

My partner, , took a nine-year [Brewery] Tenancy, fully tied for beer, cider, wines, spirits and soft drinks, in on . The pub is located on a backstreet and, after a refurbishment in . At the time he took it on, the pub had a weekly turnover of . Rent was set at and rose to after the refurbishment.

We took on another [Brewery] Tenancy on in . Rent was low to start but rose to after a refurbishment in the autumn. There was no indication prior to this that this would be the new rent and as clear indication of how overrented this was, [Brewery] did not seek to increase it over the next two rent reviews and reduced it to when we agreed a lease on it.

Over the next few years, through hard work, skill and a unique trading style and food offer, we built the two pubs into market leaders. Under our tenure the became the in the [Brewery] Estate and both pubs won numerous local and national accolades and awards.

Rent reviews at were conducted under the shadow of their managed house division. We were repeatedly told that there was a strong opinion within the company that it should be converted back into a managed house, so if we didn't agree the new rent that they proposed, that would give them an excuse to move in.

As the end of the tenancy approached, we made it clear to [Brewery] that we would like to replace it with an assignable lease, tied on beer and cider only and we were given every indication that this would receive favourable consideration.

attended a BII workshop on conducting rent reviews. was very surprised to learn about the profits method of rent setting and felt that we now had a structured approach to negotiations. Unfortunately, it soon became clear that it was a process that [Brewery] only played lip service to and that many of the BDMs we dealt with had no understanding of it. The tenancy expired in .

Between and as we attempted to conduct negotiations on the the Business Development Manager assigned to handle the process for [Brewery] changed at least seven times. In , the rent requested for a 10 or 15 year lease, fully insuring and repairing, free of tie on wines, spirits and minerals, was for the and for the figure was later reduced to . This was later explained to us as the rent that they had calculated for a tenancy plus that they currently made from us being tied on wines, minerals and spirits. We were told that any rent they offered for a lease would have to include this figure.

We soon realised that we were heavily disadvantaged by negotiating for a lease because [Brewery] could make any demands they wanted, so we asked to renew our tenancy on the same terms as before. We were told that they were unable to do this as they no longer had a year tenancy agreement.

[Brewery] gave us a Shadow Profit & Loss Statement (Appendix 1) [WITHHELD] with a 'Fair maintainable turnover' (FMT) value of , calculating a tenancy rent of . They have repeatedly claimed that this FMT was calculated according to RICS Guidelines and, having described us as 'exceptional', 'A1' and 'first class' operators on numerous occasions and even 'among the finest licensees in the UK', and therefore above the standard of REO, disregarded our Personal Goodwill as required. They also claim that all the other rent proposals were calculated using this FMT although we have never seen the evidence for this.

RICS Guidelines define FMT as "The level of trade that a 'Reasonably Efficient Operator' (REO) would expect to achieve on the assumption that the property is properly equipped, repaired, maintained and decorated."

A reasonably efficient operator (REO) is defined as: "a concept where the valuer assumes that the market participants are competent operators, acting in an efficient manner, of a business conducted on the premises. It involves estimating the trading potential rather than adopting the actual level of trade under the current ownership and it excludes personal goodwill."

What is clear in retrospect is that [Brewery] didn't calculate their FMT figure as set out by RICS Guidelines. There was no consideration of a hypothetical REO and no exclusion of our personal goodwill. Instead they used the average annual turnover calculated from all the full financial years we had been at the pub. Our actual average annual turnover up until the point that this was calculated was a difference of only (or 0.23 per cent) from the FMT figure of .

Unfortunately, we did not realise this at the time although there was very little we could have done about it if we did. Calculating our rent on our real turnover, with no allowance made for the level to which we were overtrading, meant that the business had to maintain extraordinary trading levels in order to survive, any major drop in trade below our average would seriously jeopardise the business and [Brewery] were clearly aware of this.

But back to rent negotiations for now:

We engaged chartered surveyor, who calculated, using [Brewery's] FMT of that the rent on the on our current terms ought to be : . We sent a copy of report to our BDM who, in subsequent meetings, refused to acknowledge its contents as he claimed that [Surveyor] is largely regarded as a 'joke' in the industry.

In our then BDM, offered a '3 and 3' deal, three years, no rent reviews RPI-linked and free of tie on wines, spirits and minerals for . This was explained as no increase on the current rent of plus the of [Brewery's] wines, spirits & minerals profit. In the same month we were issued with a Section 25 Notice on a five year tenancy at .

