



**Pubs Code
Adjudicator**

**Regulatory Compliance
Handbook: complying with the
principles of the Pubs Code**

**Advice note
December 2017**

Regulatory Compliance Handbook: complying with the principles of the Pubs Code

This advice note provides an initial Handbook on the minimum standards of behaviours that the PCA expects pub-owning businesses regulated by the Pubs Code to adopt. The PCA intends to monitor its use and welcomes information from tenants and organisations representing their interests about how it is being implemented.

Updates to this Handbook will be provided to deal with additional issues and developments.

1. Complying with the Pubs Code principles

1.1 This Handbook sets out the PCA's expectation of behaviours that pub-owning businesses should adopt in order to comply with particular aspects of the Pubs Code. It responds to concerns raised about aspects of behaviours during the MRO verification exercise. The practices set out in this Handbook have been developed following the PCA's bilateral meetings with pub-owning businesses and include examples of good practice currently adopted by one or more of the regulated businesses who are meeting their Pubs Code obligations.

1.2 The PCA recognises that each pub-owning business regulated under the Code is an individual company with its own operational structure. However, tied pub tenants should expect the same standards and treatment when exercising their Code rights, regardless of which pub-owning business they are tied to. The PCA is clear that the behaviours set out are practical and effective.

1.3 This statutory advice note is not an exhaustive list of necessary behaviours to ensure compliance. The PCA expects pub-owning businesses - individually and collectively - to continue to develop innovative approaches to ensure that their tied pub tenants are able to access their full Code rights in line with the core Code principles:

- fair and lawful dealing by pub-owning businesses in relation to their tied pub tenants; and
- tied pub tenants should be no worse off than they would be if they were not subject to any product or service tie.

2. Monitoring compliance with the Pubs Code principles

2.1 Regulated pub-owning businesses must act in accordance with the principles of the Pubs Code. The PCA will continue to monitor compliance. Where pub-owning businesses do not comply, the PCA will take appropriate regulatory action.

2.2 In accordance with his regulatory functions, the PCA will also update and add to this Handbook to reflect further developments and issues. The objective is to re-shape the industry's approach to complying with the Pubs Code principles.

3. Best practice behaviours to comply with the Pubs Code principles

3.1 The following table contains current PCA advice on best practice behaviours for all pub-owning businesses to adopt in order to comply with aspects of the Pubs Code.

1	<p>Pub-owning businesses' communications with tenants</p> <p>Core Code principle: Fair and lawful dealing by pub-owning businesses in relation to their tied pub tenants.</p>
	<p>The PCA expects pub-owning businesses to have robust internal systems in place to capture the issuing of Rent Proposals, Rent Assessment Proposals, Market Rent Only (MRO) Full Responses and all records of visits to tied pub premises.</p>
	<p>The PCA expects pub-owning businesses to routinely use communication channels to provide tied pub tenants with information and updates, for example tenant magazines, e-newsletters, tenant portals and websites. Information should include the role of the PCA as well as how tenants are able to request an MRO option, together with the strict statutory deadlines that apply under the Code.</p>
	<p>Information about MRO rights should be included in tenant property packs for new agreements at renewal and on assignment.</p>
	<p>Tied pub tenants entering into new agreements should be:</p> <ul style="list-style-type: none"> • informed of their Code rights at any final interview and during pre-agreement meetings • required to sign a letter acknowledging receipt of a copy of the Code • provided with factual information on their key Code rights, including access to MRO and rent assessment information • advised on the importance of the strict statutory deadlines for exercising their rights under the Code.
2	<p>MRO communications and process</p> <p>Core Code principle: Tied pub tenants should be no worse off than they would be if they were not subject to any product or service tie.</p>
	<p>The PCA expects at renewal and when providing a Rent Assessment Proposal that pub-owning businesses give tied pub tenants:</p> <ul style="list-style-type: none"> • factual information about their MRO option – as a minimum by supplying the tied pub tenant with contemporaneous copies of all relevant PCA literature and materials • information on the MRO process • links to the relevant MRO information on the PCA website.

All Rent Proposals, Rent Assessment Proposals and MRO Full Responses should be:

- sent in a way that ensures receipt by the tied pub tenant is confirmed
- labelled 'Important Information – Please Read'
- actively followed up in a timely meeting with the tied pub tenant to discuss the conduct of MRO negotiations.

The PCA expects pub-owning businesses to provide tied pub tenants with clear signposting of the MRO option in the run-up to rent reviews, for example by sending the tied pub tenant a letter:

- 12 months before the rent review date explaining the tied pub tenant's Code rights and directing them to the PCA website for further information
- 7 months before the rent review date:
 - explicitly signposting the MRO right
 - giving the address to which any MRO Notice should be sent
 - enclosing the relevant PCA leaflet on the Pubs Code.

Rent Assessment Proposals are under usual circumstances to be sent no earlier than 2 months before the minimum 6 month deadline before the rent review date to which they relate.

Pub-owning businesses are expected to take a pro-active approach to ensuring meaningful engagement and negotiation with the tied pub tenant throughout the MRO process, for example by:

- scheduling an initial face-to-face meeting with the tenant to explain the MRO offer
- scheduling a further meeting 2 weeks after the delivery of the MRO offer to begin negotiations
- entering into meaningful negotiations with the tied pub tenant on the terms of the MRO-compliant agreement and the MRO rent.

The PCA expects pub-owning businesses to expedite the Independent Assessment process, for example by:

- jointly appointing an Independent Assessor with the tied pub tenant wherever possible
- where there is no agreed joint appointment, sending the tied pub tenant a pre-signed request for the appointment of an Independent Assessor for them to sign and send on to the PCA
- recognising that, while the Pubs Code permits the determination of an Independent Assessor to be referred to the PCA, the PCA is only likely to find that a determination is not the market rent where it is outside the range of what is reasonable.

Pub-owning businesses must ensure that tied pub tenants who have served an MRO Notice do not experience any change in their day-to-day or 'business as usual' relationship under the tied tenancy during the MRO process as a result of exercising their Code rights.

3	Business Development Managers: training and operations
Core Code principle: Fair and lawful dealing by pub-owning businesses in relation to their tied pub tenants.	
The PCA expects pub-owning businesses to ensure all Business Development Managers and other staff who deal with tied pub tenants have successfully undertaken Pubs Code awareness training and are required to complete annual refresher training.	
Staff training and operational procedures should be updated to reflect: <ul style="list-style-type: none"> • PCA clarifications, advice and guidance on the Pubs Code • experiences of good practice approaches to working with the Pubs Code. 	
All staff training should be recorded in formal training logs that are incorporated into staff reviews and appraisals processes.	
The PCA expects that pub-owning businesses do not permit any staff who have not successfully undertaken mandatory initial or any required refresher Pubs Code training to have Pubs Code interactions with tied pub tenants.	
Pub-owning businesses should establish internal mechanisms for Business Development Managers and others to share successful and innovative approaches to Code relationships with tied pub tenants.	
Details of and actions arising from Pubs Code conversations with tied pub tenants should be recorded, shared and agreed in real time during visits to the pub wherever possible.	
Business Development Managers and other staff who deal with tied pub tenants should be authorised and required to: <ul style="list-style-type: none"> • provide helpful information on how to access Pubs Code rights • signpost where tied pub tenants should go for further factual information and professional advice. 	