



The Pubs Code Adjudicator MRO research findings

November 2021

Undertaken on behalf of the Office of the Pubs Code Adjudicator

What we did

During the previous Discovery project (The Pubs Code Adjudicator Discovery Report), the PCA identified the need to look further into the Market Rent Only (MRO) process beyond the scope of the original project. This was to understand the recent experience of tied tenants requesting MRO, given that the MRO process is relatively new, and the PCA has taken various regulatory steps in relation to it impacting at least on the period from April 2019.

This research was aimed at those who served a MRO notice from April 2019 onwards. It explored the motivations of tenants who requested the MRO option, how they have used the process (including the impact of the proposed rent and terms and any negotiations with their pub company), and their overall experience.

The discovery was broken down into 4 main phases, running from 22nd February to 28th April 2021.

The main phases of the project were as follows:

Phase 1: Defining the Problem Preparing the Research

To set project direction and understand PCA's goals, objectives and vision and begin creating draft questions based on these findings

Phase 2: Recruitment & Engagement

Begin engaging with users and organising one to one research sessions. Define detailed questions for the interview

Phase 3: Research Phase

Conduct 1 to 1 interviews

Phase 4: Analysis and evaluation

Analyse findings and write report

Overview of Findings

Value of advice

Those tenants who had the help of a competent advisor through the process overwhelmingly had a much more positive experience than those without. Three interviewees were helped by pub consultants who specialised only in Pubs Code representation, all of whom reported excellent results. Two others reported notably useful help from their stocktaker.

We spoke to two who were still going through the process with other advisers (with broader interest in pubs and Pubs Code issues) – they were notably less positive than the others who had been advised, although they did expect success. From the interviews, there appeared to be a link between the satisfaction of the tenant with, and their attitude to, the MRO process, and the identity of the representative.

Value in negotiating tied deal

Of the 10 tenants who remained tied after completing the MRO process, only one reported that they had not obtained any improvements in rent, terms or benefits, and 7 reported that the MRO process positively affected their ability to negotiate their tied offer.

MRO rent offers

The survey and interviews showed large disparities between the offers that are made by Pub-owning Businesses (POBs) and the Independent Assessors' (IA) assessments. It was reported in interviews that there was little attempt to negotiate by POBs even as an alternative to the IA process.

Independent Assessor process

All interview subjects who went through the Independent Assessor process reported very favourable results. This was mirrored by the survey results, where from 11 respondents who had been through the IA process, 6 were satisfied or very satisfied, 4 were neither satisfied or dissatisfied and 1 one was dissatisfied. All but one of those who were not satisfied were still going through the process however.

Costs and barriers

The main barriers Tied Pub Tenants (TPTs) stated in requesting an MRO proposal were the costs of engaging advice and representation, and the time available to review the MRO offer. We also saw in interviews that those tenants who hadn't engaged an advisor tended to underestimate the overall costs. Contrasting with this, there was a lack of awareness of the scale of reductions in rent seen in the IA process compared to its costs.

Terms and conditions

No single issue with terms and conditions apart from rent stood out in interviews or surveys. Common issues described by survey respondents and those interviewed cover stocking requirements, dilapidation costs, and high up front initial rental deposits.

POB Interaction

There is very differing feedback on POB interaction based on the stage in the process TPTs were at. While many reported negative expectations before starting the process, they were positive about the experience of requesting their MRO proposal. After requesting it, their experiences of interactions tended to be negative until the process was complete. Once completed, 6 of 9 tenants reported no effect on their relationship.

Resources / materials

Few interviewees reported having used the PCA online material extensively, although the PCA's MRO flowchart was viewed favourably. Some tenants wanted to see more case studies and simple jargon free fact sheets. 8 of the 44 survey respondents who answered the survey question on where they got information about how to request MRO said they got information from the PCA. This is a similar percentage to the other most used sources of information, such as POB websites, BDMs or representative groups.

The Process

TPTs in interviews often felt that the legislated timescales under the Code were in favour of the POB given that POBs often did not provide their offers until the deadline date. At this point the TPTs felt they needed more time to review and analyse the offers than is allowed for under the Code.

What we found

Identifying the Scope

Working with the PCA we ran a workshop and discussed what they wanted to uncover through this research project.