In before the scheduled court appearance, we were summoned to a meeting in London with the then [Brewery] CEO, , who apologised profusely for [Brewery's] conduct during the lease negotiations and promised us that no tenant would ever be treated like that in the future. At the meeting we agree a new lease with a guest ale provision (to be purchased through SIBA), assignable after three years, on a rent of RPI-linked.

were also present at the meeting. said that if we did ever want to sell the lease, he would be keen to buy it.

When the draft lease arrived at our solicitors, there was no guest ale provision. After this was queried, another draft lease was received on . The guest ale provision allowed for only 10 brewers' barrels per year for an additional £1,000 on the rent. Guest ale would have to be purchased through (a very poor selection), the provision was non-contractual, to be reviewed every 12 months and personable to [CEO] : (who left [Brewery] a few months later).

In addition, the lease stated that assignment could not take place within four years despite a period of three years, as standard, having been agreed at the meeting and the multiplier was set at although we had agreed . Negotiations once more resorted to solicitors' correspondence of a less than conciliatory manner. With no movement on the guest ale provision, we declined it. After arguing in no uncertain terms, [Brewery's] solicitor, eventually conceded that three years had been agreed by "Someone without the authority."

"That leaves my clients with a problem. They are loath to agree to this but recognise that certain representations have been made. There is a feeling that between gritted teeth they should accept what has purportedly been offered."

Another email from , dated , regarding the original deposit paid for the tenancy which [Brewery] were unable to account for, illustrates the tone of the exchanges:

"I regret to say that it is your clients attitude that is regarded as unacceptable...

"There is no mention of this sum in the tenancy and any chance of reclaiming (assuming that it was actually paid and that my clients have wrongly failed to account for it which is denied) was lost by statute of limitations 4 years ago!

"Either your client completes in the next 10 working days or the offer of a lease is withdrawn and we are back to the renewal proceedings unless your client decides then to serve a s 27(5) notice."

Under this threat, we signed the new lease on the on , despite it not being what we believed we had agreed in

In , we signed an identical lease on the for a rent of backdated to .

Soon after this point, trade at the which had been in gradual decline for some time, was now in freefall and the business was no longer viable at its current rent. We undertook an urgent review of the business, and came to the following conclusions, which we passed on to [Brewery]

1. Rent was too high. Similarly sized pubs nearby are rented at £30-£40,000 with FOT on Ale.
2. Choice of beers was inadequate. Changes in market made local ales a necessity as could be seen. Also same range of other lagers was being discounted in happy hour deals in surrounding venues.
3. Our style of menu was widely copied, often by venues franchising out their food to individuals who were trained at the While we maintain that our food was of a higher standard that fact would not be visible to passers by comparing menus at different pubs.
4. We lost a huge slice of daytime & early evening trade as the small companies occupying the offices around the pub moved out and the buildings became largely vacant.
5. We lost footfall as the pedestrianisation and development of the area of adjacent to drew all the passing trade away from the grotty streets and became the main thoroughfare between the and the centre of the town and provided a new circuit of restaurants and bars and a new focus for night time economy.

[CEO] asked you to think about: -

- a) The assignment value
- b) What the FOT rent looks like?
- c) Whether there was a Win/ Win scenario?

Ten days later, we emailed "Any response, situation is critical?"

In we met with a well-respected local pub surveyor who sent us the following comments after our meeting.

"Thanks for the info, I must admit I confer with [Surveyor's] valuation entirely.

"I can, however, not see [Brewery] taking the sort of rent hit that will make it viable for you to stay on as tenant.

"The best way forward may be to see what rent reduction they will give and then try and obtain some form of premium for the lease (say £50k).

"You may get someone interested at that level in view of the relatively high turnover?

"If [Brewery] are minded to let you assign early then you may derive some form of premium for all the goodwill you have generated over the years and, more importantly for them, you may find a successor who can perhaps operate the site as an owner operator, thus removing some of your staffing costs.

"The fact remains I fear that you are vastly over-trading the site and, more importantly, trade has migrated "en masse" down to as we discussed.

"If the early assignment option is not one they would consider then I suggest (as a matter of urgency) you ascertain what (if any) their surrender terms would be as you are certainly not going to turn things round without a major rent reduction and severe cost cutting (the latter will impact on your trade anyway)."

A full month after our meeting with [CEO], [BDM] and reported back with [Brewery's] response on . The only 'assistance' [Brewery] was willing to give us was to allow an early assignment of the lease in return for six months rent. While we would continue to pay the current rent that was destroying the business, the assignee would be charged a lower rent of . suggested a premium of £1 ,000 for the business and expressed his belief that there would be no shortage of eager buyers.

