

Guide to the Pubs Code



Stonegate Group

PUB PARTNERS

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A Guide to the Pubs Code

What is the Pubs Code for?

In July 2016 The Pubs Code etc. Regulations (the Pubs Code) was introduced by the Government and applies to all pub owning businesses, such as Stonegate, who own more than 500 tied pubs in England and Wales.

The Pubs Code regulates the relationship between the pub owning businesses and their tied publicans and places statutory obligations on Stonegate based on the two core principles of fair and lawful dealing and that a tied publican should be no worse off than a free of tie publican.

The Pubs Code ensures that tied publicans:

- Have all discussions regarding rent proposals, rent assessment proposals, repairs and any matters related to the tied publican's current or future business plans with a Business Development Manager are documented in writing.
- Receive the information they need to make informed decisions about taking on a pub or making a change to their existing agreement
- Can have their rent reassessed every 5 years
- Can request a Market Rent Only option to go free of tie in specific circumstances

Pubs Code Adjudicator

The Pubs Code is overseen by an independent Pubs Code Adjudicator (the PCA) who is in place to ensure compliance with the core principles. This includes arbitrating individual disputes, investigating suspected breaches of the Code and providing advice and guidance about the Code. The PCA can provide you with information about your rights, the Code and its processes and have lots of useful factsheets and technical guides on their website. They cannot however advise you about your individual circumstances.

The contact details for the PCA are as follows:

www.gov.uk/government/organisations/pubs-code-adjudicator

Call: 0800 528 8080

Write to:
The Office of the Pubs Code Adjudicator,
4th Floor,
23 Stephenson Street,
Birmingham, B2 4BJ



Who does the Pubs Code apply to?

The Pubs Code applies to any tied pub tenant, meaning a person who:

- Is the tenant or licensee of a tied pub, or
- Is a party to negotiations relating to the prospective tenancy or licence to occupy premises which are, or on completion of the negotiations are expected to be, a tied pub.

This includes all publicans who already hold or enter into a full or partially tied agreement with us, whether directly or via an assignment.

Short agreements (less than 12 months), have more limited rights under the Code.

Business Development Manager

As a tied publican with Stonegate you have access to a number of support functions including your Regional Manager and Property Manager. The Pubs Code defines the role of a 'Business Development Manager' as somebody who enters into negotiations with you regarding rent proposals, rent assessments, property repairs or matters relating to your business plan. Therefore, your Regional Manager and Property Manager falls within this.

Your Regional Manager will not be able to advise you on the Code but will be as helpful as possible in making you aware of your rights.

We would always encourage our publicans to take independent, professional and qualified advice from accredited trade bodies in relation to their individual rights under the Pubs Code. The British Institute of Innkeeping provide a list of professional advisors on their website.

www.bii.org/industry-advice

Your relationship with Stonegate under the Pubs Code

We are committed to ensuring compliance with the core principles of the Code and at no point during your tied relationship with us should you experience any detriment as a result of exercising or attempting to exercise your rights under the Code. If you feel this has not been the case we would encourage you to contact our Code Compliance Officer at pubscode@stonegategroup.co.uk

You are within your rights to refer such matters to the PCA for arbitration along with any other complaint relating to a suspected breach of the Code, you must give us 21 days if you intend to do so to ensure that we have adequate time to try to resolve the matter with you.

Meeting Minutes

The Code provides for you to receive meeting minutes following a meeting with a 'Business Development Manager'. We will send you clear and concise minutes ideally within 7 days of the meeting or a maximum of 14 days which is allowed under the Code. Should you not agree with any of the content of the minutes you should notify the relevant representative within 7 days to discuss so that amendments can be made where appropriate to result in a mutually agreed record of your meeting.

Provision of Information

The Code sets out what information we must provide to you to assist with building a sustainable business plan and to ensure that you can make an informed decision about taking on a pub with us or making a change to your existing agreement.

This is set out in Schedule 1 of the Code and includes (but not limited to):

- Details of the proposed agreement and a Rent Proposal (breakdown of our profit and loss forecast)
- A Schedule of Condition and any agreed initial works to the property
- Copy of Pubs Code and the related procedures
- Details of any foreseeable material changes in the local area and any restrictions on the property
- Premises licence information including any previous enforcement action



Rent Events

Under the Code there are specific requirements for additional information to be provided when dealing with a rent event, this is set out in Schedule 2 of the Code. Again, this is to ensure that you can make a fully informed decision.

