



## **IFBB Code of Practice**

In this document you will find our company policies in reference to the IFBB Code of Practice.

### **Length of Tenancy (Term)**

The S A Brain and Company Limited (Brains) tenancy will normally be granted for a term of five years. It is a five year renewable agreement and the tenancy can only be terminated on the giving of no less than six months' notice prior to the end of the agreement.

### **Paragraph 26 - Assistance from your BDM**

The nature of the relationship between Brains and its' tenants is a partnership. Where a material change in circumstance has occurred we will review the relevant data and decide whether there is a salient case and what assistance can be offered, acting reasonably at all times.

It is likely that any matters having such a profound effect on trade would have been identified in advance during your regular meetings with our BDMs, however, should these circumstances arise Brains will comply with the timescales defined by the Code of Practice.

In order to review a case such as this, Brains will refer to the original business plan, management accounts and other relevant financial information which must be supplied by the Tenanted Partner as part of this process.

Relevant data will include;

- Management accounts.
- Audited accounts.
- Previous breaches of covenant.
- Volume history and product mix.
- Partners' business plan and performance.
- Details of the material change of circumstance and its' effect on trade and permanence.
- Details of the original terms agreed.

### **Paragraph 39 - Rent Determination**

The way the rent is determined will be fully explained at the final interview. We follow the industry standard model of seeking a share of the profit opportunity of a public house on the basis that it is run by a reasonably efficient operator.

The BDM will visit the house to collect all the relevant data at least three months in advance of preparing the shadow profit and loss. Brains will then provide you with a shadow profit and loss account (P & L Appendix 1) which has been put together by the BDM and approved by the Head of Tenancies. The shadow P & L will include details of all income streams and gross profit broken down into drink, food and other income including machines. We will then prepare cost assumptions associated with the business. These will include wages, utilities, rates, insurance, repairs and maintenance, and other operational costs and expenses. The shadow P & L report we provide is only a guide. It is vital you should take the advice of an accountant when preparing your own Profit and Loss accounts for use during the rent review process and base your rental offer to Brains on them.

We will advise you of the availability of any relevant industry benchmarking reports (for example the ALMR and BBPA survey reports) which may assist you with the preparation of your business plan.



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### **Paragraph 39 - Rent Reviews**

Brains has an internal procedure under which it will advise the licensee of the forthcoming review at least six months in advance of the due date. Your business development manager will then visit the pub and collect the necessary data and information required. For your part you should provide any documentation and supporting evidence relating to your turnover and business costs and your co-operation in this will enable us to work towards a fair and sustainable rent for the property.

Your business development manager will then organise a meeting with you to explain our proposed figure and how they were reached, be they increased or decreased. We will do our best to have this meeting with you at least two months in advance of the due date. You will at the meeting be provided with the Shadow P & L account and rent assessment statement.

We will use the recognised open market valuation method in all rent reviews and determinations as established by the Royal Institution of Chartered Surveyors (RICS) to calculate a shadow profit and loss account for the business. We also commit to any future changes made by RICS to their guidance on rent calculations will be implemented.

Our new tenancy agreement does not include an upward only rent review clause. If your current (old) tenancy agreement does include an upward only clause it will not be enforced and at the end of the 3 year cycle the new tenancy will have the clause removed.

We will be completely open in our approach to rent and we expect this to be reciprocated. There will be instances where the current trading level is higher than would be achieved by a reasonably efficient operator and it is not our policy or intention to penalise licensees in such cases.

Alternatively, it is not our policy to subsidise those tenants and lessees who fail to maximise the opportunity we have given them, which is to reach levels expected of a reasonably efficient operator.

We will give you time if you so wish to consider the information before you and if necessary convene further meetings to enable us to reach a satisfactory conclusion.

Once the rent is agreed a new tenancy agreement will be provided to you for signature which incorporates the rent we have agreed.

We would encourage you to seek advice and / or representation at any time and we would be happy to provide any information requested subject to availability. Likewise, we will recognise requests for assistance from competent tenants suffering business difficulties arising from circumstances beyond their control at any time during the agreement.

### **Paragraph 57 - Gaming Machines**

Brains retain the right to install all leisure machines. Currently, all Amusement with Prizes (AWP) and pool machine income is shared on a 50/50 basis after costs. Whilst other machines are available with our permission they must be supplied by one of our nominated suppliers. No machine income will form part of the rental calculation. The machines will be normally be emptied by the operators on a weekly or fortnightly basis.

### **Paragraph 63 - Flow Monitoring Equipment**

Brains uses flow monitoring equipment in many of its pubs. The terms regarding the way we operate this equipment and the subsequent use of the data provided will be supplied to you as part of the interview procedure and can be discussed with your BDM.



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#### **Paragraph 74 - Termination**

Upon termination of a tenancy it will be our usual policy to acquire fixtures and fittings from our tenanted partners (where relevant), this will be at valuation, agreed between RICS regulated brokers on the day of change.

The brokers in question will comply with the relevant regulations in respect of title, compliance, valuation guidelines and obsolescence.

#### **Paragraph 75 - Surrender**

Requests for surrender of agreements will be dealt with on their own merits, bearing in mind the surrounding circumstances and their magnitude. There is no automatic right to surrender your agreement, other than as defined by the terms of the agreement.

We reserve the right to deal with such requests in the same manner as material change of circumstance requests and may require the same level of information to reach a decision.

Brains will act reasonably at all times, in the light of the circumstances.

#### **Paragraph 76 - Complaint Resolution**

Having first explored the nature and extent of the grievance with your BDM and having not found satisfaction, any grievance in respect of code of practice compliance or otherwise should be made in writing to the Head of Tenancies. The Head of Tenancies will seek to find a resolution within thirty five days (unless another timescale is agreed).

Should matters not be resolved to both parties satisfaction within this timescale, the matter will be escalated to one of the serving executive directors of Brains who will conduct further investigations giving their final decision with a further thirty five days.

During the course of these investigations you will be required to present evidence of the grievance to the relevant authority, the nature of the evidence will be variable but will be defined for you on a case by case basis.

In the event that the grievance cannot be satisfied by this process, reference can be made to the Pub Independent Conciliation and Arbitration Service (PICAS).

#### **Paragraph 78 - Pub Independent Conciliation and Arbitration Service (PICAS)**

In the event that you have not been able to reach a resolution of a problem or dispute with us after going through our company's own dispute resolution procedures you may refer the problem to PICAS (irrespective of any terms within your tenancy. As with PIRRS, both parties by signing terms and conditions to enter PICAS agree to be bound by the decision of the PICAS Panel. However, this does not forfeit your right to seek further redress through the law courts.

You may make an application to PICAS where you believe that the company has not complied with the terms of the IFC or its own Code of Practice, or where the behaviour of the company has not reflected the intentions set out in the Code. Rental issues should be referred to PIRRS but all other matters can be raised through PICAS.

Full details of the application process and the procedures to follow when referring a complaint to PICAS are available from the PICAS website [www.picaservice.com](http://www.picaservice.com) or on our website at [www.brainsbrains.co.uk](http://www.brainsbrains.co.uk).

We are committed to the professional standards enshrined in these Codes and to the operation of both PIRRS and PICAS which is a pre-requisite of accreditation of our Code.



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