

MRO – Frequently Asked Questions

Key

BDM – Business Development Manager (BDM, RM & PM all constitute a BDM as defined in the Pubs Code, for the purpose of this document, BDM represents a job title; a member of the Business Development Team)

RM – Regional Manager

PM – Property Manager

CCO – Code Compliance Officer

PCA – Pubs Code Adjudicator

IA – Independent Assessor

When you send an MRO Notice

Q: What happens once I have sent my MRO notice?

A: Once your MRO claim has been received at our Pub Support Centre you will be sent an email to confirm receipt. If we do not consider your claim to be valid then you will be sent a letter by email within 7 working days advising of our reasons for rejection. If your claim is valid then you will receive your MRO proposal Full Response within the 28 days allowed by the Code.

Q: How will I receive my MRO proposal?

A: Your MRO proposal Full Response will be sent by email to the email addresses you have provided in your MRO Notice, this will include a copy to your representative, if you have provided details of one.

Approach to MRO Proposal and Negotiations

Q: Will my MRO have to be via a new lease, or can it be a deed of variation?

A: All MRO proposals will be based on a new tenancy. Consideration will be given to any leasehold site restrictions as to whether a Deed of Variation (DOV) should be offered instead of a new tenancy. The option of a DOV will be offered in every instance where the term being offered is based on the remainder of the existing tied tenancy. The publican will have the option to request this up until the end of the negotiation period, the Deed of Variation would be issued as a 'subsequent proposed tenancy' under regulation 35 which would allow 14 days from when it was issued for referral to the PCA.

Q: How long will my MRO tenancy be?

A: The length of term offered will depend on when the MRO option has been exercised. If MRO has been exercised mid-term then the proposal will be based on the remainder of the existing tied tenancy. If exercised at renewal or within the last 12 months of the term (and we aren't opposing renewal on this occasion) then the proposal will be based on what we would be prepared to offer for a tied renewal. This is usually 5 years, based on a possible intention to take back for our own occupation under our growing managed estate. These decisions are made by our Asset Optimisation Panel, who carry out a full asset review to determine what the most appropriate operating model is for the pub. Where the tied tenancy contains a contractual right to renewal this will also be taken into account.

Q: Will the terms in the MRO proposal be the same as those in my tied tenancy?

A: No, your MRO proposal will be substantially different from your existing tied tenancy as it is based on what is common in a commercial FOT tenancy.

We will carry out a review of your account history to assist us in preparing your proposal which may lead us to offer some personal concessions to you. We will also ask you to provide us with your annual accounts which we would also take into consideration when preparing your proposal. This is optional to you and is purely to assist us with assessing your covenant strength to ensure that the proposal made is reasonable.

Q: Who will manage my MRO negotiations? Will it be my Regional Manager?

A: A BDM from the Business Development Team will negotiate your MRO proposal, contact details will have been provided in your MRO proposal Full Response letter.

Your existing RM and PM will continue to maintain the current day to day relationship with you in relation to your current tied tenancy.

Q: How will MRO negotiations be carried out?

A: You will be contacted within a few days of us issuing your MRO proposal Full Response by your BDM to arrange a face to face initial meeting, ideally within 2 weeks, to discuss your MRO proposal.

We would then envisage for a further meeting to be arranged for approximately another two weeks' time for negotiations to continue.

Q: Will I be required to have a business plan?

A: No

Q: Will I be required to change my rent and deposit payment dates? Will my deposit level change?

A: Quarterly in advance rental payments and the equivalent of a quarters rent as a deposit is common in FOT tenancies, however, following our review of your account history we may be willing to offer monthly payment terms and a build-up of any additional deposit due as a personal concession to you.

If you hold your existing tied tenancy in a limited company and are not able to provide two personal guarantors, then you may be requested to pay an increased deposit.

Q: Will my insurance level change?

A: Your buildings insurance charge will remain the same. You will continue to be expected to hold your own business insurance.

Q: Will my repairing liabilities and benefits change under an MRO tenancy

A: Your MRO proposal will be based on a fully repairing tenancy. If your current tenancy is not fully repairing and the latest dilapidations survey shows that Ei Group are responsible for some repairs we will either carry out the work and the MRO tenancy will be fully repairing or the MRO tenancy will be amended so that you do not become liable for that work.

Completion of dilapidations is not a pre-condition for you to enter the MRO tenancy.

Providing statutory compliance certificates is not a pre-condition for you to enter the MRO tenancy but as a minimum requirement we will undertake a test of the smoke and carbon monoxide alarms at completion of the MRO tenancy. Statutory compliance will remain your responsibility under the MRO tenancy.

Any capital expenditure will need to be self-funded.

Q: Will there be any upfront costs if I go MRO

A: Any increase in rent will be required upon completion of the MRO tenancy. Depending on the increase in deposit required we may be able to offer you a monthly build up plan. You may also be liable to pay SDLT to HMRC.

Q: Will I have to pay for any dilapidations if I request MRO

A: If not already recently done we will arrange for a dilapidations survey to be carried out by an external surveyor who will identify the work that needs to be done for you to comply with the terms of your existing tied tenancy. You will not be liable for the cost of this survey.

