



A GUIDE TO THE PUBS CODE ETC REGULATIONS

PUNCH
Inspiring those moments

WHAT IS THE PUBS CODE?

The Pubs Code etc Regulations 2016 were introduced by the Government in July 2016 to provide a legal framework for governing the relationship between Pub Owning Businesses, such as Punch, and their tied Publicans. The Pubs Code is applicable to any Pub Owning Business that operates at least 500 tied pubs in England and Wales.

The core principles of the Pubs Code are to ensure fair and lawful dealings by Pub Companies with you as their tied pub tenants and that you should be no worse off than if you were operating under a Free of Tie model.

The Pubs Code is governed by the Pubs Code Adjudicator (PCA). The PCA has been appointed to enforce the Pubs Code. This includes carrying out arbitrations on disputes that are referred to the PCA and investigating suspected breaches of the Code. The PCA office can provide information about your rights, the Code and its processes, but cannot advise you about your individual circumstances. You might want to seek independent professional advice about your case. There are recognised and accredited trade bodies that offer initial advice at no cost, whether you are a member or not.

Contact the Office of the Pubs Code Adjudicator

- **Complete an online enquiry form** - www.pubscodeadjudicator.org.uk
- **Email:** office@pubscodeadjudicator.gov.uk
- **Call:** **0800 528 8080** to request a call back
- **Send post to:** Office of the Pubs Code Adjudicator, 4th Floor, 23 Stephenson Street, Birmingham B2 4BJ United Kingdom

Keep up to date with Pubs Code and PCA news

- **Sign up to website email alerts**
- **Follow the PCA on Twitter, Facebook and LinkedIn** [@pubscodepca](#)



YOUR RELATIONSHIP WITH PUNCH UNDER THE CODE

The Code governs the relationship between you as a tied pub tenant and Punch as a Pub Owning Business. At no point during your tied relationship should you suffer any detriment as a result of attempting to exercise your Code rights. If you feel that this has not been the case, you are within your rights to refer such matters to the PCA office.

The Code acts to provide you with rights and Punch with responsibilities in a range of areas such as meeting notes, provision of information, insurance arrangements, handling of rent events and your access to exploring a free of tie arrangement via the Market Rent Only provisions.

MEETING NOTES / VISIT RECORDS

As a tied Publican with Punch you have access to a wide range of support functions. Different teams within Punch including your Operations Manager, Property Manager, Catering Development Managers etc, are available to help you build and maintain a successful pub business.

As outlined in the Pubs Code any representative from a Pub Company who carries out discussions in relation to rent, repairs and any other matter relating to your current or future business plan must formally record the meeting held. All Punch representatives are committed to providing you with a copy of the meeting notes taken within 48 hours of your meeting, the notes should be a clear, concise reflection of the meeting.

Should you not agree with any of the content detailed in the meeting notes you should contact the relevant representative to discuss this so that amendments can be made where appropriate to result in a mutually agreed record of your meeting, within 7 days of receipt of them. You can speak to your Operations Manager or go directly to Tom Harvey, the Code Compliance Officer, PubCodeEnquiries@punchpubs.com

PROVISION OF INFORMATION

A clear intention of the Code is that you should be able to make fully informed decisions about your business. Prior to any tied publican committing to take on a tied business Punch are required to provide the prospective publican with all of the required information (often referred to as Schedule 1 information) deemed necessary to enable a fully informed business decision to be made.

This includes (but is not limited to) information such as the Punch Services Guide, a copy of the premises licence, relevant price lists, a schedule detailing the condition of the property, template agreements as well as a copy of the Pubs Code. This intention to ensure fully informed business decisions are able to be made is continued within further areas of the Code.

INSURANCE PROVISIONS

Punch will continue to arrange your Building Insurance as per the terms of the agreements in place. In line with the Pubs Code we will continue to advise all Publicans annually prior to the insurance renewal and we will provide you with a copy of the policy. This will be provided at least 21 days prior to the new policy taking effect. As we have done for over 10 years, we will continue to offer a price match service allowing our tied publicans the opportunity to obtain a lower premium in the event that a suitable and comparable cover can be obtained on the open market at a cheaper price.

Should you successfully obtain a premium which is less than what you pay through Punch and the level of cover is suitable and comparable then we will refund the difference.

A close-up photograph of a person's hand holding a black pen, pointing at a pie chart on a document titled "Financial plan". The pie chart is divided into four segments: a large blue segment labeled "50%", a smaller orange segment labeled "15%", a green segment labeled "30%", and a very small red segment labeled "5%". The document is resting on a wooden desk. In the background, there is a white mug and a laptop keyboard.

For further information regarding this please speak to our Legal and Compliance department on **01283 502 060** or **legal@punchpubs.com**

RENT ASSESSMENTS & PROPOSALS

Under the Code there are very specific requirements for additional information to be provided when providing a rent assessment or rent proposal (these can be found within Regulation 16 and Schedule 2 of the Pubs Code). The required information is, again, intended to ensure that a fully informed business decision is able to be made.

