



PCA Advice Note

Taking the MRO option - Tied rent considerations

June 2019



The following advice is issued to tied pub tenants (TPTs), pub-owning businesses (POBs) and their representatives, under section 60 of the Small Business Enterprise and Employment Act 2015. This advice is intended to be a succinct summary of the relevant provisions that apply during the MRO procedure other than where the MRO gateway is renewal.

How the tied rent must be dealt with during the MRO process

- During the Market Rent Only (MRO) procedure a POB must not seek to recover from the TPT any rent payable under the tied agreement to the extent that it is higher than when the TPT served the MRO notice.

How the tied rent may be dealt with at the conclusion of the MRO process

- If the MRO procedure ends with no MRO option being agreed by the POB and TPT then at that point any additional amount of rent which fell due during the MRO procedure becomes recoverable by the POB.
- If the MRO procedure ends with the POB and TPT entering into a MRO option, then the POB is not permitted to recover any additional amount of rent which may have become payable under the tied agreement after the MRO notice was served. As this prohibition is mandatory a POB must not seek to circumvent it by any means.

Prohibition on making MRO agreement conditional on resolving outstanding tied rent issues

- Entry into a MRO tenancy cannot be made conditional by the POB on the assessment and/or recovery of any higher tied rent that may have become payable during the MRO procedure. This is because such sums are not recoverable where that procedure ends with the TPT and the POB agreeing a MRO option. Where the TPT communicates to the POB in writing a decision to accept a tenancy the POB and the TPT must enter into it as soon as practical.

Pubs Code arbitration referrals

- A TPT or a POB can refer for arbitration any failure to enter into a tenancy once accepted by the TPT, or any dispute about the amount of rent recoverable during the MRO procedure where it ends without the parties entering into a MRO option.
- Any suspected breach of the Pubs Code may also be reported to the PCA.

Please note that this advice will be subject to review from time-to-time as appropriate.