We identified the following key areas for our research to focus on:

- Understand what TPTs hoped to achieve going into MRO vs the outcomes
Expectations vs Outcomes
- Have more information on the interactions between POBs and TPTs during MRO
POB Interactions
- Understand the impact of PCA materials and Regulatory Compliance Handbook (RCH) on the MRO experience
Materials
- Know what initial information sources TPTs are using when considering/starting MRO
Information sources
- Understand any barriers TPTs felt/faced about going into MRO
Barriers
- Find out what, if any, Terms are still problematic in Free of Tie (FOT) leases
Terms and conditions
- Understand if and how Independent Assessors are being used during MRO, and the impact they are having.
Independent Assessors
- Gain a broad view of TPTs' recent experience with MRO to understand if the process has improved
Process
- Have real life stories that can be used publicly
Stories

General Statistics

- **339 Pubs'** details were provided to Hive IT by all six Pub-owning Businesses (POBs).
- **285 Pubs'** contact details were able to be identified by Hive IT (84% of the Pub details provided)
- **50 Survey responses** were received following the contact with the 285 Pubs (17.5% engagement)
- **30 Respondents** agreed to interview and all were invited (60% of survey respondents)
- **15 Interviews** were scheduled (50% of those who agreed to interview)
- **13 Interviews** were completed (43% of those who agreed to interview)

Recruitment

Whilst the POBs provided the pub names and postcodes of the TPTs who had requested MRO, for data protection reasons Hive IT were required to research the contact details for the pubs in order to make contact.

We successfully identified the email addresses of a large number of establishments, and in other instances where no email address was found, we were able to identify a number of pub websites and used their contact forms to invite the TPTs to engage with our research.

Given that we had managed to contact 84% of pubs via the means described above, we did not undertake direct phone or post marketing due to time and budget constraints. Additionally, we found a number of Facebook pages for some other pubs – but given that Facebook will not allow messaging from a business profile (Hive IT), we were unable to use this contact method.

Breakdown of Survey Respondents

13 MRO complete

of these:

- **3** are Free of Tie
- **10** remained as Tied Tenants
- **0** End of lease

In addition, of these:

- **6** Are multiple operators
- **5** Have undertaken multiple MROs since April 2019

Of the 10 who remained tied

- **5** reported a tied rent lower than their previous tied rent
- **5** reported improved tied terms (other than the rent)
- **4** reported other tied benefits (e.g. discounts)
- **3** reported a tied rent lower than their original tied rent offer
- **7** reported that the MRO process positively affected their ability to negotiate their tied offer
- **1** reported that they had not obtained any improvements in rent, terms or benefits

In addition, of these:

- **1** Could agree on MRO terms, but not rent
- **1** Agreed a new tied tenancy
- **4** Agreed a new tied rent or other new terms/discounts
- **2** Decided not to pursue the MRO process
- **1** of those who decided not to pursue the MRO process stopped the MRO negotiations after the beginning of the Covid 19 pandemic because of the better rental concessions on offer to tied tenants than free of tie. When giving reasons which contributed to the decision to remain tied, two tenants referred to the pandemic.

25 MRO incomplete

of these:

- **7** Had received their MRO proposal and were in negotiations with their pub company
- **2** MRO rent was being assessed by an Independent Assessor
- **5** Were in PCA arbitration about terms or IA assessment
- **2** Had agreed in principal and were completing their tied review
- **1** Had not received their MRO proposal yet
- **8** Answered 'other'

In addition, of these:

- **5** Are multiple operators
- **2** Have undertaken multiple MROs since April 2019
- **8** Have had an Independent Assessor determine the MRO rent
- **7** Have referred their terms to the PCA
- **4** Have referred their IA determination of rent to the PCA

3 Others

of these:

- **2** Had their MRO requests rejected
- **1** answered that their lease was coming to an end and their POB was taking the pub back, but provided no further answers to the survey

9 Submitted an invalid response

- **8** Dropped out before answering the question "What is your current situation?"
- **1** Completed their MRO process before the window we were asking about

Responses from different POBs

43 respondents told us which POB they had requested their MRO proposal from

- **22** of these were from Star Pubs and Bars
 - **5** Had completed their MRO process
 - **1** FOT
 - **4** Multiple operators
 - **4** Multiple MROs (since April 2019)
- **13** were from Ei Group
 - **7** Had completed their MRO process
 - **2** FOT
 - **3** Multiple operators
 - **3** Multiple MROs (since April 2019)
- **5** were from Punch
 - All these were still going through their MRO process
- **2** were from Greene King
 - Both were still going through their MRO process
 - One multiple operator
- **1** was from Marston's
 - they were still going through their MRO process
- **None** were from Admiral

