Pubs Code Adjudicator

What Tied Pub Tenants Need To Know

Trigger Events



How to use this fact sheet:

This factsheet is for tied pub tenants who are considering whether a trigger event has occurred as a route to requesting a Rent Assessment or Market Rent Only option

It provides information to support tenant understanding. It is not a substitute for the Pubs Code legal framework.

Our website also contains other useful information about accessing your Pubs Code rights: www.pubscodeadjudicator.org.uk

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At a glance... trigger events:

If there has been an event which is expected to reduce your trade over a continuous 12-month period, you may have the right to request the MRO option to go 'free of tie'. You may also have the right to ask for a rent assessment.

For the event to be a 'trigger event', it must meet certain conditions set out in the Pubs Code. For example, it must be beyond your control, and not likely to affect all pubs in England and Wales. It also cannot be connected to your personal circumstances. Other conditions apply.

Steps you need to take to show there has been a trigger event include sending the pub company an analysis of the forecasted level of trading.

Terms and abbreviations

Term/abbreviation	What it means
Code	The Pubs Code etc. Regulations 2016
PCA	Pubs Code Adjudicator
POB	Pub-owning business (often referred to as pub companies)
TPT	Tied Pub Tenant (this includes a tied pub licensee and lessee)
MRO	Market Rent Only
MRO Option	The option for you to occupy the tied pub under a MRO-compliant tenancy and to pay a rent you have agreed with the POB in line with the MRO procedure or, failing such agreement, the market rent.
Rent Assessment	An assessment of the rent you must pay in relation to anexisting tenancy
RAP	Rent Assessment Proposal (a proposal made in line with Part 4 of the Pubs Code)
Pubs CodeFramework	The legal framework that regulates the relationship between the large pub-owning businesses and their tied pub tenants. It is made up of the Small Business, Enterprise and Employment Act 2015 (Part 4), The Pubs Code etc Regulations 2016, and The Pubs Code (Fees, Costs and Financial Penalties) Regulations 2016



What is a trigger event?

A trigger event is an event that will have a significant impact on the trade of your pub and meets certain **conditions** set out in the Pubs Code.

It entitles you to ask your pub-owning business (POB) for:

- A Rent Assessment - which begins with a Rent Assessment Proposal (RAP) for a new tied rent; and/or
- A Market Rent Only (MRO) option to rent your pub on a free-of-tie basis.

A trigger event is one of four gateways to request a MRO option (called 'MRO events'). You can find out more about the other MRO events here.

What are the conditions for a trigger event?

See Pubs Code – Regulation 7

The event must either affect:

- only your pub; or
- other pubs in the local area but be unlikely to affect all pubs in England and Wales.

Where the event affects other pubs in the local area, it must directly relate to a change in the tie that the POB has imposed on the pub or have an effect which is directly related to local area changes. These might be changes to:

- local infrastructure
- local employment
- long-term changes to the local economic environment
- local environmental factors
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The trigger event **must also meet <u>all</u> the following tests**:

☑ It results in a decrease in the trade that your pub could reasonably be expected to achieve each month for a continuous 12-month period.

☑ It was not reasonably foreseeable when the tenancy was granted, or when any rent assessment (or money payable instead of rent) was last concluded.

☑ It is beyond your control and not an event you could have reasonably prevented, or substantially mitigated the effect of.



It cannot be an event that is:

☒ connected to your personal circumstances (for example your health, your family or your relationships).

☒ related to an increase in the price at which a tied product or service is supplied to you due to circumstances beyond the POB's control, such as an increase in:

- the price at which the POB buys the product or service
- the tax or duty it has to pay because of buying the product or service
- any other tax or regulatory cost that the POB has to pay which affects its costs

☒ one of the other MRO events:

- a significant increase in the price at which a tied product or service is supplied to you (which also gives you the right to request a rent assessment)
- a tenancy renewal
- the receipt of a RAP

I think there has been a trigger event - what do I need to do?

See Pubs Code - Regulations 19 and 25

There are a number of steps you must take if you think there has been a trigger event.

To show there has been a trigger event you must first send your POB a written analysis of the forecasted level of trading of your pub. This forecast must cover a period of at least the next 12 months. This is your **relevant analysis**. The date the forecast should begin depends on whether you are seeking MRO or a RAP. For an MRO request, the forecast must begin with the day of the trigger event. For a RAP request, the forecast must begin on the date the RAP request is made.

There are **strict deadlines** that apply to many Pubs Code processes. Please refer to the relevant factsheets on Rent Assessments or the MRO option for information on the trigger event timescales. Tenants are strongly advised to seek independent advice from a qualified professional when considering and preparing a relevant analysis.

If you and the POB disagree that you are entitled to a Rent Assessment or the MRO option, you can make an **arbitration referral** within strict time limits. Please see the relevant factsheets for more information.



We have created the following example to support Tied Pub tenants:

TRIGGER EVENTS

Example

Your pub is located near a large factory and much of your trade is from its employees coming in for drinks after work. Unexpectedly, the manufacturer which owns the factory announces that it will be closing the site and moving its operations. You are concerned as you think this will impact your business. This was not something you could have known about when taking on the tenancy.



The closure of the factory is a change in the local area, which may impact either your pub or other local pubs. You may want to consider whether the closure of the factory is a trigger event under the Pubs Code. If it is, you may be entitled to have your rent reconsidered by asking for a RAP, or to ask for the option of an MRO tenancy.

The factory closure may entitle you to request a RAP or MRO option if trade will be down on what you expected each month continuously for at least 12 months. You must demonstrate that by sending an analysis to your POB of the forecast level of trading.

Trigger Event Occurs (e.g., factory closure)

Assess Impact on Trade
Determine if the event is likely to reduce trade each month for at least 12 consecutive months. You should consider whether there is anything you can reasonably do to substantially lessen the effect of the closure on your business (such as changes to your business plan). If there is, then the factory closure may not count as a trigger event.

Path A: Market Rent Only (MRO) Option

1. **Prepare a Written Analysis**
   Must forecast trade for at least 12 months **beginning with the day of the trigger event.**
2. **Send Analysis to POB**
   Must send the analysis to the POB **within 56 days** of the day after the trigger event. Sending the analysis to the POB creates the MRO event.
3. **Request MRO Option**
   You have **21 days** after sending the analysis to request the MRO option.
4. **POB Processes MRO Request**
   POB acknowledges the request and sends a response **within 28 days** of the day after it receives the MRO notice.

AND / OR

Path B: Rent Assessment Proposal (RAP)

1. **Prepare a Written Analysis**
   Must forecast trade for at least **12 months beginning on the day the RAP request is made.**
2. **Send Analysis to POB**
   To demonstrate that a trigger event has occurred giving you the right to request a RAP.
3. **Request RAP**
   You can make this request at the same time as you send the written analysis to the POB, or **within 14 days** of doing so.
4. **POB Issues RAP if it agrees Trigger Event has occurred**
   - POB must send a RAP within **21 days** of the request.
   - **Receipt of a RAP is also an MRO event.**



Questions about this factsheet

For **general queries** about the information in this factsheet, you may contact our enquiry service.

Please note, we can provide information about your rights, the Code and our processes. We cannot advise you about your case.

Complete our online enquiry form

Email: office@pubscodeadjudicator.gov.uk

Call 0800 528 8080 to request a call back

This factsheet provides information to support tenant understanding. It is not a substitute for the Pubs Code framework.

You may find it helpful to take independent professional advice before making any decisions that may affect you and your business.

Find out more

Follow the PCA on social media @pubscodepca

Access all PCA factsheets here

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