IPPR

TIED DOWN

THE BEER TIE AND ITS
IMPACT ON BRITAIN'S PUBS

REPORT

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EXECUTIVE SUMMARY

The future of the British pub is now high on the political agenda. Pubs are closing at a rate of 25 a week – thousands have been lost over the last few years. There are a number of factors behind the rising rate of pub closures, including greater competition from the supermarkets and the recent recession. However, there is a growing body of evidence showing that the 'beer tie' as operated by the large pub companies plays a significant part in explaining the decline of the pub trade.

Following two select committee reports and CAMRA's super-complaint to the Office of Fair Trading in 2009, the government requested the industry to reform itself by June 2011. It has since said it will use the law if necessary to restore the relationship between pub companies and their tied lessees. In summer 2011, the Business Innovation and Skills select committee began an in-depth review to determine if industry reforms have adequately resolved the issues outlined in the 2009 select committee report.

This report seeks to make a substantive contribution to this debate by filling in some important gaps in the available evidence on the current state of the industry. Through a large national survey and in-depth interviews with publicans in both the tied and non-tied sectors, it establishes that there are different pressures affecting the two industry models. Tied publicans are unlikely to share the same levels of profitability and business longevity as those who are non-tied, and are more likely to see themselves as financially struggling. The vast majority of tied publicans consider the beer tie to be a contributing factor to their financial hardship. Additionally, a majority of these tied publicans also claim high rent costs are complicating their financial situation, evidence which counters the argument that the advantages of the beer tie offset its drawbacks. Moreover, few tied publicans find that their pubco's new code of practice has made any difference at the front end of their business.

Our leading data shows that:

- 68 per cent of tied publicans have managed their pub for more than three years, compared to 80 per cent of those who are non-tied, while only 63 per cent of tied publicans see themselves running their pub in three years' time, compared to 78 per cent of non-tied, indicating a higher publican churn rate in the tied sector
- 57 per cent of tied publicans say they are struggling financially, compared to 43 per cent of those who are non-tied
- 46 per cent of tied publicans earn less than £15,000 per year, in contrast to only 22 per cent of non-tied publicans
- 88 per cent of tied publicans who claim to be financially struggling identify the beer tie as one of the most significant factors in their financial problems
- One-third of tied publicans have not seen their pubco's revised code of practice, and only 17 per cent of those who have believe it will benefit them.

In light of this evidence, we believe that the government should take an active role in addressing the discrepancies between the tied and non-tied sectors within the industry and help eliminate the imbalance of power in the negotiating relationship between the large pubcos and their lessees. To this end, government should consider the following options:

- To implement the recommendation from the Law Commission that unfair contract terms regulations should be amended to improve protection for the smallest and most vulnerable businesses (employing nine staff or fewer).

- To require pubcos that have more than 500 tied pubs and which offer commercial full repair and insurance (FRI) leases to, over a period of time, provide flexibility to lessees, including a guest beer option and an option to become free of tie, accompanied by an open market rent review.
- To support efforts to make information on business costs and turnover more transparent.
- To support moves towards greater market transparency by requiring pubcos to cooperate with the creation of a pub rents database and to publish their wholesale price lists and details of discounts paid to lessees.
- To support the creation of a single stronger and more comprehensive code of practice, to be supported by an independently constituted adjudicator with the ability to provide redress to lessees where the code is breached.

1. INTRODUCTION

The local public house is an integral part of Britain's culture and way of life. Outside the home, the pub is the most popular place for British people of all ages and classes to relax and socialise. Alongside the monarchy, the football match and the fish-and-chip shop, the pub is an iconic British institution.

And yet pubs are under considerable pressure, with the latest figures showing that pubs are closing at a rate of 25 a week (BBPA 2011). The evidence of this is clear to see in the large number of boarded-up pubs along almost any British high street.

There are a number of factors that underpin the economic problems besetting the pub industry, all of which were explored in IPPR's previous report *Pubs and Places: The social value of community pubs* (Muir 2008). These include:

- the economic recession, which has squeezed disposable incomes
- the rise of cut-price alcohol on sale in supermarkets
- the smoking ban, which has affected certain types of pubs
- changing consumer tastes, particularly the shift in preference from beer to wine.

Our previous research found that one of the key factors lying behind the industry's economic problems was the predominant business model adopted by the large pub companies. The 'tied lease' model means that a publican who leases their pub from a pub company, or 'pubco', generally has to buy all of their beer from that company, rather than directly from the brewery. The pubcos do not pass on to the publican the large discounts available on this beer and so tied lessees have to pay more for their beer than non-tied publicans. The 'pubcos' claim that these higher prices are justified because lessees pay lower rents and benefit from business support services. Their opponents argue equally as vigorously that the pubco tie is forcing otherwise profitable pubs out of business.

This report makes a new and important contribution to this debate. Its findings are based on a national survey of tied and non-tied publicans undertaken by CGA Strategy in April/May 2011. The survey provides robust quantitative evidence on the pub trade and demonstrates real variations in performance between tied and non-tied pubs. The questionnaire was designed by IPPR and CGA Strategy and sent to 558 publicans throughout the UK.
The sample was drawn specifically to capture a balanced reflection of the pub industry, accounting for geographical spread as well as business model types. Independent/non-tied publicans were also over–sampled, so that inferences could be made between tied and non-tied publicans as independent groups.[1] In addition IPPR carried out in-depth interviews with 10 randomly chosen tied publicans to build on the information found in the survey.

The report finds that:

- Tied publicans are much more likely to say they are struggling financially – 57 per cent, compared to 43 per cent of non-tied publicans.
- Tied publicans earn significantly less than non-tied operators – 46 per cent earn less than £15,000 per year, more than twice the proportion of non-tied publicans.
- Tied publicans who are struggling financially see the beer tie as one of the most significant factors in their financial problems – 88 per cent identify it as a contributing factor.
- Many tied publicans have yet to see their pubco's revised code of practice; among those who have, only 17 per cent believe it will benefit them.
- The level of overall business churn is higher in the tied than in the non-tied sector.

1 The full data set is available on the IPPR website: http://www.ippr.org/publications/55/7878/tied-down-the-beer-tie-and-its-impact-on-britains-pubs

2. THE PUBCO BEER TIE

Before moving on to examine the results of our survey and qualitative investigation, we first set out the context for the debate by describing how the pubco business model emerged in Britain and outlining the main issues under dispute within the industry.

The rise of the pubcos

Pubs operate under many different forms of ownership and management, ranging from independent free houses to pubs owned by large pubcos. The whole way in which pubs are owned and operated has changed significantly in the last 20 years and it is worth recalling how that change came about.

Over the course of the previous century, the number of breweries in Britain fell from 6,290 to just 115 by 1989 (Haydon 1994). By the end of the 1980s, over 75 per cent of Britain's beer was produced by just six large brewers: Allied, Bass Charrington, Courage and Scottish, Newcastle, Watney Mann, and Whitbread. These national brewers also owned half of the country's pubs, meaning that most pubs were 'tied' to a big brewer and could only sell that brewer's beer (Jennings 2007).

In 1989, the Monopolies and Mergers Commission (MMC) concluded that this vertical integration of the industry, with the big brewers controlling most of the pubs, constituted a monopoly, reducing consumer choice and working against the public interest. It proposed that the brewers' monopoly over the pub estate should be broken up to encourage competition and reduce retail prices.

