



Independent Assessors

Criteria for Appointment

The following criteria are specified by the Pubs Code Adjudicator (PCA) for the purposes of regulation 36(1) of the Pubs Code¹.

A person must satisfy these criteria in order to be appointed as an Independent Assessor for the purposes of the Pubs Code.

An Independent Assessor must:

- Be a member of the Royal Institution of Chartered Surveyors (RICS);
- Be a member of the RICS President's panel of Independent Experts;
- Have wide personal experience in the commercial rental sector in England and Wales, and wherever possible, directly within the Public House market in England and Wales;
- Have current awareness of, and exposure to, the Public House market in one or more areas within England and Wales;
- Understand the requirements and duties of an Independent Assessor in Part 7 of the Pubs Code.

In addition, an Independent Assessor must:

- Be prepared to comply with any direction given, or act in accordance with any determination made, by the PCA (or a person appointed by the PCA to arbitrate the dispute) in relation to any arbitration in connection with the Independent Assessor's determination of the market rent;
- be prepared to cooperate with any investigation by the PCA relating to a complaint against them as an Independent Assessor; and
- [comply with the RICS Conflicts of Interest guidance note \(1st Edition\)](#), as it may be amended from time to time.

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¹ The Pubs Code etc. Regulations 2016, SI No 2016/790

Guidance for Independent Assessors

An Independent Assessor appointed under the Pubs Code² is required to undertake the determination of market rent of premises in accordance with guidance³.

This document provides the guidance to a person appointed as an Independent Assessor for the purposes of the Pubs Code.

Consideration of Professional Guidance

1. An Independent Assessor must have regard to, and act as appropriate in discharging their role as an Independent Assessor, in accordance with the Royal Institution of Chartered Surveyors (RICS) Professional Guidance, UK, [Surveyors acting as independent experts in commercial property rent reviews, \(9th Edition\)](#) as it may be amended from time to time.

Inspection

2. The Independent Assessor will normally be expected to undertake at least one site inspection of the premises to which the determination relates, in advance of determining the market rent for the premises.

The determination

3. In accordance with Part 7 of the Pubs Code, the Independent Assessor must determine the market rent for the premises to which a Market Rent Only option relates ('the determination'). 'Market rent' for these purposes has the meaning given in section 43(10) of the Small Business, Enterprise and Employment Act 2015.
4. The Independent Assessor's determination must have regard to the documents listed in Schedule 3 to the Pubs Code.
5. Full and detailed reasons to accompany the determination are not required. However, the following information must be provided:
 - The determination of the market rent;
 - The calculation(s) used in making the determination; and
 - A summary of the key elements included in that calculation.

Post- determination process

6. A referral for arbitration may be made to the PCA by the tied pub tenant or the pub-owning business in connection with the Independent Assessor's determination of the market rent⁴.
7. The Independent Assessor must comply with any direction given, or determination made⁵, by the PCA (or the person appointed by the PCA to arbitrate the dispute) arising out arbitration proceedings in connection with the determination of the market rent.

² See regulation 36 of the Pubs Code etc. Regulations 2016, SI No 2016/790

³ See regulation 37(4) of the Code

⁴ A referral may be made in accordance with regulations 37(10), 37 (11) or 38(4) of the Code

⁵ A direction or determination may be given or made pursuant to regulation 59(3)(b)(ii) or (iii) and 59(6) - (7) of the Code

8. Any subsequent determination of the market rent undertaken by the Independent Assessor, or another Independent Assessor appointed by the PCA (or the person appointed by the PCA to arbitrate the dispute), must be undertaken in accordance with this guidance.

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