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Research on the Pub Sector in Scotland - Phase 1 'Scoping Study'



BUSINESS AND ENERGY



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Executive Summary

Background and aim of the study

- E. 1. The last few decades have seen radical changes in Great Britain's (GB) pub industry, with the trade facing a wide range of social, economic and regulatory pressures. The main challenges include increased competition from cafes and restaurants, social and demographic change, improved home entertainment, individuals switching their alcohol consumption towards off trade sources (in particular purchases from supermarkets) and drinking at home.
- E. 2. As a result, there has been a significant contraction in the size of the pub industry in GB over the last 30 years, from almost 70,000 pubs in 1982 to about 48,000 in 2013.¹ This trend is also apparent in Scotland; between 2005 and 2015, the market in Scotland declined by 23%.
- E. 3. Since the early 2000s, concerns have been raised about the unfairness of the relationship between Pub Companies and their 'contractually tied tenants' in England and Wales. Four Select Committee Inquiries conducted between 2004 and 2011 identified two principle areas of malcontent which related to the level of rents and price of beverages charged by Pub Companies to tenants on tied wet contracts. It was alleged that these tenants were unfairly treated and suffered more significant hardship than those free of tie.
- E. 4. The UK Government (UKG) sought a voluntary approach to the issue and a series of Codes of Practice were developed and implemented between 2004 and 2013. However, in 2013, the UKG concluded that the voluntary approach was not working sufficiently well and that they intended to legislate on the issue in England and Wales. Legislation was passed in the UK Parliament in 2015 and 2016 which enforced a Market Rent Option (MRO)². This legislation does not apply in Scotland because the issue falls within the competence of the Scottish Parliament.
- E. 5. Until the UKG indicated it would legislate on the issue, no robust representations had been made to Scottish Ministers by anyone operating in the tied pub sector in Scotland, including taking any disputes to established dispute resolution schemes (such as the Pubs Independent Rent Review Scheme (PIRRS) and Pubs Independent Conciliation and Arbitration Service (PICA)). However, legislative activity in England & Wales prompted requests to the Scottish Government from parts of the industry to evaluate the tenanted pub sector in Scotland.
- E. 6. Following a competitive tender, CGA was commissioned by the Scottish Government to carry out research which sought to provide a robust evidence

1 Source: British Beer and Pub Association (BBPA)

2 The MRO option allows for tenants and lessees of larger pub companies (with estates of 500 plus tied pubs in their total ownership) to opt for a free of tie rent.

base which would assist Scottish Ministers in coming to a view as to whether legislation on the operation of Pub Companies in Scotland should be introduced and, if so, where the parameters of that legislation should apply.

Methodology

- E. 7. It was envisaged that the research would comprise two parts: a scoping study and a follow up detailed study. The scoping study, aimed to carry out case studies of operators across the whole pub sector in Scotland, to provide an initial assessment as to whether any part of the sector was unfairly disadvantaged (after taking into account the whole contractual package). This initial exercise also looked to inform whether there was a need for further investigation through follow on research.
- E. 8. The detailed study sought to expand upon key results of the initial case study through a robust quantitative assessment of the market via interrogation of a wider sample of pubs.
- E. 9. This report summarises findings from the scoping study. In order to provide as broad an evidence base as possible, CGA used a combination of bespoke, project specific qualitative and quantitative analysis.
- E. 10. In total, 25 pub licensees across a range of different pub models participated in the research. Specifically, data was collected from 10 Independent Free Trade (IFT) outlets, 10 Fully Tied outlets, 5 Partially Tied outlets and 5 Pub Companies. No managed businesses agreed to take part in the self-completion survey. Fieldwork ran from February to July 2016.
- E. 11. In order to assist with the research, a Sounding Board was established. The Sounding Board comprised key stakeholders from the Scottish Licensed Trade, relevant trade associations and related businesses. The group's remit was not to discuss individual members' interests but to provide expert advice to the contractor through the commission.

Key findings

Market Conditions

- E. 12. In addition to a 23% fall in pub numbers between 2005 and 2015, on trade sales of alcohol in Scotland dropped by 30.4%. While many people continue to drink alcohol, consumers have moved away from drinking in pubs to drinking at home.³
- E. 13. Sales revenue coming from drinks sales, so called 'wet sales', dominate the tenanted pub sector sales in Scotland - representing over 80% of current sales. Other pub sectors in Scotland have less reliance on wet sales. In England & Wales a similar commercial situation exists. However, there is more of a structural limitation in Scotland, in that a large proportion of pubs have limited opportunity to change their offer from a sole wet led business.

Decision making process

- E. 14. The three main factors that contributed to the decision making process of a licensee on which type of pub to choose were: the level of experience, the cost of entrance and the level of independence sought.
- E. 15. In particular, the Fully Tied model appeared to be more preferable to those with less experience in the sector, who saw the model as a 'low risk, low cost' alternative. The cost of entry was estimated to be around 13 times lower for the Fully Tied model compared to a freehold purchase.
- E. 16. Professional advice was available and actively sought by most licensees. However, the level of advice requested was directly linked to the level of knowledge and experience of the licensee.

Contract types

- E. 17. Overall, there appeared to be limited flexibility to amend an agreed contract once a commitment was made within the current system. Fully Tied outlets had the opportunity to choose longer term lease options at the start of their agreement, compared to Partially Tied outlets. However, the latter appeared to enjoy less restrictive contractual arrangements.
- E. 18. The degree of flexibility in contractual arrangements did not improve satisfaction levels of tenants. Overall, there was a general dissatisfaction with the tie itself (both for fully and partially tied outlets) and a feeling that there was an overall lack of support.

³ Source: CGA data (alcohol consumption data provided to NHS Scotland to support Minimum Unit Price analysis)

- E. 19. Despite some dissatisfaction from tenants, at the time that the research took place, none of the licensees stated that they had referred a dispute to PIRRS or PICAS. This supported the view shared by Pub Companies that the overall level of serious dispute across the tenanted trade in Scotland was low.

Products & Services

- E. 20. There was little difference in beer purchasing behaviour across the different pub models. Partially Tied licensees as well as IFT outlets were actively shopping around to obtain the most competitive price. There was also some evidence of 'local' flexibility from Pub Companies to Fully Tied pubs to purchase regional beers and Scottish spirits.
- E. 21. Analysis of overall beer costs between all models showed a clear purchase price advantage for IFT businesses. The differentials between Partially and Fully tied costs were minimal. All pub models provided similar levels of historical price changes/uplifts that were within the expected parameters. Beer prices, however, did not appear to be a primary factor within the context of licensee disputes. Most disputes related to maintenance issues.
- E. 22. Special Commercial or Financial Advantages, or as more commonly known SCORFA benefits, were considered to be an important part of the Pub Company and Tied licensee relationship. The research found that Fully and Partially tied outlets undervalued SCORFA and there was a lack of understanding regarding all the potential benefits available.