Breakdown of Interview Respondents

5 MRO complete

of these:

- **2** FOT
- **3** Still TPT

In addition, of these:

- **3** Multiple operators
- **1** Multiple MROs (since April 2019)

8 MRO incomplete

of these:

- **6** Received proposal and in negotiations
- **2** Agreed in principle, completing tied review

In addition, of these:

- **1** Multiple operators
- **1** Multiple MROs (since April 2019)

Detailed Findings

1. Expectations

Before starting the MRO Process

There was a mix of expectations of the MRO process from TPTs before starting, though research shows that for TPTs who have not undertaken the process before, they described a feeling of trepidation.

38 survey respondents answered the question “*How did you feel about the MRO process before the request? What did you expect?*”

The question was a free text answer. Of the 38, 16 had predominantly negative expectations, 8 were neutral or balanced and 5 were predominantly positive. The remainder discussed their actual experience.

Example negative responses

These are typified by the use of terms like “Expensive”, “Long”, “Difficult” and “Complicated”, and emotional language such as “Nervous”, “Apprehensive” and “Worrying”.

The responses also showed the fear of taking on a large organisation:

- “Works in favour of the POB”
- “We expected it to be a long drawn out process with [my POB] putting as many barriers in our way as possible to prevent the application going ahead. We also expected the process to be weighted in favour of [my POB].”
- “puts tenants at an unfair advantage as we do not generally have the legal knowledge”
- “Going MRO is a frightening prospect for an independent trader, who has to [go] up against the might of a pubco and all of the financial clout and expertise that they have on tap.”

- “I was rather nervous of the process going into negotiations with a multinational company which employed experts to try and dissuade me on going MRO, and expected some strong arm tactics from them.”

Example positive responses

Several TPTs did have positive expectations - for example;

- “Fairly confident, had read up a lot about it”
- “A good bargaining tool”
- “Felt OK, had the right guy doing it for me”
- “I presumed that with the PCA in it would be straight forward, and timely”
- “To get free of tie for all drinks, and to pay more rent, fair market rent”
- “Good. Better overall rent”

Example neutral or balanced responses

These tended to be either a mix of positive and negative, or an emotion was not discernable - for example;

- “Never really looked into it”
- “Was not sure”
- “I had no knowledge / experience of it nor knew anyone who had gone through it”

Impact of advice and representation on expectations

Those without advice

Of those that had no advice or representation (24% of survey respondents), there was a general perception that the process would be more straightforward before embarking on the process.

- “I thought it would be more straightforward than it has proved to be.”
- “I thought I would be better off. I did not expect it would be so costly to set up.”

Those with advice

Of those who had taken advice or representation, there was a generally clearer perception of what the process entailed and expectations were managed from an earlier stage. Those using advisors didn't have the extra burden of having to spend time researching a complex legal process, giving them confidence in having someone else there to help guide them effectively through the process.

- “Took advice and all was fine”
- “I utilised the services of a consultant to help and guide me through the process”
- “Fairly straightforward, we have an advisor helping us through the process and pub co negotiations”
- “it was ok I had the right guy doing it for me”

However, even among those who engaged advisors, there was some trepidation going into the process:

- “I was rather nervous of the process of going into negotiations with a multinational company which employed experts to try and dissuade me from going MRO, and expected some strong arm tactics from them.”
- “Dubious. Have heard it was a long drawn out process that the pub cos use against you”
- “Complicated and worrying”
- “From what I'd heard I expected it to be a long drawn out process that many applicants dropped out of”

Of those with advice, but reporting negative expectations, only one engaged a consultant.

Reasons for requesting MRO Proposal

Answers to the question “**What event prompted your MRO request?**” were evenly split among the 45 respondents, between rent assessment at **53%** and renewal at **44%**. One said a significant impact on trade.

