



Darren Jones MP
Chair
BEIS Select Committee
House of Commons
London
SW1A 0AA

23rd September 2022

Dear Darren,

Fiona Dickie's comments regarding meeting with tenant representative groups and other evidence

We are writing to you, on behalf of the Campaign for Pubs, Forum of British Pubs and the British Pub Confederation following the evidence session on Tuesday 12th July regarding the exchange you had with the current Pubs Code Adjudicator, Fiona Dickie and her responses to the Committee's questions.

In a remarkably unconvincing display, Ms. Dickie gave the impression she wasn't sure what if any meetings or direct engagement she has had with the British Pub Confederation and the Campaign for Pubs. She also claimed specifically "I have engaged with them" with regard to the British Pub Confederation. That statement is at best thoroughly disingenuous.

The one thing that Ms. Dickie was correct on was that the last time representatives of the British Pub Confederation met with her was indeed back in 2018. However what Ms. Dickie very strangely omitted to tell you was that this was when she was Deputy Pubs Code Adjudicator – and that the meetings then were initiated under the previous Pubs Code Adjudicator, Paul Newby.

Therefore to ensure the Committee are clear, the reality (as we believe Ms. Dickie realised full well) is that she has never met with the British Pub Confederation, the Campaign for Pubs or the Forum of British Pubs since she became Pubs Code Adjudicator. If, as we hope, the Committee realises from the one-off evidence session that both the Pubs Code and Pubs Code Adjudicator are failing, then committee members may wish to press Ms. Dickie on why she gave the responses she did.

Ms. Dickie also stated, "*I meet and engage with a range of stakeholders*" and that "*I seek not to have favourites*". Yet this latter statement is not a credible statement. The reality is that Fiona Dickie and her office have selected what they (formally) refer to as the Tenant Representative Groups Forum, consisting of just three organisations to the exclusion of the rest and she meets only with these groups, quarterly and excludes others.

What is extraordinary is that all three of her chosen so-called 'tenant representative groups' have links to or funding from the regulated pubcos. She has not included a single tenant representative organisation that is independent of the regulated pubcos, which is extraordinary and clearly entirely inappropriate.

It is simply not honest to present UK Hospitality, BII and FLVA as genuinely independent 'Tenant Representative Groups':

- UK Hospitality represent over 740 companies *including some of the regulated pub companies*. They cannot possibly therefore be regarded as a tenant representative body. Clive Chesser, CEO of Punch Pubs, who appeared before the committee on the pubco panel, has on record referred to UK Hospitality as their "lobbying partner" as in this quote;

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“Throughout this pandemic, we have continued to work with our lobbying partners at UKH and the BBPA to challenge the intensely disproportionate burden being placed upon us and to call for a fair support package for pubs”.

It is utterly disgraceful that Fiona Dickie includes them in the so-called Tenant Representative Group Forum – whilst deliberately excluding groups that actually do represent tenants and are independent of the regulated pubcos!

- The BII is not a ‘tenant representative body’, but a membership organisation with charitable status that offers support, advice and professional services to its members, and which sells services to tenants through the regulated pub companies (*meaning the BII is actually a commercial partner of the pub companies the PCA is supposed regulate*). Plus [Stonegate/Enterprise offer free membership of the BII or the FLVA to their lessees](#), *meaning that the BII is partially funded by the regulated pub companies*. Some of the regulated pub companies are also corporate members of the BII. We are not questioning that the BII do valuable work offering support and advice to publicans, as they do, but they are not an independent and their links with and funding from regulated pubcos means they are conflicted in any representative role.
- The Federation of Licensed Victuallers (FLVA) are a tenant representative body, but (as above) has had a direct financial/commercial link/agreement with Stonegate Enterprise Inns, who offer free membership to all Enterprise leases/tenants, providing huge levels of financial support for the FLVA from Enterprise. The FLVA Operations Director (the lead position in the organisation) Martin Caffrey, is a former regional director for Enterprise Inns.

To only include these groups, who are all linked to the regulated pubcos, is clearly completely inappropriate. For someone who is a lawyer to not see this is just staggering. It is clear though that these are indeed Ms. Dickie’s favoured organisations and at the same time she neither met with nor invited to meet the British Pub Confederation, the Campaign for Pubs and the Forum of British Pubs. When pressed by you, Ms. Dickie stated *“When I was talking about stakeholders, I was referring to representative groupings that want to discuss and engage constructively about how we make this industry better”*. This then exposes the reality that our organisations know, that is that she has chosen only to work with pub sector insiders and the pub sector establishment and not with independent tenants’ groups who are unhappy at the clear failings of the Pubs Code and of the Adjudicator herself (who instead she simply dismisses as not “constructive”). This is clearly biased and cannot be what was intended when Parliament legislated.

Ms. Dickie also when challenged said, *“The most important engagement that I have done—and I have done a lot of it—is engaging directly with tenants. If you want me to discuss the survey results, I am happy to do so”*. Yet this makes clear that what she is trying to present as her engaging with tenants, is actually just doing surveys, not meeting with and hearing directly from tenants’ representative groups (other than her chosen organisations all conflicted through their links with the regulated pubcos!). In reality, Fiona Dickie only regularly engages with the regulated pubcos and the three conflicted organisations and attends trade shows, which are not attended by tenants who are too busy running their pubs. No wonder she doesn’t act on the myriad of issues and complaints experienced by tenants!

