

News story: Taking the MRO option – Tied rent considerations

The [advice note](#) relates to express provisions in the Pubs Code which stop POBs from recovering from the tenant any increase in the tied rent during the MRO procedure, or where a MRO option is agreed.

There are further related issues of interest to both tenants and POBs arising from the interaction of the rent assessment process in the Code and the terms of the tied lease. There is no prescribed procedure for assessing the tied rent in the Pubs Code. The parties may have agreed contractual rights in the tied tenancy, including in relation to any dispute. It is therefore necessary to consider these contractual arrangements in the context of the Code.

The Code envisages that a tied tenant can consider the tied rent, and the MRO option and rent, alongside each other. The right to be able to do this helps tenants decide what would be best for their business, although in some cases a tied tenant may wish to consider the MRO option without also taking steps to identify what the tied rent would be. There are implications for both landlord and tenant here.

Where the landlord triggers a dispute resolution process to identify the tied rent, the tenant may incur delay and cost even where they ultimately choose the MRO option. Alternatively, where the tied rent is not identified but the tenant does not take the MRO option at the end of the MRO procedure, the process of identifying that tied rent can then take more time. There are likely to be a range of other scenarios and further considerations for POBs and tenants in the MRO process concerning the identification of the tied rent.

Next steps

The PCA is always considering how best to present information around the Pubs Code and relevant industry practice in the most effective and useful manner for all stakeholders. We will therefore be seeking a wider understanding of industry views and practice to inform what further steps may be appropriate to support the rent assessment and MRO processes in accordance with the core Code principles.

The PCA has decided that it would be appropriate at this time to withdraw from publication the advice note entitled “Tied Rent Contractual Dispute Resolution Clauses and Calderbank Offer Letters” dated July 2017.