



Pubs Code Adjudicator



TIED TENANT SURVEY:

REPORT

Research report

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1 Executive summary

This report presents results from the Tied Tenant Survey commissioned by the Pubs Code Adjudicator (PCA). The PCA identified a need to understand the experiences of tied pub tenants in respect to their relationship with their pub-owning businesses, and to understand any issues that may be present across a range of aspects relating to the Pubs Code. This research provides insights in specific areas to inform targeting of activity and to act as a baseline for tracking change over time. The project was mixed method and comprised of a structured fifteen minute telephone survey amongst tenants (388 interviews in total) and also a range of follow-up depth interviews (27 interviews were conducted amongst a selection of those who undertook the initial telephone survey). Fieldwork was conducted from November 2017 to January 2018.

We have not reported separately on pub-owning businesses due to the fact that there were very few occasions where a comparison with the overall average proved to be significant.

Throughout the report, however, analysis is conducted by key sub-groups. Where findings for sub-groups are shown to be significantly different to the overall response or other sub-categories, these are described in the report.

Throughout the report, for ease of reading and flow, we use the descriptions of respondents, participants and tenants interchangeably. We also use the description of pub-owning business and pub company.

1.1 Context and operating environment

Data showed that tenants in the telephone survey were a relatively homogenous group.

- *Personal demographics*: the majority were within the 45-64 age bracket (64%) and most were male (66%)
- *Career*: most respondents were experienced pub operators with over two thirds having had at least 5 years or more in their career. In terms of their short to medium term future, two fifths predicted they would 'definitely' remain with their current operation and tenancy agreement for the next five years leaving over half with some doubt, or planning to leave

- *Tenancy details:* almost all tenants (93%) interviewed were a single site operator and a minority were operating under short term agreements. Just over a third had either started new tenancies for the first time or were returning to the trade since the Pubs Code came into force in July 2016.

The follow-up depth interviews identified that career longevity was influenced by; personal enjoyment of the work, feeling part of the local community, having a balance of financial security alongside business autonomy, and finally, having a positive and encouraging relationship with a Business Development Manager (BDM) or pub-owning business. Career limiting factors were related to a lack of support or negative relationship with the pub-owning business, hours that are not conducive to family life and a range of financial concerns.

1.2 Understanding the baseline level of awareness of the Pubs Code, the PCA and the best method of communication

Pubs Code

Whilst seven in ten respondents had a general awareness of the Pubs Code (anything seen, read or heard) further exploration revealed a less detailed understanding of what it is and represents. After hearing a full description of the Pubs Code, 41% of respondents described themselves as very aware, and a further 30% as quite aware, of what it was. Breaking this down further, tenants were asked how well they understood four key elements of the Code. The survey revealed gaps in understanding. The percentage who felt 'very informed' of the following were;

- The right to a rent review every 5 years as a maximum (63%)
- Responsibility of your pub company representative to provide you with notes of discussions about rent, repairs and your business plans (47%)
- Information to make informed decisions about taking on a tied tenancy (36%)
- The right to request a market rent only option to go free of tie in specific circumstances (36%) - it should be noted that in respect to this last measure, over a third (36%) of tenants actually stated that they felt uninformed.

To date, tenants have been reliant on online sources (including the PCA) for information on the Pubs Code alongside material from their pub companies and print media. The telephone survey and follow-up depth interviews suggested that tenants need easily accessible information and, whilst there was a preference for similar

communications to continue, a more personal and interactive approach was raised such as opportunities to discuss the options for the pub. There were indications that this was in response to very individual circumstances in a complex landscape of tenancy agreements, rights and varied approaches to information sharing by the pub-owning businesses.

The Pubs Code Adjudicator

There was a mixed awareness of the PCA. Over half of the tenants interviewed (53%) were very or quite aware and 47% were not very or not at all aware.

Respondents who were aware of the PCA to at least some extent were asked if they had personally contacted the organisation for information or enquiries in the past, and at the time of the survey, just under a quarter had done so.

Awareness and contact with the PCA was higher amongst those that had submitted a Market Rent Only (MRO) Notice. Whilst those that had considered MRO showed a high level of awareness of the PCA (68% aware overall, of which 45% were very aware and 23% quite aware), almost eight in ten (78%) had not had any previous contact. The majority of these said this was because they had no need to (14% had however used other sources). In light of the importance of preparedness when applying for MRO (mentioned later in the report) there might be greater potential for more communication between the PCA and this group of tenants.

1.3 Exploring the relationship between tied tenants and their pub-owning business

A majority of tenants rated BDMs positively in terms of adhering to administrative elements of the Pubs Code. Overall, the highest levels of agreement (and therefore most positive reactions) were demonstrated when;

- Over three quarters of respondents (76%) agreed to some extent that their BDM made 'formal notes of discussions about rent, repairs and business plans for their pub (48% agreed **strongly**)
- Over nine in ten (91% of) tenants agreed that 'I receive the notes made within 14 days; and I'm given 7 days to comment' (74% agreed **strongly**)
- Just over half (54%) agreed [they] 'inform me clearly on the details of the Pubs Code; and signpost appropriate sources of further advice' (in this case 31% agreed **strongly**).

With respect to statements relating to the support functions of a BDM, a relatively high proportion (69%) of tenants agreed/strongly agreed that 'I have all the information I need about their role' (with 45% agreeing strongly) and just under two thirds (65%) agreed/strongly agreed that 'they supply the support I need on an ongoing basis' (35% agreeing strongly). However, in regard to the following statement; 'I have confidence in the way they handle my tenancy' whilst this was as likely to reach a positive level of agreement (56% agreeing to some extent), more notably in this instance just over a fifth (21%) disagreed strongly.

Data from the telephone survey indicated a relationship between a positive view of a BDM and a shorter length of career as a tenant and/or those who definitely intended to remain in their current tenancy for the next five years.

The follow-up depth interviews identified that positive attributes for a BDM were how knowledgeable they were about the pub industry and how supportive and responsive they were. Experiences were often measured against five key factors:

- Consistency; some reported too many changes in BDM in relatively short timescales which hindered the development of relationships
- Frequency of contact; whilst more frequent for newer tenants, others recorded substantive contact only twice a year (they suspected this was due to the volume of pubs a BDM had responsibility for and/or too wide a geography to cover)
- Collaboration; a balanced relationship
- Responsiveness; how many times they needed to chase for a resolution of issues
- A tailored approach; some advice from BDMs did not seem appropriate for their context.

Almost all new or returning tenants since July 2016 observed an element of new entrant training/procedures and the follow-up depth interviews revealed a positive view of support.

1.4 What is the experience so far of events linked to the Pubs Code?

35% of respondents in the telephone survey said they had received a tied rent or rent assessment proposal; and a further fifth reported that they had renewed their tenancy agreement under the Landlord and Tenant Act¹. One in ten (11%) of tenants who reported that they believed they had experienced a MRO event since July 2016 said that they had gone on to submit a MRO Notice. Another fifth said they had considered it.

There were some strong messages from the follow-up depth interviews for tenants considering going free of tie in the future that have implications for the PCA, tenants and pub-owning businesses. The following paragraphs detail these.

At the outset, some tenants requested clearer and more transparent information on the costs relating to rent review and products/services that would allow them to more carefully consider their options. The research revealed a range of responses from BDMs when the prospect of MRO was first raised. It highlighted an inconsistency in terms of the types of general response, information and/or signposting that BDMs gave to tenants. It was seen as important that discussions were not 'shut down' at this initial stage.

The key for tenants wishing to approach the process of MRO was preparedness. Some who had been through the process in the follow-up depth interviews advised a six to twelve month period where tenants should consider a myriad of factors. These included;

- Gaining access, if possible, to an estimate of the upfront costs (i.e. deposits and/or property funds/maintenance costs, the need for surveys and/or solicitors)
- Weighing up other potential costs
- Understanding the timescales (and how they might secure finances within them if needed)
- Researching the typical rent for similar pubs; and
- Talking to others with experience of submitting an MRO Notice.

¹ Please note that these figures are based on the proportion of tenants who *self-reported* having experienced a MRO event, and cannot be taken to precisely reflect the actual figures for these events

2 Background and methodology

2.1 Introduction

The Pubs Code applies to all businesses owning 500 or more tied pubs in England and Wales. It governs their relationships with tenants of those tied pubs but not with their managed houses or free of tie pub tenants. Tied tenants are those that are obliged to purchase beer and other products and services from their landlord. The main principles which the Pubs Code seeks to ensure are fair and lawful dealing by pub companies with their tied tenants and that tied tenants are no worse off than if they were free of tie.

The Pubs Code was introduced in July 2016 to address concerns that had been raised about the relationship between large pub companies and their tied tenants. Four successive Select Committee Inquiries, in 2004, 2009, 2010 and 2011, identified problems with the treatment of tied tenants and the share of risk and reward with pub-owning businesses. The Code aims to address these issues by imposing information and transparency obligations on the pub-owning businesses and giving tied tenants the right (in certain circumstances) to opt to move to a free of tie tenancy through the “Market Rent Only” (MRO) option. The MRO option gives tied tenants the choice between the tied and free of tie business models, driving pub-owning businesses to better demonstrate the benefits of the tied model.

At the time of this research the pub-owning businesses covered by the Pubs Code were:

- Admiral Taverns Ltd
- Ei Group (formerly Enterprise Inns PLC)
- Greene King PLC
- Marston’s PLC
- Punch Taverns PLC
- Star Pubs and Bars (Heineken UK).

The Pubs Code Adjudicator² (the PCA) is responsible for enforcing the Pubs Code, and has powers to investigate where the PCA has reasonable grounds to suspect

² For further background see the PCA website <https://www.gov.uk/government/organisations/pubs-code-adjudicator>

that there has been a breach of the Pubs Code. The PCA can take enforcement action as necessary under the powers in sections 53 to 59 of the Small Business, Enterprise and Employment Act 2015.

2.2 Aims and objectives of the research

The PCA identified a need to understand the experiences of tied pub tenants regarding their relationship with their pub-owning businesses and identify issues which may need to be formally addressed. The PCA commissioned research to provide evidence in these specific areas to inform targeting of its activity and to act as a baseline for tracking change in tied tenant experiences over time. Specific objectives outlined at the outset of the project were to explore:

- How tied pub tenants characterise their relationship with their pub-owning business and their level of satisfaction
- Current level of general awareness and more specific understanding of the Pubs Code and the Pubs Code Adjudicator
- Experiences of tenants that have had an event that puts them in scope of the Pubs Code (e.g. a rent review)
- Communication preferences of the tenant population.