We also asked **“Why did you decide to request the MRO proposal?”** – with more than one response being allowed:

- Wanted to go Free of Tie (**68%**)
- Compare the free of tie with tied option (**37%**)
- Their tied rent offer was too high (**29%**)
- Use it to negotiate a better tied deal (**27%**)
- They were advised to do so (**5%**)

2. Outcomes

Experience of the Process/Attitude to future MRO

From the survey **37** respondents answered the question, **“What was your experience of requesting the MRO proposal”**.

The question was a free text answer. Of the 37, 19 had a predominantly positive experience, 4 were neutral or balanced and 14 were predominantly negative.

Of those answering positively, 14 referred to advice and guidance, usually from an advisor or a stocktaker.

Of the negative responses, the only ones mentioning advice and guidance (two) specified only a surveyor.

Example positive responses:

- “Took advice and all was fine”
- “I engaged somebody to do it”
- “I utilised the services of a consultant to help and guide me through the process”
- “My representative guided me. Professional Advice is the key.”
- “Fairly straightforward, we have an advisor helping us through the process and pub co negotiations”

Example negative responses:

- “Complex and too many time restrictions”
- “Made complex by POB”
- “Confusing guidance on POB website”
- “Complex and costly”
- “Got the feeling the POB was not happy with me doing this”

Of the 14 negative responses, in all cases comments around complexity and confusion have been made by those **who had not used an advisor of any type**.

Effectiveness when negotiating tied deal

Overwhelmingly, those who remained tied reported that the MRO process had a positive effect on their ability to negotiate a better tied deal.

10 tenants remained tied at the end of the process, of which **5** reported a tied rent lower than their previous tied rent and **3** reported a tied rent lower than their original tied rent offer. **5** reported improved tied terms and **4** reported other tied benefits. Overall, **7** reported that the MRO process positively affected their ability to negotiate their tied offer, and only **1** reported that they had not obtained any improvements in rent, terms or benefits.

3. POB Interactions

As discussed in the expectation section, many TPTs reported negative expectations from the process.

Looking at the question “What was your experience of requesting the MRO proposal, including understanding when and how to send the MRO notice” we do see a mostly positive experience of making the request. Once this stage had been completed, respondents did tend to be negative about their interactions with their POB over the course of the process. This was not universal however, and some (universally advised) reported little change.

For the most part those who had completed the process reported no ongoing effect on their relationship.

During the process

Example negative responses (from those who found the process to be difficult or very difficult):

- “POB put as many blocks on it as possible, but avoided breaking the code”
- “We have heard nothing from [My POB]”
- “Lack of transparency”
- “Feel that [My POB] are not happy with me doing this”
- “I felt that [My POB] was trying to penalise me and put me off going the MRO route by the rental amounts that they were proposing and the narrative used.”

Example positive responses (from those who found POB Interactions to be easy or very easy):

- “I expected it to be difficult, but [My POB] did help with the notices”
- “Negotiations were quite pragmatic”
- “Good communication with BDM”

Answering the question “*Has requesting MRO had an effect on your relationship with your pub company?*” there was a clear split between those who had completed MRO and those who were still going through it.

Of the 22 whose process was not complete and answered the question, 40% reported an effect, and 45% said they didn’t know. From the interviews it is possible this is related to the negotiations being carried out by specialist POB staff rather than their usual BDMs with whom they had a relationship.

After the process

By contrast, two thirds of the ten who had completed the process and stayed tied reported no effect. Those who were now Free of Tie were not asked this question.

However, one tenant who achieved an MRO agreement attributed their successful use of the IA process on one pub to the decision of the POB to serve a section 25 notice at renewal and repossess a second pub (their family home).

It should be noted that we cannot objectively verify any such perceived link, and recognise that POBs have the legal right to serve a section 25. A decision to take a property back into management because a tenant had served a MRO notice would be a breach of the Pubs Code.

4. Materials

Only 19% of survey respondents reported accessing information from the PCA, although several of our interviewees mentioned the PCA's MRO process flowchart positively¹.

From those interviewed there was a feeling that there was sufficient information available, but that it requires time and effort to decipher, particularly with complex legal terminology, which is difficult and demanding to understand without the guidance of external advice.

Example positive responses:

- “Yes useful and understandable, all laid out, way [My POB] had to inform of rights, excellent, couldn't fault it. Really refreshing!”
- “It was found wrong and the PCA fined them 2 million pounds - knowing action like this helps...”
- Fiona Dickie - “says it like it is! Explains it quite well, a bit more of that would be helpful”

Example negative responses

- “When you're running a pub, it's not easy to absorb - not very user intuitive.”
- “Cases are published but a lot of them are old...”

