

Beer and spirits**Drinks groups accused over high cost of cutting pub 'beer tie'**

Tenants suffer hangover as brewers demand upfront payments despite code



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Paul McClean DECEMBER 8, 2016

When the Pubs Code was introduced this year, it was hailed as a victory for smaller tenants over the large pub companies.

The centuries-old “beer tie”, which forced tenants to buy beer from their pub company at inflated prices, was finally cut, allowing them to purchase beer on the open market at standard rates. Tenant groups estimated it would transfer between 80-90 per cent of a pub’s profit from the pub company to the tenant.

Pub companies have scrambled to restructure their businesses in response, whittling down their tenanted pubs and increasing the number they manage directly. But tenants say the companies are also trying to reduce losses by making it prohibitively expensive to cut the beer tie.

Documents seen by the Financial Times show that some of the UK’s largest pub companies are demanding tens of thousands of pounds in upfront payments if a tenant wishes to cut the beer tie. Tenant groups argue that with 80 per cent of tied tenants earning the equivalent of less than £15,000 a year — according to figures from the Campaign for Real Ale — it is prohibitively

expensive to do so.

Punch Taverns told one tenant they would face more than £75,000 in upfront costs, including a new deposit, the first quarter's rent in advance, stamp duty, and legal fees, if they went free of tie, along with £75,000 annual rent. If they stayed on their existing beer tie, they would have no upfront costs, and their rent would be less than £49,000.

Nobody expects a Costa Coffee-owned outlet to be permitted to sell Starbucks coffee

Heineken

Tenant groups such as the Pubs Advisory Service say that pub companies justify the charges by insisting on issuing new leases to tie-free tenants.

"There should simply be two changes to the existing [lease] — you should be free to buy your beer wherever you want, and your rent should go up a bit," said Simon Clarke, a chartered surveyor and pub tenant. "The costs are there just to put you off — and at the moment, it's succeeding."

Pub companies respond that the costs are standard — Brigid Simmonds of the British Beer and Pub Association said it was "inevitable" that free-of-tie agreements would have "terms that more closely reflect commercial rental agreements elsewhere in the marketplace". Punch added that the upfront costs would apply even if the existing lease were simply changed.

Heineken and Greene King, two of the three major pub companies that brew beer as well as owning pubs, also insist on "stocking requirements" in their free-of-tie lease, forcing tenants to sell a number of the pub company's beers.

There is no mention of stocking requirements in the Pubs Code, which aims to ensure the 12,000 tied tenants under the UK's six large pub companies are no worse off than the landlords of pubs that are not tied.

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Simon Clarke, chartered surveyor and pub tenant

Heineken and Greene King say the law allows them to impose these requirements, and that parliament "recognised" the right of brewers to ensure their own products are stocked and rival products restricted. "Nobody expects a Costa Coffee-owned outlet to be permitted to sell Starbucks coffee," said Heineken.

requirements.

Tenant groups respond that Marston's, the third brewer and pub company, does not have these

The disputes are likely to occupy Paul Newby, the new Pubs Code Adjudicator, for many months to

come. Tenants who feel their free-of-tie offer is unfair can refer it to Mr Newby for arbitration, and this week he revealed large numbers of tenants have already done so — 79 disputes have been raised in the first four months of the code, and 77 were accepted.



Paul Newby, the Pubs Code Adjudicator © Charlie Bibby

In an interview with the Financial Times, Mr Newby said he saw the code as a means of “levelling the playing field” between the “David and Goliath” of pub tenants and big pub companies. He said he was “concerned” that some pub companies were “not taking the code seriously”.

Mr Newby has also come under scrutiny for his links to the pub industry. He worked for 25 years at Fleurets, a property surveyor that derives much of its revenues from the big pub companies. Mr Newby says he has no conflict of interest, and Greg Clark, business secretary, backed his appointment last month.

According to Companies House records, Mr Newby retains a 10 per cent stake in Fleurets, though his shares do not give him voting or dividend rights. Asked about his financial interests in the company, Mr Newby said, “Those are figures that have been given to you by other people, they’re not figures that are in the public domain. They’re confidential matters.”

When it was pointed out that the figures were freely available online, he replied, “If you’ve looked at Companies House, then it’s on the public record.”

Mr Newby said he was “considering” how best to deal with the issue. Asked if this included revealing all his relevant financial interests, he replied, “It’s an option.”