The research was carried out amongst tied tenants working with the six pub-owning businesses listed in section 2.1 (those obliged to purchase beer and other drinks from their landlord in England or Wales).

2.3 Project structure

The project was carried out in two stages:

- Stage One: an initial structured 15 minute telephone survey providing feedback from 388 tied tenants across a number of questions designed around the objectives
- Stage Two: follow-up depth interviews with 27 of the respondents in Stage One so that some issues and themes identified in the survey could be discussed and analysed in more detail.

2.4 Method and sample

2.4.1 Stage One: Telephone survey of tied tenants (388 interviews in total)

An entirely representative profile of completed interviews would have given a low base size in two of the pub-owning businesses, so it was agreed to boost the base size to a minimum of 40 per pub-owning business and weight the data at the analysis stage. For the two pub companies with lower volumes of tenants, all contacts were selected for telephone look up. Where a sample was drawn, a stratified random sample was taken within strata (using postcode).

Table 2.1: Final achieved sample distribution by pub-owning business

	No. of interviews
Admiral Taverns Ltd	42
Ei Group (formerly Enterprise Inns PLC)	131
Greene King PLC	49
Marston's PLC	49
Punch Taverns PLC	76
Star Pubs and Bars (Heineken UK)	41
TOTAL	388

A list of pub names and postcodes were supplied by all six pub-owning businesses. These were reviewed for any duplicates and sampled following stratification by postcode and a telephone number matched to as many cases as possible. As fieldwork progressed, wrong numbers/numbers not in service were pulled off at intervals and manually cleaned. All numbers were called a minimum of five times. The sample was managed carefully so that numbers were called at different times of day and days of the week and interviewing teams were available evenings and daytimes, weekdays and weekends.

The interview was undertaken with the tenant for each pub as sampled. The interviewer clarified that they were speaking to the person who held control of the tenancy with the pub-owning business for that particular establishment.

2.4.2 Stage Two: Follow-up depth interviews (27 interviews in total)

All respondents in the telephone interview (Stage One) were asked if they would be happy to take part in a follow-up interview. It was made clear that not everyone would be contacted. The areas for exploration in these follow-up interviews were discussed with the PCA and it was agreed that the follow-up interviews would further explore experiences of the MRO process (those that had gone through the process and also those that had considered it but didn't pursue it), with a mixture of views

from those who gave positive ratings of their BDM in the telephone survey and those that indicated some concerns. Finally GfK ensured that, in the mix, they interviewed a number of new entrants (new tenants or those returning to a tenancy after July 2016) and a spread of pub-owning business, gender of respondent and experience in the sector.

Chart 2.2: Composition of follow-up depth interviews

Audience group	Number of interviews		Key areas for exploration
Those who have submitted an MRO Notice	9		Experience of MRO event Experience of submitting MRO Notice Views on genuine choice
Those who considered but did not submit an MRO Notice	8		Experience of MRO event Reasons for not submitting an MRO Notice
Those who are positive about their Business Development Manager (BDM)	5	4 of whom were new tenants	Experiences of interactions with BDM Experiences of new tenants
Those who are negative about their BDM	5		

Across the sample:

- Spread of pub-owning business
- Spread of gender
- Spread of experience in the sector

2.5 Report structure

This report presents findings from both Stage One (structured telephone survey) and Stage Two (follow-up depth interviews) and provides baselines for some measures that the PCA may want to repeat in forthcoming years. Following this introduction chapter, the report explores:

- Section 3: Context and operating environment; demographics of the respondents alongside experience in their position, plans to stay in the industry, best and most challenging aspects of being a tenant and optimism for the future
- Section 4: Awareness and understanding of the Pubs Code and the PCA; awareness in general (anything read, seen or heard) of the Pubs Code, specific understanding of key elements and awareness and communication with the PCA
- Section 5: Relationship with the pub-owning business and Business Development Manager (BDM); ratings of satisfaction with elements of the relationship and services provided and, from the follow-up depth interviews,

an exploration of best practices and key improvements. This section also looks separately at new tenants and new entrant training requirements outlined as part of the Pubs Code

- Section 6: Experience of code related events; the telephone survey explored whether tenants had experienced events under the code and the proportion going through MRO while the follow-up depth interviews were able to analyse in more detail each stage of the process encountered and any issues experienced.

The Technical Report ³ provides more detail on methodological aspects, including the full questionnaire.

2.6 Reporting and terminology

Throughout the report, for ease of reading and flow, we use the descriptions of respondents, participants and tenants interchangeably. A number of important sub-groups are referred to throughout this report, and these are defined below.

Group	Notes (sub groups are defined by responses in the telephone survey)
New tenants	Respondents who reported in the telephone survey that they had taken on a new tenancy since 2016 (either first time or returning to the industry)
Type of operator	Single or multi-site operations identified by the tenant (more than one tenancy operated by this individual across pub-owning businesses)
Aware of Pubs Code	Unprompted awareness (anything seen, read or heard) in the telephone survey
Experienced an MRO event	All those who said 'yes' to any event readout in the telephone survey. These included; received a tied rent proposal or rent assessment proposal, renewed a tenancy agreement under the Landlord and Tenant Act, been notified by their pub company of a significant increase in price of tied product or service and/or notified their pub company of an event that would decrease the level of trade they expected to achieve at their pub over the next 12 months
Submitted MRO	Respondents who experienced an event as described in the survey (above) who agreed that the event led them to submit a Market Rent Only or MRO Notice

³ The PCA and GfK Technical Report describes the methodology of the Tied Tenant Survey commissioned by the Pubs Code Adjudicator

Group	Notes (sub groups are defined by responses in the telephone survey)
Considered MRO	Respondents who experienced an event as described (above) who said that although the event had not led them to submit a Market Rent Only (MRO) Notice, they had considered it
Length of tenant career	Number of years, in total, respondents had held pub tenancies. This included all their experience in different pubs and with different pub-owning businesses.
Five year plan to remain as tenant	Respondents were asked 'Can you see yourself remaining as a tenant with your current operation and tenancy agreement for the next five years?' We discuss, where significant, differences between those who said 'Definitely', 'Maybe' or 'No'

2.6.1. Stage One: Telephone survey



Findings emerging from the telephone survey are clearly labelled in the section title and the symbol above is shown.

It should be remembered that the survey was conducted with a sample of tied tenants, rather than the entire population. Results are therefore subject to sampling variability – we cannot be certain that the figures obtained are exactly those we would have if all tied tenants had responded (the 'true' values). We can, however, predict the variation between the sample results and the true values from knowledge of the size of the samples on which the results are based and the number of times a particular answer is given. The confidence with which we can make this prediction is usually chosen to be 95 percent – that is, the chances are 95 in 100 that the true value will fall within a specified range (the margin of error). As this survey has been conducted using a quota sample, rather than a random probability sample, statistical differences are presented on an indicative basis.

Where respondents can give multiple responses to a question, the sum of the individual responses may be greater than 100 percent. Also, the percentages in the tables and charts may not always add to 100 percent due to rounding, and the sum of subgroup percentages discussed in the text may differ from the apparent totals in the charts due to rounding. Similarly, where a number of responses have been grouped together (such as agree strongly and tend to agree), or for net scores, responses may not always equal the sum of the individual responses, again due to rounding.

2.6.2 Stage Two: Follow-up depth interviews



Findings emerging from the follow-up depth interviews are clearly labelled in the section title and the symbol above is shown.

This approach was chosen to explore tenant experiences. This allowed researchers to gather rich insights using a telephone depth interview method.

The key strength of this approach is that it enables researchers to gather spontaneous attitudes and insights, as well as highly nuanced feedback about the research objectives. Whilst depth interviews follow a clear structure, they emphasise the role of the participant in leading and driving the conversation through allowing them to answer in their own words and leading to responses that are full of deeper insights. Participants are not limited in the way they answer the questions by being required to choose from multiple-choice answers as they necessarily would in a structured telephone survey.

The main limitation to using this research approach is that it emphasises self-expression and insight over numerical outcomes and so relies on detailed discussion with relatively small sample sizes. Whilst we included a range of tenants in the research, the overall sample size means it is not statistically representative. The findings in these parts of the report focus on participant views and opinions; the findings do not attempt to quantify these.

The quotes used in this report are not attributed for anonymity.

3 Context and operating environment including personal demographics

3.1 Summary

This chapter contains:

- Contextual information about the tenants that took part in the survey
- Best and most challenging aspects of being a tied tenant and optimism for the future.

In terms of personal characteristics, tenants were a fairly homogenous group.

The majority were within the 45-64 age bracket and/or male. They tended to be experienced pub operators, with over two thirds having had at least 5 years or more in this career.

In terms of tenancy agreements, almost all tenants interviewed were running single operations and the majority were not operating under short term agreements or 12 months or less or a tenancy at will. Just over a third of the sample had either taken on tenancies for the first time, or had returned to having tenancies after a break, since the Pubs Code came into practice in July 2016.

Just over two fifths of tenants could 'definitely' see themselves remaining with their current operation and tenancy agreement for the next five years but three in ten raised some doubt (stating 'maybe') and a quarter planned to leave.

The follow-up depth interviews identified greater optimism for a longer term future from those who enjoyed their work and had a positive and encouraging relationship with their Business Development Manager (BDM) and pub-owning business. Career limiting factors were a lack of support or negative relationship with the pub-owning business, hours that are not conducive to family life and a range of financial factors including; the general economic environment, competition in the local area, increases in tied product/services costs, increased rent and business rates and also financial demands from the pub owning business (e.g. for dilapidations).

Key findings:

- Personal characteristics; 67% of respondents were male and 64% were between 45 and 64
- Context; 93% of tenants were running a single pub, a fifth were in pubs where the pub-owning business had invested heavily in recent years and under 10% were in short tenancy agreements.
- Over a third of tenants (36%) were new or returning to their career as a tenant since July 2016.

