



Pubs Code
Adjudicator

What Tied Pub Tenants Need to Know

Rent under a Market Rent Only (MRO) compliant tenancy and Independent Assessors



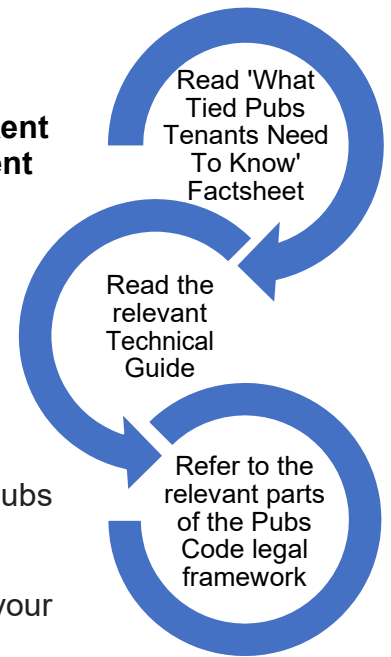
How to use this factsheet:

This factsheet is for tied pub tenants who have **received a Market Rent Only (MRO) compliant tenancy** and want to **negotiate the MRO rent** with the pub-owning business.

It provides information to support tenant understanding. It is not a substitute for the Pubs Code legal framework.

You can find [technical guides](#) on our website which provide more detailed information about the Pubs Code provisions. We recommend that you refer to these guides if you would like more information and/or are considering accessing your rights under the Pubs Code.

Our website also contains other useful information about accessing your Pubs Code rights: www.gov.uk/pca



Terms and abbreviations

Term/abbreviation	What it means
Code	The Pubs Code etc. Regulations 2016
IA	Independent Assessor – someone who meets the criteria the PCA has set for independently determining the market rent.
PCA	Pubs Code Adjudicator (references to PCA include Deputy Pubs Code Adjudicator)
POB	Pub-owning Business (often referred to as pub companies)
TPT	Tied Pub Tenant
MRO	Market Rent Only
MRO Rent	The rent (or money payable instead of rent) for you to occupy the premises under a MRO-compliant tenancy.
Market Rent	The estimated rent it would be reasonable for you to pay to occupy the premises under a MRO-compliant tenancy.
MRO Option	The option for you to occupy the tied pub under a MRO-compliant tenancy and to pay a rent you have agreed with the POB in line with the MRO procedure or, failing such agreement, the market rent.
MRO Notice	A written notice you give to the POB to request the MRO option when an event occurs that gives you the right to make this request, as set out in the Code.
MRO Full Response	The POB's response to your MRO notice. If the POB agrees you have the right to pursue the MRO option, this response must include a proposed MRO-compliant tenancy.
Negotiation Period	The period of 56 days starting the date you receive a MRO full response from the POB (or the date you receive a revised response where the arbitrator orders the POB to provide one).
Pubs Code Framework	The legal framework that regulates the relationship between the large pub-owning businesses and their tied pub tenants. It is made up of the Small Business, Enterprise and Employment Act 2015 (Part 4), The Pubs Code etc Regulations 2016, and The Pubs Code (Fees, Costs and Financial Penalties) Regulations 2016.

Rent under a MRO-compliant tenancy

I do not agree with the POB's proposed MRO rent. What can I do?

You must **try to negotiate** with the POB for at least **28 days** of the negotiation period, which starts the date you receive the MRO full response from the POB.



If you do not agree with the rent offered after this time, you can ask an **Independent Assessor (IA)** to determine the market rent.

You have **from day 29** of the 56-day negotiation period until **7 days after the end** of the negotiation period to make a referral to an Independent Assessor (which is 63 days after receiving the MRO full response from the POB).

You must notify the POB in writing that you intend to refer the rent to an IA.



You **cannot** make an arbitration referral to the PCA about the proposed MRO-compliant tenancy once you have referred the MRO rent to an IA.

Once you have made an arbitration referral to the PCA about the proposed MRO-compliant tenancy, you **cannot** refer the proposed MRO rent to an IA until the arbitration matter has been determined.