Financials

- E. 23. Analysis of the financial data showed that while turnover was very similar across the different pub models, there were some marked differences where IFT outlets outperformed the other models. In particular, IFT pubs recorded higher profit margins and a higher liquidity ratio. Overall, IFT pubs appeared the most robust and solvent businesses.
- E. 24. Between Fully and Partially tied outlets, there were financial variations. However, due to the limited sample and data collected, it was not possible to conclude whether any specific model was unfairly disadvantaged compared to the other from a financial point of view.

Conclusions

- E. 25. The research found that the on trade market is currently a difficult area in which to operate a retail business. There are significant financial difficulties driven by social, legislative and economic changes. These factors have

impacted adversely licensees, Pub Companies, brewers and wholesalers. As a result, pub closures are likely to continue.

- E. 26. **Overall, the evidence collected did not suggest that any part of the pub sector in Scotland was unfairly disadvantaged.** Despite some dissatisfaction among tied licensees with their contractual agreements, none of the licensees stated that they had referred a dispute to PIRRS or PICAS.
- E. 27. **Despite variations in beer prices or rent across pub types, these were not identified as areas of dispute. The main concern voiced was on maintenance and pub upkeep issues.**

Recommendations

- E. 28. The evidence collected did not suggest that any part of the pub sector in Scotland was unfairly disadvantaged in relation to another. As a result, further dialogue between the relevant trade bodies, government, and other interested parties, should continue before making any changes to legislation.
- E. 29. Based on the findings from the research, it is clear that there is more work to be done in ensuring that the relationship between Pub Companies and tenants is further strengthened and clarified. Further clarification is also required on beer costs, the cost of entry into the sector and the value of SCORFA benefits.
- E. 30. The contractor faced significant challenges in recruiting licensees and Pub Companies to participate in the research, created by an apparent unwillingness to engage on the subject at a detailed level. As a consequence, it is recommended that a further more detailed study should not be undertaken without a significantly increased level of interest and involvement from the wider industry.

1. Introduction

The last few decades have seen radical changes in the GB pub industry, with the trade facing a wide range of social, economic and regulatory pressures. The main challenges arise from increased competition from cafes and restaurants as well as from people switching their alcohol consumption towards off trade sources – in particular supermarkets.

There has been a significant contraction in the size of the industry in the UK over the last 30 years, from almost 70,000 pubs in 1982 to about 48,000 in 2013.⁴

In 2010, despite falling pub numbers, an investigation by the Office of Fair Trade (OFT) in response to a super complaint from the Campaign for Real Ale (CAMRA) found that there was still competition in the market - “at a national, regional and local level, the evidence indicates that there is a large number of competing pub outlets owned by different operators and that there is competition and a choice between different pubs.”⁵

The OFT investigation also found that consumers were benefiting from a significant degree of competition and choice between pubs. Consequently, the OFT did not consider that issues relating to the negotiation process between pub companies and their tenants could generally be expected to result in consumer detriment.

In 2013 the Business, Innovation and Skills Committee at Westminster indicated that they intended to give consideration to introduce pub tie legislation in England & Wales.

Legislation followed enforcing a Market Rent Option (MRO), which passed through the UK Parliament in 2015 and 2016. The legislation on MRO, does not apply to Scotland as the issue falls within the competence of the Scottish Parliament.

The MRO option allows for tenants and lessees of larger pub companies (with estates of 500 plus tied pubs in their total ownership) to opt for a free of tie rent. The intention is to remove their obligations to all applicable and previously agreed product and service ties (excepting insurance). In essence, this creates an environment where the pub involved is essentially ‘free of tie’ in relation to the purchase of all drinks and key services within their business, but retaining a contractual relationship with their Pub Company. Contextually, this becomes a relationship of landlord and tenant in a similar way to that of any normal commercial lease or tenancy.

4 Pub numbers provided from BBPA data

5 OFT, CAMRA super-complaint - OFT final decision, October 2010

Scottish Ministers received no robust representations which took account of all benefits of particular pub models to highlight whether any particular model was significantly disadvantaged in Scotland. Up to the time of commissioning this report, no pubs in Scotland had availed themselves of formal dispute resolution through recognised industry schemes⁶. Highlighting of wider issues within England & Wales provided a focus from which affected groups in Scotland made a request to Scottish Government to consider their position.

The overall aim of this research was to provide a robust evidence base to assist Ministers in coming to a view as to whether legislation on the pub sector in Scotland is required, and where the parameters of that legislation should apply.

This report provides a detailed overview and analysis of the pub sector in Scotland. The contents of this document are summarised below:

- Chapter 2 of this report considers the various reports and impact assessments produced as part of the UK Government and UK Parliament's consideration of the issue.
- Chapter 3 thoroughly explains the methodology employed for the primary data collection.
- The main findings of the primary data collection are in Chapter 4 of this report. Data collected across different operating models helped to establish if any part of the pub sector in Scotland was unfairly treated. The data collected assessed differences in the structure of the sector (in Scotland compared to rest of the UK), different leasing agreements in operation in the sector, and the decision process that licensees of all types go through in determining which contract they want to sign up to.
- The report finishes with some conclusions and recommendations based on the evidence gathered (see Chapter 5).

⁶ The schemes are primarily PIRRS (Pubs Independent Rent Review Scheme) and PICAS (Pubs Independent Conciliation and Arbitration Service).

2. Literature Review

This section provides an overview of the various reports and impact assessments produced as part of the UK Government and UK Parliament's consideration of the issue.

Firstly, it provides some background on the pub industry at a GB level. It follows with a review of key historical reports and impact assessments. Finally, this section provides an update on the most recent developments by summarising the latest voluntary codes of practice developed outside of the Pub Company legislation.

GB Pub Industry Background

The last few decades have seen radical changes in the GB pub industry, with the trade facing a wide range of social, economic and regulatory pressures. The main challenges arise from increased competition from cafes and restaurants and a linked change in the way in which the population looks to purchase and consume alcohol (i.e. increased home consumption).

CGA Strategy has produced a number of general and privately commissioned reports over this period. These highlight some of the legislative and socio-economic drivers behind the contraction of the pub market⁷. The decline has been significant over the last 30 years, from almost 70,000 pubs in 1982 to about 48,000 in 2013⁸.

This downward trend is also apparent in Scotland. Between 2005 and 2015, the market in Scotland showed a clear contraction of -23% (compared to -20% in England & Wales). Overall, the number of pubs trading in Scotland in 2015 was 4,550.

The rate of decline over the period 2005 to 2015 varied across pub types. The decline in total tenanted numbers in Scotland was -15%, a strong fall but almost half the rate seen in England & Wales at -27%. Independent Free Trade changes in comparison show a decline in Scotland of -29% compared to a fall in England & Wales of -10%.⁹

This shows that over the last 10 years, pub numbers declined continuously across all pub types both at a GB level, but also in Scotland specifically. The implication of all the above is the pub market is suffering from something more fundamental than simple unfair disadvantage in its commercial behaviour.

Changes in availability of different pub operational types between Scotland and England & Wales result from the different structure of the trade in each market. For example, oversupply of tenanted pub types in England & Wales has led to a greater percentage of closures.