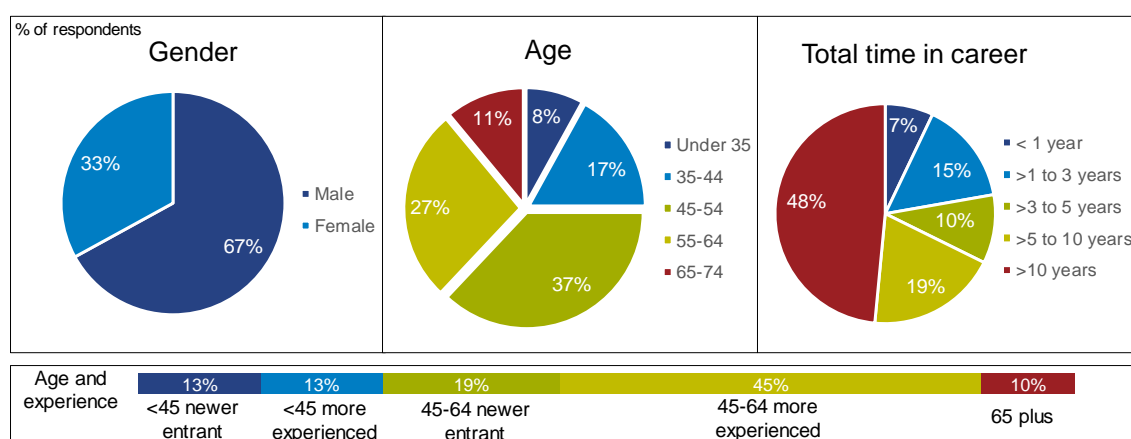
3.2 Context and operating environment

3.2.1 Findings from Stage One: Telephone survey



Overall, 67% of the tenants in the telephone survey were male and 33% female. In terms of age, the majority of tenants surveyed (64%), were between 45 and 64 years. Of the remaining, 10% were older (65 and over), and 25% were younger (under 45 years). There were no notable variations in these demographics by the sub groups used for analysis. Tenants tended to be experienced, with almost half (48%) having had ten or more years' experience as a tied tenant. At the other extreme, just over a fifth (22%) of those interviewed were in the first three years of their tenant career.

Chart 3.1: Age, gender and length of time in career



F1/2/3 Base: All (WTD 388)

NB: newer entrant is less than 5 years in career

In order to explore future plans, all respondents were asked if they could see themselves remaining as a tenant with their current operation and tenancy agreement for the next five years. Whilst just over two fifths (42%) 'definitely' agreed, 30% raised some doubt with a 'Yes - maybe' response while 25% said 'No'.

Tenants in the first three years of their career were significantly more likely to 'definitely' remain as a tenant (64%) as were those who rated their relationship with their BDM more positively (58%).

In terms of the types of operation, almost all tenants interviewed operated just one pub (93%), and from the remainder, of those running more than one site, 6% of these ran two pubs and just 2% three or more.

In order to understand the sales composition of pubs for the purposes of this research, "wet-led" pubs were classified as those with 75% or more of their sales from drinks; and "dry-led" as those with at least half of sales from food. Based on this, 21% of tenants could be understood as being "wet-led", 49% as "dry-led", and 30% did not fall into either category. There was no notable variation in this amongst sub-groups.

To further understand the context of their tenancy, respondents were asked about a number of specific circumstances, and whether each of them applied to themselves. These were whether or not they:

- Were signed up to a short agreement
- Had recent experience of heavy investment in the pub
- Identified themselves managing a new tenancy since the Pubs Code was established; either as a new tenant or as someone returning to the industry after a break.

Just under one in ten (8%) identified that they had a short tenancy. One in five tenants said that their pub company had invested heavily in the pub recently. Just over a fifth (22%) had taken on their first tenancy since the 21st July 2016 and another 17% had held tenancies in the past and taken on a new one since that date.

Significant differences in the above findings were noted for new tenants since July 2016 or those early in their career:

- Short tenancy; this was significantly more common amongst new tenants (17% compared to 8% overall)

- The pub company has invested heavily in the pub: this increased from 20% overall to 32% amongst tenants in the first three years of their career.

3.3 Best and most challenging aspects of a tenancy

3.3.1 Findings from Stage Two: Follow-up depth interviews



During the follow-up depth interviews participants were asked what they felt were the best and most challenging aspects of being a tenant. A range of aspects emerged.

Best aspects of being a tenant

Best aspects tended to focus on three key areas; freedom and choice, home and community and levels of support being given.

Freedom and choice

Many participants noted that they valued the freedom and choice they felt they had as a tenant with regards to making business choices. Examples given included the ability to make decisions around staffing and events.

"[It is] nice that you can do what you want to do. There's no restrictions...it's what I want to do and what I think will work."

Freedom and choice was often noted by those who had previously run managed pubs.

Home and community

Participants often talked about their pub being their home. This was particularly the case for those who had been a tenant in the pub for a long time, or those who had lived in the area for many years. These participants had a strong emotional attachment to the pub and whilst they often noted the downsides of living in the business, they overall felt that this was one of the best aspects of being a tenant. Community was also mentioned by some participants who enjoyed the role that the pub and they themselves played in the local community. For some, this aspect of taking on the pub had been a key attraction in the role. These participants often enjoyed supporting local groups and charities.

Support

Support provided by the pub-owning business was mentioned by some as a key benefit of being a tenant. These participants felt that they had support and 'back-up' from a large company and found this reassuring. Some noted that they particularly valued specific services provided by the pub-owning business.

Most challenging aspects of being a tenant

Challenges focused on four key areas; costs, restrictions, working hours and relationship with the pub-owning business.

Costs

Participants consistently cited the cost of tied products and services as the major downside to being a tenant.

"I spend my whole working life trying to...influence things day by day that will have an influence to the success and wellbeing of my business...my biggest spend in any given period is with [pub-owning business] and yet I have absolutely no influence at all on what I will be paying for the largest spend I have."

Whilst all participants mentioned costs, some noted particularly difficult financial demands. These were typically in relation to issues with high set-up costs, and the cost of dilapidations.

Restrictions

Being restricted to tied products was also considered to be one of the key challenges of being a tenant. This was particularly cited by those who felt that other products (e.g. local ales) would better appeal to their customers.

Working hours

Long working hours, and being on call at all times on all days of the week was noted as a downside to the job by many participants. The challenges of managing the business financially and strategically as well as working on the front-line were also noted.

Relationship with pub-owning business

Many participants at this stage of the research felt that the relationship they had with the pub-owning business was also a downside to being a tenant. The overall feeling around this was the perceived imbalance of the relationship which saw participants with high turn-over pubs struggling to pay themselves a wage.

“I find it very stressful because I’m...basically I can’t afford to pay myself...I can’t even take a wage.”

In addition there were also views that the pub-owning business constantly squeezed tenants with small cost increases of various products and services that added up and ultimately had a big impact. There were also mentions of the lack of a discursive relationship with the pub-owning business with some participants noting that the lack of transparency of rent calculations and perceived inability to negotiate made being a tenant very difficult indeed.

3.4 Optimism for the future

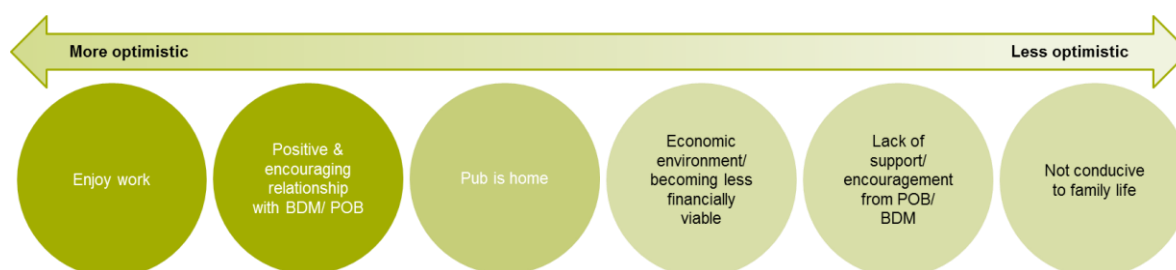
3.4.1 Findings from Stage Two: Follow-up depth interviews



When it came to thinking about the future participants often expressed cynicism and uncertainty. This was particularly the case where finances were tight, or where participants felt that they did not have a positive relationship with their pub-owning business.

Diagram 3.1 shows the spectrum of factors influencing whether a participant was more or less optimistic about the future.

Diagram 3.1: Circumstances that impact optimism



Those who were more optimistic about their business tended to be those who enjoyed their work, and had a positive and encouraging relationship with their BDM and pub-owning business. These participants planned to continue in the long-term in their business and most were optimistic about the growth of their business.

Those who considered the pub to be their home expressed mixed views. Those towards the more optimistic end of the spectrum felt positive that they would continue living in their home. However, those towards the less optimistic end based on financial concerns tended to feel 'stuck' in their situation. They did not want to leave the business because they considered the pub their home, but equally were worried about the financial security and future of their situation.

Those less optimistic typically did not feel supported or encouraged by their BDM and pub-owning business. There were also those who were concerned about the current economic environment and felt that the business was becoming less financially viable.

"It's like trying to run a business with one hand tied behind my back because the products that you sell are too expensive."

This concern was based on a range of factors including:

- The general economic environment with participants noting that people spent less money in the pub nowadays
- Increased competition in the local area
- Increasing tied product and services costs and increased rent
- Increased business rates
- High financial demands (e.g. dilapidations).

Most participants who expressed these concerns tended to plan to stay as a tenant in the short term but were unsure whether this would be feasible or desirable in the longer term.

When discussing the financial challenges facing their business, a few participants reflected that to really make a positive change to the financial success of the operation, a major investment would be needed, and they did not feel in the position to make this happen. This was particularly the case for a few participants who were

nearing retirement age. These participants felt that they would not reap the rewards of a major investment, and therefore were continuing with the status quo but feeling unconfident about their current living and financial situation.

“I should have retired 10 years ago but I need an income...I have a roof over my head and that’s it.”

“Without the change with MRO or [my] rent review I won’t carry on. I can’t afford to, the pub’s losing money. [It] leaves me feeling absolutely sick. I’ll have to find a job.”

Those who were least optimistic about the future were those who felt that being a tenant was not conducive to family life. These participants talked about spending time with their young family, or wanting to start a family. Those who felt most strongly about this planned to move on to something different.

4 Awareness and understanding of the Pubs Code and the PCA

4.1 Summary

This chapter contains:

- Overall levels of awareness and understanding of the Pubs Code
- Awareness of, and communication with, the Pubs Code Adjudicator.

Whilst there was a relatively high general awareness of the Pubs Code (anything seen, read or heard) there was a less detailed understanding of what it represents.

Just over three quarters (77%) of tenants had read, seen or heard something about the Pubs Code. After hearing a full description of the Code, 41% described themselves as very aware and a further 30% as quite aware. Over seven in ten tenants felt informed to some extent about pub company related rights within the Pubs Code (right to rent review, administrative responsibilities for recording meetings and information to make informed decisions relating to their tied tenancy) but there seems to be some way to go in ensuring high level understanding of the right to request a Market Rent Only option to go free of tie in specific circumstances.