Margaret Thatcher backed the MMC's recommendations and passed the 1989 Beer Orders. These meant that brewers owning any more than 2,000 pubs either had to sell their brewery business or dispose or free from tie half the number of pubs owned over the 2,000-pub threshold (Jennings 2007, Kingsnorth 2008).

This was a revolutionary act that transformed the structure of the pub trade, but it did not have the consequences anticipated by the government. Instead of leading to a world of independent lessees free of beer ties, the brewers merely divested their pub estate to stand-alone pub companies, which were free to own as many pubs as they wanted because they did not brew any beer. The pubs formerly owned by the large brewers were almost entirely put into the hands of these new pubcos (see table 2.1).

Table 2.1
Ownership of UK pubs by type of operator (1989, 2004, 2009)

Ownership type	1989	2004	2009
National brewers			
Tenants/leased	22,000	0	0
Managed	10,000	0	0
Subtotal	32,000	0	0
Regional brewers			
Tenants/leased	9,000	5,972	6,500
Managed	3,000	2,617	2,400
Subtotal	12,000	8,589	8,900
Pub companies			
Tenants/leased	NEG.	23,857	22,300
Managed	NEG.	10,268	6,100
Free houses	16,000	16,850	18,230
Subtotal	16,000	50,975	46,630
Total	**60,000**	**59,564**	**55,530**

Source: TISC 2004: 8; BBPA 2010

By 2009, pubcos owned 51 per cent of the pubs in the UK – the four largest pubcos owned 33 per cent, with Enterprise Inns and Punch Taverns owning 27 per cent between them. Of the remaining pub stock, 16 per cent were owned by small or regional brewers and 33 per cent were free houses.

In most cases, the pubcos let out their pubs to lessees who run their own business on long-term leases, although around 6,000 are managed directly by the pubco. In addition to paying rent, pubco tenants normally have to purchase almost all of their drinks stock from the pubco. This relationship has become increasingly fraught as economic conditions have worsened and pubco beer prices have increased. It has become apparent to many lessees that, if they were able to do so, they could buy their beer more cheaply on the free market. In fact, in response to a super-complaint made by CAMRA, the Office of Fair Trading concluded that the price charged by pubcos to tied lessees for draught beer is 40–45 per cent higher than the price paid for beer by free houses in the open market. CAMRA had argued that this price differential is actually in the range of 50–70 per cent (OFT 2010).

It is worth emphasising that the bulk of these pubco pubs are community pubs, serving local residential areas, although some will also be town and city-centre circuit bars or branded chain pubs.

Table 2.2
Outlets by pubco (2009, 2011)

Number of outlets	2009	2011
Enterprise Inns	7,581	6,800
Punch Taverns	7,287	6,320
Admiral Taverns	2,386	1,650
Marston's	1,932	1,700
Greene King	1,428	1,300
Scottish & Newcastle Pub Enterprises	1,205	2,000
Wellington	1,028	850*

Source: CGA, BEC 2009, *Wellington Pub Company
Note: Figures include both short-term tenancies and long-term leases.

Key issues

One of the most fiercely contested issues in the pub trade is the impact of the tied lease model on the viability of pub businesses. Very many lessees argue that, through excessively high rents and beer prices, these companies are putting otherwise successful pubs out of business (Muir 2008). As pubs have struggled in recent years, this issue has risen to the top of the industry agenda and has been the subject of three parliamentary select committee inquiries (2004, 2009 and 2011).

The main allegation made against the pubcos is that they are charging their lessees too much for their beer and that this is putting tied pubs at a competitive disadvantage.

Pubco lessees usually have to buy all their beer and most of their other drinks (in some cases all their drink) from their pubco's price list – this relationship is known as the 'beer tie' or 'wet rent'.[2] Pubco lessees argue that they are being charged much more for their beer than if they bought it on the free market and that the pubcos have been increasing their prices at a rate well above inflation in recent years (ibid).

2 Of course, the beer tie used to exist under the old integrated model that was restricted for the national brewers by the beer orders, which w^t ere revoked in the early 2000s.

Prices quoted by the pubcos do not actually differ from wholesale prices. Rather, the difference comes about because pubcos negotiate discounts from the breweries, the bulk of which are then not passed on by the pubcos to their tenants. In 2009, the Association of Licensed Multiple Retailers (ALMR) stated that tied pub lessees can pay £60–£110 more per barrel[3] than independent publicans (BEC 2009). The pub companies do not deny that their lessees are generally paying more for their beer than a non-tied operator, but they argue that this is compensated for in cheaper rent (along with other benefits such as business support).

On the crucial question of rent, pubcos calculate this amount on the basis of a projection of the fair maintainable level of trade (FMT) a competent hypothetical non-tied tenant would be expected to achieve, in 'wet' sales, food sales, room rentals and takings from 'amusement with prizes' (AWP) machines. This projection has been subject to a lack of clarity. The pubco subtracts estimated costs from the FMT and the rent valuation is based on a percentage of the remaining profit, known as the 'divisible balance'. Typically, 50 per cent of the divisible balance goes to the pub company in rent.

Contrary to what pubcos have argued, the business and enterprise select committee (BEC) concluded that, under this model, a non-tied operator would still make a higher profit than a comparable tied operator because of the level of discounts offered to non-tied operators when they purchase their beer (BEC 2009). It added that it had been shown very little evidence that non-tied rents were lower than rents on tied houses. The findings from the BEC report are summarised in the boxed text below.

Summary of the conclusions of the BEC report, 2009

Pub closures

Although the pub companies argue that the majority of pubs that have recently been closed are free houses, the committee found that this is not a sound indication of the relative success of tied and non-tied pubs. It does not cover cases where individual tied lessees go out of business without the pub itself actually closing.

Rental calculations

Forty-four per cent of lessees had not been shown a breakdown of how their rent was calculated. The committee concluded that, without transparency, rental calculations are open to manipulation, in particular by pubcos underestimating the costs to a lessee of running their pub. Prospective lessees have too little information about their pub's trading history and comparable local rents. There are concerns that pubcos are profiting from improvements in trade brought about by investments in the business made by the lessee.

The beer tie

The committee found that the effect of the beer tie on basic rent is that both pubco and lessee take a lower income than if the tie did not exist. However, while the decrease in the lessee's income is absolute, the pubco still profits from that part of the discount it has not passed on to the lessee. The reduction in rent is accompanied by a reduction in the lessee's profit but an increase in the pubco's overall revenue. The Committee concluded: 'If the interests of the pubcos operating a tied system and their lessees were truly aligned, one would expect that pubcos

3 One barrel equates to 288 pints.

BOXED TEXT CONTINUED

would want a system in which the combination of rental costs and beer costs enabled their lessees to supply beer at a price which was competitive with other pubs. This does not seem to be the case.'

Amusement with prizes (games machines) tie
The committee concluded that 'pubcos do not add sufficient extra value from their deals to justify their claims to 50 per cent of the takings from AWP machines'.