A few days later, confirmed the terms in an email:

"[Brewery] will allow an early assignment of the lease with immediate effect. There will be a charge made for this, equal to the value of 6 months rent at the current prevailing rate.

"You need to please ensure you have written to [Brewery] to express your desire to exit the business early, as this will also allow us to market your lease on your behalf and assist you find a new lessee.

"The new rent chargeable to the new lessee will be : per annum until the next review in

"Once you are ready to propose an assignee, [Brewery] will need to approve the applicant and will have the final veto as to their suitability.

"I would also like to take this opportunity to say that [Brewery] do not want to lose you as a lessee and regardless of what happens we would like to maintain a professional relationship throughout the next stages of the process."

Before [Brewery] set about marketing the pub, we were approached by an experienced operator who was keen to buy it. He sent his CV for [Brewery's] veto process and we issued formal notice to assign. [Brewery] declined the assignee.

At Christmas, because of staffing issues, we closed the pub for the festive period. At a meeting with and we said that we could not keep the business open without a considerable reduction in rent. They conceded that a temporary deferment, for the period required to market the pub, would only be granted if it were to be repaid in full at the end of six months or on assignment of the lease. Thereby, they enabled the pub to remain open to best market the lease to a new operator, by piling further debt onto an already unsustainable business.

confirmed the terms in an email and added: "the best outcome in all these proceedings is for us to find an A grade operator to take over the reins of the site from you after you have spent years building up the business, plus for you to make some money from the lease assignment that reflects the likely high value of your lease. This value will of course be enhanced if the site is trading well between now and Easter!"

They, like us, were very aware that at this point that best outcome we could realistically hope for would be to make enough money from the lease to pay off the company's debts.

They produced marketing details with a premium of £1 ,000, claiming that the current operator wanted to move on because of other business interests.

There was little interest in the lease, but then we were informed that as [Brewery] could not reasonably withhold their consent so they would allow us to assign to the original applicant after all, so the process of assignment resumed. After much toing and froing between solicitors, first one and then another completion date expired with no sale completed.

As the assignee argued over the barrelage target, [Brewery's] solicitor, helpfully opined: "The MAT is down to 320 but that is a temporary situation perhaps created by the current lessee's lack of desire to remain."

And then in an email to us a few days before the second completion date ended without the sale, the ever-encouraging [Solicitor] kindly reminded us that: "Failure to assign will result in the offer to permit early assignment being revoked and all debts on the account becoming due." Just in case we weren't sufficiently aware of what was at stake.

The pub was shut, as is usual on completion dates and, having made no arrangements for staff or stock after this date, remained shut on the following day whilst we pulled together what we could and reopened the day after. Two days after reopening, our solicitor received another kindly missive from [Solicitor]

"Following the collapse of the sale of the ' it is my understanding that your client has closed the

"You will not be surprised to hear that my clients are not particularly happy to think that the premises are closed and indeed, are rather surprised to think that a business of the quality of the , should be closed.

"Nevertheless, we are where we are.

"In discussing the matter, I understood from my client that at one stage your client had indicated a desire to enter into an agreement to surrender his interest in the

"It was indicated to your client that a fee equal to 6 months rent and payment of all outstanding liabilities might result in my clients being interested in that proposal.

"If you have some proposals along those lines to make to me then I would look forward to hearing from you."

Not being in possession of six months rent, we were clearly not in a position to make any such proposal. We did arrange a meeting with & and were very surprised when they offered us a variation on their new deal. This would give us a 25 per cent reduction on our rent (currently standing at after RPI), free-of-tie on half our cask ales (but no under any circumstances!). They would take six per cent of turnover and give a discount of £100 per Brewers Barrel on [Brewery] brewed ales.

In his email, outlining the proposal, wrote: "I hope you find this offer to your satisfaction and very much look forward to working with you at both the and . In the meantime we will draft an official letter but there is nothing to stop us cracking on now as deal been signed off my [Brewery] Board. May I suggest we meet on site to discuss cellar requirements etc."

At last, after several years of hitting a break wall, there seemed to be some genuine movement on [Brewery's] part. There was still no sign of the rent review which we desperately needed to rebalance the business but for the first time in years, the company finally seemed to be looking at what the business needed to go forward. We responded positively, seeking clarification on some points and asking for additional products such as a real cider, which weren't currently on the company's portfolio but which we all agreed would be desirable in the relaunched .

We also requested to change the name of the pub

It seemed ironic that the licensees who put the on the map as a legendary institution and we felt that it was appropriate and fitting for us to restore the original name

We waited for a response to our modest requests and after a month, received a short phone call from to say that they had a rethink and that we could go completely FOT except for one own brewed product, at 10% of turnover and full rent. We would have to fund the refurbishment and organise our own cellar services.

