



Office of the Pubs Code Adjudicator  
Lower Ground  
Victoria Square House  
Victoria Square  
Birmingham  
B2 4AJ

Email: [enquiries@pubscodeadjudicator.gov.uk](mailto:enquiries@pubscodeadjudicator.gov.uk)

12 January 2021

Dear tied tenant

I understand that this latest lockdown is a bitter blow to you and your business. I am writing this letter to set out some of the important ways tenant rights in the Pubs Code may help at this time.

### **Business Development Manager (BDM) conversations**

A simple but really powerful right is to have all discussions with pub company representatives accurately recorded in writing where they relate to negotiations around rental events, repairs or business planning. Your representative must behave fairly in those discussions and that includes any conversations about discretionary coronavirus (COVID-19) support and related repayment plans.

Using your right to challenge inadequate discussion notes is a simple step you can take to help make sure those conversations are fair and that there is an accurate paper trail with details of what was said. This can avoid disputes arising later on about what was on offer. I've published a [factsheet](#) about these rights.

### **Discretionary Support**

At the start of the first lockdown most pub companies were not setting out clearly and publicly how and on what basis they were making decisions about allocating discretionary support.

As a tenant you have the right to know how you will be treated and to see that it is fair. I pushed hard to ensure all moved to a transparent approach to their COVID-19 support offer, and by June all were publishing details on their websites, on tenant portals and in the press. This has been business as usual since then. Complaints and enquiries to my office about the handling of discretionary support also dropped dramatically after that.

However, I still want to know if you feel your rights to fairness in conversations about pub support and repayment planning (including their accurate recording) are not being respected. This is especially so if you have been unable to resolve the matter informally by approaching your pub company's [Code Compliance Officer](#).

### **Rent reviews and Trigger Events**

Tied tenants are entitled to a Pubs Code compliant rent assessment proposal at rent review, and to request one where they haven't had a review in five years. Any rent assessment gives you the right to request a free-of-tie option alongside the tied deal. In practice there will be many tenants whose rents were set on trading assumptions made before the unforeseen impact of COVID-19 with its drastic effect on the industry.

Tenants do not have a universal right to a rent review because COVID-19 has meant that trade expectations cannot be met. However, there are some limited cases – or Trigger Events - when the Code does provide a right to a rent review if there is a significant impact



## Pubs Code Adjudicator

on the trade of an individual pub because of unforeseen circumstances, but only if all of the strict conditions in the Code are satisfied. These are set out in a PCA [factsheet](#). It is important to note that one of the conditions is that you must be able to demonstrate that the event will decrease the level of trade that your pub could reasonably be expected to achieve in each of the next 12 months.

What amounts to a trigger event will depend on individual cases. I strongly recommend you seek independent advice from a qualified professional when considering and preparing a relevant analysis to show a trigger event.

### **Rent assessment under the Code**

Any rent assessment proposal from your pub company must be supported with a 12-month forecast profit and loss statement, backed up with data, information and assumptions. This is a big valuation challenge given the current trading uncertainty, but the Code says that the pub company must take a reasonable approach in its assessment. It must provide and explain its evidence, so you are fully informed when negotiating over the rent. The estimated costs of operating during the pandemic will be one of the things that needs to be considered.

### **Insurance**

Pubs Code rights may help tied tenants to save money directly on insurance. If your premises insurance is due for renewal, your pub company has to provide you with information about the policy. You should not be charged more than the price of any suitable cheaper comparable quote that you can find. I've written about these rights in my [Morning Advertiser column](#) and published a [factsheet](#) on the issue.

### **Protection of Pubs Code Rights**

Today, I have published the latest [Declaration](#) by the six regulated pub companies to protect and preserve tied tenants' Pubs Code rights, in light of the impact of the latest lockdown. It is important for you because it pauses and protects some key Code rights in the event of certain breaches of the Code by your pub company. It gives you more time to seek advice and consider taking Code steps. It also puts the obligation on pub-owning businesses to self-refer failures to serve a timely MRO proposal, rather than requiring a tenant to do so to avoid losing the MRO rights.

This Declaration does not mean I have waived the right to exercise any of my regulatory powers, and the Pubs Code has not been suspended. It has the benefit of giving a choice to you as a tied tenant while your rights are protected - though you are still able to take any available Code step should you wish including referring for arbitration.

Your Code rights may be more important now than ever and I want you to know that my office and I are here to protect them during this hugely challenging time.

Yours sincerely

Fiona Dickie  
Pubs Code Adjudicator