⁷Includes CGA Strategy 'The Smoking Ban' report published 2007, CGA/ ALMR 'Future Shock' report published in 2015 and bi-annual CGA/ CAMRA Pub Closure analysis

⁸ Beer and pub Statistics - <http://www.beerandpub.com/statistics>

⁹CGA Outlet Index historical pub numbers data 2005-2015

Figures quoted so far stated reported progress over the last decade, i.e. from 2005 to 2015. However, the number of pubs started to decline from 1980. An investigation in 2010 by the Office of Fair Trade (OFT), responding to a super complaint made by the Campaign for Real Ale (CAMRA), found that there was still competition in the UK pub market. *“At a national, regional and local level, the evidence indicates that there is a large number of competing pub outlets owned by different operators and that there is competition and a choice between different pubs.”*¹⁰

The results of their investigation clearly suggested that consumers were continuing to benefit from a large degree of competition and choice between pubs. This led to the subsequent consideration from the OFT that issues in relation to the negotiation processes between pub companies and licensees were not expected to act to the detriment of consumers.

The structure of the Scottish pub sector is significantly different to that operating within England & Wales (see Table 1 below). In Scotland, the majority of pubs are categorised as Independent Free Trade (64% vs 43% in England & Wales). A smaller number operate in the leased/ tenanted trade (17% vs 39% in England & Wales). The number of pubs under the operation of Pub Companies, that would be covered by a MRO legislation as the one in England & Wales, are 500 in Scotland. This represents 11% of all pubs in Scotland.

Table 1: Characteristics and number of Pubs Operating in Scotland and England & Wales

	Ownership	Managed by	Buys beer from	Scotland	England & Wales
Independent Free Trade	Individual	Individual	Any supplier	3,150 64%	21,700 43%
Managed pubs	Pub Co/ Brewer	Pub Co/ Brewer manager	Pub Co/ Brewer	650 13%	7,500 15%
Tied tenanted/ leased pubs	Pub Co & Other	Individual	Pub Co & other	850 17%	19,500 39%
<i>of those owned by Pub Companies</i>				538 11%	15,000 30%
Free of tie tenanted/leased pubs	Pub Co & Other	Individual	Any supplier	250 5%	1,300 3%
TOTAL PUBS				4,900	50,000

[Source: Scottish Beer and Pub Association (SBPA) estimates 2015]

Bearing in mind the differences in the structure of the Scottish Pub Sector, the Scottish Government commissioned this study to understand the issues faced by the industry (particularly in the tenanted sector where legislative change already

¹⁰“Pub Companies and Tenants. Impact Assessment – Gov.uk”

exists in England & Wales). This was to ensure there was a robust evidence base to support any future action.

Review of Key Historical reporting/ impact assessments

Historical UK Government & Industry Responses regarding ‘Unfairness of Landlord and Tenant Relationships’:

The origins of the current Pub Company business model trace back to the investigation into the supply of beer conducted by the Monopolies & Mergers Commission, commencing in December 1986 and finally enacted in December 1989. Compliance concluded in November 1991, with the disposal of pubs that exceeded the given allowance as stipulated in the Act. In addition, the Landlord and Tenant Acts of 1985 (Section 11) & 1987 did provide for certain conditions under which agreements between pub landlords and lessees/ tenants in England & Wales could be amended, or renewed outside of contracted dates. This became a factor, and an embedded part of the subsequent inquiries and legislation specifically into the pub tie.

The ‘Beer Orders’ legislation – which was enacted in all of GB - created a restriction on any brewing company owning more than an agreed number of licensed premises. The intention was to help increase competition within brewing, wholesaling and retailing. Because of this legislation, the Pub Company emerged in both England & Wales and Scotland. The long term effect of this was such that by 2000, a follow-up report by the Office of Fair Trading concluded on a rescinding of the Orders. 2003 saw the revocation of the Orders, based on these having no remaining relevance within the current industry environment of that time.¹¹

Activity in the UK Parliament

Since then, criticism and concerns regarding the perceived ‘unfairness’ (primarily costs of rent and prices of those drinks the tenant is contractually tied to purchase) of the relationships between Pub Companies and tenants in England & Wales have seen regular Governmental interventions – in the form of investigations and reports.

Overview of Select Committee Inquiries

The initial Trade and Industry Committee report for England & Wales published in December 2004¹² found that the sector was competitive, but did raise issues over the imbalance between the powers of the Pub Companies in relation to the individual tenant. These inequalities led to a request for revision of the BBPA voluntary Pub Company code of conduct. At this point, the consensus was that voluntary regulation remained the best way forward.

¹¹Appendix 8 of this report provides a further chronological overview of historical reporting/ assessment

¹²“Second Report of Session 2004-5, Pub Companies, HC 128”, December 2004

June 2008 saw the launch by the Business and Enterprise Committee (BEC) of a short inquiry on the continued validity of the previous 2004 report for England & Wales. This inquiry was completed in May 2009, with delays created *“chiefly because of the lack of agreement among our witnesses on every point.”* Complications arose from the significant rise in pub closures. Other recent legislative measures that may have influenced the closures, such as the smoking ban, became a focus of issue for the pub companies and industry organisations such as the BBPA.

Evidence provided to BEC suggested that the wholesale prices offered to tied lessees by pub companies had increased at a higher rate than that to freeholders.¹³

Recommendations made by BEC referred the matter to the Competition Commission, with a provisional view of limitations on the tie to ensure fair competition within the pub market. The key suggestion was to request a further urgent investigation into the possible implication of restrictions to the tie. The recommendation focused on local brewers operating small tied estates.

Developments during the course of late 2009/ early 2010 required mediation talks between key players. The BBPA published a new Framework Code of Practice in 2010. The Committee issued a follow up report in March 2010¹⁴. The results of this report pushed for a resolution via a recommendation for formal legislative action if the reported issues continued, *“should those problems persist beyond June 2011 we will not hesitate to recommend that legislation to provide statutory regulation be introduced”*.

The UK Government responded to these recommendations by announcing a set of supporting measures in England & Wales to community pubs. These included business assistance, industry standards and local authority action – with a reiteration of the deadline of June 2011 for the wider industry to improve the current situation. At this point, the Business, Innovation and Skills Committee would take a view on whether the measures taken were sufficient *“or whether statutory regulation was required”*.

The resulting inquiry launched in June 2011 by the BIS Committee was completed and published in September 2011¹⁵. The main findings of the report were:

- *“...a high level of acrimony within the industry”* with *“claims and counter-claims from both sides”*
- A poor relationship between the two key players – the BBPA and IPC (the umbrella body representing lessees)
- The process for pub companies to revise their codes of practice in line with the new BBPA framework code proved to be very slow

13“Seventh Report of Session 2008-09 Pub Companies HC 26”

14Fifth Report of Session 2009-10 Pub Companies HC 138

15Tenth Report of Session 2010-12 HC 1369-1 & 2

- The treatment of flow monitoring equipment: The Governments stated request (see HC 503 2009-10) to ensure that the National Weights and Measurements Laboratory calibrated all such measuring equipment. The use of flowmeter equipment in pubs was a contention. Certain parties believed the flowmeters were sufficiently accurate to make assessments in disputes, whilst other sections of the industry believed they were not accurate enough. The point of the ruling applied to diffuse this contention.
- Little effective sanction for Pub Companies who refused to comply with the new codes within the accreditation procedure
- Most importantly – the revised codes of practice for England & Wales showed little evidence of providing a major, lasting improvement in the Pub Company/ tenant relationship

Based on the above, and the prevailing opinion of the Committee, statutory regulation appeared the way forward.