Benefits of the pubco tied model
Pubcos may offer a lower-cost route into the industry and the opportunity for a lessee to create or maintain an asset in the assignment value of the lease. However, the committee argued that there is uncertainty over the value of the asset the lessee is purchasing and while freeholders face higher entry costs they obtain a tangible asset and have greater commercial freedom. Moreover, the attraction of low-cost entry should not be overstated: a very significant majority of those who responded to the BEC survey said they were attracted by a particular pub, not a particular business model. The committee also found that still too many pubco business development managers offered lessees little or no support. In 2004, the trade and industry select committee (TISC) found that, on the evidence presented to them, the immediately quantifiable cost of the tie was usually balanced by the benefits available to tenants. But in 2009, MPs were not so convinced, citing evidence that 63 per cent of lessees did not think their pubco added any value.

The future of the tie
The committee recommended that every lessee should be offered the choice of being free or being tied. This would enable both sides to prove their competing claims. It argued that each and every existing lessee should, in a phased programme, be offered this choice and that the same choice should be offered to every new lessee as they take on a lease. To make the choice fair, the process of agreeing revised rents must first be improved.

Dispute resolution
Some form of low-cost independent procedure for dealing with disputes over the rate of rent was needed.

Competition issues
The government should ban the use of restrictive covenants to prevent the continued use of premises as a pub. The committee also recommended that the secretary of state use powers set out in section 159 of the Enterprise Act 2002 to refer supply ties in the public house industry to the Competition Commission for a market investigation.

Since the publication of the BEC report in May 2009, there have been a number of further developments.

In July 2009, CAMRA made a 'super-complaint' about the tied lease model operated by the pubcos to the Office of Fair Trading (OFT). In October, OFT decided not to act on competition grounds, concluding that there was insufficient evidence that the model was damaging the competitiveness of the market or the choice available to the consumer. The OFT chose not to address any examination of the contractual issues between lessees and pubcos which have been the primary focus of the various select committee inquiries. The OFT stated that in its view 'the contractual relationship between pub companies and lessees are matters for pub companies to address with individual lessees, or are issues for industry and other relevant bodies and/or Government to consider' (OFT 2010).

- The previous Labour government told the industry that it needed to address the issues raised in the BEC report or it would act. This approach was supported by the new Coalition government.
- In 2010, the British Beer and Pub Association (BBPA) set out a new framework for pubco codes of practice to deal with many of the issues raised in the BEC report. This means that:
  - lessees should now be given more information on prices, discounts and rental calculations,
  - upward-only rent reviews should not be included in future leases
  - the AWP tie should be removed from the calculation of the 'divisible balance', and
  - there should be requirements for lessees to take professional advice before signing a lease.
- Earlier in 2011, the successor business, innovation and skills select committee opened a new inquiry to examine progress made since the 2009 BEC report. This inquiry will report in the autumn of 2011.

As parliament conducts its third review into this matter, this report seeks to shed light on some of the disputed issues. It contributes two important things to the debate in particular:

- for the first time, we polled both tied and non-tied publicans so that we can compare differences between them
- we asked lessees how much has changed since the 2009 BEC inquiry and the introduction of the revised codes of practice.

3. BUSINESS LONGEVITY

One issue raised in the debate on the beer tie has been around the relative business success of tied versus non-tied pubs. Although the BBPA has published figures, presented in the BEC report, showing that the level of pub closures is higher among free houses, this evidence was discounted by MPs. This is because the figures do not include cases where the pub business fails but the pub itself does not close – in the pub company sector, the pubco will usually just find a new lessee to take on the business. Thus the BBPA figures fail to account for the success rate of individual publicans in the tied trade.

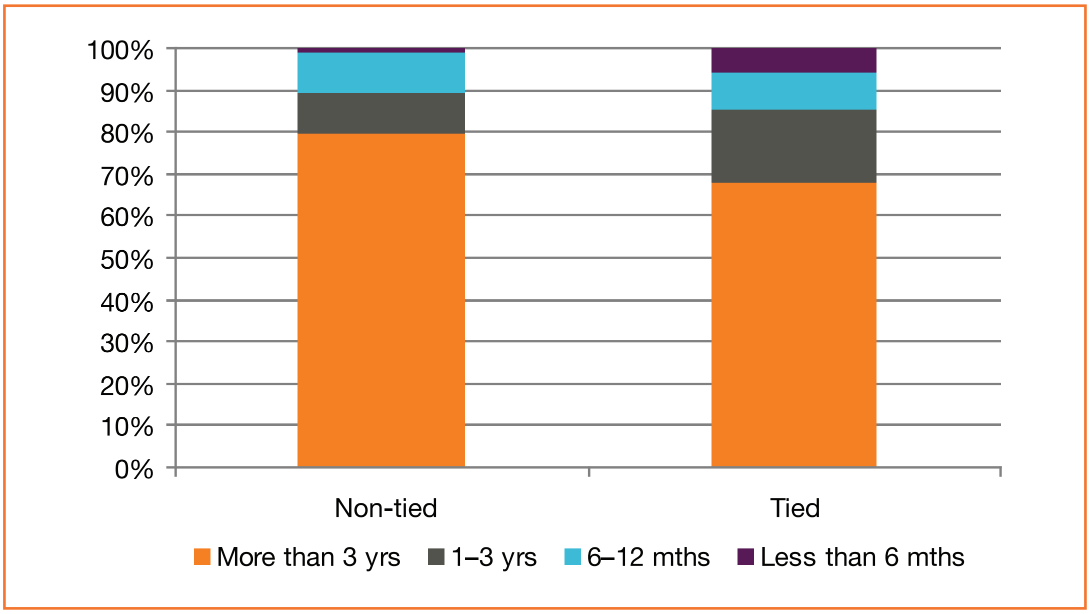
The all-parliamentary Save the Pub group has published evidence contrary to the BBPA figures that they claim demonstrates that tied pubs are more likely to close than free houses. The group's evidence shows that between December 2008 and December 2010 the number of free house pubs actually rose by 575, while the number tied pubs fell by 3,028 (Charity 2011).

It is for this reason that we have tried to establish whether there is a difference in longevity between the tied and non-tied sectors.

We asked publicans how long they had been running their businesses (figure 3.1).

There is a noticeable difference in management tenure length between non-tied and tied pubs. Roughly 80 per cent of non-tied publicans have had their pub for three years or longer, compared to 68 per cent of tied publicans. So one in three tied publicans have been running their current pub for a relatively short period of time, in contrast to just one in five non-tied publicans.

Figure 3.1
How long have you been running your current pub?



