

Pubs Code compliance reports Initial analysis and action taken by the PCA

Pubs Code compliance reports

The Pubs Code requires pub-owning businesses (pub companies) to provide the PCA with an annual compliance report. The first of these covers the period from the introduction of the Code on 21 July 2016 up to 31 March 2018. The deadline for sending completed compliance reports to the PCA was 31 July 2018.

Compliance reports must include detailed and accurate accounts of how each pub company has complied with its obligations under the Code, of any instances of breaches of the Code raised or alleged by tied pub tenants and the steps taken as a consequence, and of the corporate steps – including employee training and guidance – taken to ensure compliance.

The PCA required each pub company to submit detailed information on a wide range of Code-related matters in these first compliance reports, including:

- the status of its tied estate
- the management of its tied agreements
- its conduct of tied rent assessments
- its handling of Market Rent Only (MRO) requests
- the impact of proceedings under the Landlord and Tenant Act 1954 (LTA) on any of its tied tenancies covered by the Code.

The information in the completed compliance reports – together with the regular [monthly data on MRO](#) that pub companies are now publishing – provide the most complete picture of the state of the regulated tied pub sector since the introduction of the Code. The PCA plans to use this valuable intelligence both as a benchmark against which to measure the effectiveness of its regulatory interventions and to identify priority areas for further evidence-gathering and action.

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The PCA's initial analysis of the 2016-2018 compliance reports has highlighted three areas of concern that are being followed up with the pub companies:

- the small number of MRO tenancies that have been agreed
- the high number of tied tenancies that have been subject to forfeiture, surrender or abandonment
- the use of notices under section 25 of the LTA to oppose the renewal of tied tenancies on their existing terms.

The PCA has written to each pub company and will be pursuing the issues at the next round of bilateral meetings held with each company's CEO scheduled for October.

The information submitted by pub companies and the monthly MRO data they are now publishing confirm the picture suggested by earlier PCA research that tenants are experiencing what they perceive to be significant barriers to exercising their MRO option in a timely and straightforward fashion.

The PCA has already published [advice](#) to tenants, pub companies and their representatives, following the early learning from MRO arbitration cases, on the factors to consider in relation to MRO proposals. The PCA is addressing directly with pub companies issues that can affect tenants' access to MRO, including the tone and content of communications with their tenants and how potential liability for Stamp Duty Land Tax is explained to their tenants. The PCA is also seeking to establish a cross-industry working group to look into concerns about the way in which pub companies are managing dilapidations within their tied estates and the potential impact on the terms of MRO.

The PCA will shortly be asking all tenants who have received a MRO proposal from their pub companies since the introduction of the Code to complete and return a questionnaire setting out their experiences of the MRO process and its outcome. This questionnaire will also be issued to all future tenants who receive a MRO proposal. The PCA will use this information to target further interventions where required to secure tenants' access to MRO.

The compliance reports revealed a high proportion of forfeitures, surrenders and abandonments of tied pub tenancies during the reporting period, although these vary considerably between pub companies. The PCA wants to understand the factors that are driving this high rate of tenant departures and is therefore exploring with individual pub companies the extent to which tenant churn may be preventing some from exercising their rights under the Code. The PCA also intends to look further into whether the new rules on pre-entry information, training and business plans introduced under the Code are having the intended effect of ensuring that people taking on a tied tenancy are fully prepared and supported to succeed.

The PCA is additionally examining in more detail cases where pub companies have issued notices under section 25 of the LTA to oppose the granting of a new tenancy to an existing tenant. The PCA believes that applications to oppose a new tenancy should be evidence-based, for example an application based on an intention to take a pub back into possession should be consistent with the pub company's policy on its managed estate. The PCA is looking for evidence of any links between tenants being considered candidates for MRO and LTA proceedings to take possession.