

RENT REVIEW GUIDE

UNDERSTANDING RENT REVIEWS



INTRODUCTION

The Pubs Advisory Service has collaborated with Morgan & Clarke Chartered Surveyors, a tenant-friendly team of expert pub valuers, to create a free series of informative guides aimed at assisting pub tenants across the country at rent review.

The guides will cover topics including:

- **Understanding Rent Reviews** – What rent reviews are, how often they occur, the specific timings and more.
- **Understanding Rent Valuation** – Learn about the relevance of RICS guidance, how pub rents are calculated, and how landlords can interpret the guidance to their advantage.
- **Understanding Rent Proposals** – Learn how to analyse landlord rent proposal calculations, learn the strategies and tactics landlords use, and how to present a counter-proposal effectively.
- **Gathering Evidence** – Learn about the hierarchy of evidence and its relevance during the rent review. We will explain how landlords leverage information to secure rent settlements, and how tenants can evidence their counter-proposal effectively.
- **Negotiating Tactics** – Receive guidance on negotiating tactics and settlement trends that can help you achieve a fair rent price that works for both you and your landlord, as well as advanced strategies for navigating complex rent review negotiations, including the disregard of tenant goodwill and improvements.

WHAT IS A RENT REVIEW?

A rent review allows for the periodic adjustment of rent to the market level at the date of the review.

The rent review clause contained within a lease sets out when each review will take place, the review method, any assumptions, and any disregards to be considered when valuing for the purpose of rent review, the process to be followed, and provisions for dealing with a dispute concerning rent in the event it cannot be agreed by negotiation. Although there is no standardised format, most lease clauses related to rent review in are similar in nature.

WHAT IS THE PURPOSE OF A RENT REVIEW?

A rent review allows both landlords and tenants to adjust the rent received or paid at agreed intervals to reflect the current market conditions at the review date. Landlords traditionally rely on rent reviews as a means of protecting themselves against inflation during the term of a longer lease.

For example, if a landlord leases a property to a tenant for a 20-year term at an annual rent of £25,000, the open market rental value of the property may fluctuate significantly during the term of the lease. Without a rent review clause, the landlord may rent out the property at a rate that is not reflective of the current market value. Equally, the trading conditions might take a turn for the worse, and the tenant might continue to pay a rent that is above the true open market rental value. The clause allows the parties to periodically review the rent amount and adjust it accordingly to ensure that the rent remains consistent with market rates.

HOW OFTEN ARE RENT REVIEWS?

Rent reviews can occur at any mutually agreed time between the landlord and tenant. Typically, rent reviews take place every three or five years, with longer leases having longer gaps between reviews. For the review to be effective, the lease should include either the review dates or a process for setting them.

WHAT ARE THE TYPES OF RENT REVIEW?

The following are common types of rent review.

- Upwards Only Open Market Rent Review
- Upwards or Downwards Open Market Rent Review
- Fixed Increase
- Index Linked (RPI/CPI/CPIH)
- Penultimate Day Rent Review

WHAT IS AN OPEN MARKET RENT REVIEW?

An open market rent review is a method of determining a new rent based on what could reasonably be obtained on the open market if the property were let to a willing tenant by a willing landlord under the terms set out in a hypothetical lease. The review process involves assuming that a new hypothetical lease will be entered into based on substantially similar terms as the existing lease. The rent will then be assessed based on certain assumptions and disregards.

WHAT IS AN ANNUAL RPI RENT REVIEW?

An RPI rent review clause allows for annual adjustments to the rent payable, based on the Retail Prices Index (RPI) or sometimes other indices such as Consumer Price Index (CPI) or Consumer Prices Index plus Housing Costs (CPIH).

Tenants should consider adjusting the rental bid if their lease contains an annual index linked review, to account for the foreseeable rent increases that should be built in over the period.

WHAT IS A CAP AND COLLAR?

A cap and collar, often included in leases with RPI, CPI, or CPIH linked reviews, sets a maximum and minimum increase on each annual index linked review. For instance, a collar of 2% and a cap of 5% would ensure that the rent would increase between 2% and 5% each year, on each review date specified, even if the index has increased by more or less than these percentage amounts.

WHAT IS AN UPWARDS-ONLY OPEN MARKET RENT REVIEW?

An upwards-only open market rent review is a lease clause that specifies that the rent cannot decrease at the review date, even if the open market rent is assessed to be lower than the current passing rent. This clause does not necessarily imply that the rent must only increase; rather, it ensures that the rent cannot be lower than the current rent.

WHAT IS AN UPWARDS OR DOWNWARDS OPEN MARKET RENT REVIEW?

An upwards or downwards open market rent review clause allows the rent to increase or decrease at the review date, depending on the current market conditions.

Some tied leases, despite the terms of the rent review clause, can be reduced at the rent review. If you are a tied pub tenant and your landlord insists on enforcing an upward-only rent review clause, please reach out to us for assistance.

WHAT IS A FIXED RENT REVIEW INCREASE?

A fixed rent review increase or stepped rent is a pre-agreed, fixed increase in rent at specified intervals, typically negotiated and agreed upon between the landlord and tenant during the heads of terms negotiation. For instance, a £5,000 increase per year.

WHAT IS A PENULTIMATE DAY RENT REVIEW?

Some leases include a rent review just before the end of the contractual term of the lease to bring the rent up to market level for the period of "holding over" under the Landlord & Tenant Act 1954 (L&T Act 1954).

When a tenant continues to occupy its premises after the expiration of its lease with the landlord's permission or consent, without renewing the lease or entering into a new lease, this is known as "holding over."

In the past, landlords were hesitant to rely on their right to apply for an interim rent under section 24A of the L&T Act 1954 for that period, as it was often lower than a market rent for a normal length lease. However, amendments to the L&T Act 1954 now allow either party to apply for an interim rent, which means the tenant could seek a reduction in the rent even if it had been fixed at market level just before the expiry of the contractual term.

It's important to note that a rent proposal relating to the penultimate day rent review does not provide any clarification to the landlord's renewal position and should not be interpreted as a renewal offer.

MORE INFORMATION

For more information please visit our websites:



www.pubs.expert



www.morganandclarke.co.uk

If you require assistance with rent review, lease renewal, Market Rent Only (MRO), or any related matters, please contact us at.



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