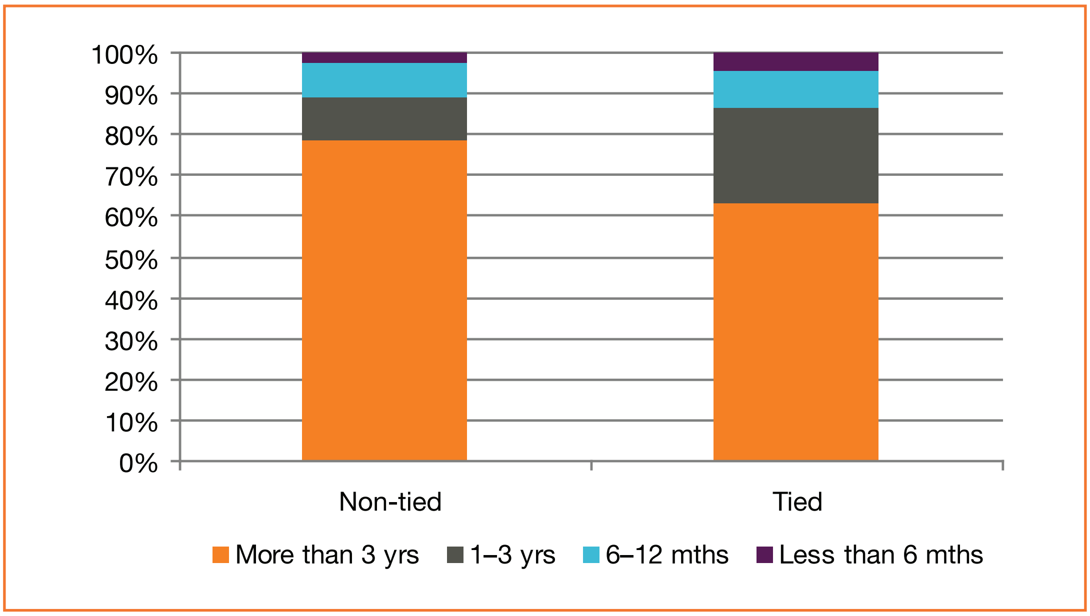
Non-tied: n=133; tied: n=424

Tied publicans also have more limited expectations than non-tied operators. Figure 3.2 (over) shows that nearly 37 per cent of all tied publicans believe that within three years they will no longer be managing their current pub, compared to 22 per cent of non-tied publicans.

In our interviews, one lessee said:

> **'The pubco's have too many pubs to look after, and so they don't have time to lend support or give you advice. All they care about is getting the rents and selling you the beer, which is fair enough – that's their business model. If you don't pay the rent at their price then they just find someone else who will.'**
> South London

Figure 3.2
How long do you plan to continue managing this pub?

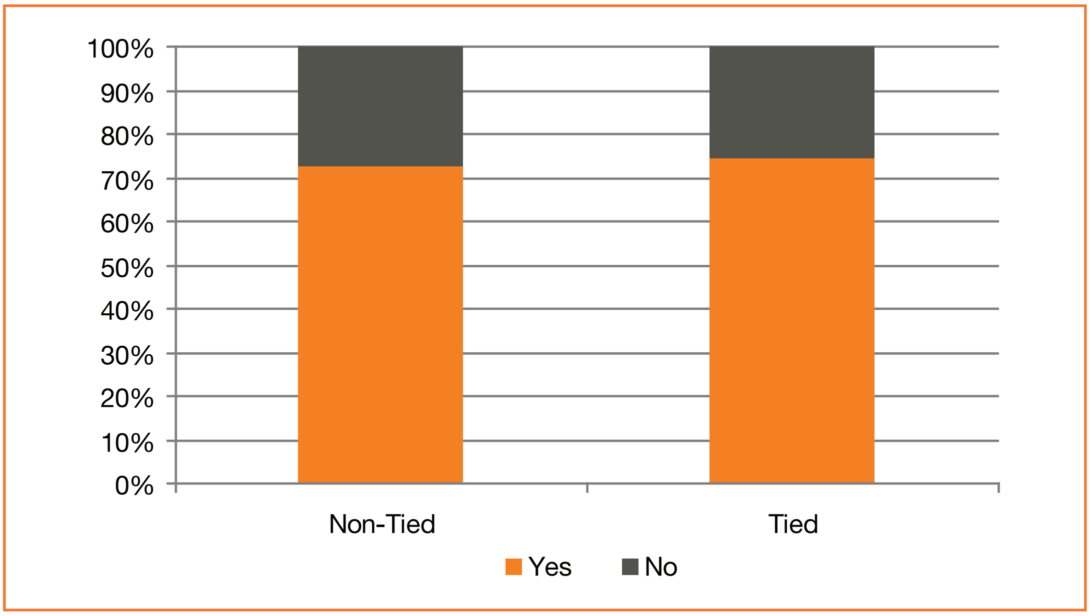


Non-tied: n=130; tied: n=424

We should be cautious about interpreting these figures to mean that the non-tied sector is doing better economically. Independent publicans invest more of their own personal finances when starting up a pub, and so are more likely to view their pub as a long-term investment. Pubcos appear to offer a more flexible opportunity for individuals wanting to undertake managing a pub, because start-up requires less personal investment by the leaseholder. The higher level of churn in the tied sector may simply reflect the fact that lessees have a smaller stake in that particular business and are more likely to move on.

Some have argued that the non-tied sector is less successful because it attracts inexperienced lessees. However, we find that management experience between the two models is broadly similar. Figure 3.3 (over) shows that 74 per cent of tied publicans have previous pub management experience, against 73 per cent of non-tied publicans. However, experience makes little difference to the variation in expectations between the two sectors: while 79 per cent of non-tied publicans with prior management experience see themselves still running their pub in three years, only 63 per cent of tied publicans with prior experience hold this view.

Figure 3.3
Have you any previous experience of the pub industry?



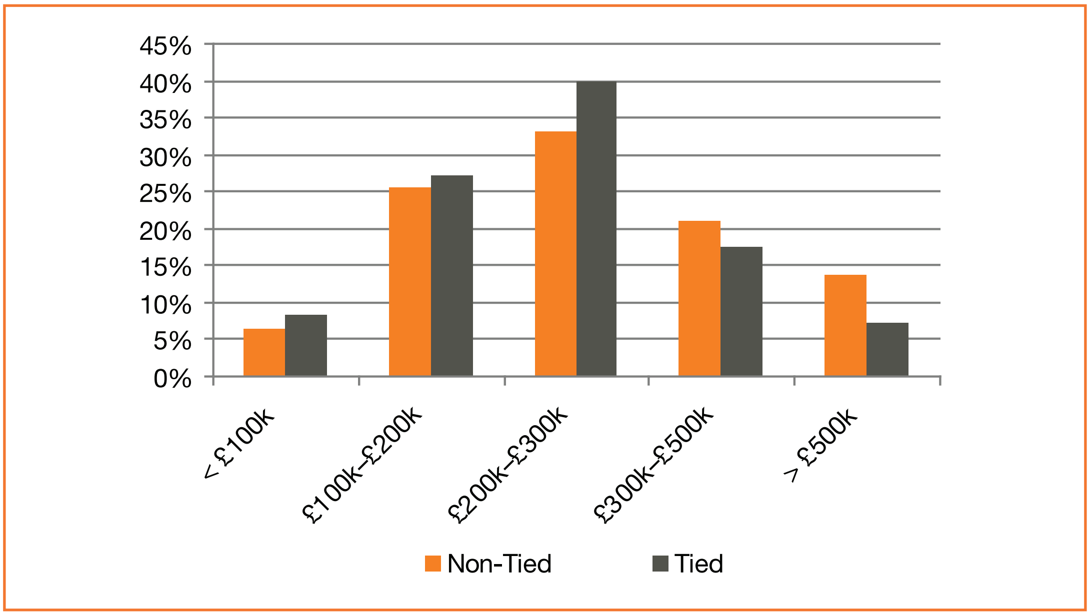
Non-tied: n=132; tied: n=422

4. FINANCIAL DISPARITIES

While this churn data cannot on its own confirm a difference in financial sustainability between the two sectors, the survey has produced more-objective data on personal finances which can.