Online sources (including the PCA), information via pub companies and print media have most commonly been used for information in relation to the Pubs Code to date. Tenants want to search for accessible and specific information at a time convenient for themselves and whilst there is a preference for similar communications to continue, a more personal and interactive approach was highlighted by many by, for example, a desire for Q&A email opportunities.

Just over half of the tenants (53%) described themselves as aware of the PCA. There was a perceived lack of need to contact the PCA amongst those who had had no communication to date.

A higher proportion of respondents were aware of the PCA if they had requested or considered an MRO. Of all those who were aware, just under a quarter had used the PCA for information or enquiries.

Key findings:

- 41% were 'very aware' and 30% 'quite aware' of the Pubs Code; a combined awareness of 72% (with rounding). In total 28% were unaware to some extent
- The percentage who felt 'very informed' of specific elements of the Code were; the right to a rent review every 5 years as a maximum (63%), responsibility of your pub company representative to provide you with notes of discussions about rent, repairs and business plans (47%), information to make informed decisions about taking on a tied tenancy (36%) and finally, the right to request a market rent only option to go free of tie in specific circumstances (36%). It should be noted that in respect to the last measure, over a third (also 36%) of tenants felt uninformed, to some extent, of the right to request MRO
- 47% have little or no awareness of the PCA (53% were aware to some extent).

4.2 Awareness and understanding of the Pubs Code

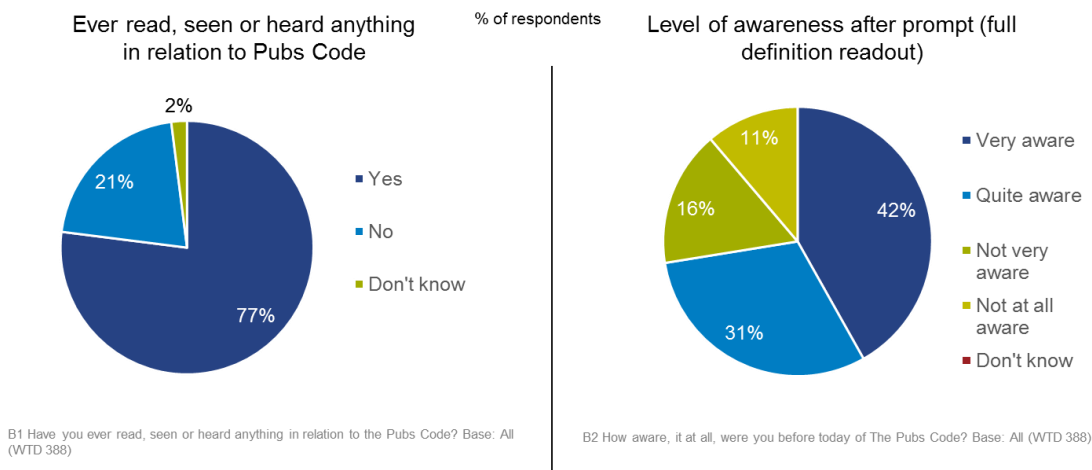
4.2.1 Findings from Stage One: Telephone survey



The telephone survey aimed to measure levels of awareness and understanding amongst tied tenants of the Pubs Code. Questions were designed to do this initially at a very general level and then, in more detail, to measure perceived understanding of some of the specific aspects of the Pubs Code.

Approximately three quarters of tenants (77%) agreed that they had read, seen or heard something in relation to the Pubs Code. Following this, all respondents were given a definition of the Pubs Code and were asked again, based on this information how aware they were before the interview. This gives the PCA a more considered measure of awareness. After prompting, 72% of respondents identified themselves as aware to some extent (41% were very aware) and 28% were either not very or not at all aware.

Chart 4.1: Awareness of the Pubs Code



There was little variation in levels of awareness of the Pubs Code across sub-groups.

Following the exploration of awareness of the Pubs Code in general, tenants were asked in the telephone survey to rate how informed they felt on a number of their rights contained within the Pubs Code. These were as follows:

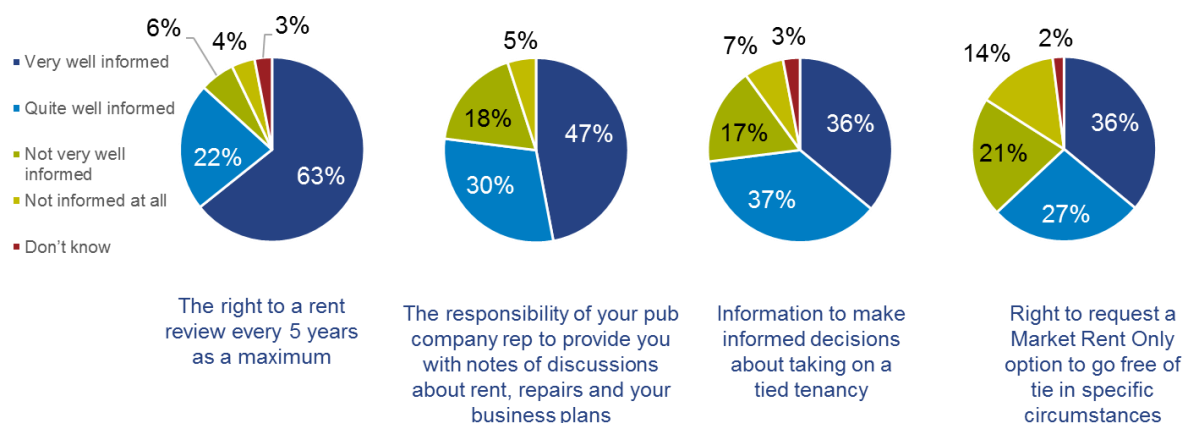
- Information to make informed decisions about taking on a tied tenancy
- The right to a rent review every 5 years as a maximum
- The responsibility of your pub company representative to provide you with notes of discussions about rent, repairs and your business plans
- Right to request a market rent only option to go free of tie in specific circumstances.

Tenants were most likely to feel informed, about having a right to a rent review every five years (85% to some extent and importantly, 63% felt very well informed).

Two other aspects; ‘the responsibility of your pub company representative to provide notes of discussions...’ and ‘information to make informed decisions about taking on a tied tenancy’ received similar levels of agreement (77% and 73% respectively were feeling informed to some extent). However, the former aspect received a higher proportion of tenants saying that they were ‘very well informed’ (47% compared to 36%).

Relative to the other measures discussed, far fewer tenants felt informed about their 'right to request a MRO option to go free of tie'. A total of 63% felt either very or quite well informed and, at the other extreme of the scale, just over a third (36%) felt not very or not at all informed.

Chart 4.2: Understanding of specific aspects of the Pubs Code



B3 How well informed, if at all, do you feel of your rights to the following ... Base: All very/quite/not very aware (WTD 342)

Tenants who expressed high levels of awareness of the Pubs Code more generally (at question B2 in Chart 4.1) were more likely to express higher levels of awareness of the specific aspects.

4.3 Sources of Information on the Pubs Code

4.3.1 Findings from Stage One: Telephone survey



Tenants aware of the Pubs Code were asked about the source of their information to date. Their response showed the range of media and contacts that have been used. The top five sources of information tenants gave were; trade publications and/or magazines more generally (31%), pub company representative / area manager (23%), newspapers (local and national) (18%), the PCA website (14%) and other websites (e.g. British Institute of Innkeeping) (14%). To a lesser degree, but mentioned by at least 10% of tenants were, leaflets (11%) and social media (10%). Other mentions were:

- Internet searches (non specific) (8%)
- Tenant representative groups (e.g. British Institute of Innkeeping / Federation of Licensed Victuallers Associations / Association of Licensed Multiple Retailers / Pubs Advisory Service) (7%)
- Word of mouth - internal colleagues (7%)
- Word of mouth - external colleagues (e.g. accountants / bank managers / lawyers) (7%).

One observation appears to underline the connection between the relationship of the tenant and their BDM / pub company more generally and use of the pub company representative / area manager as a source of information. Tenants were significantly more likely to mention pub company sources if they were definitely planning to remain as a tenant, if they had a positive relationship with their Business Development Manager (BDM) and if they were newer tenants. The mention of training courses (e.g. those who comply with pubs entry training) increased to 7% amongst those with new or renewed tenancies since July 2016.

4.3.2 Findings from Stage Two: Follow-up depth interviews



Participants across the follow-up depth interviews noted that awareness of the Pubs Code and the opportunity to request a MRO Notice had usually come from industry press. Key mentions included the Morning Advertiser and CAMRA. This press was not always considered positive in nature, with some participants recalling that information included details about the limited number of decisions that had been made for cases submitted to the PCA for arbitration.

“We were reading things in the Morning Advertiser that was coming through saying that the PCA hadn’t made any decisions.”

Recall of information provided by the pub-owning business was mixed and one participant recalled receiving a leaflet from the PCA.

Whilst sources of information tended to be limited, some participants noted that once aware of the Pubs Code and the opportunity to request a MRO they had proactively carried out some research. This involved trying to keep on top of Pub Code developments in the run up to 21st July 2016. Others had done some research to find

out how much non tied products would cost, and a couple had spoken to the British Institute of Innkeeping (BII). The key focus on this research was to explore whether submitting a MRO Notice would be of interest or an option.

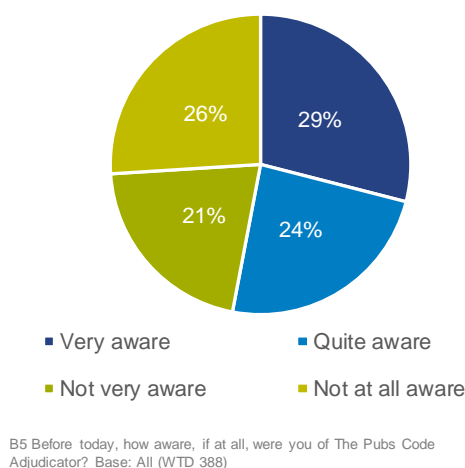
4.4 Awareness and usage of the PCA

4.4.1 Findings from Stage One: Telephone survey



After hearing a brief description of the PCA and its responsibilities, respondents were asked how aware they had been of the organisation before the interview. The response was very mixed with over half (53%) stating they were very or quite aware and 47% not very or not at all aware.

Chart 4.3: Awareness of the PCA



Following the awareness question, everyone except those who classified themselves as very unaware, were then asked if they had ever used the PCA for information or enquiries in the past. Just under a quarter (23%) of this group had used the PCA previously. The PCA Enquiry Line and/or the PCA website proved to be the most common touchpoints (27% of those who had been in contact in each case).

