

# Pubs Code Adjudicator Proposes Changes to Free-of-Tie Process to Improve Fairness for Tied Tenants

Press release

Fiona Dickie, the Pubs Code Adjudicator (PCA), has today asked for views on a series of measures aimed at removing potential barriers to tied tenants seeking a Market Rent Only – or free of tie – option for their pubs.



The PCA has launched a formal [consultation](#) on using her powers to issue guidance about the operation of the Market Rent Only (MRO) process for tied tenants seeking the option from the 6 pub-owning businesses regulated by the Pubs Code.

The launch of the consultation followed an independent study commissioned by the PCA confirming Ms Dickie's experience that despite her introducing improvements to the process tenants were still finding challenges in accessing their statutory right to request an option from their pub company. Significant barriers for tenants can include uncertainty about the process and its complexity, the upfront costs being demanded for going free of tie and concerns about a negative impact on the relationship between the tenant and the pub company.

Pubs Code Adjudicator Fiona Dickie said:

I have taken steps to make it easier for tied tenants to access their right to a MRO option and there is evidence that those changes are having an impact.

But, as reported to the statutory review of the Pubs Code, many still feel the process is weighted against them and I believe more regulatory steps may be necessary, including reducing the areas for disputes and the need for arbitrations.

Tenants and other interested parties are asked to respond to the consultation by 10 December 2021. It covers proposals to ensure fair rents, remove potential financial barriers and reduce concerns that pub companies may take back pubs if a tenant makes a free-of-tie request.

Under the PCA's proposals pub companies would be required to provide more documentation on levels of trading over the past three years, detailed profits valuations and forecasts of trading to justify MRO rent offers. In addition, the pub company would have to show how it was treating any previous improvements made by the tenant in determining the rent while rent deposits or advance rents would have to be introduced on an incremental basis.

Ms Dickie is also consulting on the issue of paying for dilapidations which have proved a hurdle for many tenants.

And she is proposing a higher level of transparency over decisions that pub companies may make on taking back tenancies. Pub companies would have to keep a written contemporaneous record of any decisions relating to opposing the renewal of a tied tenancy alongside ensuring their Business Development Managers keep full and accurate notes of all conversations with the tied tenant about either lease renewal or the MRO option.

Ms Dickie said:

Parliament introduced the Market Rent Only option to give tied tenants the right to make the best decisions for them and their business. The ability of a tenant to access a compliant MRO offer effectively is central to the success of the Pubs Code.

Requesting a MRO may be the start of going free of tie or it may be the beginning of a negotiation over a new tied rent. But for the tenant to be fully empowered the MRO process must work smoothly and it must not involve barriers or unnecessary disincentives which can put them off from using it.

If tenants are frustrated in accessing their statutory right to MRO or there are obstacles which make it an unrealistic option, the commercial pressure exerted on the pub-owning business to offer a competitive tied offer is reduced and the tenant cannot make an effective choice.

My resolve to ensure the MRO process is accessible and fair for tied tenants remains firm. I am determined that tied tenants can negotiate on a level playing field.

- the full consultation document can be accessed [here](#)
- the deadline for responses is 10 December 2021
- the 6 pub-owning businesses currently covered by the Pubs Code are: Admiral, Greene King, Marston's, Punch, Star Pubs & Bars and Stonegate (trading name of Ei Group)

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