1

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/607223/10645-PCA-MRO_Event_Notice_and_Full_Response-1.pdf

- “For people that are inexperienced they should be more helpful to them – A one sheet guidelines would help. I got through the process so it must have been sufficient!”
- “No, it’s bloody hard – very difficult to understand. It’s ambiguous, doesn’t make it clear how the process works. It doesn’t feel like they’re independent – only in name. No, didn’t know I could! Not been offered or obvious I should ask for it – the gobbledygook I saw on PCA website didn’t help me one bit, no clue about what my rights were, it’s all government jargon!”
- “Less legal jargon and more straight forward information”
- “You can see an award but it's hard to see how they came to it! Very legally worded, hard to understand!”
- “There’s some info – no personal stories though!”

5. Sources of information

Of the 43 respondents that answered this question, **88%** found the initial sources of information to be useful in some way, **55%** of all respondents found this information to be very or extremely useful.

The summary of initial sources of information (respondents could choose more than one):

- POB (42%)
 - POB Business Development Manager or Code Compliance Officer (23%)
 - POB website (19%)
- Other representative groups or bodies (23%)
(Consisting of advisors and stocktakers)
- PCA (19%)
- Surveyor (12%)
- Large trade organisation (7%)
- Solicitor (5%)
- Accountant (5%)

6. Barriers

Complexity

The complexity of the process was a common theme from both the survey respondents and interview participants.

Those who hadn't taken external advice had expectations that the process would be far more straightforward than it proved to be in reality.

A consultant specialising only in Pubs Code matters (interviewed September 2020 as part of the initial PCA Discovery project to explore how users engage with the PCA), summarised the situation, "A lot of **people will read the code**, but **not interpret it** as it's quite tricky if you're trying to run a pub as well to understand all the intricacies."

Those who had an advisor had much more realistic expectations however, as those advisors had previous experience of the process and knew how much time, effort and cost is involved.

Typically, survey respondents without representation found the process more complex and responded to these questions more negatively:

For example:

- "On your own it's not easy"
- "Like a footballer - you need an agent! Somebody who knows what they're talking about, not getting hoodwinked!"
- "Either you know the law or you're foolish to try yourself"
- "It's a game of brinksmanship - have to take them to the wire. Threaten with arbitration. They understand the process much better than the TPT"
- "Complicated and worrying"
- "I thought it would be complicated, I expected to favour the pubcos"
- "I expected it to be too complex and expensive"

Those that were supported were less negative:

For example:

- “Took advice and all was fine”
- “I engaged somebody to do it”
- “Enlightening! However I did have an agent to ensure filings were made correctly and within the timescale”
- “Fairly straightforward, we have an advisor helping us through the process and pub co negotiations”
- “It was simple enough to do, I had to get external help as I didn't really know how and when to send the notice”

Costs

Costs were a common barrier in both the survey responses and interviews. For some the financial outlay to cover external advice, IA, and renewed terms and conditions made the MRO process financially unviable, even in situations where a longer term MRO projection may save money.

Of the **10** survey respondents that have completed the process, but have decided to remain as a TPT, **60%** said the cost of pursuing the MRO process was one of the reasons for remaining tied.

Many quote the costs contained in the terms and conditions relating to increased security deposits, stocking requirements and dilapidations along with the costs of advice and independent assessment combining to make the process too expensive to continue.

Example comments:

- “I thought I would be better off. I did not expect it would be so costly to set up”
- “IA means costs....and we might lose out and cannot go free”
- “Rent in advance deposit and cost of dilapidations made it financially impossible to proceed”

Timescales

There is a general feeling from both interviewees and survey respondents that the timescales are very tight and pressured in certain areas of the process in responding to aspects of the Code, which can lead to extra stress for the TPT.

Among interviewees there was a perception that POBs were responding in the process at the latest possible moment in order to pressurise TPTs – though the POB is well within the code to use the allotted timeframe. It should be noted that the timeframes are set out in the Code, which the PCA cannot change.