Of the three quarters (77%) who had not used the PCA to date, the primary reason was a perceived lack of need (83%). Of the remaining, 8% had chosen instead to use other sources of information.

Those who had submitted an MRO Notice, or considered it, were more likely to rate themselves as very aware of the PCA (76% and 45% respectively compared to the

overall average of 29%). Whilst those who had submitted an MRO Notice were more likely to have contacted the PCA, those who had only considered it were in line with the overall average (78% of this group had had no contact). This indicates that the PCA are not currently being contacted for general information amongst those who are at least considering the process of MRO.

Finally, those who said they were aware of the PCA were asked had they ever formally referred a case to the PCA for arbitration. Ten percent said that they had⁴.

4.5 Preferences for communication about the Pubs Code

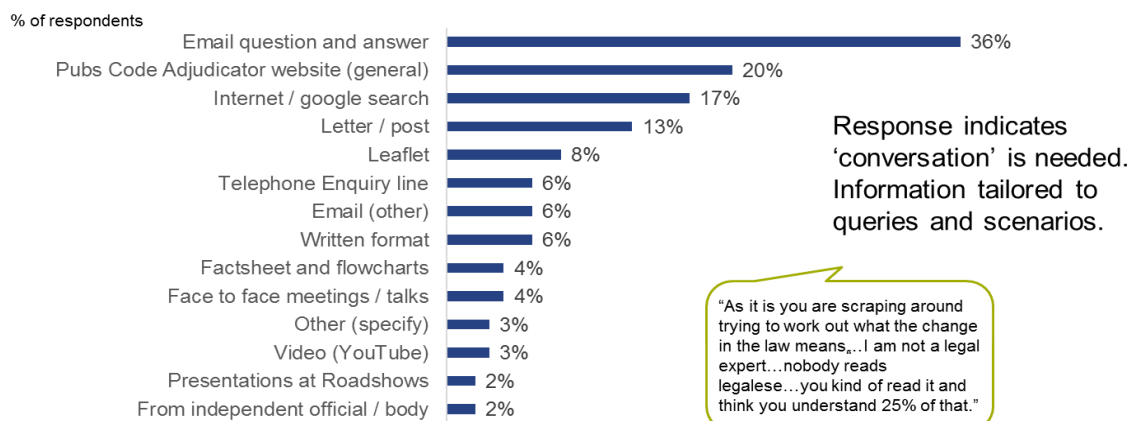
4.5.1 Findings from Stage One: Telephone Survey



Tenants were asked to think about the most effective format for further information about the Pubs Code. Internet-based communications seem to be the preference for tenants, with over a third mentioning email Q&A (36%), one in five the PCA website (20%), and almost a fifth (17%) more general internet searches. More traditional paper based approaches were the next most popular form of communication, with 13% of tenants indicating direct letter or postal information would be useful, and 8% a leaflet. Chart 4.4 gives the full detail. There were no significant differences in these preferences between any of the tenant subgroups. The need for help with interpretation of the Pubs Code also emerged from the follow-up depth interviews and was often linked to the varied set of circumstances tenants find themselves in and also the complexity of the Pubs Code and communications with the pub-owning businesses.

⁴ Please note that this figure is based on the proportion of tenants who *self-reported* having formally referred a case for arbitration, and is likely to overestimate on the actual figure as a result of misinterpretation of what constitutes formal arbitration proceedings

Chart 4.4: Preferred communication about the Pubs Code in the future



E1 We have talked a lot about the Pubs Code in this interview. If you wanted to know more about your rights under the code, in what format would you find this type of information helpful?
 Base: All (WTD 388)

5 Relationship with the pub-owning business and Business Development Manager

5.1 Summary

This chapter contains:

- Tenant's views about their relationship with their pub-owning business and, more specifically, their Business Development Manager (BDM)
- Support and advice given to new tenants since the Pubs Code came into existence.

A majority of tenants rated their Business Development Manager (BDM) positively in terms of adhering to administrative elements of the Pubs Code but fewer agreed that the general support given, and confidence in managing their tenancy, was as effective.

The telephone survey indicated a relationship between a positive view of the BDM and a shorter length of career as a tenant and/or those who definitely intended to remain in their current tenancy for the next five years.

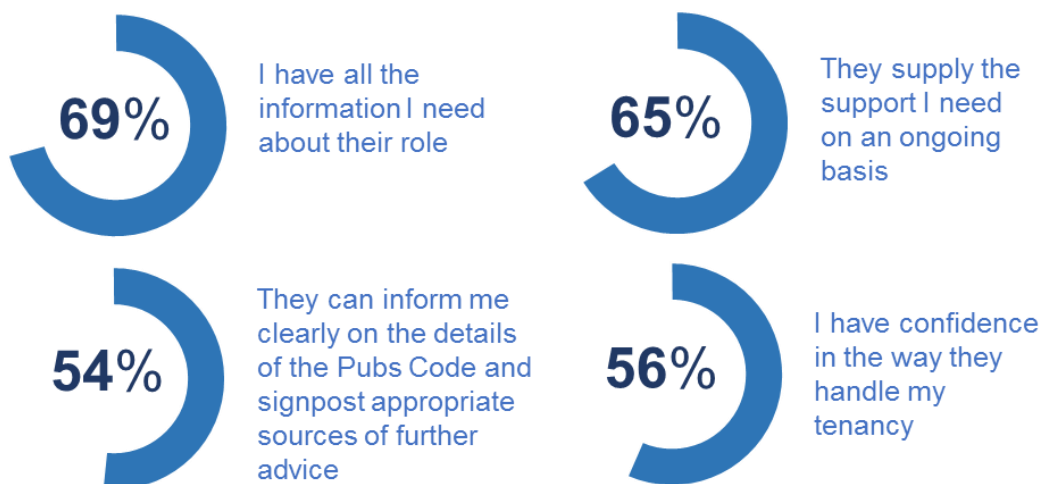
These findings were also borne out by material gathered in the follow-up depth interviews relating to higher levels of support at the set-up stages of the tenancy. In these interviews BDM attributes considered as key were; how knowledgeable they were about the pub industry and trade and how supportive and responsive they were. Experiences were often measured in relation to five key factors:

- Consistency; participants reported many changes in BDM in relatively short timescales
- Frequency of contact; this seemed more frequent for newer tenants but there were cases where tenants were citing substantive contact only twice a year
- Collaboration; tenants often stressed that a balanced relationship was needed
- Responsiveness; chasing too many times for a range of issues
- Tailored approach; some reported a 'one size fits all' approach taken by BDMs did not seem appropriate for their context.

Almost all new tenants since July 2016 observed an element of new entrant training or procedures and the follow-up depth interviews reveal a positive view of support.

Key facts:

- The percentage who agreed strongly/slightly to specific support roles of the BDM were;



- Over nine in ten new tenants since July 2016 (92%) recalled inspecting their pub premises, almost eight in ten received information from their pub company describing the pub and all obligations and almost seven in ten (69%) submitted a sustainable business plan. Half (51%) had completed their new entrant training at the time of the survey.

5.2 The Business Development Manager (BDM) relationship

5.2.1 Findings from Stage One: Telephone survey



Respondents were read a list of statements relating to their BDM and were asked about the extent to which they agreed, or disagreed, with each one. The statements were designed to reflect operational/administrative aspects of their role according to the Pubs Code, supportive elements of the role more generally and finally, their effectiveness of information sharing about the Pubs Code.

Respondents were asked to rate their BDM on each of these statements with one indicating that they “strongly agreed” and five “strongly disagreed”):

- *Operational/administrative*
 - They make formal notes of discussions about rent, repairs and business plans for my pub
 - I receive the notes made within 14 days; and I’m given 7 days to comment
- *Support (general):*
 - I have all the information I need about their role
 - They supply the support I need on an ongoing basis
 - I have confidence in the way they handle my tenancy
- *Pubs Code (information)*
 - They can inform me clearly on the details of the Pubs Code; and signpost appropriate sources of further advice.

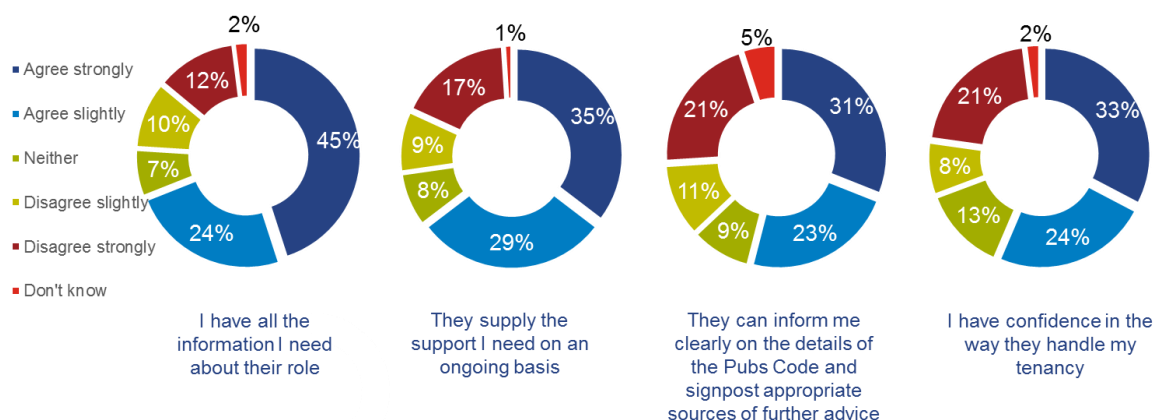
Overall, the highest levels of agreement (and therefore most positive reactions) were awarded in relation to the operational/administrative statements. Over three quarters of respondents (76%) agreed that their BDM made ‘formal notes of discussions about rent, repairs and business plans for their pub’ (48% agreed strongly).

Everyone, except those who disagreed strongly to this statement, were also asked to consider timely receipt of these notes and, in this instance, over nine in ten (91%) of tenants agreed that ‘I receive the notes made within 14 days; and I’m given 7 days to comment’ (74% agreed strongly).

Statements relating to the support function of a BDM received lower levels of agreement and hence reflected a more negative observation. A relatively high proportion (69%) of tenants agreed/strongly agreed that ‘I have all the information I need about their role’ and just under two thirds (65%) agreed/strongly agreed that ‘they supply the support I need on an ongoing basis’. The statement least likely to receive agreement in this sub-category of statements was ‘I have confidence in the way they handle my tenancy’ (56%) but perhaps more notably in this instance, just over a fifth (21%) selected the extreme side of the scale and disagreed strongly.