The works will be categorised as follows:

	Category	Timescale	Examples
1	Urgent- to be completed as soon as possible (although not a pre-condition for you to enter the MRO tenancy)	Now	Stat compliance, health & safety
2	Work- required to prevent further deterioration of fabric of premises or diminution in value of the reversion	Now	Roof repairs; cleaning gutters to prevent water ingress, significant structural issues
3	Work recommended for good husbandry and to minimise future costs	1-12 months	Decoration if in poor condition; removal/control of vegetation
4	Matters of note that TPT should be aware of and allow to pick up as part of general maintenance plan	On-going	Repointing of brickwork; removal of vegetation

Irrespective of whether you choose to enter into the MRO tenancy we will negotiate with you regarding a plan and timescale to put right any significant disrepair.

Q: If I choose an MRO agreement, does any part of the tie remain?

A: No.

Q: I have a long lease at present what term do you have to offer me on renewal or at rent review if I opt for MRO?

A: Without prejudice to our rights to object to renewal or to ask the Court to grant a shorter renewal tenancy for other reasons, the fact that you have converted from a tied tenancy to an MRO tenancy shall not be taken into account, so that the term of the MRO tenancy is to be read as if it commenced at the start of the previous tied tenancy.

Q: Will I still be tied for Gaming Machines?

A: No.

Q: I have received my MRO proposal, but I am concerned about the terms on which it is being offered what can I do?

A: You will be encouraged to enter into meaningful negotiations with your BDM and we would strongly recommend that you take independent and professional advice.

You can also apply to the Pubs Code Adjudicator (PCA) if you disagree with the terms of the draft MRO tenancy. The Pubs Code sets a strict timescale and you must make a referral to the PCA within 14 days of the end of the response period.

Rent

Q: Will my rent change if I go MRO?

A: Yes, you can expect your rent to increase.

Q: How will the MRO rent be assessed?

A: Your rent will be assessed by a RICS qualified Ei Group Licensed Trade Valuer and a breakdown of how the rent has been assessed will be included in your MRO proposal Full Response.

Q: What can I do if I do not agree with the MRO rent provided?

A: You will be encouraged to enter into meaningful negotiations with your BDM and we would strongly recommend that you take independent and professional advice.

You can also apply to have the rent assessed by an IA, the Pubs Code sets a strict timescale and you must notify us up to 7 days after the negotiation period if you want to refer to an IA. We will then look to agree on a suitable IA with you.

Q: What if I don't refer to the PCA or an IA within the Pubs Code set timescales?

A: You can accept your MRO proposal at any time within the 56-negotiation period. If you do not refer to the PCA or an IA within the timescales or accept the MRO offer within the negotiation period, then your claim will time out. This means that the MRO procedure will have come to an end and you will remain on your existing tied tenancy and you will need to agree any outstanding tied rent review.

Q: I have an outstanding rent review. What will happen with that?

A: We would encourage you to continue with the tied negotiations for your rent review during the MRO process, although you are not obliged to do this, however we believe this will provide you with a clear choice between your current tied agreement and the MRO proposal. We will not impose on you any increase in your tied rent in relation to your tied rent review or RPI review during the MRO process.

Upon the MRO process ending, if you enter into the MRO tenancy then neither the tied rent review and/or RPI increase can ever be recovered, this remains frozen and the rent review parked.

If you decide to remain tied then both the tied rent review and/or RPI increase can be backdated to the original rent review/ RPI review date.

Steps following negotiation

Q: What will happen if I ask for the MRO rent to be sent to an IA?

A: You will be expected to make a submission to the IA which should include Schedule 3 information defined in the Pubs Code. Again, we would strongly recommend that you take independent and professional advice

Once the rent has been referred to an IA they will determine the rent based on the terms agreed in the MRO tenancy, therefore no further changes can be made.

Q: What if I don't agree with the rent set by the IA?

A: If you do not agree with the rent set by the IA you have the right to make an appeal to the PCA, the Pubs Code sets a strict timescale and you must make a referral to the PCA within 14 days of the rent award. Ei Group can also do the same.

Q: Do I have to take an MRO option if I request it?

A: No, you can choose to remain on your existing tied tenancy.

Q: What happens if I want to accept the MRO option?

A: Once the MRO tenancy and rent has been agreed you will need to confirm to us in writing that you want to accept the MRO proposal and we will proceed to instruct our solicitors to complete on the MRO tenancy as soon as possible. Both your rent and trade accounts would have to be brought up to date and any debt cleared before completion can take place along with agreed payment of your completion funds.

Q: What happens if I do not want to accept the MRO option?

A: You do not have to accept the MRO proposal and can choose to withdraw your claim at any time and remain on your existing tied tenancy.

Q: What can I do if I disagree with any of these points?

A: You need to ensure that any concerns or disagreements you have are raised with your BDM and form part of your meaningful negotiations. You have the right to refer these matters to the PCA if we are unable to reach an agreement.

CCO and BDM roles

Q: How can the CCO help? / When and how to contact the CCO?

A: The CCO is responsible for verifying the group's compliance with the Pubs Code regulations. If you have a question in relation to the regulations these can be directed to the CCO who is contactable at pubscode@eigroupplc.com. Any negotiations in relation to your MRO proposal or tied rent review should be directed to your BDM.

Q: When I request an MRO option will my relationship with my BDM change?

A: No, your existing RM and PM will continue to maintain the current day to day, 'business as usual' relationship with you.

You will suffer no detriment as result of exercising or attempting to exercise your rights under the Pubs Code regulations.

Advisors

Q: Should I appoint an advisor to guide me through the MRO process?

A: The MRO process can be complex, we would strongly recommend that you take independent and professional advice throughout.

We strongly advise that any advisor that you appoint carries professional indemnity insurance and is part of a professional body i.e. Law Society or RICS and is therefore covered by professional standards and minimum performance standards

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