Example responses:

- “MRO timescales are far too tight. Pushed to make decision in a matter of days”
- “Very complex process and too many time restrictions imposed by the legislation”
- “Expected it to be sorted much quicker. It will be 2 years since sept 2019 and I still ain’t anywhere further with it.”
- “Awful! We requested it on the final day applicable without realising it and [My POB] then withheld contact to force us over the expiry date. It was very much held back from us at all costs.”

POB Relationship

As discussed earlier in the expectation section, there was a definite fear among many respondents at the start of the process that there would be a negative effect on their relationship, and an expectation that their POB would make the process hard for them.

Of those surveyed who answered the question “*How did you feel about the MRO process before the request*”, **52%** gave answers indicating that they had negative expectations of some kind, with many of these discussing a fear that their POB would make the process as hard as possible.

- “Dubious. Have heard it was a long drawn out process that the pub cos use against you”

- “We expected it to be a long drawn out process with [my POB] putting as many barriers in our way as possible to prevent the application going ahead. We also expected the process to be weighted in favour of [my POB].”
- “I was rather nervous of the process going into negotiations with a multinational company which employed experts to try and dissuade me on going MRO, and expected some strong arm tactics from them.”

As discussed in the section of POB interactions, we actually see a mostly positive experience of making the request, then a generally negative experience during the process. For many, little or no impact was reported on the tied relationship once the process was completed, though a few did report an impact.

7. Terms and conditions

From the survey respondents, **69%** found the terms and conditions of their proposed MRO to be unreasonable. There was also a clear correlation between survey respondents and those interviewed.

Of the **8** survey respondents that have completed the MRO process but have decided to remain a TPT, **63%** said the terms and conditions contributed to them remaining tied.

Apart from the rent there were a range of comments regarding issues with the terms and conditions, including dilapidation costs, high rental deposits, high stocking requirements, inaccuracies in valuations working in favour of the POB, and a range of individual contractual issues.

Example survey responses:

- “The stocking issue was very high 60-70% and they would not negotiate on it at all”
- “The pub co made assumptions about our business which are totally inaccurate, but enables them to leverage this to increase rents and MRO valuations.”

- “The POB makes it almost impossible by sending a dilapidations report that was in the region of £45k and wanted 3 months’ rent upfront, a deposit of the same amount and to give us lease terms which would mean that in a year they would be able to put the rent up to an unfeasible amount.”

8. Rent

From the survey **53%** of respondents said that the tied Rent Assessment was the event that prompted their MRO request. Overall, **71%** of respondents to the survey considered the MRO rent offer from the POB to be unreasonable. Among those who had not yet completed the process, this figure rose to **78%**. Among those who had completed the process and gone FOT, this was **67%**, and among those who stayed tied, **55%**.

Looking at the reported differences between the proposed MRO rent and independently assessed market rents, it can be seen that the proposed rents were in some cases far higher than the determined market rate. In the interviews, some saw this as a method by the POB to block the MRO.

Of the respondents that have completed MRO, but remained as a TPT, the level of MRO rent and high rental deposits were both influential factors in remaining tied, as they perceived the costs made it unviable for them to make the change.

One of the tenants who remained tied also reported that the fact their MRO rent did not disregard tenant improvements was a deciding factor.

Example survey responses:

- “Rent offered was well above both comparables and market rent. non-negotiable no covid rent concessions for going FOT was unacceptable”
- “I felt that <POB> was trying to penalise me and put me off going the MRO route by the rental amounts that they were proposing and the narrative used.”
- “It was the cost of MRO excluding rent which put me off”

Example interview responses:

- “They offered a rent that was too high”
- “The pub company asked for an increase in [the current tied] rent, about £15,000 to £20,000 increase”
- “Initial offer was too high....doesn't correlate with other pubs doing a similar turnover”

9. Independent assessment (IA) process

Overall, 5 survey respondents had completed both the MRO process and had been through the IA process, with overwhelmingly positive results. Of those who took the MRO option, 2 of 3 used an IA, whereas only 2 of the 10 who stayed tied said they did.

Of those who hadn't completed the MRO process, 8 of 22 who answered the question had been or were going through the IA process.