The annual turnover rates presented in figure 4.1 show that there appears to be a comparable normal distribution for both tied and non-tied pubs, with most pubs producing an average turnover of between £200,000 and £300,000. However, a slight skew in the distribution does exist among higher turnover rates: nearly 35 per cent of non-tied pubs produce more than £300,000 in revenue, compared to 25 per cent of tied pubs. Furthermore, the proportion of pubs with a turnover of less than £300,000 is higher for tied pubs than non-tied. Non-tied pubs on the whole are more likely to generate higher turnover than tied pubs.

Figure 4.1
What is your approximate annual turnover?



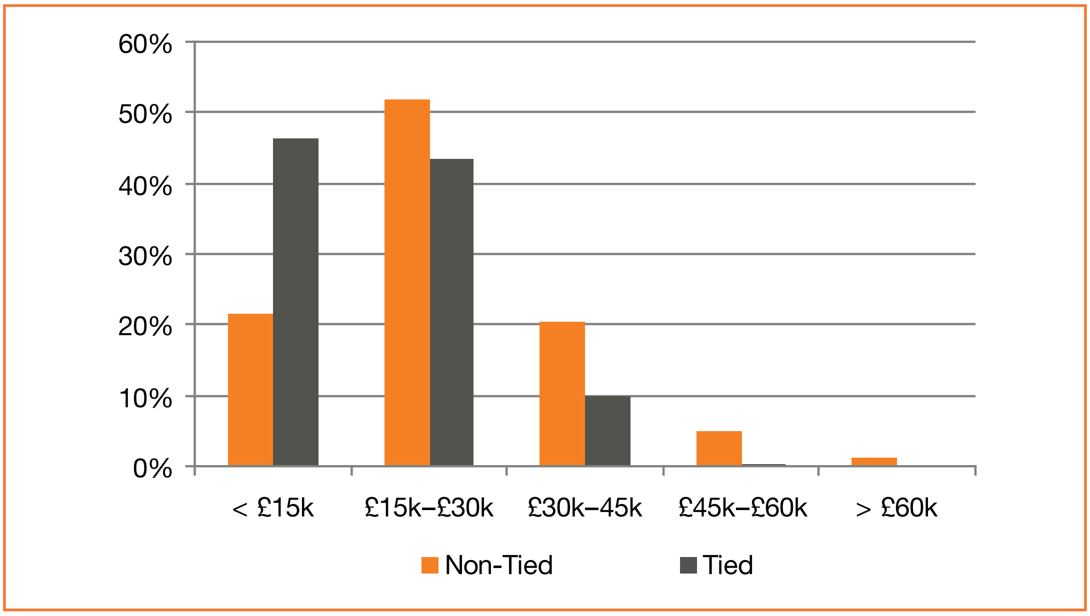
Non-tied: n=109; tied: n=349

More important for our purposes are the findings on personal income. Figure 4.2 (over) indicates that there is a clear disparity in personal income between tied and non-tied publicans. Nearly 90 per cent of tied pubs generate an annual profit of £30,000 or less, compared to 74 per cent of non-tied pubs. Even more striking, almost half of tied pubs – 46 per cent – earn less than £15,000, more than twice the proportion among non-tied pubs.

The recent economic slowdown has taken a toll on a significant number of publicans, tied and non-tied alike. However, non-tied pubs appear to more likely be in a better financial position than tied pubs.

We asked our sample whether they were financially struggling (see figure 4.3). Forty-three per cent of non-tied publicans indicated that they felt they were financially struggling in the current economic climate – but this number becomes considerably higher for those working under the tied model, among whom nearly 57 per cent said they had financial difficulties.

Figure 4.2
What is your approximate personal Income per annum?



Non-tied: n=83; tied: n=323

To explore the issue further, the survey allowed respondents to indicate the reasons they believed were contributing to their financial woes.[4] Figure 4.4 shows that the recession was the most common reason, provided by 93 per cent of non-tied and 90 per cent of tied publicans. Other issues outside of the pub industry's control were also mentioned, including cheap supermarket prices, government taxation and legislation and the smoking ban. Competition from large managed chains was also noted by one interviewee:

> **'Wetherspoons is like the Tesco of the pub trade, and landlords can't compete with them.'**
> South London

However, 88 per cent of tied publicans claimed that the beer-tie was a contributing factor to their financial problems, suggesting it is the second most important factor in the tied sector, only two percentage points below the economic recession.

Some tied lessees explained this further in our follow-up interviews.

> **'We basically don't make any money on the beer … Absolutely we could get the beer a lot cheaper. We are tied on soft drinks as well, which again are more expensive than I could buy them for. On our tied products I could save a minimum of 300 pounds per week in stock.'**
> Hammersmith, West London

> **'The main reason we're struggling is that nobody has any money to spend … There are far fewer people in here … but the beer tie isn't helping either. I have so much competition around me and can't compete on price.'**
> Hammersmith, West London

4 These responses were not prompted when conducting the survey.

'Anyone could go out and buy the same stuff we do for at least half the price.'
Hertfordshire

However, there are variations in the tied model that may be more business-friendly. One leaseholder of a brewery-owned pub explained that although he felt his tie wasn't a problem, he could see the negatives for those who were tied to pubcos.

'We have a full tie and I don't have too much of a problem with it. We should be allowed to have some guest ales and then it would be fine … The pub companies are a different story. I wouldn't be happy if I was tied to one of the [pubcos] … they don't care about your business, they just rip people off.'
Brewery-tied tenant, Burnley, Lancashire

Another publican, whose pub was formerly owned by Whitbread then sold to one of the larger pubcos, explained how his tie applies only to draught beers, which is fairer than a full tie.

'I think "landed on my feet" is the expression – this sort of tie doesn't exist anywhere else … It's based on the old Whitbread tie. Ultimately, it's a very good tie that you just can't get anymore. It's a rolling lease for 20 years, which means it won't change either ... I did a lot of research before I took on this lease, and if I was tied on everything, like so many pubs are, then I wouldn't have done it. I can't see how those businesses survive. It's a complete rip-off, but like I said, I've been very lucky.'
Cambridge, Cambridgeshire

Additionally, 75 per cent of struggling tied publicans mentioned the cost of rent as a financial obstacle. Even if we break these numbers down to include all tied pubs – not just the ones that are financially struggling – these figures are extremely worrying. Half of all tied pubs claimed the beer tie was financially hurtful and 43 per cent of all tied pubs claimed the cost of rent was hurting them. Combining the two factors, 39 per cent of all tied publicans stated that both the tie and the cost of rent were contributing factors to their financial difficulties.

