



LEGAL

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Clifton Davies Consultancy Limited specialises in all licensing, gambling and regulatory issues affecting the pub and bar industry. The views expressed by David Clifton and Suzanne Davies are given without any assumption of liability on their part. If you have any questions, do get in touch and they will be pleased to provide answers, either via this page or direct. **E: dc@cliftdavies.com / sd@cliftdavies.com W: cliftdavies.com**

DEDICATED HOSPITALITY MINISTER DEBATE PROVIDES HOPE FOR PUB AND BAR SECTOR

Suzanne Davies finds reasons to be hopeful from a recent parliamentary debate prompted by public petitions attracting a quarter of a million signatures

It doesn't need me to tell you that we live in strange times. The official government line is that the Covid-19 regulations are clear and straightforward, yet those applicable to England alone run to 120 pages and, believe me, even lawyers require a wet towel applied around the head to get to grips with what some of them truly mean.

That's not all. Non-enforceable government guidance has complicated matters even further, with numerous examples of the rules being over-stated, resulting in misinterpretation by government ministers and law enforcement officers alike. The wide scope for misunderstanding is evident from the now infamous debates over whether a scotch egg constitutes a substantial meal or whether two hot drinks consumed while walking in a park constitute a picnic.

Of course, although they made the headlines in the national media, those are relatively insignificant examples. Far more serious is whether any genuine scientific evidence has justified the severe trading restrictions and enforced closures imposed on pubs, bars and other hospitality venues since March last year, resulting in the tremendous financial losses and other harms sustained by operators and their suppliers since then.

That hospitality is one of the industry sectors hardest hit by the pandemic is beyond doubt. That it is also the third largest UK employer, responsible for about 3m jobs, generating £130bn in activity and resulting in £38bn tax revenues for the government, drives home the fundamental importance of the sector to the national economy.

That message was underlined in a House of Commons Library Briefing Paper published on 8 January immediately prior to a parliamentary debate that took place on 11 January. Well worth a read, its 25 pages serve to remind us of the very severe impacts Covid-19 has had on hospitality businesses. That's despite the support schemes provided to the sector in terms of loans, grants, business rates relief, employment support, as well as the Eat Out to Help Out scheme, the moratorium on lease forfeitures due to non-payment of commercial rent, plus the temporary VAT cut and minor relaxations of licensing laws.

The parliamentary debate was prompted by a petition supported by more than 200,000 people campaigning for a dedicated minister for hospitality, but it also took account of a separate petition on general support for the hospitality industry that had gained about 45,000 signatures.

As you may have read elsewhere, the debate succeeded in obtaining cross-party support for both causes, even though it will be a matter for the prime minister alone to determine whether to create such an additional ministerial position (his immediate response didn't fill us with hope). The main argument advanced in support of the position is that the government lacks a deep understanding of the nature of the hospitality industry and its diversity – a problem exacerbated by responsibility for the industry presently falling between two separate government departments.

Speaking on behalf of the government, Paul Scully (parliamentary under-secretary of state for business, energy and industrial strategy) sought to reassure MPs that his department now has "a dedicated hospitality team that is working really hard" and he and the prime minister "are doing all we can within government to understand and represent the interests of the sector". Fingers crossed that the sector's calls (via UKHospitality, the BBPA and others) for further government support will now be heeded more seriously. P&B

QUESTIONS & ANSWERS

Q: Assuming that we will still be subject to trading restrictions post-lockdown, will we have to check whether a group of customers in our pub are all from the same household?

A: If similar rules and government guidance apply as applied pre-lockdown, you will have to take reasonable steps to prevent any mingling between customers from different households, unless a 'support bubble' exists. These steps could include (a) provision of appropriate signage/notices online, at the point of booking and on customer arrival at your pub, when verbal confirmation of household status should be requested, and (b) adequate record-keeping and effective staff training to ensure their knowledge of the applicable restrictions. In addition, to better protect your position, it would be a good idea to embody all of the above into a business-wide policy document with which all of your staff are familiar.

Q: What recommendations were made to Star Pubs & Bars by the PCA when imposing the £2m fine referred to in your last Pub & Bar article?

A: The pubs code adjudicator (PCA) made eight recommendations telling Star what they must do to make good the harm caused to tenants and to ensure that they comply with the Pubs Code. They are set out on the gov.uk website but, in summary, they focus on, one, improvements Star must make to its current and future behaviour when (a) making a market rent only (MRO) proposal, (b) negotiating with tenants, and (c) receiving an arbitration award relating to compliant MRO terms or new PCA advice, guidance or investigation outcomes. Two, the need for (a) the role of Star's code compliance officer (CCO) to be sufficiently supported and independent, (b) a monitoring system that supports the CCO's statutory duties under the code, (c) Star's record-keeping and administrative systems to support and evidence its code compliance, and (d) Star to train all its workforce on the findings from the PCA's investigation. Star must also carry out an audit of its completed MRO tenancies to identify any non-compliant stocking terms and either (a) offer to change those terms or (b) agree not to enforce them, without cost to the tenant.