After a further lengthy period of submissions and debate from all parties, the Secretary of State wrote to the Committee in January 2013. This confirmed that a formal consultation on establishing a statutory code and an independent adjudicator, to enforce the code in England & Wales, would commence in spring of that year. This appeared to fundamentally shift the Government position from the voluntary approach advocated by the Secretary of State to the Parliamentary Committee at the end of 2012 towards statutory enforcement in January 2013.

The outline statutory framework provided the following remit for the proposed Adjudicator:

- Arbitrate individual disputes
- Carry out investigations based on complaints received
- Where the Code breaches occurred, impose sanctions on the relevant company
- Publish guidance on when and how investigations will proceed
- Advise Pub Companies and licensees on the Code
- Report back annually on the Adjudicators work
- Recommend any changes to the Code considered necessary

The consultation document published in April 2013 invited responses by June of the same year. Analysis of responses to the consultation exercise were published in December 2013¹⁶. The responses received broadly stated that there was a requirement for the following:

- Governmental regulation of the relationship between Pub Companies and tenants
- Confirmation of a need for a statutory code and independent adjudicator

¹⁶<https://www.gov.uk/government/consultations/pub-companies-and-tenants-consultation>

- Ensuring a fair treatment for pub tenants through a strengthening of the proposed statutory code
- Policy to apply to all Pub Companies with over 500 premises
- Consideration of the opportunity for a Free of Tie option, even if this meant paying a higher rent

On 3 June 2014, the UK Government published its response to the previous year's consultation. This stated clearly an intention to legislate at the earliest opportunity by establishing a Statutory Code and Adjudicator to cover the tenanted sector (for Pub Companies with over 500 pubs)¹⁷ in England & Wales.

In setting out the rationale for intervention, BIS Ministers said, *“The evidence we have received shows that, while there is widespread responsible practice in the industry, many tied tenants continue to face unfair treatment and hardship. Self-regulation has not been able to effect the step change desperately needed in the industry to ensure that all tied tenants are treated fairly.”*¹⁸

However, the passage of the legislation through Parliament did result in some significant changes to the original provisions suggested by BIS. The majority of the original primary recommendations were retained, but a focus of the changes was the introduction of a Market Rent Only (MRO) option. It was decided that this would be the preferred option to take into consideration strength of feeling on the issue from Parliament. This resulted in a revised Impact Assessment (published in January 2015) of the proposed policy based on the legislative changes enacted as the Bill went through Parliament.

Primary Legislation introduced in England & Wales on the 26th March 2015 created a Code and Adjudicator. Further primary legislation was required to address additional issues and Part 4 of The Small Business, Enterprise and Employment Act 2015 provided the enabling powers¹⁹.

The England & Wales legislation also allowed the option for Pub Company tenants to have a Market Rent Only (MRO) agreement if unhappy with their current tie arrangement. There are also other add-ons to ensure the MRO concept is workable, through various protections to both parties. The role of these clauses was to ensure that both tenants and Pub Companies understood their legal responsibilities to each other in the context of any move towards an individual MRO option and that neither would be unduly disadvantaged as a result.

Delays to the originally planned secondary legislation (via the Enterprise Act 2016) were due to amendments required to ensure inclusion of all relevant businesses

17The companies included are Enterprise Inns, Punch Taverns, Star Pubs & Bars, Greene King, Marston's and Admiral Taverns

18BIS Pub Companies & Tenants, Government Response to Consultation June 2014

19The Small Business, Enterprise and Employment Act, March 2015

within the code. These delays illustrated the difficulties and lengthy processes experienced in finalising the required legislation in England & Wales.

Recent developments - Voluntary Codes of Practice

Bringing the evaluation up to date, the Independent Family Brewers of Britain (IFBB) and BBPA published a new set of codes of practice for leased/ tenanted pubs and Pub Companies (with fewer than 500 pubs) in July 2016. One produced for lessees and one for tenants, with individual codes for England & Wales and Scotland.

The main similarities across both these codes are:

- The same arbitration services – PIRRS (for rents) and PICAS (for other disputes) will still apply, with the British Institute of Innkeeping (BII) administering the service as previously.
- It is a requirement of IFBB and BBPA that all members abide by the code. Where relevant businesses are not currently members of either organisation, discussions are underway between both the members and associations involved to resolve this.
- Pub Companies will no longer need to produce codes for accreditation in future – providing a more efficient approach to self-regulation.

The implications for this new code are still unclear. Industry expectation is that the transition will be a straightforward process for lessees and tenants alike. The consensus is that all parties (from a wider trade perspective) appear to be in broad agreement and willing to work with licensees within the code.

In terms of general provisions, the voluntary codes for England & Wales, and for Scotland, are very similar with most sections being identical. However, there are two key differences, which are necessary to consider when comparing the codes. Firstly, in England & Wales there are separate codes for tenancies and leases. These combine into a single code in Scotland to take into account the relatively small percentage of long leases here.

More importantly in Scotland, the Landlord & Tenant Act does not apply so references to it have not been included in the Scottish code. There is no right to renew agreements outside of contracted dates in Scotland for tenants and lessees. This makes the ability to include an MRO option within an agreement untenable in the current context. The 500 pubs in Scotland under the operational management could only be offered a Free of Tie option at the time of their next tenancy/ lease renewal.

Summary

At the beginning of proceedings in 2004, there was little apparent appetite for government to undertake any kind of legislative measures on the pub tie in England

& Wales. Despite known issues in the Pub Company/ tenant relationship, the government deemed commitments provided by the wider industry and trade associations to industry self-regulation sufficient at that time.

By 2008, and the initial Business & Enterprise Committee (BEC) inquiry, the landscape of the pub industry had changed significantly. The scenario created jointly by legislation such as the Smoking Ban and global recession brought the issues faced by many tenants far more sharply into focus. The need for the Pub Companies to look at how they might deal with their own changed financial position also increased the pressures in the already challenged relationship between the two parties.

While considering the potential limitations to the tie, to ensure fair competition, the focus remained on continued self-governance of the issue. A revised BBPA Framework Code of Practice in 2010 assisted with this aim. By this time however, the relationship between the two parties had significantly declined and made the opportunity for internal regulation increasingly difficult to maintain²⁰.

By the time of the BIS inquiry of June 2011, given the position taken by the parties involved, the only way to ensure this now intractable situation could be resolved was via legislative intervention.

