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Pubs regulator suffers blow after professional body upholds tenant challenges



The Pubs Code Adjudicator Paul Newby has seen several disputes against his decision upheld by the Chartered Institute of Arbitrators

By **Bradley Gerrard**

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The arbitrator settling disputes between the UK's largest pub companies and their tenants has suffered a blow after his professional membership upheld several challenges against him.

Paul Newby, the Pubs Code adjudicator appointed by the Government, has had four out of 12 challenges made by pub landlords against him upheld by the Chartered Institute of Arbitrators (CI Arb), of which he is a member, since his office was created in July last year.

The Pubs Code Adjudicator (PCA) was set up to settle disputes between the UK's largest pub companies including Enterprise Inns, Punch Taverns and their respective tenants in Market Rent Only disputes.

These are when a tenant requests a quote from their pub owning company for a rent-only agreement, something which they are now allowed to do when their tenancy is due for renewal under the Pubs Code established in 2016.

The upheld disputes come just as the legislation is gaining traction. The PCA is currently dealing with 89 live cases but the Pubs Code legislation is expected to force hundreds of pub landlords in the next few years to free themselves of the centuries-old beer tie. This is an agreement forcing tenants to purchase beer at inflated prices in return for ostensibly lower rents.



The Pubs Code was launched to provide tied pub tenants with the option of only paying rent to the company which owns their pub

But a Freedom of Information request submitted by lobby group the Pubs Advisory Service shows four of the 12 challenges made against Mr Newby were upheld by CIARB. In spite of this, to overturn the ruling these four tenants would need to take their dispute to the High Court.

A spokesman from CIARB said a challenge was permitted against one of its members if “circumstances exist that give rise to justifiable doubts as to an arbitrator’s impartiality or independence”.

He added a successful challenge did not necessarily mean the wrong decision had been made by the arbitrator. But he added when a challenge against an arbitrator’s appointment in that individual dispute is “immediately terminated” and they should not be involved in that particular case again. Mr Newby was only being dealt with by Mr Newby but the PCA hired former barrister Fiona Dickie as Mr Newby’s deputy in October.

A PCA spokesperson said its responsibilities were established by an Act of Parliament and that it did “not accept that the Chartered Institute of Arbitrators has the jurisdiction to appoint or remove an individual from the role of arbitrator in a Pubs Code arbitration”.

“Paul Newby is determined to maintain the independence of the PCA in carrying out his role as Parliament intended and continues to act as arbitrator in cases that have been challenged and where the challenge has been upheld by the CIARB,” the spokesperson added.

The PCA said Mr Newby remained a member of CIARB.

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