Example responses from survey:

- “Our rent is now lower than tied rent”
- “For the first time in nearly twenty years it gave me an independently assessed fair rent which gave me the confidence and knowledge that I was being treated fairly and that I had made the right choice to go MRO”
- “Just about to complete my MRO offer. Current Passing Rent £32,000, New FMT Rent Proposal was £50,500, MRO Rent £64,000, <>IA £43,850, Free of Tie MRO”

Example responses from interviews:

- “They give you three that you can choose from and I picked <Name>”
- “IA – came back with a good number”
- “IA means costs....and we might lose out and cannot go free” (this TPT did not go through the process)

MRO rent offers

Respondents in our research expressed concerns over an alleged disparity between the offers that are made by POBs vs the IAs' assessments, and that the POB's initial rent offers were not realistic. It was reported that there was little attempt to negotiate by POBs.

One tenant reported an initial MRO offer from their POB of £86,000, with their current tied rent being £43,000. They offered £60,000 and their POB refused to negotiate - the Independent Assessor decided the rent should in fact be £50,000.

Another tenant reported staying tied after their £40k rent was increased to £55k, resulting in an MRO request. After the IA process they agreed a tied rent of £27K, as well as improved tied terms.

10. Overall process

There was a noticeable split in tenants' opinions of the MRO process. Those who had appropriate advice, had prepared well and had what they considered a good outcome were generally positive, with some reservations.

For example:

- "Benefits outweigh the costs"
- "We would have to balance out the profitability and I would do it again"

Those who tried to undertake the process alone were noticeably less well prepared and therefore surprised by aspects of the process, in particular costs incurred and the high offers and the unwillingness to negotiate by their POBs.

For example:

- "I'd think twice about going through the process again"
- "I would never start the process again. Costs incurred makes it not profitable for years to come"

As discussed below, competent advice, preparation and the use of independent assessors were key to satisfaction in the process.

11. Hesitancy to continue the process after the initial offer

It is noticeable that TPTs who were unhappy with terms or rent did not always negotiate over them, and of those that did, not all used referral to the PCA or IA.

For the **13** who have completed the MRO process:

- **7** said the Terms and Conditions were unreasonable
- **5** had negotiated the Terms and Conditions
- **3** had referred the terms to the PCA
- **7** said the rent was quite or very unreasonable (no TPT said it was very reasonable)
- **6** had negotiated rent
- **4** had used an IA

Based on anecdotal information from the interviews and survey comments, there could be several reasons for this. The clearest is that using an IA has an additional cost – we have discussed elsewhere that the potential benefit of this route compared to its cost was not clearly appreciated by all tenants.

3 of the 4 who did not negotiate terms or rent stayed as tied tenants. Some of the comments from the survey mentioned elsewhere, such as *“Have heard it was a long drawn out process that the pub cos use against you”* or *“I thought it would be complicated, I expected to favour the pubcos”* would tend to show that tenants’ expectations of the process may have influenced their willingness to engage with it.

In general, there is a noticeable difference between the responses of those who have not completed the MRO process and those who have.

For the **25** who have not completed the process yet:

- **18** said the Ts and Cs were unreasonable
- **9** had negotiated
- **7** had referred the terms to the PCA
- **17** said the rent was unreasonable
- **12** had negotiated
- **8** had used an IA

However, we cannot tell from the survey data how far through the process those respondents were, so the sharp drop between those who thought aspects of their offer were unreasonable and those who had negotiated may be because they had simply not started negotiating, or were analysing their offer.

12. Demographics and experience

Respondents to the survey tended to be very experienced in running a pub, with **78%** having over 10 years' experience.

Of **50** respondents, **37** had one pub and **8** had two. There were very few large operators, with **5** having between 3 and 9 pubs, and only one over 25.

It is also worth noting that of the **14** who ran more than one pub, **8** had made a MRO request on more than one of them, suggesting a significant willingness to carry out the process again.

Among those who went Free of Tie (20% of those who had completed the process):

- All had over 10 years' experience
- All were in Greater London or the South East
- Half had more than one pub.

It is noticeable that those with over 10 years' experience (78% of survey respondents) were the only TPTs:

- with more than one pub
- to operate in Greater London
- to seek MRO without advice or representation

Only 10% of respondents had under 6 years' experience. However, in most cases it may be 5 years before a new tenant gets a MRO gateway at rent review.

Respondents tended to be in the South of England - of **50** respondents to this question, **14** were in the South East, **10** from Greater London and **7** from the South West. Other areas with large cities and populations, like the West Midlands, Yorkshire and the North West, had only **10** respondents between them.