One of these requirements is to provide you with a Rent Assessment Proposal ahead of a contractual rent review. The Rent Assessment Proposal is a breakdown of our profit and loss forecast.

We are required to provide you with a Rent Assessment Proposal 6 months prior to the rent review date. Best practice guidance set out in the Regulatory Compliance Handbook means that we will aim to provide you with the Rent Assessment Proposal 7-8 months prior to the rent review date to enable meaningful engagement and negotiation prior to the rent review date.

In addition to this, you can make a written request for a Rent Assessment Proposal if:

- You have not had a rent review/ assessment concluded in the last 5 years
- There has been a significant increase in the price of a tied product or service
- You demonstrate that a trigger event has occurred in your local area which has had a significant impact on trade

The Code sets out the specific requirements and timescales for submitting a written request in relation to a significant increase in pricing or a trigger event. There is no time limit for requesting based on no rent review/ assessment being concluded in the last 5 years.

Upon receipt of a valid written request we must provide you with a Rent Assessment Proposal within 21 days.

All Rent Assessment Proposal's are prepared in accordance with the Royal Institution of Chartered Surveyors (RICS) guidance and signed off by one of our internal RICS qualified Valuation Manager's.

It is important that you take independent, professional and qualified advice from accredited trade bodies in relation to these matters.

Blank template profit & loss account

You may request from us a blank template at any time for completing a profit and loss account for the tied pub. We will provide this to you in any event when issuing either a Rent Proposal or a Rent Assessment Proposal.

Renewing a protected agreement

A protected agreement is a lease or tenancy that has a legal right to renew under the Landlord & Tenant Act 1954 subject to the landlord, Stonegate, not opposing renewal on any statutory grounds.

When entering the last 12 months of the term of a protected agreement either party can serve a legal notice regarding their intentions for the expiring agreement. Stonegate can serve a Section 25 notice under the Landlord & Tenant Act 1954 to either offer a new agreement, (including the proposed terms) or oppose renewal setting out our statutory grounds for doing so. This could potentially include taking the pub back for our own management where statutory compensation may be available.

In the absence of a Section 25 notice you can serve a Section 26 notice under the Landlord & Tenant Act 1954 to set out their proposals for a new agreement or a Section 27 notice confirming their intention not to renew.

Where the parties are looking to agree a renewal agreement, Stonegate will provide all required information as set out in Schedule 1 and 2 of the Code including a Rent Proposal.

It is important that you take independent, professional and qualified advice from accredited trade bodies in relation to these matters.



Market Rent Only (MRO)

MRO is a right under the Pubs Code for tied publicans to explore the opportunity to go onto a free of tie agreement. The Code sets out four specific circumstances in which a publican can exercise their MRO rights, these are known as 'MRO events':

- Receipt of a Rent Assessment Proposal in relation to a contractual review or written request
- Receipt of a valid Section 25 notice or service of a valid Section 26 notice
- A significant increase in the price of a tied product or service (meeting specific requirements)
- A trigger event has occurred in your local area which has had a significant impact on trade (meeting specific requirements)

Under the Pubs Code, if we have made a 'qualifying investment' as defined in the Code, you will not be able to exercise your Market Rent Only (MRO) rights for a maximum period of 7 years.

However, this exception does not apply if a trigger event occurs or if there is a significant increase in price, as defined under the Code.

MRO Process

Should you choose to exercise MRO the Code sets out strict requirements and timescales that must be followed by both parties. We would strongly that you take independent, professional and qualified advice from accredited trade bodies when exercising your MRO rights.

- MRO event occurs
- You now have 21 days to submit a valid MRO notice
- Stonegate will acknowledge your claim within 7 days, if we believe your MRO notice is invalid, we will set out our reasons for this
- We will send you the MRO proposal within 28 days, this will include a copy of the proposed terms, the proposed rent with a breakdown of our profit and loss forecast and a declaration setting out how we have ensured the proposal is reasonable for you
- A 3-month resolution period commences where we will actively engage in meaningful negotiations with you

Meaningful Negotiations

In the 7 days after the end of the Resolution Period we have the option of issuing an updated Full Response. This 7-day period is called the "updated period of response".

