

**Further evidence re: ETI behaviour & non independence of RICS valuer during rent assessment & PIRRS arbitration – complaint number 3 on executive summary**

**Written evidence to the BISC in relation to the Pub Industry enquiry**

Name:  
Business:  
Phone:

Oral evidence available on request

**Executive summary**

1. Highlighting the rent review process from ETI was totally unacceptable.
2. Rental-increase proposal totally unacceptable on all 5 occasions of rent determination from ETI.
3. Alleged bullying from ETI towards Leaseholder & their own 'Independent Valuer' to achieve an unfair & unjust rental increase.

**Introduction**

I have spent over 30 years in the business; my last roles were as a Director with

In , I became a Leaseholder (30-year lease) of the Pub, to run with my family.

The Lease is with Enterprise Inns (ETI) – Partial tie with a rent of per annum, to be reviewed every 5 years.

The last rent review was which saw the rent increase from to

My first rent review was to be

### **Factual Information**

All information that follows is backed up by an 'Audit trail' of events from  
(Attached)

Relevant letters & emails to ensure no question of any doubt surrounding the facts in this matter back up all  
'audit trail' events. (Available on request)

### **1.Highlighting the rent review process from ETI was totally unacceptable**

- 1.After chasing the Regional Business manager for several months to start the rent review proceedings, I receive a letter dated around 11 weeks before rent determination date) to move my rent by 170%.
- 2.Second rental figure of 100% increase is given to me on
- 3.I get the 'proper' detail of the 'working out' of this 100% increase from the rent controller of ETI on weeks before the rent determination date).
- 4.I start the PIRRS action on - pay my fee on - ETI eventually pay their fee around further delaying the process of PIRRS.

The timescales of this process are unacceptable – which were driven by ETI  
The fairness of the rent bid is unacceptable – which were driven by ETI

### **2.Rental increase proposal totally unacceptable on all 5 occasions of rent determination**

- 1.Initial rent proposal of (170% increase) –
- 2.Second rent proposal of (100% increase) –
- 3.Third rent proposal of (70% increase via calderbank offer) –
- 4.Verbal offer of from rent controller (53% increase) –
- 5.ETI 'Independent Valuer' bid of (75% increase) –

The outcome of the PIRRS rent determination was around increase – considerably lower than any of the 5 rental offers from ETI.

### **3.Alleged bullying from ETI towards Leaseholder & their own 'Independent Valuer' to achieve an unfair & unjust rental increase.**

- 1.4 of the 5 outrageous rent proposals from ETI over a period of months would, in my opinion, appear to constitute bullying.
- 2.The divisional director of ETI wrote to me stating that the rent controller of ETI concurred with the Regional manager's assessment of rent, which was not true.
- 3.The independent valuer for ETI, stated that his work was being questioned by ETI during the PIRRS process.

**ETI – Bullying independent valuer (** **from**

**Evidence A:**

Following conversations with [REDACTED] regarding the Statement of agreed facts, I was very concerned about how independent the valuation was going to be given that [REDACTED] had tried to change agreed food margins in a telephone conversation on [REDACTED]

...witnessed this conversation, as we were in the car travelling to London. The conversation around FMT sales from ... was that he had my sales at ... – I said mine was at ... and I would not budge.

Due to the question of integrity and because our mobile phone conversations were not the clearest for me to hear or understand – a further telephone conversation was taped on

The critical passage of dialogue was as follows:

Why can't we agree mineral & spirit margin? – Were not going to be miles off are we?  
I don't know, I'll have to see when I'm back in the office  
Okay, what about FMT sales, that's the critical one for me...you said to me  
If we are agreeing the sales mix its going to come down really to food sales.  
Right  
That's what its going to come down to.  
You think the                   , you said to me is gone now?  
Yeah I think so.  
Why is that - do you know?  
Don't know, can't really say, different opinions at Enterprise.  
Ok.  
Well that                    verbally I said to you, I thought if I could get that agreed but I didn't  
unfortunately – I tried to agree too much & they said, look                   , you can't agree.

In addition to this evidence of allegations of pressure placed by ETI on a 'independent valuer', more evidence of the independent valuer using ETI's own 'workings' on previous correspondence are available. (Evidence B) [WITHHELD]

Further evidence that ETI ignored independent advice, which includes written admission from [REDACTED] he tried to inform ETI that my rent should not be more than [REDACTED]. – but was ignored by the rent assessment team at ETI. **(Evidence C)**

I can only conclude that ETI forced an independent valuer to change his work and subsequently breach his 'independancy & objectivity' in my rent battle – this is a serious & exposes the conflicts of interests in these matters and indeed the behavior of a Pubco & Indeed the failure of a RICS valuer to remain true to the 'Independent & Objective' guidelines of the RICS rules of conduct.

Timeline to clarify the evidence

**Evidence A**

Transcript dated . . . – backed up with recording

**Evidence B (attached)** [WITHHELD]

letter dated . . . – including . . . own margin tables

Page 7 of Expert witness report from . . . during PIRRS dated . . . – Using  
exact margin table that . . . had produced some 6 months earlier

Question – why would an independent valuer use this

**Evidence C (attached)**

BII interview with . . . in . . .