We then received the following email, which was to be the only paperwork we would ever receive for the new arrangement:

" Following my telephone call today please find below the details of our new proposal for the

1. Rent to remain at . and still RPI linked as per your lease terms and conditions
2. [] to take 10% of total net turnover, which will be invoiced on a monthly basis using the EPOS till system previously discussed
3. [] will expect you to stock at least 1 Ale, for which you will receive £100 per BB discount
4. The rest of the product range will be completely Free of Tie"

" Can you just drop me a note back confirming you are happy with the above terms and I will endeavour to get some official paperwork out to you ASAP."

On Monday after an extensive refurbishment at our expense, the opened as an ale & craft beer house. The EPOS system from [Brewery] came two days later and was wholly unsuitable for the requirements of our business so we refused to have it installed until it could be replaced with something that would assign food orders to tables and operate for drinks at the bar (this could do one function or other but not both).

One week later, we received a demand for immediate payment of rent arrears from the six month deferment period. We negotiated to pay it off over a period of months but this was a clear reminder, as if we needed it, that relations with [Brewery] were always going to be one way.

In our lease, under the heading 'Revised Tie Obligations', was the following:

REVISED TIE OBLIGATIONS

the Landlord may at any time by written notice suspend remove reinstate or otherwise vary the Tenant's obligations as contained in clause of this Lease but except to the extent of such written notice the remainder of the Tenant's obligations shall remain in full force and effect

within 6 months of the giving of such notice (time being of the essence) the Landlord or the Tenant may elect that the date of such a notice shall be a Review Date and the Rent shall therefore be reviewed in accordance with the provisions of the Fifth Schedule having regard to the said varied obligations of the Tenant

We interpreted this, as does everyone we have checked with apart from employees of [Brewery], that because [Brewery] had varied our tie obligations, we were able to give notice of a Rent Review. On the we sent this to the Directors of [Brewery] by email and post:

"Under the terms of the Lease dated , between [Brewery] and The , I , the Tenant, hereby issue and serve notice upon the Landlord, [Brewery] , dated , that under the provisions of said lease, 'Section Revised Tie Obligations', such date being within 6 months of the notice dated duly received, being a notice of revision of tie obligations, I elect that such date and such notice shall be a Review Date and the Rent shall therefore be reviewed in accordance with the provisions of the Fifth Schedule having regard to the said varied obligations of the Tenant."

[WITHHELD]

The figures used below are taken from a Shadow Profit & Loss Account (Appendix III) which was shown to us by [Brewery] in , although the VAT rate of 17.5% demonstrates that it was completed before

In fact, it was the P&L used to arrive at a new rent had the pub have been assigned

It seems that sometime after we started asking for help at the , somebody at [Brewery] recalculated the FMT, knowing that the previous one was not accurate, but made a deliberate decision not to help us by readjusting the rent accordingly. The P&L is seriously flawed. Wages, for example, at per cent of turnover is ridiculously low, particularly in a food led pub using fresh ingredients. But the disturbing fact is that it's clear that [Brewery] , in the knowledge that our current rent was distorted by a false FMT, calculated another at the time when we were desperate for assistance, and then refused every request to revisit the original in order to rescue the business. They even went as far as to offer us a new agreement based on it, at the same time they were meeting with Government representatives during a consultation period about self-regulation. The new agreement then piled on even more pressure on the business by adding 10 per cent of turnover rent, and breached the terms of their own lease by refusing us the rent review that was clearly required.

This is a very basic P&L illustration of our agreement with [Brewery] according the new FMT that was calculated in but never applied to us. Using their own estimation of GP and the Association of Licensed Multiple Operators (ALMR) Benchmarking Survey average for expenses as a percentage of sales, [Brewery] were taking 114 per cent of divisible balance (the amount available to be divided between operator and landlord) with the rent now at : This was clearly unsustainable and couldn't continue for long. From midway through , neither myself nor took any money out of the business. To an already disastrous imbalance, [Brewery] then added 10 percent of turnover bringing their percentage of divisible balance to 199.99 per cent. This brings our annual losses, on a busy pub business with a projected turnover of : to Using these calculations, our break-even turnover on this deal was £5,000,000.