I have notified the POB that I intend to refer the MRO rent to an IA. What happens now?

After notifying the POB in writing that you intend to refer the MRO rent to an IA, **within 28 days** of the POB receiving the notice, you and the POB must:



- a) Jointly appoint an IA; **or**
- b) Notify the PCA in writing that you have failed to make an appointment. The PCA must then appoint an IA within **14 days** and notify you and the POB of this appointment.

Guidance on the PCA process for appointing an Independent Assessor and the **[notification form](#)** are available on our website.



You and the POB must pay, **in equal shares**, the fees that the IA charges in connection with the determination of the market rent.



A list of IAs who meet the PCA's criteria and guidance on fees is available on The Royal Institution of Chartered Surveyors' website: **www.rics.org**.

Independent Assessor Process

The POB and I have jointly appointed an IA. What happens now?

Within **28 days** (starting the day after the IA is appointed) you **must give the IA:**



- a) The proposed MRO tenancy.
- b) All documents you hold from those listed in **Schedule 3** to the Code.
- c) Other information you think is relevant to the determination.

Within the **same 28 days:**

- the POB must also provide documents and information in line with b) and c)
- information you and the POB provide to the IA under b) and c) should also be provided to each other.

You and the POB **must also:**

- comply with **any reasonable request by the IA** for information or documents you hold which the IA considers relevant for the determination; and
- provide any such information or documents to the IA **and** to each other **as soon as reasonably practicable**.



The IA must communicate their determination to you and the POB **within 21 days**, starting the **day after the 28-day period** in which information must be provided to them.

The IA determination **must:**

- have regard to the documents listed in Schedule 3 to the Code; and
- be conducted in accordance with guidance issued by the PCA.

What are the documents in Schedule 3 to the Code?

1

Documents which provide evidence of your pub's level of trading in the last 3 years.

2

Documents which show a reasonable forecast of your pub's level of trading for the next 3 years.

3

Documents which describe any special commercial or financial advantages provided to you under the terms of your tenancy or licence.

A Reasonable Forecast:

- is based on an assessment of the level of trading at your pub if it were operated by a **reasonably efficient tenant**; and
- may be based on an assessment of your pub's level of trading if you were **not subject to a product or service tie**.

I have received the IA's determination of the market rent. What must I do next?

You must **accept or reject** the IA's determination of the market rent (and the associated tenancy) in writing to the POB, **within 21 days** of it being communicated to you*.



*If a **rent assessment** (or assessment of money payable instead of rent) is still in progress at the end of the 21 days, you have until the date this assessment ends to give the above notification.

If you do not notify the POB of your decision in time, you will be treated as having **rejected** the IA determination and the associated tenancy.

Note: the above applies **unless** you or the POB have referred the IA determination to the PCA for arbitration (see next section).

I disagree with the IA's determination or I have not received the IA's determination. What can I do?

You or the POB can make an **arbitration referral to the PCA** if either of you think one or more of the following applies:

- The determined rent is **not the market rent**.
- The IA in making their determination has not had regard to the **Schedule 3 documents** provided to them.
- The IA has not **conducted the procedure** in accordance with the PCA's guidance for IAs.
- The IA has not **communicated their determination** within 21 days, starting the day after the 28-day period in which information must be provided to them.

You (or the POB) must make your referral to the PCA within **14 days** of the date the **IA's determination** is communicated to you.



If you have **not received** the IA's determination, you must make your referral to the PCA within **14 days** of the date it should have been communicated to you.



You can find the [Referral Form](#) and a helpful [Flowchart](#) which shows the IA process on our website.

I (or the POB) do not agree with the IA's determination and have referred it to the PCA. What could happen?

If the arbitrator decides the alleged failure has occurred:

The arbitrator must explain, in writing, why the failure has occurred. Then, having regard to the nature of the failure, the arbitrator must do one of the following:

- **Substitute** a figure for the market rent and explain why. That substituted figure is **final**.
- Direct the IA to make a **second determination** of the market rent in light of the arbitrator's explanation as to why the failure has occurred.
- Make **another determination** the arbitrator considers appropriate, which may in exceptional cases be for the appointment of **another IA** to assess the market rent.