In regards to the statement relating more directly to the Pubs Code, [they] ‘inform me clearly on the details of the Pubs Code; and signpost appropriate sources of further advice’, just over half (54%) of tenants agreed to some extent that this was the case.

Chart 5.1: Rating of BDM



C1 To what extent, if at all, do you agree with the following statements about your contact with your business development manager... Base: All (WTD 388)

Compared to the overall average, there were very few significant differences in relation to the administrative/operational statements, which indicate that the high levels of agreement were relatively uniform. However, there were some consistent indications that a shorter length of time in the role, as well as having definite plans to remain in their current tenancies corresponded with a higher level of satisfaction of BDM support amongst tenants (findings were significant for the following):

- ‘I have all the information I need about their role’: 84% of respondents who had been tenants for between one to three years agreed/agreed strongly and 81% of those who will definitely remain in situ (same tenancy and pub-owning business) for the next five years compared to 69% overall
- ‘I have confidence in the way they handle my tenancy’: 71% of respondents who had been tenants for between one to three years agreed/agreed strongly and 70% of those who will definitely remain in situ for the next five years compared to 56% overall
- ‘They can inform me clearly on the details of the Pubs Code and signpost appropriate sources of further advice’: 71% of respondents who had been tenants for between one to three years and 72% of those who will definitely remain in situ.

5.2.2 Findings from Stage Two: Follow-up depth interviews



Participants were asked about their understanding of the BDM role; they felt that the BDM had three roles:

- Providing advice regarding how to run the business
- Providing liaison between the tenant and the pub-owning business
- Providing support with issues that the tenant found difficult to resolve with the pub-owning business (e.g. timely repairs).

Whilst participants found it easy to identify what they felt would make a good BDM, not all felt that they currently received this type of support or relationship⁵. The four attributes in Diagram 5.1 were cited as important.

Diagram 5.1: Four important BDM attributes



The importance of BDM attributes

A knowledgeable BDM was considered to be someone who understood what it was like to run a pub. Support included help with financial management, set-up, logistics and help with building/ repair/ renovation. Responsiveness related to where BDMs were quick and reactive to questions and queries. Finally, consistency of the same BDM over time was often noted as an area of concern (further discussed in this section) with participants agreeing that lack of consistency could be a barrier to building a relationship and therefore a positive BDM experience. Overall, these attributes were felt to contribute towards a positive and effective BDM relationship.

⁵ It should be noted that the follow-up depth sample was designed to specifically include both those who were positive and those who were negative towards their relationship with the BDM to ensure both perspectives were explored in the research.

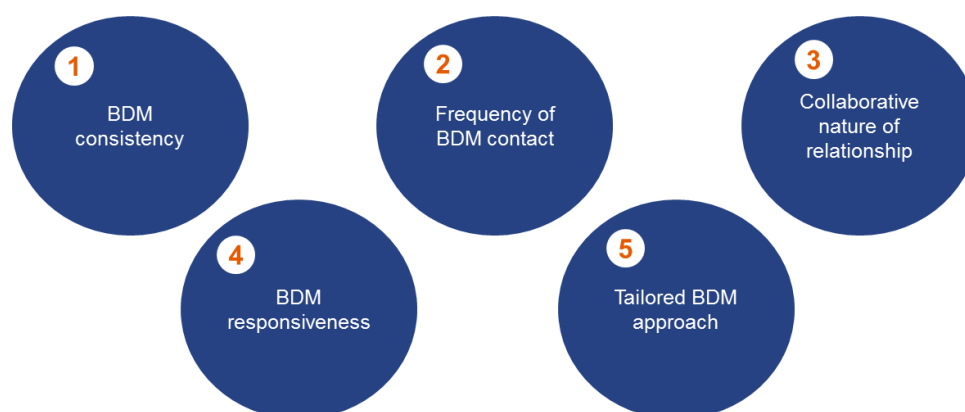
“One who listens basically, and tried to help if you have problems instead of just... showing you the numbers and [asking] ‘why do you think that is’? You just need help from them as opposed to facts and figures.”

Participants were asked whether their relationship or experience of interactions with their BDM had changed since the introduction of the Pub Code. Participants noted that there had been changes to the way in which paperwork was dealt with particularly in relation to the receipt of structured meeting notes or minutes. Some participants noted that meeting notes were now made by their BDM on a tablet meaning that the notes were ‘signed off’ then and there, and typically emailed to the tenant within 48-hours. Views regarding the benefit of these changes were mixed. Some were positive towards this change noting that it was helpful to have an accurate record of meetings for reference. However, some were more cynical about the process, feeling that it was simply a way for their pub-owning business to ‘cover their back’ and provided little benefit to the tenant.

Day-to day BDM relationship

Tenants reported five essentials for an effective BDM relationship:

Diagram 5.2: Five essentials of the BDM relationship (follow-up depth interviews)



BDM consistency

Many participants noted that it was difficult to build a relationship with a BDM when there is lack of consistency. These participants had experiences of short-term BDMs

Diagram 5.3: Experiences of consistency



A few participants were cynical about this frequent change of BDM and queried whether the lack of BDM consistency was intentional, with pub-owning businesses seeking to prevent any potential ‘collusion’ between tenant and BDM.

Frequency of BDM contact

Across the follow-up depth interviews there were mixed experiences regarding frequency of contact with a BDM. Those with more frequent contact tended to be more positive about their relationship. These participants often felt more supported by their BDM noting that they typically had a monthly face-to-face visit from their BDM alongside weekly telephone calls. These participants were often new tenants. Those with lower levels of contact with the BDM usually cited some kind of contact every couple of months. Whilst some appreciated a more ‘hands off’ style, others desired more frequent contact.

“It would be nice to see them once every couple of months but [BDM] can only manage twice a year.”

Some noted a suspicion that limited contact from their BDM was caused by workload with mentions of BDMs managing between 30 and 50+ pubs and living some distance away from their specific pub.

Collaborative nature of relationship

Participants were most positive about their BDM when they felt that their BDM was supportive and collaborative. These participants felt that they were working with their BDM with the joint goal of making the pub a success. They felt that they had honest and open discussions and advice from their BDM, and that the BDM proactively provided support with advertising, promotion, website development and training.

“[BDM] actually tries to help me run my business.”

Again, this experience was often cited by new tenants. Other participants across the research recognised that a collaborative relationship was desirable but did not personally feel it was a reality. These participants tended to feel that their BDM did not truly understand what it was like to be a tied tenant and felt frustrated by a lack of support in this context. Those most negative about their BDM experience felt that there was a lack of balance in the relationship. Some felt that the BDM simply focused only on ways to maximize profits for the pub-owning business.

“They [pub-owning business] are always looking at what they can get out of you rather than what would make us have a successful partnership.”

Other comments from those most negative about their BDM experience focused on the lack of transparency around costs for rent and other services. There were also concerns amongst a couple of participants who felt vulnerable in their position particularly around tenancy renewals. These participants felt that their situation was precarious as the pub-owning business could end their tenancy.

“They [pub-owning business] give you a pack which has all the solicitor’s jargon in it, I do read quite a lot of it but it amounts to ‘whatever you decide, we can say no and you can say goodbye.’”

BDM responsiveness

Participants who were more negative felt that their BDM was not responsive to their queries. This was noted by tenants who felt that they frequently had to chase their BDM in relation to issues such as repairs. Overall, a quicker response from the BDM was considered a key area where the BDM experience could be improved.

Those that received a ‘stock response’ from their BDM to a query they had raised could be most negative. These participants suggested that their BDM might not have autonomy to make decisions.

“They [BDM] are just a mouthpiece for the pubco.”

Tailored BDM approach

Some participants expressed concerns that their BDM took a 'one size fits all' approach to their pub using a 'one formula for success', regardless of the pub context. Some gave examples of their BDM suggesting promotional activities or general approaches to managing the pub that the participant felt would simply not work, or be suitable for their pub and customers. For example, suggesting what were felt to be city-centre approaches for more rural pubs, or suggesting promotional events where the tenant felt this would not appeal to local customers.

"They don't know about the local context, you have to bring that to the table."

Whilst some noted that they had to provide information regarding local context, a few expressed concern about providing too much information, fearful that the BDM could use this in an adverse way.

"[I] don't feel I can be honest with the BDM because I feel they're going to use it against me."

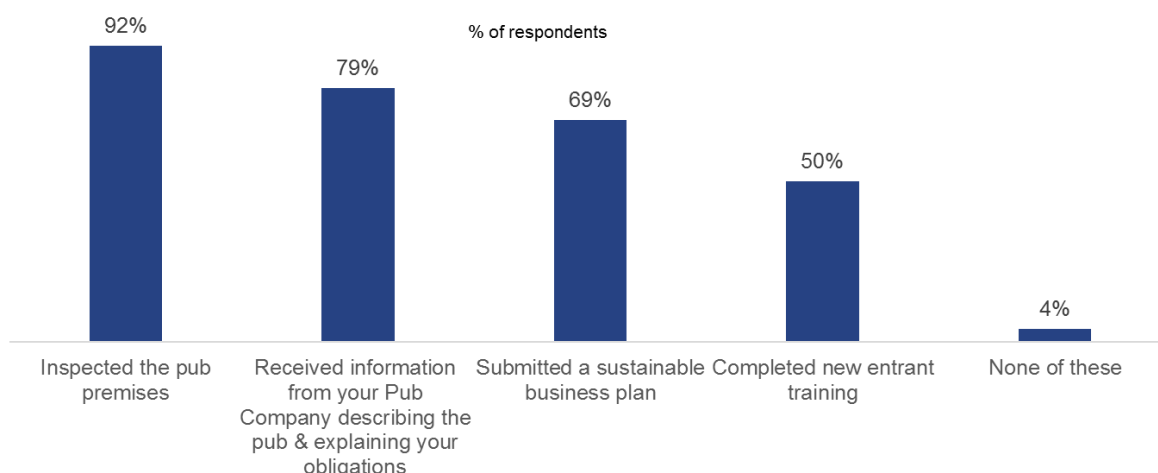
5.3 New tenant procedures

5.3.1 Findings from Stage One: Telephone survey



Those who had entered into their first, or a new tenancy, since the Pubs Code came into force in July 2016 were given a list of practices that the Code would expect them to have been exposed to. When reviewing the findings it should be noted that there are exemptions from some of these depending on any past experience and therefore they are not universal requirements. At the time of the survey, almost eight in ten (79%) had received information from their pub-owning business describing the pub, setting out the rent and explaining both to the tenants, and their obligations under the tenancy. To a lesser extent, just under seven in ten (69%) of new tenants said that they had submitted a sustainable business plan since the Code came into practice and half (50%) had completed new entrant training. Four percent of new tenants had not completed any of the four new entrant procedures. There was no notable variation in this amongst sub-groups.