P&L		Expenses % of sales	
	Total Sales		Net Profit
GP%	GP	Divisible Balance:	Divisible Balance %
		Rent	
		DB % of sales	Turnover Rent
		Rent % Sales	Total Rent %Divisible Balance %Total Sales

GP%	Taken from GK Shadow P&L
Total Sales	Taken from GK Shadow P&L
Expenses % of Sales	Taken from ALMR Benchmarking Survey

In a fraught meeting with & [BDM] on , agreed that [BDM] would show us the Shadow Profit & Loss Account that was used in drawing up the FOT agreement by Friday. He agreed to investigate the legal response to our claim for a rent review and the status of the 10 per cent of turnover rent which he insisted was not a rent but a royalty payment.

Following the meeting we sent an email asking [BDM] for the the Shadow P&L he completed in

Three weeks later, after consulting the BII, we sent the following email:

"Over three weeks have now passed since our meeting with [BDM] and yourself and we have still not received the Shadow Profit & Loss Forecast used to calculate our current deal which [BDM] promised you would present to us by Friday [BDM]. In this time you have not replied to any of our emails. Am I to infer by this withdrawal of communication that you are no longer authorised to act as our BDM?

"We need to proceed with the rent review of the [BDM] (formerly the [BDM]) as outlined by the terms of our lease. We have consulted with the BII and have agreed that if a representative of [Brewery] does not get in touch with me to fix a date for the review within seven days (by [BDM]) then they will begin an enquiry into our complaints."

We received an acknowledgement that he had received the email.

We then received a letter from [Brewery's] solicitor, [BDM] dated [BDM]

"We act on behalf of [Brewery] your Landlord under the terms of a lease dated [BDM] (the Lease). Clause [BDM] obliges you to sell Tied Drinks (as defined) and other drinks and food at reasonable prices adequately displaying the prices and to participate in all reasonable promotions schemes of the Landlord relating to the Business. Clause [BDM] prohibits you without our client's consent from selling or exposing for sale in the Property or bringing onto the Property for any purpose whatsoever any Tied Drinks unless purchased from the Landlord. The remainder of clause [BDM] sets out further obligations in relation to the Tie.

"Clause [BDM] of the Second Schedule of the Lease entitles our client as Landlord at any time by written notice to suspend, remove, reinstate or otherwise vary your obligations in clause [BDM] of the Lease. Clause [BDM] then goes to provide that within six months with the giving of such a notice the Landlord or the Tenant may elect that the date of such a notice shall be a Review Date and the Rent will be reviewed in accordance with the provisions of the Fifth Schedule having regard to the said varied obligations of the Tenant.

"Your letter dated [BDM] purports to elect a Review Date pursuant to clause [BDM] At no stage, however, has our client given you written notice to vary the Tenant's obligations pursuant to clause [BDM]. Rather, what has been under discussion has been a variation to the Lease on certain terms and conditions only one of which was release of tie. The terms under discussion were set out in the email to you from our client's business development manager, [BDM]. A copy of that email dated [BDM] timed at 17.00 is enclosed. It is unclear why you believe that the email amounted notice pursuant to clause [BDM]. Had that been the intention, then our client would have given express notice and made it clear that that notice was being given pursuant to clause [BDM]. It is not open to you unilaterally to treat that email as such a notice.

"We should also point out that due to the length of term of the Lease, any agreement to vary the Lease must comply with its requirements of Section 2 of Law of Property (Miscellaneous Provisions) Act 1989. Section 2 requires that any agreement must be in writing signed by both parties and contain all of the terms. That has

not taken place here and accordingly, you remain bound by the terms of the Lease and unless and until a deed of variation is completed. Our client is prepared to continue to negotiate a variation with you on the terms set out in that email dated [redacted] However it must be on the basis that you accept that the provisions of clause [redacted] will not come into play and any such negotiations are on a "subject to contract" basis."

[BDM] finally got in touch, asking for our trading figures for the 'commission'.

Our solicitor replied:

"We act for [redacted], the lessee of the [redacted] public house, [redacted] We note that you are instructed by our client's Landlord [Brewery] [redacted]. We have been passed your letter addressed to our client dated [redacted]"

"As you correctly point out, in a letter dated [redacted] our client exercised the right set out in clause [redacted] of the lease dated [redacted] to a review of the rent as at the date your client gave notice to ours of a variations in the agreement as to purchases as set out in clause [redacted]"

"We note that you accept that one of the matters "under discussion" was a change in the tie arrangements which is, of course one of the conditions set out in clause [redacted] With respect, your suggestion that the matters "under discussion" could only have been validly incorporated into the terms of the lease by way of formal deed of variation is misconceived. The lease is very clear that the landlord may vary the tenant's obligations as to tied drinks by written notice thus expressly providing for variation without the need for a formal Deed of Variation of the lease. It is entirely irrelevant as to whether there were other matters under discussion which may have needed to be introduced into the lease by deed. The question is whether your client varied the obligations in respect of tied drinks by notice."