Where the arbitrator directs the IA to make a **second determination** of the market rent, the IA must do this **within 21 days**, starting the day of the arbitrator's direction.

Where the arbitrator appoints **another IA** to assess the market rent, the IA must determine the market rent **within 21 days** of the arbitrator's appointment.

You must **accept or reject** any determination or substituted market rent figure (and the associated tenancy) in writing to the POB, **within 21 days** of it being communicated to you*.



*If a **rent assessment** (or assessment of money payable instead of rent) is still in progress at the end of the 21 days, you have until the date this assessment ends to give the above notification.

If you do not notify the POB of your decision in time, you will be treated as having **rejected** the determination or substituted market rent figure, and the associated tenancy.

Note: the above applies **unless** you or the POB have made another arbitration referral to the PCA on any IA determination you have received as a result of the first arbitration.

See section: **I do not agree with the IA determination that I received as a result of my referral to the PCA. What can I do?**

If the arbitrator decides the alleged failure has not occurred:

You must **accept or reject** the **original** IA determination (and the associated tenancy) in writing to the POB, **within 21 days** of the arbitrator's determination being communicated to you*.



*If a **rent assessment** (or assessment of money payable instead of rent) is still in progress at the end of the 21 days, you have until the date this assessment ends to give the above notification.

If you do not notify the POB of your decision in time, you will be treated as having **rejected** the IA's determination and the associated tenancy.

The IA has not communicated their determination within 21 days and I (or the POB) have referred it to the PCA. What could happen?

The **arbitrator** must do any of the following:

- Direct the **IA to make their determination** of the market rent and specify when they must do this.
- **Appoint another IA** to determine the market rent (the arbitrator will make this appointment within **14 days** of the matter being referred).
- Decide that the **IA requires additional information** to determine the market rent and require you or the POB to provide this. The arbitrator will then direct the IA to **complete the determination** and specify when they must do this.

You must **accept or reject** the IA determination (and the associated tenancy) in writing to the POB, **within 21 days** of it being communicated to you*.



*If a **rent assessment** (or assessment of money payable instead of rent) is still in progress at the end of the 21 days, you have until the date this assessment ends to give the above notification.

If you do not notify the POB of your decision in time, you will be treated as having **rejected** the IA determination and the associated tenancy.

Note: the above applies **unless** you or the POB have referred the IA determination to the PCA for arbitration (see next section).

I do not agree with the IA determination that I received as a result of my referral to the PCA. What can I do?

You or the POB can make **another arbitration referral to the PCA** if either of you think one or more of the following applies:

- The determined rent is **not the market rent**.
- The IA in making their determination has not had regard to the **Schedule 3 documents** provided to them.
- The IA has not **conducted the procedure** in accordance with the PCA's guidance for IAs.

Either you or the POB must refer the matter back to the PCA **within 14 days** of the determination being communicated to you.



The arbitrator may then make a **final determination** of the market rent within **21 days of the referral**.

You must **accept or reject** the arbitrator's final determination (and the associated tenancy) in writing **within 21 days** of the determination being communicated to you*.

*If a **rent assessment** (or assessment of money payable instead of rent) is still in progress at the end of the 21 days, you have until the date this assessment ends to give the above notification.

If you do not notify the POB of your decision in time, you will be treated as having **rejected** the final determination and the associated tenancy.



More information about Pubs Code Disputes can be found [here](#).

Questions about this factsheet

For **general queries** about the information in this factsheet, you may contact our enquiry service.

Please note, we can provide information about your rights, the Code and our processes. We cannot advise you about your case.



Complete our [online enquiry form](https://www.gov.uk/pca) at www.gov.uk/pca



Email: office@pubscodeadjudicator.gov.uk



Call **0800 528 8080** to request a call back

This factsheet provides information to support tenant understanding. It is not a substitute for the Pubs Code framework.

You may find it helpful to take independent professional advice before making any decisions that may affect you and your business.