Of those who answered the question "Are you a tenant or lessee", **44** were lessees, and only **5** tenants. One person responded 'other'.

13. Pub-owning Businesses

Of the **46** respondents who indicated their pub-owning business (POB), **50%** were with Star Pubs and Bars and **33%** with Ei Group (now Stonegate). Only **5** were with Punch, **2** with Green King and **1** Marston's, and we had no responses from Admiral tenants. It should be noted that the difference in response rates is likely to reflect variations in the number of MRO notices served on the respective POBs.

Tenants from Star and Ei were the only ones to have completed the MRO process.

A few things were noticeable in comparing responses from tenants of different POBs:

- Star was the only POB whose tenants responded that the proposed Terms and Conditions were reasonable (4 of 17 Star tenants said quite reasonable)
- No Marston's or Punch tenants who responded operated more than one pub
- Of those who have made more than one MRO request since April 2019;
 - 8 were with Star, and all their other requests were also with Star
 - 4 were with Ei - 3 of whom made their other requests to Ei, and one to Star
 - One was with Greene King, as was the other pub they made a request for

14. Enablers of success

The three key aspects which led to a successful outcome, either Free of Tie or as a tied tenant, were to be fully prepared and well informed, to be well advised, and to use - or at least suggest that they will use - independent assessors.

A. Preparation and knowledge

The need for either being well prepared and informed, or enlisting a professional advisor to do it for you, was emphasised by all interviewees with a successful outcome.

Examples from interviews:

- “Get a good stocktaker, do your homework and do the numbers. If it works, be prepared to go right to the wire to get what you want. Negotiate as hard as you possibly can. Attention to detail, hit everything, miss one thing and it's finished!”
- “RPI is a very important factor - you need a business head for figures - Get their free of Tie prices from a supplier, get their figures right...”
- “They should know what they are talking about and they know the numbers - I suggest they read up about it. Become familiar with it. Figure out advantages and timescales”

B. Knowledgeable advisors

Without exception, everyone who engaged professional help from neutral advisors had a successful outcome. These consisted of consultants who specialise only in helping tenants use the Pubs Code to their advantage, experienced stocktakers, and others who engaged professional negotiators but didn't pass on their details

Examples from interviews:

- “I’ve got friends in the industry, took advice from them – their advice was employ somebody to handle it for you. Spoke to others who’d gone through – very good advice, very happy with the outcome! They helped with deadlines etc, took it over, made it very easy – he knew exactly what to do and when to do it,”
- “I needed help with negotiations and hired a negotiator – they know my trade and the work out my barrelage – They know their stuff and are very experienced”
- “If we didn't have representation we would have naively accepted what [My POB] offered us”
- “I think everyone should get advice the fairness should be there”

There was some dissatisfaction reported in interviews with poor quality advisers.

Examples from interviews:

- “Didn't want to start using a so called advisor and pushing too far”
- “You hear some stories of people being very badly advised – one woman lost a really good business.”

C. Independent Assessors

Taken from the survey results of the 35 respondents that answered the question, **37%** had an Independent Assessor (IA) determine the MRO rent.

Among tenants who had completed the MRO process and used an IA there was a very positive feeling among survey respondents, with **75%** very satisfied and none dissatisfied.

Among those who had not completed the MRO process, **42%** were satisfied or very satisfied, with one tenant (**14%**) dissatisfied.

The findings of the IA were a key factor in the decision of TPTs to take MRO.

The negative aspects of using the IA are the costs involved, and the extra financial burden that could potentially make MRO financially unviable. However the costs were outweighed by the financial benefits for all those we spoke to, showing that if tenants understood the scale of the benefits better then more may use the process.

Every interviewee who went through the independent assessment process had a very successful outcome and were very happy with it. An interviewee who successfully negotiated a significantly better deal than that offered said:

“Threaten them with arbitration. Go right to the wire. They understand the process much better than the average landlord”

Outcomes reported from using the IA process include:

- “My current rent £32,000 - New FMT Rent Proposal was £50,500 - MRO Rent £64,000. The IA came back with £43,850 FOT. I’m £22 to £25K better off!”
- “Stayed tied with £27,500! And bigger beer discounts... £40K on old lease!!”
- “£86,000 from £43,000. I offered them £60,000 and they declined. and they came back paying £50,000 as that came from the IA.”