Pubs Code Adjudicator

Pubs Code Technical Guide

Rent Proposals

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Rent Proposals

OVERVIEW

1. A rent proposal is an offer issued by the landlord proposing the rental terms in relation to a new tenancy or revised rent terms within an existing tenancy. This is not a route to request a market rent only option (to go free-of-tie).

2. A rent proposal is required:

   - Where the tenant requests it in relation to tenancies where section 25 or 26 of the Landlord and Tenant Act 1954 are engaged;

   - Where the tenant requests it in relation to a change in the amount of rent payable not previously agreed as part of the tenancy; or,

   - Where the landlord notifies the tied-tenant they would like to negotiate a new agreement.

DETAILED TECHNICAL GUIDE

1. Difference between a rent proposal and a rent assessment

1.1. A rent proposal is a proposal from a Pub-Owning Business (POB) proposing the rental terms in relation to a new tenancy or revised rent terms within an existing tenancy. A rent assessment is an assessment of the rent to be paid in accordance with the terms of an existing tenancy.

1.2. A rent assessment gives the tied pub tenant (TPT) the right to request a free of tie option, known as a Market Rent Only (MRO) option; a rent proposal does not.

2. Instances when a pub-owning business (POB) must provide a tied pub tenant (TPT) with a tied rent proposal

2.1. The POB must provide the TPT with a tied rent proposal where any of the following 6 scenarios occur:

Scenario 1

The TPT requests one; and

- That request is made within 21 days of receiving a notice of termination of the tenancy from the POB under section 25(1) of the Landlord and Tenant Act 1954 (LTA); and
- the POB has neither opposed an application by the TPT for a new tenancy under section 24(1) LTA nor applied to the court under section 29(2) LTA for a termination of the tenancy (see regulation 15(2) of the Pubs Code).

In those circumstances the POB must provide the rent proposal within 21 days of the TPT's request. (see regulation 17(a) of the Pubs Code)

Scenario 2

The TPT requests one; and

- That request is made within 21 days of receiving a notice of termination of the tenancy from the POB under section 25(1) (LTA); and,
- the POB opposes under section 24(1) LTA the TPT's application for a new tenancy; or applies to the court under section 29(2) LTA for a termination of the tenancy (see regulation 15(3) of the Pubs Code).

In those circumstances the POB must provide the rent proposal within 21 days of the date of the court order granting a new tenancy (see regulation 17(b) of the Pubs Code).

Scenario 3

The TPT requests one; and

- That request is made within 21 days of the TPT making a request for a new tenancy under section 26 LTA; and
- the POB has neither opposed that application under section 24(1) LTA, nor applied to the court under section 29(2) LTA for a termination of the tenancy (see regulation 15(4) of the Pubs Code).

In those circumstances, the POB must provide the rent proposal within 2 months of the TPT's request for a new tenancy under s 26 LTA (see regulation 17(c) of the Pubs Code).

Scenario 4

The TPT requests one; and

- That request is made within 21 days of the TPT making a request for a new tenancy under section 26 LTA; and
- The POB opposes that application under section 26 LTA or applies to the court under section 29(2) LTA for a termination of the tenancy (see regulation 15(5) of the Pubs Code).

In those circumstances the POB must provide the rent proposal within 21 days of the date of the court order granting a new tenancy (see regulation 17(d) of the Pubs Code).

Scenario 5

The TPT requests one; and

- That request is made within 21 days of a change in the amount of rent payable by the TPT under the tenancy which is not an annual or periodic indexation of rent agreed when the tenancy was entered into nor a change in the rent that gives the TPT the right to request a rent assessment proposal (see regulation 15(6) and (8) of the Pubs Code).

In those circumstances the POB must provide the rent proposal within 21 days of the TPT's request (see regulation 17(e) of the Pubs Code).

Scenario 6

- The POB notifies the TPT of a proposal to negotiate a new agreement with the TPT (see regulation 15(7) of the Pubs Code).

The POB must provide the rent proposal before the TPT considers the independent professional advice that informs their sustainable business plan (see regulation 17(f) of the Pubs Code).

3. What a rent proposal must contain

3.1. A rent proposal must contain[1]:

- A proposal for the rent, or information about the change in the rent, payable under the tenancy;
- Any other terms where a new tenancy is being proposed
- The information required in Schedule 2 of the Code:
    - A summary of the methods and supporting information used to calculate the rent
    - The outline procedure to be used in rent negotiations
    - The matters that will and will not be relevant in rent negotiations
    - Information on the cost of service charges at the pub over the last 3 years
    - A forecast profit and loss statement (net of VAT and gaming machine duty) for the 12 months from the date on which the new rent becomes payable
    - A timetable specifying the dates on which other information will be available to the TPT before negotiations begin
- Any other reasonably required information to enable the TPT to understand and negotiate in an informed manner.

3.2. The POB must also comply with any reasonable request by the TPT for further information relevant to the rent negotiation; or provide a reasonable explanation of why it is not providing the information within 7 days of the TPT's request[2].

3.3. The POB must advise the TPT to get independent professional advice before agreeing to the new rent[3].

3.4. Disputes in connection with rent proposals may be referred to the PCA for arbitration – see **Technical Guide 12**[4] for further details.

[1] See regulation 16 of the Code
[2] See regulation 18(1) of the Code
[3] See regulation 18(2) of the Code
[4] https://www.gov.uk/government/publications/pubs-code-disputes