

## Breach Reporting Policy

### Introduction

The PCA aims to be transparent with tenants, regulated pub-owning businesses (POBs) and the wider industry about how it enforces the Pubs Code. The PCA has [legal powers](#) to enforce compliance with the Pubs Code. The PCA also works collaboratively with POBs to respond to compliance issues and has clear regulatory approaches for dealing with admitted or suspected breaches of the Code.

The self-reporting of breaches is an important way in which a POB can produce evidence that it has systems and processes in place for verifying compliance and handling breaches of the Code.

### Reporting breaches

All breaches must be reported promptly. POBs should inform the PCA of all breaches that they or Tied Pub Tenants have identified. CCOs are accountable for ensuring that breaches are reported, understood and effectively remedied by their respective POB.

Submitted breach reports are expected to be comprehensive. To be clear on what the PCA expects from CCOs where breaches are found, and to assist in providing a prompt report, the reporting form requests specific information. This includes:

- The extent of the breach;
- Date that the breach occurred;
- When the CCO first became aware of the breach;
- Identification of any actual or potential detriment to tenants and how this is being mitigated; and
- Actions taken to prevent the breach reoccurring.

It is important that POBs invite tenants to share their view on any detriment that they may have suffered as a result of the breach. The extent of any detriment should not be pre-judged by the POB. POBs should also inform impacted tenants of their right to arbitration (where applicable) including relevant deadlines.

The provision of full information facilitates the PCA's assessment of the breach report to decide what, if any, further regulatory steps are appropriate. POBs are expected to retain copies of information relevant to the breach report should the PCA require further assurance at a future date in relation to information provided in a breach report.

For example, breach reports that relate to missing or late Business Development Manager (BDM) discussion notes (required under regulation 41(4)) should include full details about the processes in place to ensure Code compliance in cases of BDM poor performance, issues with training or unexpected absences if this is relevant to the root cause. The report should specify whether the BDM meeting notes in question have

been provided to the tenant, and if so, the extent of the delay and any potential detriment. It should also make clear that tenants have been notified of the breach that has taken place and given the opportunity to obtain further information.

The steps set out above are intended to provide clarity on the information to be provided if a breach is found. They are not a substitute for the operation of any part of the Small Business, Enterprise and Employment Act 2015 or the Pubs Code etc. Regulations 2016.

### **Alleged breaches**

The PCA expects POBs to keep an internal record of alleged breaches, including clear reasoning for why the breach was not upheld, for inclusion in the annual compliance report. Individual alleged breach reports do not need to be routinely submitted to the PCA.

### **Regulatory approaches**

Where the PCA considers that further information or action in respect of an admitted or suspected Code breach is necessary, the PCA may take action including, but not limited to, one or more of the following approaches:

#### a) Informal interaction with the POB

This approach is more likely where the PCA requires further clarity or information on an admitted or suspected breach. This may be to better understand the extent of the breach, whether there is a pattern of behaviour, or the scope of the POB's internal investigation and proposed remedial action.

No further action may be appropriate after considering all relevant factors. Alternatively, the PCA may provide advice to the POB by way of a letter setting out the actions the PCA expects the POB to take to mitigate the risk of similar breaches occurring in the future. In some circumstances, the PCA may opt to monitor POB compliance for a specified period of time.

Alternatively, the PCA may decide to take additional steps, including, but not limited to, those outlined below.

#### b) Supervised inquiry

This is a more structured intervention where the PCA oversees the POB's inquiry into an admitted or suspected breach. Where the PCA offers this approach, it is voluntary for the POB and the detail, scope and expectations will be discussed beforehand.

This approach is designed to ensure the PCA has the full facts to establish whether a breach has occurred and the impact on tenants to decide on appropriate outcomes.

The PCA will consider engaging in such an inquiry where it is proportionate to do so, and in the interests of tenants, to address a suspected or actual breach of the Code without resorting to a formal investigation.

It is more likely to be appropriate where:

- The POB has admitted a breach of the Code, but the PCA is not satisfied or has insufficient information to conclude that a self-reported breach has been handled in an appropriate manner; or
- It is a more proportionate way of establishing whether a breach of the Code has occurred and / or its impact on tenants.

An inquiry is likely to involve the PCA requesting more detailed information and evidence from the POB about the circumstances of the admitted or suspected breach, the impact on tenants, and remedial actions identified. This may result in the PCA agreeing with the POB actions it will take to prevent the breach occurring again and to address any detriment to tenants. The nature of the steps taken will depend on all the circumstances.

The agreed inquiry will be subject to the ongoing and reasonable co-operation of the POB. The PCA may at any time consider it more appropriate to manage the matter in another way, including formal investigation. The PCA will maintain fairness and transparency when making any necessary adjustments to its regulatory approach.

#### c) Statutory Investigation

Any decision to launch a formal [statutory investigation](#) under s.53 of the Small Business, Enterprise and Employment Act 2015 will be taken in accordance with the PCA's [published guidance on investigations and enforcement](#).

### **Communicating the outcome**

The PCA will confirm the outcome of its review of individual breaches in writing to the POB, including where the PCA is satisfied that no further action is necessary. The PCA will always keep such decisions under review taking a risk-based approach. This includes where new information is received that is relevant to the breach, its impact on tenants, or actions taken in response.

To ensure transparency and consistency in approach, the PCA publishes a [searchable breaches register](#) on our website. POBs are provided with 10 working days to review the proposed wording ahead of publication. The breaches register acts as a record of Code breaches reported to the PCA by POBs since 1 April 2022 when the self-reporting process was formalised.

The register provides the industry with timely information during the year about POB breaches, ahead of POBs publishing their annual compliance reports. Information published on the breaches register includes identifying the POB, date that the breach



was reported, date that the breach occurred, the topic, relevant regulation, as well as the matter reported. The PCA will continue to share information as appropriate about any regulatory steps in response.

From 1<sup>st</sup> April 2025, the PCA has had a performance measure to publish 95% of breach reports online within 10 working days of the final outcome. Performance against this measure can be viewed in the PCA's [Annual Report and Accounts](#).