Through lengthy periods of submission and debate the tide of governmental, wider industry, and public opinion, led to the move towards statutory enforcement from the beginning of 2013 onwards. The fact that full enactment of the primary legislation took three years shows both the complexity of the issue from an industry perspective and the deep rooted mistrust that built up between the parties involved.

Efforts have continued by industry bodies such as the BBPA and Independent Family Brewers of Britain (IFBB) to offer more practical, workable solutions within the framework of voluntary codes.

²⁰Referenced from quoted commentary within the BIS Committee Report September 2011

3. Research Methodology

This section contains detail on the objectives of the research and the methodology employed across all the pub types/ sectors interviewed. It also provides a brief explanation on the difficulties encountered throughout the project.

Further detail on the methodology is provided through various annexes containing details of the chronological research process and questionnaires employed. These are referenced throughout this section.

Research objectives

The overall aim of this research was to provide a robust evidence base to assist Ministers in coming to a view as to whether legislation on the pub sector in Scotland is required, and where the parameters of that legislation should apply.

Outputs will aim to help inform future policy direction on better regulation for the Scottish pub sector whether using a voluntary or regulatory approach.

The original research design required the data collection to be made over two phases. The first step, the Scoping Study, aimed to use empirical evidence to assess if any part of the pub sector was unfairly disadvantaged based on case studies from all parts of the sector. This initial exercise also looked to inform whether there was a need for further investigation through follow on research. The second stage aimed to expand upon the key results of the initial case study through a robust quantitative assessment of the market via a wider sample survey of pubs.

This report provides findings following the Scoping Study. Specifically, the first phase aimed to:

- Scope out what was required and whether it was possible to gather empirical evidence, demonstrating whether any part of the sector is unfairly disadvantaged compared to another.
- Carry out case studies of operators/ tenants across all operating models and provide an initial assessment of whether any part of the market appears unfairly treated. Assessment to take into account the whole contractual package they are operating under, business accounts, contractual arrangements (including SCORFA²¹ received and their value), beer charges, rents paid, etc....
- Produce case study interviews with a selection of pub companies to understand the different contractual arrangements available. This included flexibility to amend initial contract, rents paid, beer charges, SCORFA arrangements offered and their value.

²¹ SCORFA benefits (Special Commercial OR Financial Advantages) arising from the tie provided to leased/tenanted pubs such as business advice, marketing and accountancy services (BBPA)

CGA designed questionnaires to gather both financial and non-financial information and to maximise comparability across different pub types. The questionnaires employed for each type of pub can be found in Annexes 3 to 6.

Methodology

The Scoping Study was designed to be representative of the different pub types across Scotland; i.e. Fully Tied, Partial Tied (Leased/ Tenanted), Managed and Independent Free Trade.

To provide as broad an evidence base as possible CGA used a combination of qualitative and quantitative analysis to help understand the scale of any issues within the Scottish pub tie model, and the rationales behind them.

The research undertaken included a literature review, semi-structured in-depth interviews, case study data collection and triangulation of data by contrasting internal CGA data, Companies House information (when available) and data collected through interviews.

In order to assist with the research, a Sounding Board was established. The Sounding Board comprised of key stakeholders from the Scottish Licensed Trade, relevant trade associations and related businesses. The group was instrumental in assisting CGA with defining both the requirements of the research and in providing access to key contacts. (A detailed remit of the Sounding Board is in Annex 1).

The paragraphs that follow contain information on the construction of the sample for the primary data collection, the recruitment process, the interviews conducted and the challenges faced throughout the whole process.

Case Study Sample Construction

To provide the research with as accurate data of the structure of the current Scottish on trade universe as possible, CGA used their market leading Outlet Index service. The only continuously updated on trade outlet universe database of ca.124,000 GB licensed premises (including individual information on tenure, ownership and operational type).

A number of pubs volunteered to participate in the case study research programme. These pubs were verified against Outlet Index and had been continuously present in the database for at least two years. The sample set was a random sample across tenure type and trading style of outlets to a pre-set quota provided in the project brief.

CGA retained control of the sample base at all times to maintain complete anonymity and made the final decision, regarding those outlets selected for the study, on an entirely confidential basis²².

The confidentiality of all case study and survey data was paramount to the project. CGA used all reasonable means to ensure strict adherence via the Data Protection Act, Market Research Society (MRS) Code of Conduct, CGA Internal Confidentiality Policies and Non-Disclosure Agreements.

Premises clarification

The research aimed to cover premises defined as ‘pubs’. The definition of a ‘pub’ applied in this research was based on that employed in previous research undertaken by CGA for the UK Parliament²³ where a pub was defined as:

“An establishment where the public can enter without payment, and consume an alcoholic beverage on the premises. The premises primary activities are the sale by retail, and consumption on site of, licensed alcoholic products”.

A question was raised by the Sounding Board as to whether other types of premises such as small hotels within strict size/ operational criteria, bar-restaurants, social clubs, etc..., should be included as part of the research. The rationale behind this was recognition of the role that many small hotels play in the Scottish on trade market. Many hotels undertake similar wet-led sales activity as more traditionally defined pubs. This resulted in a review of the current CGA classification of pub premises.

CGA determined, with agreement from the Sounding Board, that some hotels (as defined in CGA’s Outlet Index database) should be included in the study as pubs. The generally accepted criterion was to include a hotel with a small number of rooms (maximum of 5 letting rooms) as operating similarly to pubs.

Analysis undertaken by CGA of its hotel segment in Scotland indicated that 664 (of the 1,200 hotels) in the database were potentially of relevance to the ‘pub’ research. This group of hotels were letting 10 or less rooms²⁴.

The table below provides detail on the proportion of outlets available for consideration based on number of rooms available for accommodation.

22All material data gathered and collected throughout the face-to-face interview research process was held in databases within CGA’s systems and individual’s computers. The systems had several layers of security that apply to all data held by CGA

23CGA Strategy research work undertaken for BIS Committee Inquiry 2011

24 Database information covered hotels of 10 rooms or less. This group was subsequently filtered through the recruitment process to only interview hotels with 5 rooms or less.

Table 2: Scottish Pub and Hotel Market with bedrooms
 [Source: CGA Outlet Index Database as per November 2015]²⁵

	No of bedrooms (only data for 10 or more rooms)			
	Total	0 or Not Known	More than 10	10 or less rooms
Pubs	4,573	4,019	107	447
<i>Free</i>				225
<i>Tenanted</i>				78
<i>Managed</i>				144
Hotels*	1,200	-	536	664
Entertainment Bars	96	91	-	5
Other Bars	149	148	-	1

*This represents an estimate as calculated by CGA using all available letting information

During recruitment, those outlets identified as “Hotels” were subject to supplementary filtering questions asking for the number of letting bedrooms. Only those “Hotels” that had 5 rooms or less, and for whom their main source of income came from wet or food sales, were considered suitable for recruitment.

Recruitment process

The flowchart below (Figure 1) outlines the process that CGA adopted in the recruitment of outlets to conduct the face to face interviews.