As the Royal Institution of Chartered Surveyors (RICS) set the guidelines for rent valuation of public houses, all rent assessments or rent proposals will have been inspected and assessed by a RICS qualified surveyor and prepared in accordance with the RICS valuation guidance.

Punch can assist you in understanding your rent proposal and associated rights, however, we would always advise that you seek independent, professional and qualified advice from an accredited source on these matters.

RENT ASSESSMENTS & PROPOSALS ARE PROVIDED AT THE FOLLOWING EVENTS

- Prior to taking on a new tied pub agreement
- A periodic or contractual rent review
- Renewing a protected agreement

PERIODIC OR CONTRACTUAL RENT REVIEWS

There are specific time-lines prescribed when dealing with providing a rent assessment proposal (RAP) in conjunction with any periodic or contractual rent review. Under the Code, Punch are required to provide a RAP at least 6 months prior to the contractual rent review date. Best practice guidance would be for this to be sent out at least a month in advance of this deadline to enable meaningful and professional discussions to take place regarding the RAP being made. Further to this, if you have not had a rent review concluded for more than 5 years then the Pubs Code allows you the opportunity to request a rent review to be carried out and provided to you within 21 days.

A rent assessment proposal must include:

- Information about the change in rent
- A detailed assessment of how the rent has been arrived at by way of a forecast Profit and Loss statement (inc. impact of unsaleable liquid through operational waste or cask sediment)
- Further Information which is reasonably available to the Pub Company detailed in Schedule 2 of the Pubs Code
- Any further relevant information which would enable you to fully understand the proposal and to negotiate the new rent.

If through meaningful discussion we have been unable to reach agreement regarding the tied rent, then the terms of the lease allows the option to agree to refer the matter or, if agreed, to the Pubs Independent Rent Review Scheme (PIRRS).

RENEWING A PROTECTED AGREEMENT:

A protected agreement is a lease or tenancy agreement which has what is known as security of tenure. A legal right to renew your agreement under the Landlord & Tenant Act 1954 subject to your landlord, Punch, not opposing the renewal on any statutory grounds.

When entering the final 12 months of a protected agreement either party is able to serve legal notices regarding their intentions for the lease expiry. Punch are able to serve a notice under Section 25 of the Landlord & Tenant Act 1954 stating our intention to either offer a new lease term or oppose a new lease. If Punch are offering a new lease the Section 25 notice will detail the proposed terms, if Punch are opposing a new lease the Section 25 notice will detail the statutory grounds/reasons for the opposition of a new lease.

In the absence of receiving any Section 25 notice, a publican entering into the final 12 months of their protected agreement has the right to serve a notice under Section 26 of the Landlord & Tenant Act 1954 stating their proposed grounds for a new lease term as well as the ability to service a notice under Section 27 of the Landlord & Tenant Act 1954 confirming their intention to not renew their lease, should this be the case.

As with all legal matters, Punch strongly advise that you obtain your own legal advice on such matters. Where parties are looking to agree a new lease/tenancy term, the requirements concerning provision of information under Schedule 2 alongside a rent proposal for an agreement renewal are very similar to the requirements detailed above for periodic or contractual rent reviews. However, where information has already been provided in the course of business between Punch and the tied publican, and such information has not materially changed, there is not a requirement to provide this information again.

Again, as with the periodic or contractual rent reviews, if we are looking to agree a new lease/tenancy term but cannot reach agreement regarding the tied rent, then the matter can still be referred under the dispute resolution clause within the lease. Please be aware that we will not pursue third party resolutions in relation to tied rent reviews whilst you have a live MRO procedure ongoing.

When dealing with any rent negotiations Punch would advise that it is important to seek independent, professional and qualified advice from an accredited source regarding such matters.

MARKET RENT ONLY (MRO)

MRO is a right under the Pubs Code for tied Publicans, at specific stages in your relationship with Punch, to explore an opportunity to operate a Free of Tie agreement which would only require you to pay Punch for your rent and building insurance. Under the Pubs Code there are specific requirements which need to be met in order to exercise the right to explore an MRO option. The avenues for exploring this option occur in conjunction with the following events. These are also known as 'MRO Events':

- A significant increase in prices of a product or service which the Publican is tied for, as defined in the Pubs Code.
- A Regulation 7 trigger event occurs as defined in the Code.
- The receipt of a Rent Assessment Proposal relating to a contractual/periodic rent review
- Receipt or Service of valid legal notices regarding a protected agreement expiry or renewal. (receipt of a valid s.25 notice or service of a valid s.26 notice)

Further to this, if you have not had a rent review concluded for more than 5 years then the Pubs Code allows you the opportunity to request a rent review to be carried out. The receipt of a rent assessment proposal in this process acts as a trigger for MRO in the same way as those received in relation to a contracted/periodic rent review.