If we have not been able to agree the agreement terms through our negotiations you have 21 days from the end of the updated period of response to make a referral to the PCA for arbitration. Further information is available on the PCA website about this process and the costs involved.

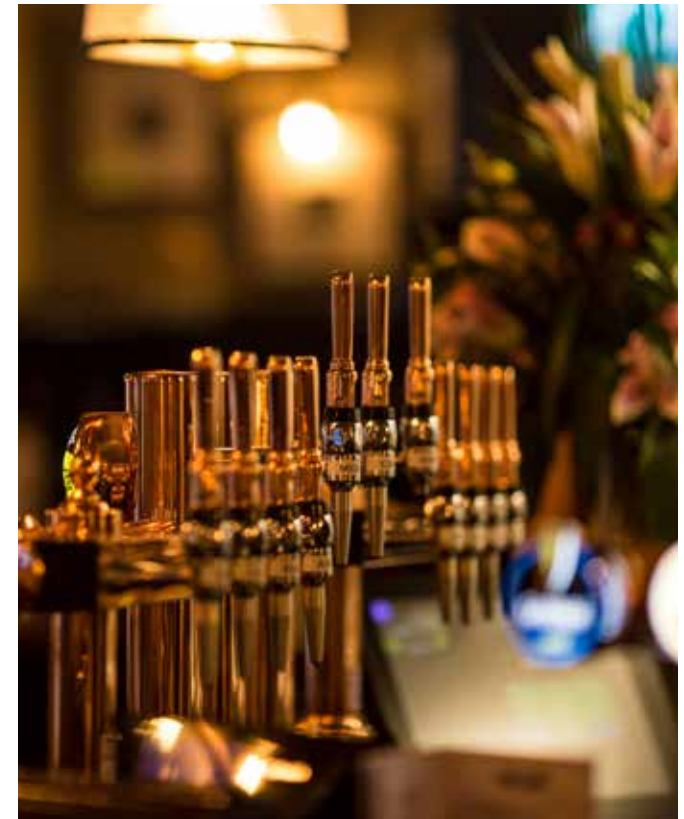
If we have not be able to agree the rent through our negotiations, you have 21 days from the end of the updated period of response to make a referral to an Independent Assessor. An Independent Assessor will require both parties to provide information to them to award an open market rent.

Conclusion

If you decide to enter the MRO agreement both parties must work to complete this as soon as possible.

Once the MRO process has come to an end by either you entering the MRO agreement, you deciding to remain tied or your MRO option lapsing you will be asked to complete the PCA questionnaire to feedback on how the process has gone. We would also like to hear your feedback which you can direct to our Code Compliance Officer at pubscode@stonegategroup.co.uk

Please visit www.stonegatepubpartners.co.uk/run-a-pub/pubs-code to have a look at our MRO Frequently Asked Questions and our MRO policy.



Insurance Provisions

Stonegate arrange your buildings insurance as per the terms of your agreement in place. In line with the Pubs Code we will advise you annually prior to the insurance renewal and provide a copy of the policy at least 21 days before the new policy takes effect.

The Code also allows for a price match service allowing you the opportunity to obtain a lower premium if you are able to identify a suitable and comparable alternative policy on the open market at a cheaper price.

For more information you can contact our Insurance Manager at insurance.manager@stonegategroup.co.uk

Gaming Machines

The Code gives you the option to not have gaming machines, but no provision is made around the terms where you decide you want to install them.

Our tenancy agreements prohibit the use of gaming machines, if you elect to have gaming machines you will have the option to enter into a machine share arrangement that will sit alongside your tenancy to permit use and set out the share arrangements and nominated suppliers.

Sale of a pub

We will notify you as soon as reasonably practical if we intend to sell the freehold of the pub or, where the pub is leasehold, if our head landlord intends to sell the freehold.

Where a pub is sold with a Pubs Code agreement in place, extended protection may apply whereby you keep your Pubs Code rights until the next rent review/ expiry.

Monitoring of your tie

Throughout the life of your agreement with us we will monitor your compliance with your purchasing obligations as set out in your agreement, this will usually be use of flow monitoring equipment installed at the pub. If we suspect any buying out of your tie, we will provide you with supporting evidence before imposing any liabilities on you.



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Stonegate Group 3 Monkspath Hall Road, Solihull, West Midlands, B90 4SJ | 0121 272 5200
(02562808, Registered in England and Wales)

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