The recruitment process took part in order to ensure that:

- All respondents fit the relevant criteria for selection. A filtering process during the initial conversation confirmed suitability.
- Interviews were administered across all pub types included within the original recruitment brief.
- Planning and logistical considerations, made on an individual basis, allowed a suitable date, time and location for the interview. It also allowed

²⁵There are slight variations between CGA and BBPA pub numbers due to differences in methodology. CGA uses trading data and BBPA uses member submission data.

respondents the necessary time to produce all the additional information required, primarily financial data.

A challenge encountered during the recruitment process was that no tenanted free of tie outlets could be recruited. The main reasons for this was that less than 5% of the pub trade in Scotland (excluding entertainment and other late bars) were of this type. This operational equivalent of the MRO option had not been a key part of Pub Company contractual offers except where there was a specific business rationale for its agreement. Examples of this include a lease to a micro/ local brewery, or small independent regional pub groups²⁶.

Due to the low representation of free of tie tenanted pubs in Scotland, it proved extremely difficult to recruit relevant respondents who were prepared to fully participate in the survey. As such, CGA decided to recruit five Partially Tied pubs instead.

The recruitment survey took place from 11th January to 11th March 2016 to select 25 pubs for the case study interviews.

The paragraphs that follow explain the methodology employed to collect data from publicans, Managed Pub businesses and Pub Companies. There is also a section summarising the challenges encountered through the research exercise.

Face to face interviews with publicans

The research focused on Scottish tenanted and independent pubs. The operational types covered through the face to face interviews were; Independent Free Trade, Fully Tied and Partially Tied tenanted/ leased pubs.

Independent free trade (IFT) are those pubs that are wholly operated by the licensee and free to purchase all drinks from independent sources.

Within the tenanted pubs, those Fully Tied represent pubs that are Leased/ Tenanted with a total tie to their Pub Company for drinks.

Pubs that are Partially Tied are defined as those pubs that are Leased/ Tenanted with a partial tie to their Pub Company for drinks (some agreed drinks can be purchased outside their agreement).

For the face to face interviewing, the research required the sample sets to include pubs that operated as identified in Table 3. This was an important part of the recruitment process and ensured that appropriate coverage of all key pub types was included at that stage in the process (see below).

²⁶ A summary of the challenges and a full chronology of the whole research programme can be found in Annex 2.

Table 3 Scottish Pub Market and initial research target framework
[Source: CGA Outlet Index Database – November 2015]

	Total number of pubs in Scotland	Target Sample points
Independent Free Trade	2,853	10
Tenanted/ leased pubs [TOTAL]	1,096	
- <i>fully tied</i>		10
- <i>partially tied</i>		5
Total number of pubs (including hotels with 5 or less bedrooms) under tenancy in Scotland where England & Wales MRO legislation could potentially apply	518	

In England & Wales, pubs operated by companies with over 500 outlets would be eligible for MRO legislation. In Scotland, ca. 47% of the tenanted market would be included in MRO through operational criteria. When considering the whole pub market, MRO legislation would apply to 10% of all pubs in Scotland²⁷.

CGA produced three structured bespoke questionnaires for each type of pub interviewed: Independent Free Trade, Partially Tied and Fully Tied. The questionnaires were relevant to each pub type but at the same time maximised comparability across them. The questionnaires were professionally printed in an A4 booklet. A summary of the questionnaire coverage for each type of pub is in Annex 4.

Two experienced CGA field researchers conducted the face to face interviews. The field researchers planned and arranged the appointments directly with the individual interviewees. Each interview took around 90 to 120 minutes to complete. Fieldwork took place from April to July 2016.

On completion of fieldwork, data was collected from 10 Independent Free Trade outlets, 10 tenanted Fully Tied and 5 from Partially Tied tenants.

Data collection from Managed Pubs

In order to obtain a full representation of the market, Managed Pubs were also included in the data collection process. Managed pubs are a pub where, by broad industry definition, a company owns a pub, specifies what it sells, and hires a salaried manager to run it.²⁸

²⁷Using BBPA pub numbers the % of MRO eligible pubs is based on the number of leased/ tenanted pubs owned by Pub Companies with +500 outlets against the total number of Scottish pubs

²⁸CGA definition is based on that used by the BIS Pub Co & Tenants Consultation document April 2013

CGA made requests for Managed outlet case study data from the relevant managed operators in Scotland and with support from the relevant trade associations.

Ideally, the research would have managed operator's select five pub businesses in their estates.

It was not realistically possible for individual pub managers to complete surveys of this type without the tacit agreement of the pub business itself. The head office controls the financial and operational requirements of each pub within their portfolio.

To ensure no bias from this methodology, CGA would obtain data from three sources to provide as broad a range of managed pub business performance data as possible. CGA would then cross-reference all data sources available.

Data would then be analysed and compared against responses given from the tenanted sector, to establish whether any part of the sector was particularly disadvantaged against another.

Nine Managed Pub businesses received an initial contact. CGA requested that they complete a template survey (see Annex 5) to provide detailed financial information and supplemental comments.

Research requests took place from 27th May to 20th June 2016. No managed businesses agreed to take part in the self-completion survey but other primary and secondary data sources were included.

Case Study data collection from Pub Companies

Further to the stated requirement to ensure the broadest coverage and representation of all pub business types in the Scottish trade, there was a necessity to include Pub Companies within the study.

At this point, in conjunction with CGA, both the BBPA, other trade bodies in Scotland and representatives of key Pub Companies within the Sounding Board assisted in identifying those businesses that would form a basis of the research. CGA approached eight Pub Companies. These companies accounted for the vast majority of tenanted pubs in Scotland.

The basis of the criteria set included total number of pubs in Scotland (within all business types), overall size of business (financial and geographical), perceived influence within the sector, profit and turnover.

The Pub Company questionnaire took into account the primary function of this operational type to maximise comparability with the tenanted sample (see Annex 6).

Pub Companies received initial interviews over the phone and then self-completion template surveys to provide detailed financial information and supplemental comments.

Research collection took place from 20th May to 26th August 2016. On completion of fieldwork, five Pub Companies had participated in the survey.

Summary of issues encountered during the research process

During the course of the research process an extensive number of challenges arose that required alternative strategies to be developed and implemented by CGA.

The challenges encountered were broad and varied but focused on the difficulties faced in recruiting suitable outlets and businesses for the case study surveys. This had a detrimental effect on resource planning and extended timelines beyond those originally planned. In addition, (as previously outlined), the lack of Free of Tie Tenanted pubs within the available outlets required a reconsideration and restructure of the sample base.

Table 4 below provides a summary of the challenges encountered alongside the subsequent potential solutions, their implications and outcomes for the research process. For further detail, a full chronology of the research programme can be found in Annex 2.