"You contend that the email from [BDM] [redacted] does not constitute written notice which is plainly wrong."

"Written notice is not defined in the lease. A proposal was put to the tenant in the email which, as requested, was accepted by return email. The email states that [BDM] [redacted] will "endeavor" to get official paperwork out so there was no suggestion that the tenant would definitely receive anything further. All that was required was for the tenant to confirm he was happy with the terms. This is evidenced by the fact that both parties thereafter acted on the variation of the tie arrangements as set out in the notice. Your client has since invoiced the tenant for 10% of turnover which the tenant has duly paid. Your client has acknowledged the term in the notice requiring the tenant to stock [redacted] Ale and that there are no other ties. These are all change in tie arrangements of which our client has been given written notice."

"In addition your client has released and published press statements confirming the change of tie arrangements exactly as contained in the notice."

"It is plain that you client is seeking to rely on your advice as to legal interpretation in order to rescue their position which is unbecoming of such an influential landlord and in the circumstances ill-founded in any event. We are instructed to strenuously contest our clients right to rent review by way of legal proceeding if necessary and would invite your client to reconsider its position and engage in rent review discussions without further delay."

[WITHHELD]

In a meeting with [redacted] on [redacted] we were finally given a shadow P&L (Appendix III). Not the one for our current agreement which had been promised previously but for a tied agreement with a rent of [redacted]

He then presented us with an ultimatum: "What we're saying is that you've got two choices. If you want a rent reduction you can go back to a FOT on wines, minerals & spirits agreement and the rent would be as per the shadow P&L or we continue to trade with the FOT agreement on the agreement which we agreed." We pointed out that what we were asking for at this point was not a rent reduction but a rent review.

In this meeting [BDM] clearly contradicted [solicitor's] argument that his email did not constitute a new agreement, but only set out 'terms under discussion'.

"What we are saying is when we sat down in [redacted], we gave you what we thought you wanted which was a completely FOT agreement. We proposed that the agreement was the current level of rent plus 10% of turnover and you have to have one of our [Brewery] beers on which we give you £100 discount and everyone agreed to that. And then as we obviously got into the trading of that agreement, yes, in terms of paperwork, there hasn't been any official paperwork but my email to you, is deemed to be that's what the agreement is which is fine because that's what we agreed."

Having re-established the business a craft beer house at considerable expense to ourselves, the garnered press accolades, favourable reviews and was starting to feature in local wards. Best of all, the turnover was increasing for the first time in the last few years. Going back to the tie would kill it stone dead, [Brewery] and [redacted] knew that as well as we did. We patiently explained that we were entitled to a rent review, and he agreed to report back and produce an FMT (sic) for FOT.

We didn't hear from [redacted] but when we tried to chase him up we received a text on [redacted] saying that [A] was going to reply. On [redacted] we emailed [A].

"At the meeting held with ourselves and [BDM] on [redacted], it was agreed that [Brewery] would respond to the points raised by [redacted]. A text received on [redacted] from [BDM] informed us that you will be writing the response. We formally request receipt of such response by one week today, [redacted] at the latest."

It's a characteristic of the tied pub model that rent is paid in advance and payment for stock is collected through direct debit, so whatever, debts are accrued by the pub operator, little if anything is owed to the pubco. After personal savings, bank loans and all other possible lines of credit are exhausted, the only avenue for dealing with the inevitable cash flow problems of a business struggling to break even is the VAT account. This means in effect that in the operation of a tied pub, most if not all of the reward goes to the pubcos, while all the risk is generally shared between the licensee and HMRC.

[redacted] stopped trading on [redacted], although we continued to operate the pub through another business. [redacted] entered into Creditors Voluntary Liquidation on the professional advice of [redacted] after HMRC threatened the winding up of the company.

The report prepared for the First Meeting of Creditors stated: "The financial accounts reflect that the company traded with break-even profits from year to year."

"The original tenancy agreement with [Brewery] meant that the company was paying annual rents of : per annum. This severely crippled the company as effectively it meant that 10% of turnover was being spent on annual rent.

"In , the original tenancy agreement expired and the director negotiated a formal leasehold agreement with [Brewery]. The new leasehold was to be for a -year period and the rent was reduced to per annum. Once the rent had been negotiated, the director believed that this would allow the company to achieve better profitability.

"In , there was also a rates review which resulted in annual rates increasing from per annum to per annum."