Clearly, large numbers of tied lessees do not feel that the higher price they pay for their beer is compensated for by lower rent. This was reiterated in our interviews:

'I don't think the rent's cheaper through the pub company but it probably isn't higher either.'
Notting Hill, West London

'It's rubbish that they offer lower rents. They keep rents high and increase them every year. Just because they know there beer prices are high doesn't mean they're going to let people have cheap rent.'
Bayswater, West London

'I think the rents are too high. If I had the freehold then I know I would be making more money.'
Hammersmith, West London

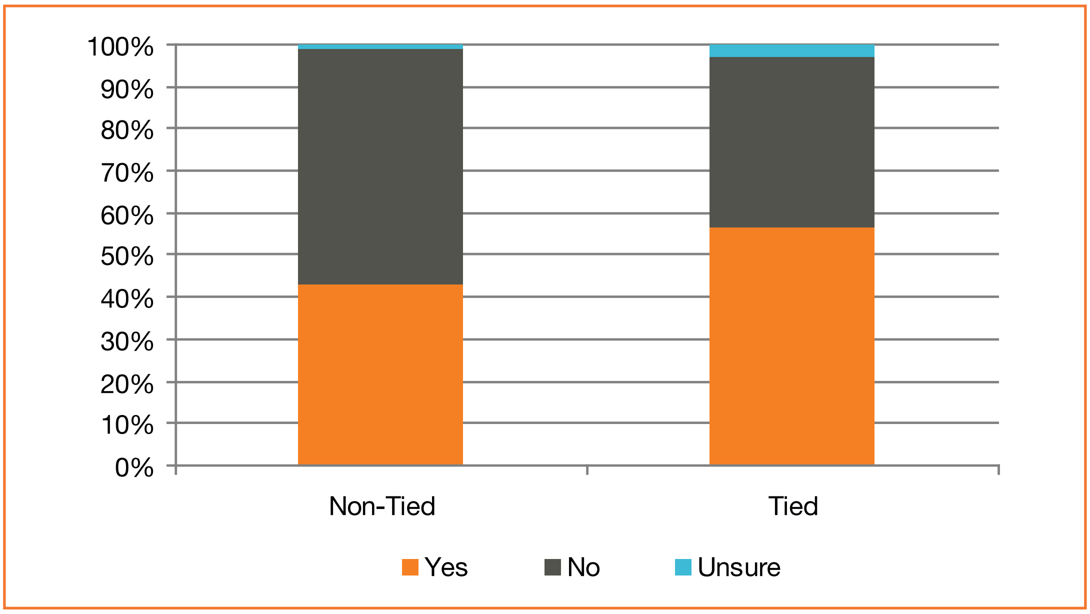
> ‘The rents are also really expensive … I know the rent would be much cheaper if it was an independent.’
> Hammersmith, West London

> ‘The rent is far too expensive … In the first year we got a reduction of £16,000, which was still too high. Also, although we were entitled to that reduction, an independent company took 50 per cent of that, so in effect it cost us £8,000. The rent just went up by five per cent and it was too expensive before.’
> Atherstone, Warwickshire

Rent also seems to be a sticking point where the tie is negotiable. Where the tie can be adjusted, this will possibly result in the dry rent being increased.

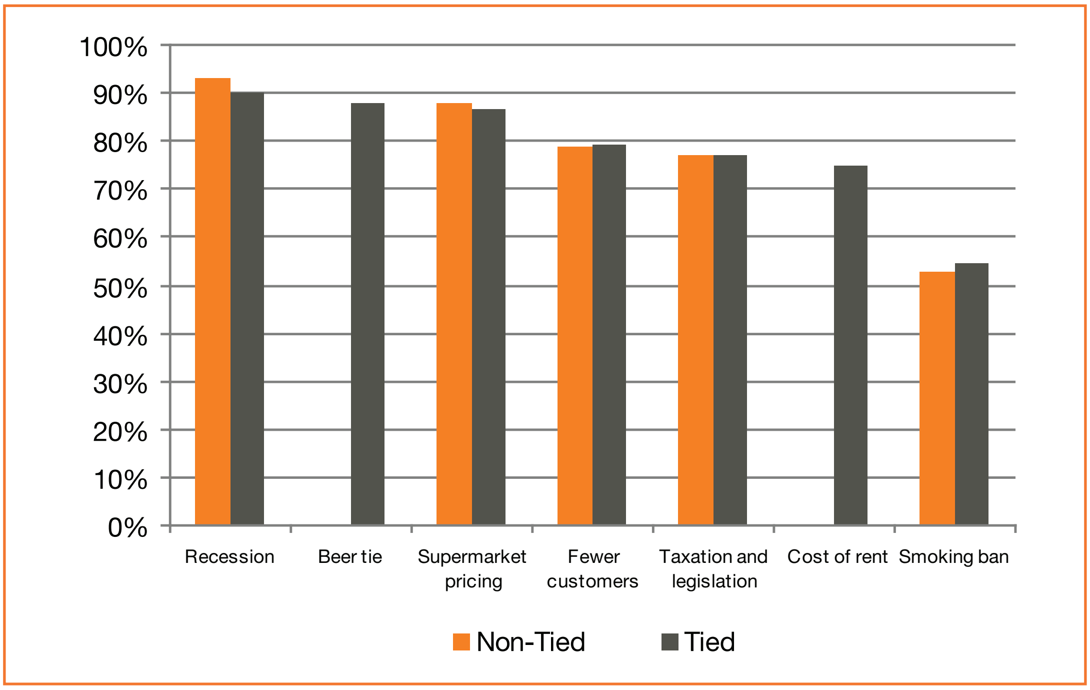
> ‘We are a full tie, which means we’re tied on pretty much all of our products. We were offered a partial tie, but then they charge you more for rent to make up the difference, and you end up being worse off.’
> Hertfordshire

Figure 4.3
Are you struggling financially?



Non-tied: n=132; tied: n=422

Figure 4.4
If yes, for what reasons?



Non-tied: n=57; tied: n=239
Note: 'Beer-tie' or 'cost of rent' was accepted from pubco-tied respondents only.

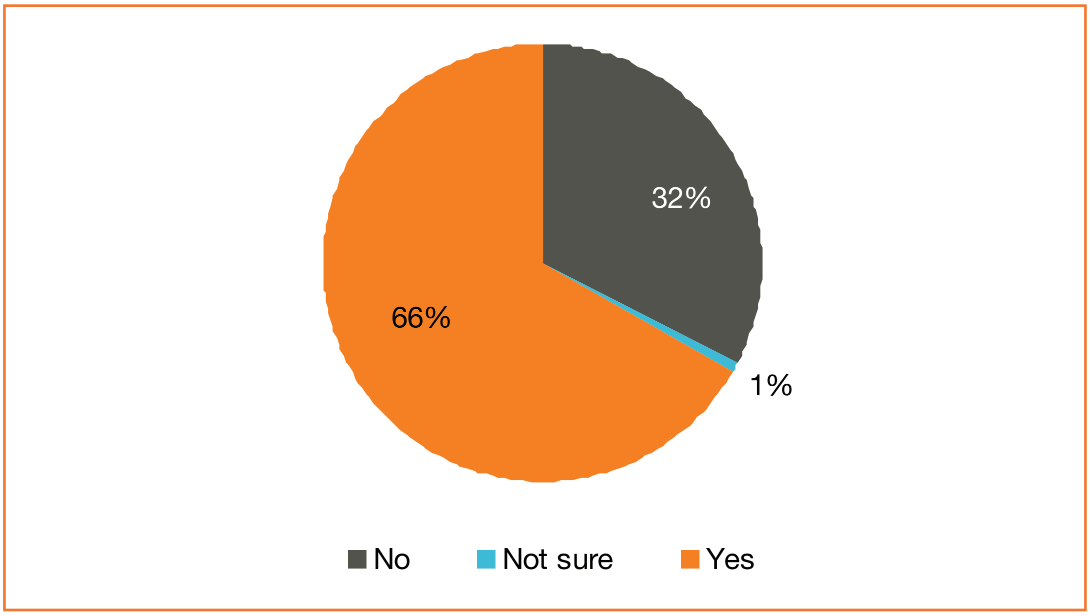
5. ATTITUDES TOWARDS PUBCOS

Following the two previous select committee reports and CAMRA's super-complaint to the OFT, the pub companies were given until June 2011 to resolve the disputed issues, requiring them to modify their codes of practice. Our survey investigated tied lessees' opinions on their respective pubco's new code.