Chart 5.2: Training practices (new tenants) completed since July 2016



C2 We understand that you have been in a tied tenancy since 21st July 2016. Can you tell us whether or not you have done any of the following since this date? Base: All with new / renewed tenancy since July 2016 (WTD 138)

5.3.2 Findings from Stage Two: Follow-up depth interviews



The new tenants were largely positive about their experiences and positive towards their BDM. Feedback was particularly positive towards the provision of training and the information provided at the outset of their tenancy which was considered invaluable.

“The more information you have, the better you are set up to succeed.”

Participants felt that they had gone through a thorough inspection of the premises and discussion of the welcome pack with their BDM.

“They do help...they give you loads of training, they try and educate you as well...anything you need to learn they will teach you.”

Some also noted that they had positive experiences of their pub-owning business investing in refurbishment of their pub. An area of suggested improvement that was cited by one participant was in relation to the sustainable business plan. Whilst they recognised the value of the plan, the process in putting it together was considered complex, and this participant felt that further support would have been useful.

“It’s [putting together the sustainable business plan] very time consuming...they could offer more help on that, just the way they worded it is really technical, if they could just put it in layman’s terms.”

6 Experience of code related events

6.1 Summary

This chapter discusses:

- The potential for the right to request MRO and the experiences of those that submitted
- Tenants' perception that there is a genuine opportunity to move to a free of tie relationship.

Experience of the Pubs Code and MRO

One in ten (11%) of the tenants who reported during the telephone survey that they believed they had experienced a MRO event since July 2016⁶ said that they had gone on to submit a MRO Notice. Another fifth had considered it. Barriers to submitting MRO were understanding of eligibility, the perception that there was no advantage (costs being too high) and a lack of confidence in abilities to pursue the matter. Motivations for pursuing MRO were the increasing costs of tied products and services.

The follow-up depth interviews revealed a complexity and variety of experiences of the process. Stages of the journey where information was lacking were;

- Discussions with the BDM prior to the MRO event often set the scene for the overall process; whilst some were useful, some participants felt the prospect was 'shut down'
- More transparency at rent review of tied rent calculations and costs for products and services
- Circumstances are very individual and clear information was difficult to obtain.

Participants felt that being prepared was key and often recommended that other tenants needed to allow six to twelve months to gather any required information and secure finances. They were surprised at the high upfront costs (for instance a requirement to pay deposits and/or property funds/maintenance costs) to go free of

⁶ Please note that this figure is based on the proportion of tenants who *self-reported* having experienced a MRO event

tie detailed in their MRO proposal. Factors participants advised other tenants to research; potential costs, timescales (they are tight if you need to secure finance), typical free of tie rent for similar pubs, experiences of others who had submitted an MRO Notice, MRO Notice letter template and any other information.

The majority of tenants in the telephone survey did not agree that they have opportunities to make a genuine choice between tied and MRO proposals

Key findings:

- 11% of tenants who felt that they had experienced an MRO event in the telephone survey had gone onto request MRO
- 21% had considered MRO but did not submit and 61% did not consider at all
- 36% of tenants who had experienced an MRO event in scope of the Pubs Code agreed that they have opportunities to make a genuine choice between tied and MRO proposals.

6.2 The MRO journey

6.2.1 Findings from Stage One: Telephone survey



All respondents were asked whether or not they believed they had experienced particular events that could have potentially made them eligible to request MRO. 35% of respondents said they had received a tied rent or rent assessment proposal; and a further fifth reported that they had renewed their tenancy agreement under the Landlord and Tenant Act⁷.

Approximately one in ten (11%) of all those that experienced one or more events, submitted a MRO Notice. Whilst the majority (61%) said that a Notice was not considered, a fifth (21%) had considered serving one.

⁷ Please note that these figures are based on the proportion of tenants who *self-reported* having experienced a MRO event, and cannot be taken to precisely reflect the actual figures for these events

The number of those who had submitted a MRO Notice is relatively small (31 tenants) but at a total level we can note that the majority (71%) had received a tied rent proposal or rent assessment proposal, and 26% had renewed a tenancy agreement.

Those who considered MRO were significantly more likely than the overall average to have received a tied rent proposal or rent assessment proposal (65%) or renewed their tenancy agreement (34%).

6.2.2 Findings from Stage Two: Follow-up depth interviews



Follow-up depth interviews were carried out with participants at various stages of the MRO process. The nuanced differences between these journeys meant that the picture gathered regarding MRO was that of a complex and highly individualised journey. In particular, there were different experiences regarding the following four aspects of considering and/ or submitting a MRO Notice:

Discussions with the BDM prior to the MRO event

Discussions with the BDM prior to the MRO event often set the scene for the overall MRO process and journey for participants. Experiences of these discussions were varied.

Some participants mentioned that they had proactively asked their BDM about MRO. This was typically because they had become aware of the option this presented in the media, and were interested to find out more and learn more about their options. Others revealed that discussions with the BDM prior to the MRO event had been initiated by the BDM who mentioned MRO when discussing an upcoming rent review.

Those who were more positive about these initial discussions felt that the BDM provided some useful information, including advice around the types of things to take into consideration when thinking about submitting a MRO Notice.

Those who were negative about these initial discussions felt that the BDM 'shut down' discussions, and the idea of MRO. There were a range of negative experiences including:

- Being informed by the BDM that the BDM was unable to provide any advice or information
- Being informed by the BDM that the MRO rent would be double the current tied rent and would be too expensive and unaffordable
- Being told that they would not be eligible to submit a MRO Notice.

Participants often felt that these were ‘standard responses’ which resulted in them assuming that the BDM’s hands were tied.

“All [the BDM] kept saying to us was that [they] couldn’t advise us to do anything and that there were set rules and regulations that had to be followed.”

This lack of responsiveness gave the impression that further discussions with the BDM about MRO were unlikely to be fruitful and that there would be limited scope for negotiation. A few participants took these initial discussions at face value, and anticipating that the MRO rent would be unaffordable, did not take the idea of MRO any further.

MRO event

In the follow-up depth interviews most participants had considered and/ or submitted a MRO Notice as a result of a rent review. Many recalled receiving comprehensive rent review paperwork. However, not all recalled whether the rent review paperwork had provided information or timescales about submitting a MRO Notice.

“There was something in the letter about if I wanted to go down the free of tie route they would do a survey of the building and would be at my expense...it did say what the next steps were but it never gave a timescale for the free of tie bit.”

Participants also felt that the rent calculations lacked transparency. Whilst the calculation typically detailed what had been taken into account, participants were unsure how these figures and assumptions had been determined. For example, participants felt that there was lack of clarity around how the pub-owning business had reached and calculated figures around staffing requirements and wages.

Seeking advice and information when considering submitting an MRO Notice

Most participants noted that they had carried out some information gathering and sought advice when deciding whether to submit an MRO Notice. A range of sources were used.

Across these sources, participants were looking for general information and advice about how the MRO process would work, and whether it was something that they should consider. The types of information that participants found valuable were:

- Potential costs
- Timescales
- Typical rent for similar pubs
- Experiences of others who had submitted an MRO Notice
- MRO Notice letter template
- Online factsheet (one mention across all depth interviews).

Thinking specifically about seeking information from the Pubs Code Adjudicator, participants often felt that the information had been difficult to find and complex. A few noted that there had been some lack of clarity around specific aspects of MRO which they assumed was something that would improve in the future once precedents had been set. Lack of clarity regarding the timescales for MRO was also mentioned by a couple of participants.

Overall, it was clear that there was not a single source of accessible and clear information and advice. Participants strongly felt that this was something that could be improved upon.

Receiving the MRO proposal

Those who submitted a MRO Notice were surprised at the high cost overall, and particularly the upfront cost to go free of tie detailed in their MRO proposal. Participants noted that they had not anticipated the requirements that sat alongside the MRO proposal. These included:

- A change in lease type.
- Requirement to pay six months deposit in advance
- Requirement to pay into a property fund for maintenance costs.

In addition to this, they were unclear on how the costs had been calculated. A few queried these costs and were not provided with any further detail.

“When I asked...how they’d reached that figure [they] couldn’t tell me.”

Most participants assumed that the MRO rent was final, and did not think about negotiating with their pub-owning business.

“We asked is that the full and final figure, and they just said yes, no explanation or anything.”

Overall, participants strongly felt that the MRO proposal was purposely designed to deter people from going free-of-tie, and to comparatively make the tied offer look the most attractive option.

Seeking advice and information following receipt of the MRO proposal

Most participants sought some kind of advice and information following receipt of the MRO proposal. Five participants referred their case to the Pubs Code Adjudicator. Three of these were informed that they did not have a case or did not progress their case, and two went through arbitration.

Experiences of negotiating after receipt of the MRO proposal

Overall, there was an assumption that any kind of negotiation would be difficult. Those that did negotiate after receiving their MRO proposal negotiated on their tied offer (not on their MRO proposal). Negotiation was typically with a senior person at the pub-owning business. Negotiation was around the cost of rent and tied products, and whether it was possible to become free of tie, or partially free of tie on some products. The negotiations were often done on the basis of profit and loss accounts, local context, and areas where the participant felt that the pub-owning business had made an incorrect calculation or assumption in the rent assessment proposal.

One participant used the fact that they had submitted an MRO Notice, and their resulting MRO offer as a negotiation tool. Another planned to do this, but had not reached that stage of the process yet. Both had been recommended to take this approach by an advisory organisation.

6.3 Barriers to submitting an MRO Notice

6.3.1 Findings from Stage One: Telephone Survey



Those that had experienced an MRO event that did not submit an MRO Notice were asked why not. The main two barriers were related to:

- Eligibility criteria; 26% didn't know they had the right to MRO at the time and a further 5% said that they did not qualify
- Perception of little or no advantage; 21% said that they couldn't see any advantage in going MRO / free of tie and 9% were happy with existing tied relationship / tied terms and/or rent

Another 13% couldn't say why they had not requested a MRO.

6.3.2 Findings from Stage Two: Follow-up depth interviews



The follow-up depth interviews mirrored the main barriers emerging from the telephone survey but, due to the nature of the interview, participants could give more information related to each. Four key reasons emerged for why some participants considered but did not request a MRO Notice:

Perceived financial affordability and value

Some participants simply felt that going free of tie would not be affordable. This view was based on experiences of other tenants, and information from their BDM that the rent would be likely to double.