Of a total deficit of in the final accounts, was owed to HMRC. Accounting Extracts show no Director's Remuneration for any of the past three years. Among the other names of creditors in the accountant's report, [Brewery] appears, alongside the sum of £0.00.

In we were contacted by [solicitor] who offered us a surrender on both pubs with no dilapidations bill provided we leave by the end of the week. We asked for longer and accepted. After a last minute unseemly wrangle with [Brewery] over the positions of the manager and staff at the , we left both pubs on . At their lowest point, the pubs had a combined turnover of £1.25m and remained two of the busiest pubs in . We took no income from the since 2009 and took almost no money from the for the years we ran it. We remain of the opinion that if, at any point we had undergone the fair rent reviews conducted in accordance with RICS guidelines that we strove for, we would have been in a position to trade our way out of the difficulties and settle the debts.

A winding up order was made on The on , at the request of HMRC. Of total liabilities of , was owed to HMRC. £0.00 was liable to [Brewery].

12/06/13

My partner, _____ and I own and operate the _____ and I would like to address it in a submission to you because I think we are a good indication of the positive effect of the provision of a Market Rent Only option at rent review would have for many licensees.

Having operated in the tied house system for many years (please see our other submission on the _____ and the ' _____ in _____) before we purchased the _____ , we believe we are in a strong position to illustrate the current differences between being tied and FOT. It's our strongly held belief that the MRO would allow many currently struggling pubs to thrive, address the needs of their communities and positively contribute to the health of their local economies.

The _____ is at the heart of our community in _____. Today we are holding a wake for a much-loved friend, neighbour and customer. After the sadness and solemnity of the funeral this afternoon came time to dwell on the good times with Kev, with a lot of laughs as well as a few tears, as he'd like to be remembered; over a pint. During the next few days we will be planning the menu for a wedding next Summer and this weekend, we are expecting a regular group of young families to gather upstairs to celebrate the first birthdays of a couple of the children. On Sunday, another regular will be celebrating his 91st birthday over lunch with family and friends.

We think the _____ is the perfect pub, but of course we are biased. Last year we were awarded Best Freehouse, Best Cask Beer Pub and Best Food Pub in the _____ in the Great British Pub Awards. We were given another award by the All-Party Parliamentary Beer Group for serving our community. We've been in CAMRA's Good Beer Guide for _____ years now and celebrated beer writer, _____ , in an article entitled ' _____ , described the _____ as "a magical, almost other-worldly oasis of calm conviviality". Oh and Rick Stein said we do a great Sunday roast!

But the _____ hasn't always been so popular with visitors or the neighbours. When we bought the pub in _____ from Punch Taverns for a bricks and mortar price of _____ with no ongoing trade, the place was pretty close to derelict. The kitchen had been closed by EHO, the cellar should have been. The beer lines had been gnawed through by rodents and subsequently found a new use with Harveys Cellar Services as a warning of what happens when lines aren't cleaned for months on end. The pub had a reputation for drugs and underage drinking, and anti-social customers abused the neighbours on their way home by urinating through their letterboxes, vomiting in their gardens and scratching their cars. Under the stewardship of Punch Taverns, the _____ was the source of most of the antisocial behaviour in the area, a nuisance to its neighbours, a danger to their children and a blight on the community.

Strange to think that when Punch bought it in _____ they paid _____ for what was widely regarded as one of the best pubs in _____. Under the delightfully eccentric ownership of _____ , the _____ was also a regular fixture in the Good Beer Guide, was lauded for its eclectic atmosphere, vegetarian food and featured a live music programme with residencies by _____ and _____. No wonder it was _____ favourite pub! _____ have since told me that they didn't actually want to sell the _____ but Punch Taverns were determined to have

it and kept coming back at them with higher and higher offers until they would have been mad to refuse.

At that time, the pubcos were on an enormous debt-driven drive for expansion. It didn't really matter if they paid over the odds for pubs like the because the more that they paid for their pubs, the more they could borrow against them. And of course, the more they paid, the more they were worth and the more rent they could charge. Punch's first lessee at the was a rapidly expanding multiple operator with a number of pubs in . He was from originally and knew the pub and the area very well. An eye-watering rent of scuppered any further expansion plans he might have had and he was soon forced to leave the , then his other pubs and finally the pub trade altogether. He was only the first Punch lessee to get burnt at the but he wasn't the last. He was however the last to spend any money updating or maintaining the place.

The lessees churned with sickening regularity after that, with standards spiralling as the pub gained a reputation for running out of beer and notes left on the closed door by licensees disappearing overnight with the fixtures and fittings.