According to the data shown in figure 5.1, dissemination of the new codes of practice appears to be a problem. While the majority of tenants have received their new code of practice, nearly one-third claimed that that they were not familiar with the new code, an analysis supported by our interviews.

> **'I have never heard of the code of practice.'**
> Hammersmith, West London

Figure 5.1
Have you received information on and have read your pub company's code of practice?



Tied only: n=424

When asked about how the new code will affect their business, opinions are not positive. Figure 5.2 (over) shows that only 17 per cent of tied lessees believe they will benefit from the new code, while a further 12 per cent believe it will do further harm. The vast majority of tied publicans – 71 per cent – see the new code as having no effect at all. Altogether, nearly 83 per cent of all pubco lessees see the new codes of practice as not addressing their concerns.

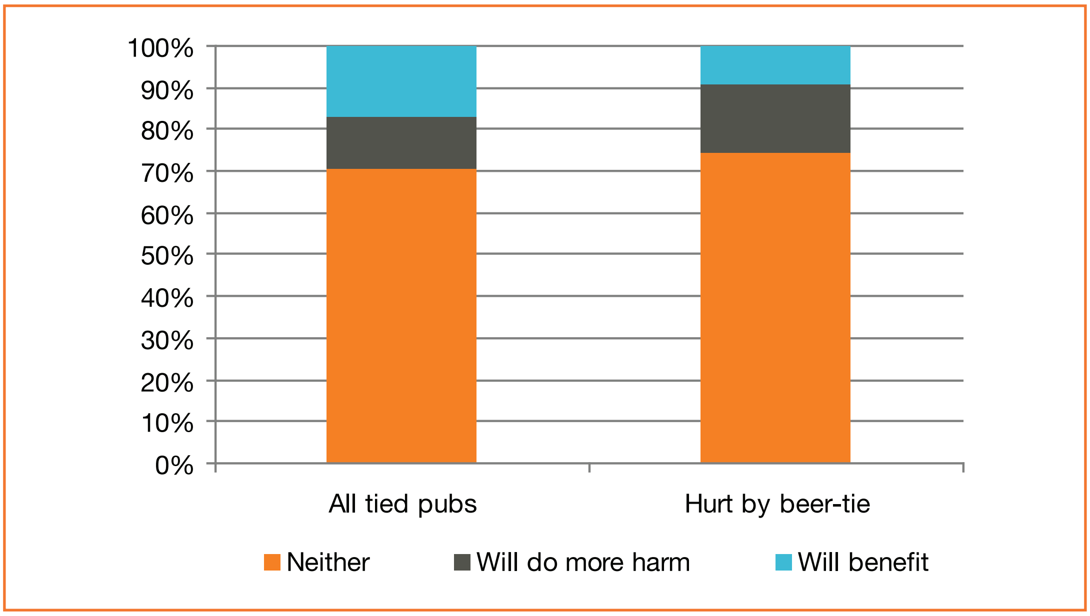
> **'Yes I'm aware of it and no it hasn't made any difference whatsoever.'**
> Hammersmith, West London

> **'We have had a new code of practice and they talked us through it, but it hasn't made any difference … It's a monopoly, and there wont be any change until that changes.'**
> Atherstone, Warwickshire

> **'They showed me the new code of practice and I have a brochure here about it, but it hasn't changed anything. I'm still tied and still pay far too much for everything.'**
> Buntingford, Hertfordshire

When breaking down these figures further, by analysing responses among tied publicans who claimed the beer tie was contributing to their financial struggles, only nine per cent believed they would benefit from the new codes of practice – 17 per cent believed they would do more harm and 74 per cent did not expect to see any difference. In all, 91 per cent of tenants financially hurt by the tie were left feeling pessimistic.

Figure 5.2
How do you feel the new code of practice will affect you?



All tied pubs: n=384; Financially hurt by beer-tie: n=199

What value, then, does a pub company provide for its tenants? When asked this question, only 33 per cent of all pubco lessees believed that their pubco added value to their business (figure 5.3). The majority – 54 per cent – said their pubco added no value, while an additional 13 per cent were unsure.

Publicans who say their pubco does add value primarily see this in business provision or support (86 per cent), providing a recognisable name brand (59 per cent), training (57 per cent), investment in the property (39 per cent) and pricing on non-tied items (37 per cent)(see figure 5.4).

Adjusted for the total sample of all tied pubs, however, these numbers fall dramatically. Overall, very few tied publicans see benefits from their pubco: only 28 per cent of all tied publicans see their pubco positively in terms of supporting business provision, 20 per cent as a recognisable name brand, 19 per cent with training support, 13 per cent in property investment and only 12 per cent in pricing on non-tied items. Our interviews with tied publicans provided further illustration of this.

‘They do have services but you have to pay extra for those. We have a cellar cooling system, but we have a contract for this and have to pay for it.’
Notting Hill, West London

‘We get no extra service. We don’t get anything from them at all. All the improvements to the property have been done by us.’
Bayswater, West London

‘I’m not aware of any extra services on offer and I certainly haven’t had any.’
Hammersmith, West London

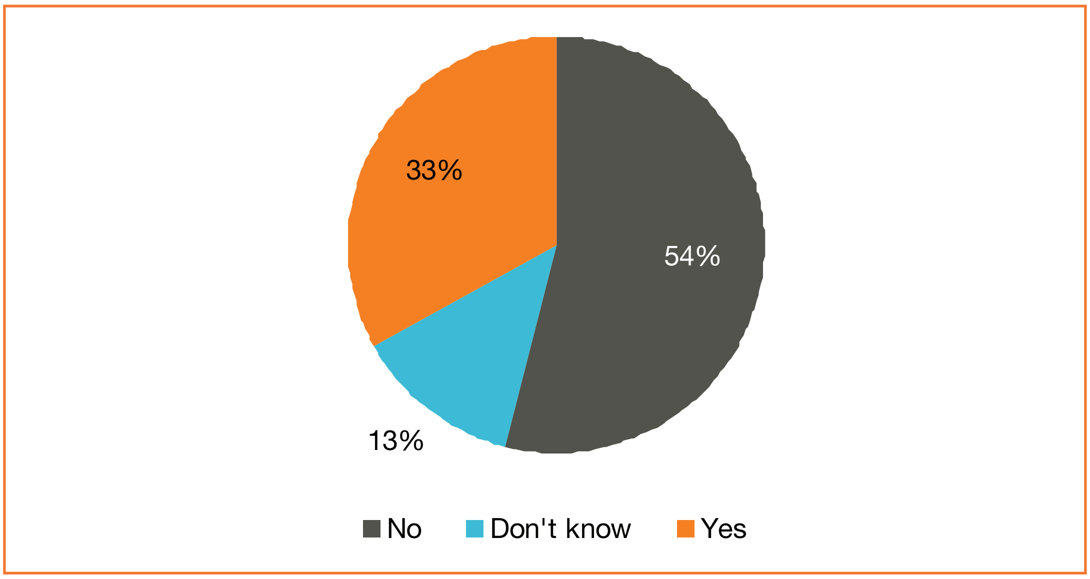
‘I’ve been in the trade for 20 years – back when I first started I thought tenancy was a good deal, but it really has changed and now it’s a terrible deal. We have been here for such a long time that we just get penalised with high beer prices and high rent that keeps going up. We get no support whatsoever.’
Hertfordshire

Others believed that business provision is not as strong as it should be.