Ms. Dickie also told you that *“My office is available to tied tenants who want to inquire about their code rights and to engage with me about how they can further their code interests”*. How tenants “can further their code interests” is not the role she was appointed to do! She was appointed to uphold the Pubs Code legislation, to ensure tenants had the rights promised to them by Parliament and to stop the pubcos gaming or thwarting them. She simply does not do this, nor show any real interest in doing so and has not acted on key issues brought to her attention.

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She made another startling admission, which further revealed her inappropriate approach to the job. She stated “*I also have engaged directly with tenants through, for example, code compliance officer-arranged events*”. She is here openly admitting that she relies on the regulated pubcos themselves for meeting tenants! There is a long history of pub companies handpicking contented tenants – and of course excluding unhappy tenants – and it beggars belief that Ms. Dickie continues to rely on the companies she is suppose to regulate to speak to tenants, rather than dealing with independent tenant representative bodies and listening to tied tenants themselves, by actively seeking their views.

Ms. Dickie also tried to defend the fact that all the tenants who were interviewed for the PCA survey were provided by the pubcos. This is clearly inappropriate but is also downright lazy. A statutory industry regulator, with a team of twelve staff, can and should have the means and will to seek data directly from tenants. Her actions would be like the Groceries Code Adjudicator asking the big supermarkets to put forward their milk suppliers, to assess if the price of milk was fair. The fact that Ms. Dickie doesn't seem concerned about this shows either how little she has bothered to understand the very sector and problem she was appointed to deal with, or that she is content meeting only those who are happy with the current, failing, Code and the ongoing status quo.

All this is all too typical of the way Ms. Dickie has chosen to do the role, and as a result our view, and that of many tenants, is that she is actually undermining tenants' rights and acting as a barrier to the kind of change tenants were promised by Ministers.

Finally, we must challenge the claim Ms. Dickie made that somehow tenants are failing to provide the evidence she requires. This is unreasonable, as she seems to set too high a bar in terms of what tenants can be expected to achieve. She claims to “read everything that comes into the office”, but the reality is she has done very little with the evidence she has been given and in some cases has shown an utter disinterest when hearing of it. We actually provided you with one example of this in [the Campaign for Pubs letter to you and the Committee sent on 31st March 2022](#). In it we reported this:

Case study 2 – The Britons Protection, Manchester

The current PCA Fiona Dickie recently visited this iconic pub in Manchester to participate in an event. The established licensee Mark West had recently received a hostile Section 25 notice from Star Pubs and Bars, citing Grounds G. Mark tells me that he raised his deep concerns about the matter specifically with Fiona Dickie during her visit, but that she was entirely unwilling to discuss it.

It is hard to escape the impression that the PCA's office has no intention whatsoever of properly acknowledging, let alone acting on, the matter of hostile Section 25 notices, or the proliferation of quasi-managed models. This attitude seems totally unjustifiable considering the fact that the use of these notices, and the very existence of these new business models, are a direct reaction to the Pubs Code, and both are a means of subverting it. The PCA should at the very least be flagging this issue to the SOS for further scrutiny and action.

The Committee may wish to call Mark West as a witness for a subsequent session, as there is much that is shocking about his situation and which touches on many issues discussed in the session (not least discrimination and abuse in relation to pandemic support), as well as asking Fiona Dickie why she refused to discuss this issue with him, in his own pub when this was a rare opportunity for her to directly engage with an unhappy tenant who was clearly the victim of an unfair business practice, and also why she has so far done nothing about the widespread abuse of Section 25 notices as a way of gaming and avoiding the Code.

Our organisations have also raised matters with Ms. Dickie and sent evidence to her office, including issues such as the abuse of dilapidations, the use of dubious ‘self-employed’ models to avoid the Code, the deliberate threat of arbitration and costs, the delaying tactics of pub companies to thwart tenants going MRO and other unfair practices - none of which she has publicly challenged never mind referred to the Secretary of State as she has the power to do.

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We urge the Committee to launch a full inquiry into the Pubs Code and Adjudicator and then we will share with the Committee the same evidence she has failed to act on and can ask Ms. Dickie directly why she has not done so.

We also urge the Committee to establish what happened to the extensive evidence collected by the former PCA Intelligence and Compliance Officer Tom Astley. The PCA has so far not revealed why this evidence was dropped and why Mr. Astley then left the PCA office (this was when Paul Newby was the Pubs Code Adjudicator, but Fiona Dickie was the Deputy Code Adjudicator). This needs to be established and we hope that the Committee will do this. We also believe that it must be clarified in the public domain as to why Fiona Dickie made the decision to appoint Field Fisher to conduct the investigation into Heineken, when the PCA had its own Intelligence and Compliance Officer with the remit of leading investigations

Finally we note the commitment made to you by Fiona Dickie that she would now engage with tenant organisations, including our organisations. We have no such contact from her despite it now being two months since her appearance before the Committee.

We thank the Committee for the renewed interest in this important issue and hope that it has demonstrated the need for further scrutiny, because the Pubs Code and Pubs Code Adjudicator are failing to do what they were supposed to do and pubco tenants continue to be exploited.

Yours sincerely,



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Chair
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Ian Cass
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