Table 4: Challenges encountered and solutions provided during the research process

Identified Issue	Potential Solution	Implications & Outcomes
Initial telephone recruitment research failed to recruit a single outlet after 87 calls	<ul style="list-style-type: none"> - Senior member of the team allocated for the recruitment - Additional piece of communication - Ministerial letter of support distributed to all remaining potential outlets²⁹ - Review of recruitment questionnaire and criteria 	<ul style="list-style-type: none"> - Recruitment process was delayed and took around 8 weeks to complete (vs the two weeks originally allocated) - 40 potential interviewees recruited - Individual interviewees then further vetted to ensure suitability and commitment
Resource plan was severely affected as a result of the delays encountered in the initial recruitment process and had implications on pre-planned CGA work	CGA reassigned an additional field interviewer. Overall, two researchers were required to cover the interviews.	Data collection was unaffected
No availability of Tenanted Free of Tie outlets during the recruitment process (to note that	After conducting internal research to clarify, the number and role of free of tie tenanted pubs in	Overall, five partially tied pubs were recruited and interviewed

²⁹Annex 9: Letter of Support from Fergus Ewing, Minister for Business, Energy & Tourism 11/11/2015

this represent less than 5% of the overall pub sector)	Scotland the cohort was reassigned Instead, the research recruited Tenanted pubs with partial ties.	
Delays in interviewing of several respondents – last minute requested re-schedules/ ‘no shows’, etc...	Persistence of the field researcher and changes to existing schedules. It was necessary to find several replacements.	Face to face interviews took 11 weeks longer than scheduled – albeit for the last Independent Free Trade interviewee
Field research questionnaire preparation and modifications	Extended timelines and schedule were planned	A fully rounded review process was undertaken. And a consensus questionnaire produced to match the original objectives of the study.

A reluctance of licensees to contribute to the survey, either from the perspective of understanding the necessity for them to contribute based on a broad mistrust, general misinformation, or from concerns regarding the provision of confidential financial documentation, arose. This meant that the overall number of potential pub tie contributors was significantly smaller than expected.

In the case of tied outlets, the numbers of businesses operating from a ‘free of tie’ contract within Scotland were negligible; as a result, it proved impossible to recruit any willing participants. Independent Free Trade operators also proved difficult to obtain agreement from. Many did not see a valid rationale for engaging in a process that they considered unlikely to affect their individual situation.

In the case of Pub Companies and Managed businesses there was some concern as to whether any contributions made could have a longer term negative impact on them from a legislative angle.

All the above issues had a negative effect on the ability of CGA to recruit, collect, and process the required data in a timely and efficient manner.

At this point (even with the assistance of the Sounding Board) CGA experienced significant difficulties in obtaining the wide ranging selection of data required to complete this report. Complicated further by time delays and varying levels of reluctance on the part of some individual licensees, businesses and Pub Companies to provide the in depth level of (particularly financial) information necessary.

These issues are stratified into several key areas:

- Scottish Licensed Trade Association (SLTA) & CAMRA membership contacts resulted in disappointingly few directly attributable pubs with which the research could engage.
- Mistrust of Scottish Government and/ or Pub Companies – based on individual licensee experiences. These were different in each case but the

primary rationale often related to concerns regarding the effect additional regulations could have on their business – often with negative connotations.

- Concerns over the use of the data and its intentions.
- General unwillingness to provide sensitive personal business financial information.
- Lack of interest/ engagement or failure to see/ understand need for legislation. Especially from the Independent Free Trade sector, and Managed operators, who felt that the key issues did not, or would not, directly affect their businesses.
- Differences in tie implementation in Scotland. For example, spirits are significantly more likely to be 'free to buy' in Scotland than in England & Wales within the context of a standard 'inclusive' tie agreement.

As a consequence of the issues raised above, and concerns about the capability to recruit and collect satisfactory responses, **this report recommends not to extend the project to the second phase of reporting** (which was to expand upon the key results of the scoping study). This decision is based on the general perceived lack of engagement from within the sector and a consensus that further data collection will not significantly improve the knowledge and insight already gained within Phase One.

The section that follows contains the main findings derived from the Scoping Study, Phase One.

4. Main Findings

This section provides a detailed breakdown of the results by the different tenanted pub types (Fully Tied and Partial Tied), IFT (independent free trade), Managed operations and Pub Companies. Findings are stated for each subgroup and cross referenced across all types given as applicable.

Results of the evidence collected formed the basis of the conclusions and recommendations provided within this report (available in Chapter 5).

The main findings of the report covering licensees and Pub Companies are grouped into six main areas:

- 4.1. **Market conditions:** long term analysis of the Scottish market and issues that could have an impact upon the performance of individuals, companies, the pub market and the on trade as a whole
- 4.2. **Contract types:** including length, type, agreement, cost of entrance, advice availability and advice sought
- 4.3. **Decision making process on contracts:** reasons for choosing pub business, agreement options, flexibility to amend, satisfaction with the contractual agreement and dispute resolution procedures
- 4.4. **Products and Services:** where/ from whom publicans purchase their beer, current beer charges, and how often these are changed
- 4.5. **Financials:** turnover, profitability, rents paid, and how often these are changed, balance sheet data, SCORFA benefits offered and their (real or perceived) value
- 4.6. **Main findings from Managed pubs:** managed pub data collection issues, use of supplementary data sources

4.1 Market conditions

It was important to contextualise the main findings to the prevailing market conditions, and show how historical industry and legislative changes helped shape the current environment. (See the main background assessment outlined in detail within Chapter 2 of the report).

The market that the pub, and in particular the tenanted (Fully and Partially) Tied pub, serve in Scotland continues to undergo acute change.

Between 2005 and 2015, the total number of outlets in the Scottish pub market contracted (-23%) more than that in England & Wales (-20%).

Over the same period, the number of tenanted pubs in Scotland declined by -15%, approximately half the rate in England & Wales. Similarly, Independent Free Trade pubs also declined more in Scotland (-29%) than in England & Wales (-10%)³⁰.

Wet sales³¹ (i.e. sales revenue coming from drinks sales) dominated the tenanted pub sector in Scotland. This compared with a wider diversification of pub styles and greater food led emphasis in England & Wales.

Overall, the consumption of beverage alcohol is in decline, thus undermining the core sales element and undoubtedly influencing the economic viability of pubs. Between 2005 and 2015 on trade sales of alcohol in Scotland dropped by 30.4%, whilst over the same period off trade sales grew by 16.4% with total alcohol consumption down -1.0%³². Many people continue to drink alcohol but they have moved away from on trade (in the pub) consumption to drinking at home.

As alcohol forms over 80% of the current sales in all Tied pubs in Scotland, there is a contention that the decline seen in pub numbers is better than expected. However, there is a structural limitation, in that a large proportion of pubs have limited opportunity to change their offer from a sole wet led business. The logical conclusion is that there are too many wet-led pubs currently operating.

Pub Companies that provided additional comment suggested that their view on the current Pub Tie situation in Scotland was that the new Scottish voluntary code of practice is suited to the marketplace and 'promotes partnership between pub companies and their tenants'. The difference between the structure of the Scottish pub market, compared to that in England & Wales (as outlined in the Section 1: Introduction) was a primary factor in this decision, and reflective of what was seen as limited support for further legislation.

