing advice and assistance in respect of your query, we can advise that the Road User Charging Adjudicators' annual report is publicly available online and contains details of adjudicators who currently hear appeals.

If you do not believe that the office of the PCA has provided an appropriate response to your request, you are entitled to ask for an internal review. Internal review requests should be submitted within two months of the date of receipt of the response to your original request and should be made in writing, quoting the above reference, to office@pubscodeadjudicator.gov.uk or:

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If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.



Pubs Code
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Yours sincerely,

[Redacted signature]