. . . states he advised ETI to settle at . . . rent -  
. . . states he is having lots of negotiations with ETI – first 2 weeks of  
. . . repeats advice to . . . to settle at rent starting with a '4' –  
. . . states that ETI have not seen his opinion of FMT as of . . . – however this is clearly not  
true as he told me on . . . that 'there is a difference of opinion' at ETI on . . . (see  
transcript)  
. . . states he met with . . . on . . . & asks why the matter could not have been settled

There is clear evidence that an independent valuer did not do an 'independent' rent assessment because he  
was influenced heavily by ETI/

. . . eventually came up with a rental bid at PIRRS of . . . – even though he has stated many  
times to settle at a figure of around : . . . – this inflated rental bid was a ' . . . ' between ETI & a paid  
independent valuer to get the best result at PIRRS possible.

This evidence highlights serious conflicts within this industry and despicable behavior from a Pubco to gain  
profit by . . . means

Regards

# EVIDENCE C

## Time Line

	Date
Site inspection	
_____ tells EIP initial advice that a settlement at third party based on recent experience third party experience a rent of around _____ per annum.	
_____ appointed	
_____ makes offer of _____ to _____ makes no comment on this offer and _____ sees no offer from _____	
Issues with wholesale price list ongoing between _____ and _____ finally resolved.	
Presumably discussions with Enterprise and _____ is not party to any negotiations nor sees any offers from Enterprise.	
PERRS case live - _____ not party to any discussions or offers/ P&L from enterprise	
_____ has to prepare Expert Report. Nothing has been agreed between _____ and Enterprise. I see no P&L from Enterprise.	
_____ wants to agree a Statement of Agreed Facts with the tenant. There is lots of negotiation between _____ and _____. This results in some downwards adjustment in some areas of my P&L including wet sales and tied wet GP and dry GP.	
_____ states that I don't know what to agree from one minute to the next. This is because I am having lots of negotiations with EIP and it takes _____ lots of persuasion to get _____ to agree the SOAF.	
Enterprise state they have not seen my opinion of FMT. _____ repeated advice to _____ was to settle at anything starting with a "4" and _____ to _____ was what _____ thought they should make an offer to settle.	
_____ says best offer from tenant is _____ pa. He is not sure if it still stands. He makes no comment about Enterprise offer or their position.	
SOAF agreed between _____ and _____. This includes: <ul style="list-style-type: none"> <li>• Tied beer sales £ pa</li> <li>• Wet % sales mix analysis</li> <li>• Dry GP</li> <li>• Tied Wet GP</li> <li>• Beer wastage</li> <li>• Building insurance</li> <li>• Rent bid</li> <li>• A raft of comparables evidence - 17 pubs</li> </ul>	
These figures go into _____ a revised P&L as most of the above is a	



## EVIDENCE C

Expert Witness Report (excluding appendices) sent to [redacted] for comments. [redacted] was on holiday. [redacted] comment was to include a better build up of food trade though he suspects it is in the appendices. This is the first time he has read my report).

[redacted] replied to [redacted] to show him the breakdown of food sales in his food assessment form which was included in the Appendices.

Later [redacted] asks [redacted] to email him the blank excel template of the Food Assessment Form for his future use.

[redacted] submitted Report with Statement of Agreed Facts. Rent sought [redacted]. There are no changes to my Report from Enterprise Inns. (It should have been submitted a week late on [redacted]).

Replies submitted.

[redacted] also met with [redacted] and [redacted] to discuss the matter and asked why the matter could not be settled. [redacted] and [redacted] never told [redacted] what Enterprise's final offer was or how calculated.

[redacted] inspection  
(did not to attend by Enterprise Inns)

[redacted] writes to both parties asking [redacted] to provide more explanation on his report and full breakdown of my P&L.

[redacted] drafts reply clarifying his average spend per head and breakdown of all overheads. It shows the only dispute is the actual dry turnover pa.

[redacted] sends proposed response to [redacted] and [redacted] to tell them what he is doing. [redacted] responds that he should not bother to send (my proposed) response. [redacted] agrees (on 5 April) with [redacted] but to show as "being helpful" he agrees for my response to be sent.

[redacted] sends response to [redacted]. There are NO alterations from Enterprise Inns.

### Comments

- My P&L was mostly agreed with [redacted] on the Statement of Agreed Facts (SOAF). We did not agree all costs or FMT dry sales.
- Therefore my P&L was largely dictated by this agreement.
- My assessment of food sales was my own working.
- In agreeing the SOAF I made concessions to my own P&L and persuaded Enterprise Inns to agree them. This took a lot of persuasion as [redacted] was at first reluctant.
- As most of the SOAF was a concession on my part, this would have the effect of a lower rent.
- I never saw a P&L from Enterprise Inns.
- I never saw an offer of [redacted] from [redacted] or on what basis it was calculated or when it was made.

[redacted] agreed with my number of