At the time we bought the the general feeling was that it was past recovery, at the end of a dead-end street on the outskirts of town, it would be most likely knocked down by a developer and replaced with housing. Certainly none of the neighbours would miss it in its last incarnation.

We anticipated an uphill struggle to win back the custom lost during the Punch years, and to gain the confidence of the neighbours so let down by previous management would be a long, slow process. But actually, we were amazed at the huge amount of goodwill that existed for the pub. The first indication was who came out of her front door, hands clapping when she saw a decorator up a ladder painting over the harsh 'skip-yellow' exterior with a soft, muted that placed the pub back in its location at the . We had a visit from members of the local bonfire society as we were sanding back the woodwork and we showed them around and talked about our plans. They asked us to keep a mural that dated back to the days of and we happily obliged. We chatted to neighbours and local businesses and found that far from hating the they hated what had happened to it, and they were all very enthusiastic at the thought of getting their local pub back at last.

The evening we opened, our first customers were and , who popped in for a , as they've done a few times a week ever since.

he's set up a picture framing business so he frames all the pictures we have on our walls.

We've acquired quite a few more regulars since then. What was very clear from the start was just how important the pub is in building and bringing a community together. It's very

We paid for the , was a bank loan from NatWest so we needed £100,000 of our own money Mortgage repayments for capital and Interest are currently around , per week, or per annum.

By comparison, rent at the _____ at the time we left was over _____ per week, or _____ per annum.

_____ by local brewer, _____, was exactly 100% more purchased through [Brewery]; than we pay directly through the brewery at the _____

Ales that we could purchase through [Brewery] were predominantly own brewed with a couple of guest ales a month that would usually sell out by the second week.

At the _____ we have seven hand pumps, one for a real cider that we usually purchase through nearby _____. On the six ale pumps, we always have one beer from ' _____ and one from ' _____. the rest are guests from microbreweries local and further afield. To give an idea of our range of ales, and the number of small brewers we support, here are the cask ales we stocked in April 2013:

***Cask Beer**

Quantity Sold

14 x 18s
6 x 18s
3 x 18s
2 x 18s
1 x 9s
2 x 9s
2 x 9s
2 x 9s
1 x 9s
2 x 9s
2 x 9s
2 x 9s
2 x 9s
2 x 9s
2 x 9s
2 x 9s
2 x 9s
2 x 9s
2 x 9s
2 x 9s
1 x 9s
1 x 9s
1 x 9s
1 x 9s
1 x 9s

In addition to our ales, we specialise in other craft beers. Our permanent cask beers are:

We also have a keg cider:

So at any given time, we have 17 products on draft, 11 of them from small British brewers and cidermakers. We have a fridge full of speciality bottle beers, most of which we get from a small local importer, [redacted] and some from British micro-breweries like [redacted] in London. We source local apple juices, and get our wines from [redacted] who have been importing wines for longer than they have been brewing.

Just under fifty per cent of our trade is food. We serve great home cooked food made using local, seasonal and sustainable ingredients.

Our food suppliers include:

- [redacted] Free-range chickens
- [redacted] and British cheeses
- [redacted] Ice cream, cream & milk
- [redacted] Asparagus & game
- [redacted] Pork pies, frozen veg, tahini, stocks & sauce bases
- [redacted] Fish
- [redacted] Fruit & veg
- [redacted] Cheese
- [redacted] Bread, Pitta bread
- [redacted] Farm Shop: Free-range eggs, beef, lamb
- Poultry: Free-range meat
- Bakery: Bread
- Local fruit & veg
- [redacted] Olive oil & balsamic vinegar
- Coffee, teas and sundries
- Free-range pork & bacon

In all, our current suppliers list has 86 companies on it, most of them local so a big proportion of our takings stays in the local economy.

We employ 18 staff, 7 of them full-time, ten part-time and one apprentice. Their ages range from 16 to 52.

From a starting point of no trade when we took on the pub in [redacted], our annual turnover to [redacted] was [redacted]. I don't believe such growth would be possible if we were restricted in our portfolio by a tie.

We've taken very little out of the business up to now, reinvesting in updating and maintaining in the premises and that has provided work for a small army of builders, decorators, electricians, plumbers, carpenters and other local trades. But we are happy to reinvest because we are building our

business, and we aren't at the mercy of an unscrupulous landlord. We control all aspects of our business, including product and price. We can adapt to any changes in the market instantly. We are not constantly exhausted by having to struggle against a big corporation for our day-to-day survival and we don't live in a constant low level fear of losing everything at any moment. Best of all, we only do business with companies that we want to work with, and after . years of being tied, that's a very great pleasure indeed.

12/06/13