MRO PROCESS

Should you choose to exercise your rights in relation to obtaining a MRO option there are strict requirements outlined in the Code which you will need to be aware of.

- MRO event occurs
- You now have a period of 21 days to submit a valid MRO request to Punch
(the 21-day period starts the day after the MRO event)
- Please visit the PCA website where you can find some useful fact sheets and relevant templates to help you with your application.
- Punch will acknowledge your application within 7 days and review the validity of the request.

- Punch will provide you with a full response within 28 days
- If your request is deemed invalid, you will receive a notification and the reasons for our decision.
- If your request is deemed valid you will receive our MRO Proposal Pack, detailing our proposal for you to take up a Free of Tie MRO arrangement and our reasoning for the terms being offered.
- If you disagree with our decision on the validity of your MRO request or you do not receive a response within 28 days, you have 14 days to make an arbitration referral to the PCA.
- Once you have received our MRO Proposal Pack, we enter in to a statutory 3-month resolution period. During this time, we should endeavour to engage in meaningful discussion around the proposal to resolve any queries or provide any clarification required.



NEGOTIATION

The resolution period is 3 months, starting the day after you receive Punch's full response. You can decide to end the resolution period early, but it must last for at least 21 days, if you decide to end the resolution period early you must give Punch 7 days' notice.

Within 7 days of the end of the resolution period Punch can choose to send you an updated full response to reflect the negotiations, this is known as the updated period of response.

If, having discussed your concerns or queries with Punch, you still wish to dispute the MRO proposal you have a period of 21 days starting with the day after the end of the 7-day updated period of response to make an arbitration referral to the PCA office.

You may make a referral to the PCA regarding the MRO terms and/or the MRO rent. If you wish to make a referral on MRO terms and MRO rent, you must firstly refer the MRO terms to the PCA. Once a decision has been reached by the arbitrator on MRO terms, you will have 21 days from the day after the arbitrator's decision to refer the MRO rent to an Independent Assessor (IA)

If you wish to make a referral regarding MRO rent only, you will have 21 days starting with the day after the end of the 7-day updated period of response to make a referral to the IA.

More information on this process can be obtained from the PCA website.

CONCLUSION

Once you have had the opportunity to resolve any disputes concerning MRO terms or rent figures you will have a finalised MRO option and be required to make a decision as to whether you wish to take up this option or remain on your existing tied agreement. Once a decision has been communicated, or in the event that such options lapse, you will receive a notification confirming your MRO process has come to an end. As part of this communication you will receive a questionnaire from the PCA office to obtain your feedback on the MRO process, this should be completed and returned to the PCA via the contact details provided.

They are many things that should be taken into consideration when deciding about whether MRO is best for you and your business. Given the strict requirement of the MRO process and in order to make a fully informed decision about the benefits of both your existing agreement and the MRO proposal, we would encourage you to take independent professional advice from an accredited and reliable source in regard to this matter. If, alongside your application for MRO, you also have a tied rent event open for consideration and negotiation we would encourage you to maintain open communication with your Estates Manager (EM) across all options being considered.

FEATURES OF YOUR EXISTING TIED AGREEMENT

- Expert professional advice and support from your Punch Operations Manager who has a focus on growing outstanding pub businesses.

- Access to a dedicated Business Support Team, on hand to help address queries relating to the day to day running of your business

- Marketing support and materials available with expert market knowledge, consumer insight, supplier support and key learnings shared through the Publican marketing magazine, The Round.

- Access to the Punch Buying Club, an industry leading pub business support tool and 24/7 online shop with an extensive range of drinks, snacks and business essentials available to purchase for your business.

- The ability to benefit from fantastic food menus with expert advice and support from a dedicated catering team.

- Industry leading training, e-learning and workshops available at The Academy and through Punch's online platform and Thirst App.

FEATURES OF A COMMERCIAL FREE OF TIE/MRO AGREEMENT

Under the a Free of Tie/MRO agreement, you will no longer be obliged to purchase products via Punch, you will have the freedom to purchase products on the open market and from suppliers of your choosing.

Further to this you will not be restricted to the products available via Punch stocked price lists and will be able to stock whichever products you are able to obtain via suppliers operating on the open market.

You will run your pub business as a free of tie operator and your relationship with punch will become a solely landlord and tenant commercial relationship. You will no longer be entitled to the support and services Punch provide to tied publicans and will be free to source such support and services from the open market.



We hope you find this booklet helpful. Should you have any questions about your Punch agreement or general queries about the Pubs Code then please contact your Punch Operations Manager in the first instance.

For further guidance or advice, you can contact the British Institute of Inn-keeping:

Phone: 01276 684 449

Email: membership@bii.org

Visit: www.bii.org

