

Press release: Pubs Code Adjudicator publishes statutory advice on MRO tenancy terms

Paul Newby and Fiona Dickie have today published statutory advice to provide clarity on the terms of Market Rent Only (MRO) tenancies following recent arbitration awards.

The PCA and Deputy PCA have reiterated the important point that a MRO proposal does not have to be by way of a new agreement. The advice stresses that it is the content rather than the form that is important.

Whatever the form of the individual MRO proposal, the terms have to be reasonable and consistent with the core principles of the Pubs Code; that there should be fair and lawful dealing and tied pub tenants should be no worse off than they would be if they remained tied.

“MRO is not the same as a negotiation on the open market and the pub-owning business should not take advantage of the fact that a tied pub tenant has limited negotiating power.

“The PCA will be likely to find it unreasonable for the pub-owning business to offer unattractive MRO tenancy terms if the intention is to persuade the tenant to stay tied,” the advice states.

The PCA expects pub-owning businesses to have meaningful negotiations with their tenants seeking a MRO tenancy. Tenants should not need to rely on arbitration by the PCA to get their Code MRO rights. Referrals for arbitration should be the exception and not the norm in the future.

Paul Newby, Pubs Code Adjudicator, said: “I understand that both sides of the industry have been looking for clarity on this issue and I am very pleased that following arbitration awards made by the Deputy PCA and myself we can now provide this statutory advice.

“The ability for a tied tenant to go free of tie is an important right introduced by the Pubs Code. Tenants have been facing high costs in pursuing MRO and we need to ensure these unnecessary barriers are eliminated.

“This advice gives a strong yet simple steer on what pub-owning businesses can reasonably ask from their tenants in a MRO-compliant tenancy and is a major step forward in delivering the MRO rights that Parliament has given tenants. I expect it to lead to meaningful negotiations that mean arbitration becomes the exception in the future.”

Fiona Dickie, Deputy Pubs Code Adjudicator, said: “The Code is legally complex and uncertainty surrounding the meaning of the MRO process has caused frustration. This advice will be a useful tool in clarifying for the benefit of all what the Code requires and how its two core principles should be

applied in practice to the MRO proposal.

“It is designed to support effective, balanced negotiation between tenants and pub-owning businesses, and reduce the number of cases that are referred for arbitration. I am confident that the arbitration process will now more efficiently and proportionately resolve any remaining MRO disputes where the parties cannot reach an agreement.”

Note to editors

The full statutory advice is available on the PCA website www.gov.uk/pca