

[Press release: Paul Newby responds after fact-finding exercise finds evidence to back tied pub tenant concerns](#)

Paul Newby, the Pubs Code Adjudicator, has today responded to the results of [fact-finding exercise](#) into tenants' experiences of accessing the Market Rent Only (MRO) option.

He commissioned the exercise to verify the concerns expressed by tenants and their representatives. It has provided evidence of a number of issues that tenants say are creating barriers to them accessing rights under the Pubs Code.

It found that tenants reported almost without exception that to varying degrees the pub-owning businesses are not acting within the spirit of the Code.

In response the PCA is pursuing a range of concerns in more detail with the pub-owning businesses and has issued statements on how the PCA will approach arbitrations. He has stressed that he is less likely to uphold arguments where technicalities have been used to block or delay requests for MRO options.

Mr Newby said: "I commissioned the verification exercise because I have had concerns brought to me and I wanted the detailed evidence that I need to take action.

"This is a comprehensive report and it has raised a number of significant questions about the operation of the Pubs Code in its first year, and the impact on tenants of their pub-owning businesses' actions.

"I am now asking the pub-owning businesses to provide me with further, detailed information about their particular processes and practices. This is also an opportunity for them to set out their positions. I will discuss these responses with the companies and I stand ready to take further regulatory action as necessary.

"The exercise has provided evidence on the impact of delays in the arbitration process on tenants' costs. It has also demonstrated that the effect of pub-owning businesses requiring new agreements for MRO tenancies has created a series of hurdles that, taken together, tenants consider to be insurmountable.

"I am committed to arbitrating every dispute impartially and with an open mind. However, I want to encourage positive negotiation on MRO options. To this end I have issued a number of statements about how I will approach

arbitrations in order to increase the number of cases that are settled and do not become disputes brought to me for arbitration.”

The statements include the PCA’s position on pub-owning businesses using technicalities to reject MRO Notices, the approach to the form of agreement for MRO tenancies and challenges to market rent determinations made by Independent Assessors.

On MRO Notices, the statement says: “In line with the core Pubs Code principle of fair and lawful dealing, the PCA expects pub-owning businesses to take a reasonable and proportionate approach to how they treat MRO Notices.

It adds: “The PCA is aware that some MRO Notices have been rejected without providing the tied pub tenant with an explanation of that rejection. The PCA considers this to be unhelpful and unacceptable behaviour.”

Tenants should also be told the reasons in sufficient time to allow them, where possible, to put the Notices right.

On the form of the MRO tenancy, pub-owning businesses have been told that the PCA will require them to be able to show that their approach does not constitute an unreasonable term or condition for individual tenants.

On the issue of unreasonable and uncommon terms, the PCA has said that where tenants challenge a term in a proposed MRO tenancy, the onus will be on the pub-owning business to show it is not unreasonable.

On challenges to independent assessments of market rents, the PCA has said he is only likely to find that a determination is not the market rent where it is outside the range of what is reasonable; he is less likely to uphold arguments made on technicalities.

Mr Newby said: “The Pubs Code is new law and in many cases has been challenged robustly by both sides.

“I am determined that this should be the year that the Code comes into its own and I am making it plain to the pub-owning businesses that I expect them to abide by the spirit as well as the letter of the law.”

For further information contact Sheree Dodd on office@pca.gsi.gov.uk.

Notes to editors:

- The report of the independent verification exercise is available on the [PCA website](#).
- The PCA statements are available in the August Pubs Code Adjudicator Bulletin on the PCA website.