"[BDM] just said the rent would have to go up and it wouldn't be worth your while, and we left it at that."

Others had carried out some research and felt that staying tied would be financially better for their current position. These participants did not feel that going free of tie would be financially worthwhile.

"I thought that I should find out what other pubs actually paid [in rent] and I found that I was a reasonable sort of rent as a tied [pub]."

Lack confidence that submission will be successful

Some participants were deterred from submitting a MRO Notice because they simply felt that they would be unlikely to be successful. This perception was driven by a couple of key factors. Firstly, participants noted that at the time at which they were considering submitting a MRO Notice, they had not heard (either via the press or other tenants) of any tenant being successful in going free of tie. Secondly, some participants noted that they had not been positively encouraged by their BDM that going free of tie would be an option.

“It was something like ‘the rent would double’...at the time I thought it was unfair, it was just obvious that it wasn’t achievable...I was told that basically, railroaded into believing that yes, there is no way I could afford it.”

Other participants lacked confidence in the success of a MRO Notice because they anticipated that it would be a fraught process, and simply felt that they did not have the energy or ‘fight’ to challenge their pub-owning business. This point of view was often reflected in the language that participants used across the depth interviews. Words associated with battle and conflict were often used to describe the relationship with the pub-owning business and the approach to taking a MRO request forwards. Some examples of the language used is provided below.

“We’re negotiating now...it’s them or me.”

“Just me against a corporation.”

“I’m just a lonely voice fighting a big company.”

“Fight to make the pub survive.”

“It’s like anything that’s a negotiation. If you’ve got more information and ammunition, you’re more likely to win the negotiation.”

Concern about impact on the relationship with the pub-owning business

A few participants were reluctant to submit a MRO Notice because they were concerned about the impact it could have on their relationship with their pub-owning business. These participants tended to feel vulnerable in their tenancy, and were wary of ‘making trouble’.

“You’re completely in their hands...you can ask for something but if they don’t like that, they can say we’re not renewing your tenancy, and they get someone else to take the pub over...it’s a totally unprotected tenancy.”

These concerns were often intensified by stories passed on by word of mouth regarding tenants who had ended up leaving their tenancy as a result of challenging their pub-owning business.

Ineligible

Across the follow-up depth interviews one participant was told that they were not eligible to submit a MRO Notice. Another participant missed the deadline. This participant felt that timescales were not made clear enough.

“I did feel that it was a little bit underhanded in that they [pub-owning business] didn’t say in the letter that you’ve got two weeks to do this. I suppose they could say it’s up to me to find the bits and pieces.”

6.4 Motivations for submitting a MRO Notice

6.4.1 Findings from Stage Two: Follow-up depth interviews



There were three key reasons for submitting a MRO Notice:

Rent review rent considered too high

Dissatisfaction with the rent review proposed was often the reason for submitting a MRO Notice. This was particularly the case amongst participants who felt that the proposed rent did not reflect a balanced relationship between tenant and pub-owning business.

“We had [significantly increased] takings in three years – they were punishing us for our hard work.”

One participant commented that in hindsight, they would not have submitted a MRO Notice if they had felt able to negotiate on their tied offer. In this instance, they felt that negotiation was not possible and therefore progressed through the MRO route although they would have been open to staying tied with some negotiation.

Curious to see MRO proposal

Some participants were simply curious to see what the MRO proposal would be. These participants were keen to go free of tie, and some were ready to submit their MRO Notice as soon as they received their rent review.

“I thought I would look at the free of tie route and see what was available.”

For negotiation

One participant had specifically submitted a MRO Notice with the intention to use this as a negotiation tool. This participant anticipated that going free of tie would not be affordable, but had been recommended to submit by an advisory body.

6.5 Key learnings as a result of engaging with the MRO process

6.5.1 Findings from Stage Two: Follow-up depth interviews



Participants reflected on their overall experience throughout their telephone depth interview, often commenting on things that they would have done differently, or would do differently next time. They felt that these were valuable learnings and also raised a number of areas where they felt further support could improve the process. Five key areas emerged:

Timescales

Overall, participants noted that the MRO process took longer than they had anticipated, although most reflected that the timescales had been unclear.

“I didn’t expect it to be as long-winded and drawn out as it was.”

Whilst participants reflected that there was little time to carry out specific actions during the process, they felt that overall, the timeframe for completing the entire process was long. Thinking specifically about the time available for specific actions, a few participants suggested that the time available between receiving the MRO proposal and responding to this was not long enough. They noted that during this

short period they needed time to ascertain whether they could raise funds for the MRO proposal , or carry out research into whether the MRO proposal was attractive.

“Two weeks is long enough to get in touch with a solicitor and talk to somebody and work out you can’t afford it. But there’s a lot of things you have to do...you have to find out this information whilst running a business, whilst working in the business and sometimes that’s not easy.”

A couple further noted that the timescales imposed felt overly rigid at some stages of the process. This was particularly noted with regard to the period of time available for negotiation following receipt of the MRO proposal and the point at which it could be referred for independent assessment of the rent. These participants felt that if it was very quickly ascertained that their pub-owning business was not open to the idea of negotiation, the time they were required to wait before referring for independent third party assessment of the MRO rent, was not needed.

Lack of information

Participants felt that it had been very difficult to find information about the process in an easy to read and accessible style.

“Anything to do with this, information is key and I just don’t think there was enough information either provided by [the] pubco or by the government.”

They noted that much of the information that they had come across had been jargon heavy and legalistic.

“As it is you’re scraping around trying to work out what the change in law means...I’m not a legal expert...nobody reads legalese...and you kind of read it and think you understand 25% of that.”

Some assumed that the limited information available was a result of the MRO process being new, and therefore anticipated that more information would be made available in the future.

“Because everyone was relatively new to the MRO I don’t think anybody really knew what would happen.”

“I hope that [when more cases are decided] that there will be a lot more guidelines on the PCA website for people to look at and how pubcos come to the decision of what an MRO [proposal] will be.”

Lack of support

Lack of support was also a key area of concern for participants. They noted that there was no clear foundation for support; this was reflected in other research findings where a wide variety of sources were used by participants. Participants felt that the lack of support available to tenants amplified the lack of balance in the relationship between tenant and pub-owning business; participants were aware that pub-owning businesses would have access to legal teams.

“There’s no help there...there’s no one you can just pick the phone up to and say ‘my rent review’s in a couple of months...what are my options?’.”

Some had expected that the Pubs Code Adjudicator would provide this type of support and had been surprised when this had not been the case. Overall, these participants felt that the PCA was not supportive and that the information they provided was not always clear.

MRO is a new process

Whilst participants were sympathetic to the fact that MRO is a new process, most assumed that things would become clearer as more people went through the process, and precedents were set. With this in mind some felt, and had been advised, that submitting a MRO Notice in five years time would be a much simpler and cost effective process.

“The advice [advisory organisation] really was, your best bet is to leave it for five years because the biggest problem at the moment is that everything is up in the air, because there is no precedent to anything because it is new law. So if you leave it through this rent review until the next one, in five years down the line everything will have been ironed out, all of the legalese will have precedence, therefore it will be quick and easier to go through which means it will be cheaper.”

Preparedness

In hindsight, participants reflected that they had not been fully prepared to submit an MRO Notice, and go through the MRO process.

“My advice would be, be prepared, and be prepared early.”

Even those who felt that they had read as much background as possible before their rent review felt that they were not fully prepared. Being more prepared focused on the following things:

- Being clearer on what happens at each stage of the MRO process
 - Knowing what the options are if you do not agree with and want to challenge the MRO terms and MRO rent offered by the pub-owning business
-

“It would be nice to have something from the government to say they [pub-owning business] are allowed to do this, not allowed to do that.”

- Thinking more about negotiating on both the tied rent offer and free of tie offer, and not taking figures provided by the pub-owning business at face value
 - Being more prepared with information, facts and figures to support negotiations and your response to rent offers. Participants typically suggested that 6-12 months in advance of their rent review it would be useful to start gathering information and think about what kind of rent agreement they wanted with the pub-owning business
-

“Going forwards that’s what I’d do, so my next rent review I’ll be looking at the free of tie option way before, adding up the cost, looking to see if it’s viable, speaking to people and going from there.”

“You have to have your ideas in place...I would have been better placed having more knowledge about the timings.”

With these areas in mind, participants suggested that a pamphlet from the Pubs Code Adjudicator and clear information about process and rights would be valued. It should be noted that these materials are already available but were not recalled by these particular participants.

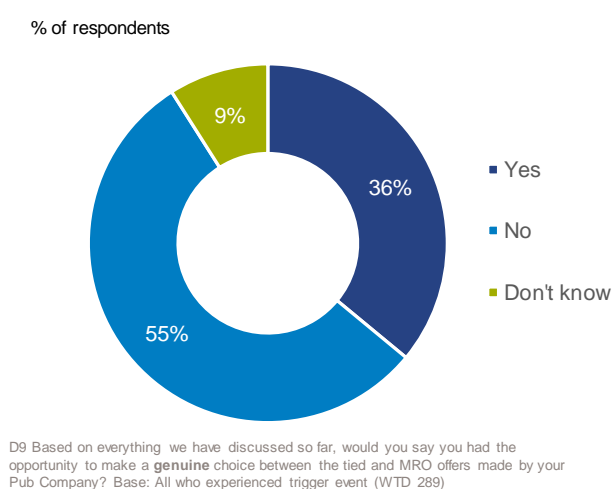
6.6 Genuine choice

6.6.1 Findings from Stage One: Telephone survey



All respondents who experienced a MRO event, whether or not they engaged with the MRO process any further, were asked if they perceived they had the opportunity to make a genuine choice between tied and MRO proposal made by their pub company. Just over a third (36%) said that they did.

Chart 6.3: Whether the process represents a genuine opportunity of MRO?



Whilst there were no significant differences across many aspects, those who expected to definitely stay in their tenancy (51%) and those who were more positive about the support given by their BDM (59%) were significantly more likely to say 'yes'.

6.6.2 Findings from Stage Two: Follow-up depth interviews



None of the participants in the follow-up interviews who had considered submitting and/ or had actually submitted a MRO Notice felt that they had had a genuine choice. This lack of choice was driven by three key factors; a lack of transparency in terms of prices and costing, the actual figures discussed which included deposits and rent up front as well as costs for dilapidations and finally, a feeling that conversations were not encouraged by the BDM.