‘Perhaps there would be some benefits if they gave business advice to the more inexperienced operators … but we have been here a long time now and know what we’re doing, not that we were ever offered any help.’
Bayswater, West London

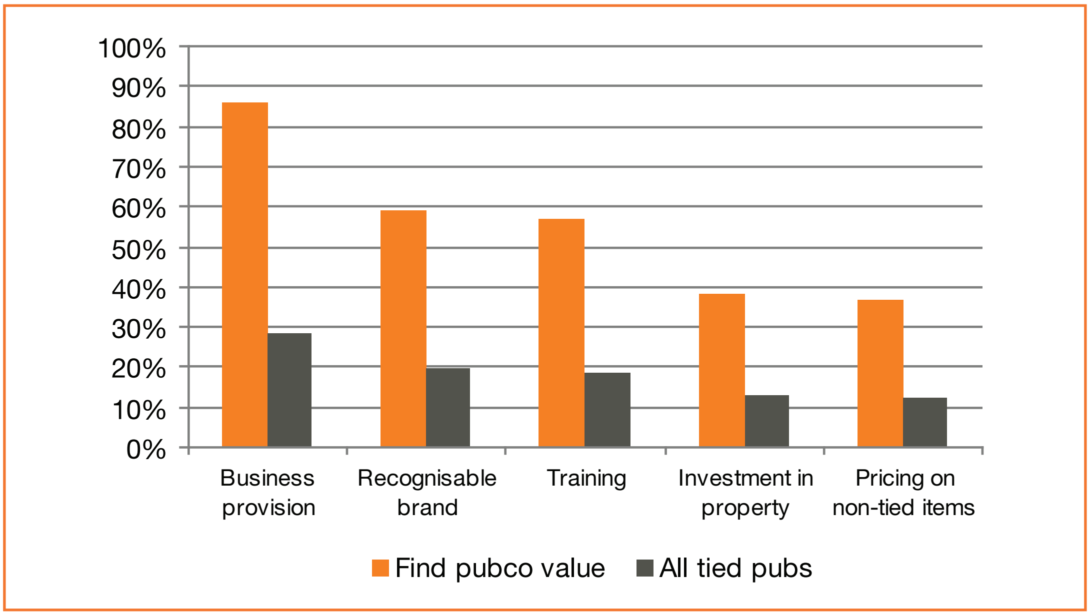
‘It’s not like the old days with the breweries. I worked with Scottish and Newcastle and they had different strategies and would give you advice on how to increase your profits, what other pubs were doing that was bringing success. You got a lot more support in those days.’
South London

Figure 5.3
Does your pubco add any value to your business?



Tied only: n=409

Figure 5.4
What value does the pubco add to your business



Tied only: n=409

This evidence builds on an earlier survey presented in a report produced by the Federation of Small Businesses (FSB) in 2010. In their analysis, FSB found that 58 per cent of pubco tenants claimed that they did not receive the level of business support that was promised before entering their tied lease. An additional 69 per cent said that the teamwork relationship with their pubco was a problem for their business, because the pubco did not fulfil their contractual agreement on business support once the contract was signed (FSB 2010).

The fact that pubcos do not always assist with improving the state of the property was also mentioned as a problem.

> **'The beer tie is the most important factor in how well we are able to do financially. But also any renovations to the property have to be done by ourselves [the lessees], which can be expensive, especially when most of the buildings they own are very old and need a lot of work … There is probably some truth that the rents alone are lower, but when it comes to renovating the building, that is down to the landlord. You can't get a discount on rent if you need to spend money to improve the property. You should be able to negotiate but they won't at all … Back in the day, when I worked with the breweries, there was a long-term strategy for the building that doesn't exist now.'**
> South London

One kind of added value not picked up in the survey but mentioned by some tenants was the importance of good relationships and frequent personal contact with the pubcos.

> **'Having a rep for the products is good.'**
> Notting Hill, West London

> **'Our rep has been a massive help.'**
> Cambridge, Cambridgeshire

> **‘We have a good BDM to be fair, but she comes every two months, which isn’t enough. We just don’t get enough support.’**
> Atherstone, Warwickshire

Where the relationship between a lessee and pubco is good, this creates a stronger business relationship while at the same time providing the lessee with a better sense of the products on offer.

6. CONCLUSIONS

This report has shed some light on the dispute raging over the 'pubco' tied lease model. It has found that:

- the level of business churn is higher in the tied than in the non-tied sector
- tied publicans are less likely to share the same levels of prosperity as those who are non-tied
- tied publicans are much more likely to say they are struggling financially and they also earn significantly less than non-tied operators
- tied publicans who are struggling financially see the beer tie as one of the most significant contributing factors to their financial problems
- many tied publicans have yet to see their pubco's revised code of practice and only a minority of those who have seen it felt that it would benefit them.

We know that the beer tie as it is being operated at the moment by the pubcos limits the commercial freedom of tied publicans. They have to pay more for their beer than non-tied operators. Moreover, the 2009 BEC report found that the higher prices tied lessees pay for their beer (due to foregone discounts) are not adequately compensated for by lower rents. It estimated that because of the discounts they can access, non-tied operators will make more money from their businesses.

Our survey provides support for those findings. We have found that tied publicans earn substantially less as a whole and are more likely to say they are struggling financially. There is a higher level of churn in the tied sector and while we cannot conclude that this is due to higher financial pressures in that sector, neither – given our other findings – can we rule it out.

As such, we believe that the government should act to reform the way the industry operates. The OFT decided not to refer this matter on competition grounds, because it did not find evidence that consumers suffered from a lack of choice in a competitive market. However, even if this matter cannot be pursued on narrow competition grounds, the fact that a significant proportion of publicans appear to be being put under significant financial pressure is matter of serious concern. This is not only because of the personal financial hardship involved but also because the sustainability of vital local amenities is being put under pressure.

Any reform must have as its objective a rebalancing of the unequal relationship between pubcos and their lessees. To this end, government should consider the following options:

- To implement the recommendation from the Law Commission that unfair contract terms regulations should be amended to improve protection for the smallest and most vulnerable businesses (employing nine staff or fewer).
- To require pubcos that have more than 500 tied pubs and which offer commercial full repairing and insuring (FRI) leases to, over a period of time, provide flexibility to lessees, including a guest beer option and an option to become free of tie, accompanied by an open market rent review.
- To support efforts to make information on business costs and turnover more transparent.
- To support moves towards greater market transparency by requiring pubcos to cooperate with the creation of a pub rents database and to publish their wholesale price lists and details of discounts paid to lessees.

- To support the creation of a single stronger and more comprehensive code of practice, to be supported by an independently constituted adjudicator with the ability to provide redress to lessees where the code is breached.

Government action to ensure commercial leases operate equitably in the pub sector would be a substantial boost for Britain's thousands of public houses and for the communities they serve.

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