



# Pubs Code Technical Guide

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## Disputes

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# DISPUTES

## OVERVIEW

1. Disputes in relation to the application of the Pubs Code may be referred to the Pubs Code Adjudicator (PCA) for arbitration.
2. Disputes in relation to Market Rent Only (MRO) process may be referred by the tied-tenant or the landlord. All other disputes may be referred only by a tied-tenant.
3. For other disputes a tied-tenant must notify the landlord of alleged non-compliance. A referral to the PCA cannot be made until 21 days after the date the tied-tenant notified the landlord.
4. A dispute cannot be referred if four months has passed since the date the dispute could have been referred.
5. The tenancy or licence agreement may have its own dispute resolution provisions. Where a landlord commences arbitration proceedings under the tenancy in relation to a matter which is about MRO in some way, a tied-tenant may appoint the PCA to arbitrate the dispute.
6. The person who makes the [referral](#)<sup>1</sup> for adjudication or gives the notice for the appointment of the PCA to adjudicate a dispute must pay a fee of £200. This must be paid at the time the referral is made or the notice is given. The [referral form](#) must be used. The fee can be paid to:
  - Account Name: The Pubs Code Adjudicator
  - Sort Code: 60-70-80
  - Account Number: 10027718

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<sup>1</sup> <https://www.gov.uk/government/publications/pubs-code-how-to-refer-an-issue-to-the-adjudicator>

## DETAILED TECHNICAL GUIDE

### 1. What disputes may be referred to the PCA?

1.1. Unless expressly excluded by Pubs Code<sup>2</sup>, disputes in relation to the application of the Code may be referred to the Pubs Code Adjudicator (PCA) for arbitration.

1.2. Disputes in relation to the Market Rent Only (MRO) process<sup>3</sup> may be referred by either a tied pub tenant (TPT) or pub-owning business (POB). Parts 5-8 of the Code makes specific provision about when referrals may be made by the parties.

1.3. All other disputes may be referred only by a TPT. These include disputes in relation to:

- Duties of the POB in relation to provision of information to new TPTs<sup>4</sup>;
- Duties of the POB in relation to Rent Proposals<sup>5</sup>;
- Duties of the POB in relation to Rent Assessments<sup>6</sup>;
- Duties of the POB in relation to notifying TPTs and the PCA of status under the Code<sup>7</sup>;
- Duties of the POB in respect of the transparency of insurance requirements<sup>8</sup>;
- Prohibition on POB requiring the purchase or rental of gaming machines in new agreements<sup>9</sup>;
- Requests by the TPT for blank profit and loss template<sup>10</sup>;
- Provision of information by POBs in relation to the sale of freehold or long leasehold<sup>11</sup>;
- Duty of the POB not to subject TPT to any detriment on grounds that the TPT exercises, or attempts to exercise, rights under the Code<sup>12</sup>;
- Duties of the POB in respect of the use of flow monitoring devices<sup>13</sup>.

1.4. A TPT must notify the POB of alleged non-compliance in respect of disputes relating to those matters specified in paragraph 1.3. A referral to the PCA cannot be made until after the expiry of 21 days beginning with the date on which the TPT notifies the POB of the alleged non-compliance<sup>14</sup>. A dispute cannot be referred after the expiry of four months beginning with the first date on which the dispute could have been referred<sup>15</sup>.

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<sup>2</sup> See regulation 48 of the Code for express exclusions

<sup>3</sup> See Parts 5-8 of the Code

<sup>4</sup> See Part 2 of the Code

<sup>5</sup> See Part 3 of the Code

<sup>6</sup> See Part 4 of the Code

<sup>7</sup> See regulation 45 of the Code

<sup>8</sup> See regulation 46 of the Code

<sup>9</sup> See regulation 47 of the Code

<sup>10</sup> See regulation 48 of the Code

<sup>11</sup> See regulation 49 of the Code

<sup>12</sup> See regulation 50 of the Code

<sup>13</sup> See regulation 51 of the Code

<sup>14</sup> See section 49(2) of the Small Business, Enterprise and Employment Act 2015

<sup>15</sup> See section 49(4) of the Small Business, Enterprise and Employment Act 2015

## 2. What other arbitrations may the PCA be appointed to consider?

- 2.1. The tenancy or licence agreement may have its own dispute resolution provisions which provide for disputes about breaches of the tenancy or license to be resolved by arbitration outside of the provisions of the Code.
- 2.2. Where the POB commences arbitration proceedings under the terms of the tenancy in relation to a matter which is, or includes, a MRO dispute (i.e. a dispute relating to the offer of a market rent only option), the TPT may elect to appoint the PCA to arbitrate that dispute<sup>16</sup>.
- 2.3. In those circumstances the TPT must give written notice of this request to both the POB and the PCA within 21 days of the arbitral proceedings commenced. Where the contractual arbitration arrangements provide for someone other than the TPT or the POB to appoint the arbitrator, then the TPT must give this notice within 21 days from the date they are told who is being proposed as arbitrator<sup>17</sup>.
- 2.4. A term of any agreement between a POB and TPT is void if it purports to penalise a TPT for requiring a POB to act, or not act, in accordance with Parts 2 – 10 of the Code, or provide that a rent review may only be initiated by the POB or may only determine that the rent is to be increased<sup>18</sup>.

## 3. What fee is payable?

- 3.1. A referral to the PCA requires a fee of £200 must be paid by the party making the referral at the time it is made. A completed [Referral form](#)<sup>19</sup> and fee payment must be received by the PCA within the required periods provided for in the Code.
- 3.2. The fee can be paid to:
  - Account Name: The Pubs Code Adjudicator
  - Sort Code: 60-70-80
  - Account Number: 10027718
- 3.3. The payment must have a reference that includes the post code of the tied pub to which the dispute relates and the surname or (or as much of that surname that fits the reference box) of the person making the referral or giving notice.

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<sup>16</sup> See regulation 60(2) of the Code

<sup>17</sup> See regulation 60(3) of the Code

<sup>18</sup> See regulation 57 of the Code

<sup>19</sup> <https://www.gov.uk/government/publications/pubs-code-how-to-refer-an-issue-to-the-adjudicator>