4.2 Contract Types

This section evaluates the different types of contracts available to licensees and the elements that are most important in understanding factors that impact significantly on the business. These include the length of agreement, level of (licensee) experience, cost of entrance, and availability of advice (in relation to suitability of agreement type).

Tenanted respondents (i.e. those Fully or Partially Tied) expanded upon the primary rationales behind their decision to agree the current terms of their contract. This helped provide understanding of the drivers and motivations for seeking the terms agreed to and highlight any differentials in between the details of the agreements between tenancy types.

30CGA Outlet Index: Scotland and England & Wales trended data 2005-2015

31Defined by CGA as "sales revenue coming from drinks sales, as opposed to dry (food) sales or other services such as gaming machines"

32Alcohol Consumption data provided to NHS Health Scotland for MUP analysis by CGA annually

The following headings provide a set of key rationales for why licensees chose their particular contracts and agreements, whether Fully Tied, Partially Tied or IFT. The summary of results suggests that there is a significant level of flexibility to agreement options.

Pub Companies felt, generally speaking, the Pub Tie model worked well in the context of the new voluntary code of practice, the levels of investment provided within the sector, and few formal complaints across their estates being examples of their commitment to the sector.

Length of Agreement

The research asked Tenanted respondents, those with both Partially and Fully Tied, for the length of their current lease agreement and how long they were into that agreement. The questions helped to gauge the level of commitment undertaken, and if any variations existed between agreement types.

Through the case studies conducted, it was evident that Pub Company agreements had variable timespans. They varied between six month trials, through to the longest quoted during this research at 17 years. The most common offer was a five-year agreement and there are some marked differences across the different pub types.

The average length of agreement for Partially Tied respondents was 7.5 years, with only 1 outlet having agreed to a term over 10 years (stated as 12).

Similarly, Fully Tied tenants also, on average, had agreed a 7-year contract. However, it was skewed by two respondents who had signed contracts for over 10 years. Excluding these, the average contract length was 3.6 years, a markedly shorter period than either the commitment apparent in Partially Tied (7.5 years), or the average length of ownership for IFT respondents (13.5 years).

Half of the Fully Tied respondents (5 out of 10) had relatively short term three year rolling contracts. From the data collected, it would appear that the Fully Tied contract attracted shorter agreement periods. However, it was not clear whether this was down to the tenant or Pub Company. On average, the IFT licensees interviewed had owned and run their current pubs for 13.5 years. Half of the respondents had run their pub for 10 years or more. Of those interviewed, a balanced mix resulted between historically IFT pubs and those that had previously run the same pub on a different form of agreement. All those who stated that they had run the same pub on a different agreement confirmed that it was as either a Fully or Partially Tied contract.

IFT licensees, on average, had owned their current pubs for over 10 years. In comparison, the length of current agreement fell to 7.5 years for Partially Tied; and over half of Fully Tied pubs surveyed were on a three year rolling contract. While the rolling contract offered a more flexible working arrangement, the conclusion was that Fully Tied licensees were in a less committed, shorter term contractual environment.

Level of Experience

Respondents were asked how long they had been directly involved in the industry and how long they had run or owned their current pub. These questions were asked to gain an understanding of the level of experience of licensees and to provide indicators that might suggest disparities between different agreement types.

The average length of time the IFT respondents had spent in the pub industry was 21 years. The highest period recorded being 34 years and the least being 3 years. Only 2 respondents of all 10 interviewed had spent less than 10 years overall.

Partially Tied respondents had a similar average of 20 years' total industry experience, the highest being 29 years, with only one respondent having spent less than 10 years overall in the trade.

Tenants of Fully Tied outlets recorded an average length of experience in the industry of around 16 years. That was somewhat lower than for Partially Tied and IFT pubs.

The trade experience of respondents was a factor in the decision making process of type of pub agreement chosen. It appeared that the overall Tied model in Scotland was being used as a proving ground for licensees. Several responses within the study confirmed purchase of the pub from a Pub Company where the licensee had previously been the tenant.

In the context of the response results, there was a rationale, based on the responses received, that the total Tied model, and the business support offered, was of appeal to those with less experience within the sector. Providing an element of safety to new entrants and offering the opportunity to develop relevant business skills considered as an additional benefit to the 'low risk, low cost' perception of the business type for some licensees.

Cost of Entrance

Tenants and pub owners provided information regarding the cost of purchasing their tenancy/ leasehold agreement, or freehold. This question was crucial in understanding the overall cost of entry to the industry, and the differences between contract types.

The average cost of purchasing a lease for Partially Tied respondents was approximately £38,300 and £21,500 for Fully Tied respondents.

Half the IFT respondents (5 out of 10) specified the cost at which they bought their freehold outright at the time of purchase, which averaged around £399,000. Of the other IFT respondents, four were unwilling to provide their total purchase price (although two stated making initial security deposits of c. £6,000) and one

respondent stated that at the time they were paying £22,000 per annum for their freehold.

Of the 7 IFT respondents who specified how they financed their purchase, 3 used business loans or mortgages, one used a personal loan from a friend, and 3 purchased in cash.

The responses within the research showed that cost of entry was ca. 13 times lower for the total Tied model (in particular those with a Fully Tied agreement) compared to a freehold purchase. However, the average entry cost responses for different agreement types suggested that the cost of purchase was interlinked with the level of independence (and purchasing/ business) freedom required, or sought, by tenants/ pub owners.

Advice Sought

Respondents were asked whether they sought independent financial or legal advice prior to purchase. If they sought advice, they were also asked whether it was useful to the licensee. Taking into consideration the potentially complex nature of such agreements, the responses to these questions helped to provide an indication of sector knowledge and experience.

Based on the data collected, the majority of both Fully and Partially Tied respondents were the most likely to seek and take advice. This tallied with the stated requirement of Pub Companies that all potential new publicans must seek legal advice. In comparison, less than a third of IFT respondents provided a positive response to the question.

The majority of those who took relevant advice (6 of the 7 Fully Tied licensees and all Partially Tied) stated the information provided was useful.

IFT licensees appeared less inclined to seek specific advice (only 3 of 10 IFT respondents). However, the few who sought advice stated they found the advice helpful.

The Pub Company responses were unanimous on the requirement that all prospective tenants and lessees must take legal advice of some sort, be that their own, or through the relationships the Pub Companies have with external professionals.

Professional advice was available and actively sought by the licensee. The research indicated this was a standard expectation within the commercial process, but not if the licensee had a complete and thorough understanding of the advice offered.

The inference was that the level of advice requested by licensees had a direct correlation to their level of current knowledge in the sector. In essence, the more experience they had, the less professional advice considered necessary.

4.3 Decision Making Processes

To gain an understanding of the key rationales behind the individual licensee's choice of pub, a number of multiple option questions explored the main factors in their decision making processes. The comparisons between the overall responses to the Tied and IFT models provided a rationale highlighting any differences in motivations and attitude.

Reason for choosing specific pub business

Respondents stated why they chose their particular pub, with a multiple response option based on key criteria, including entry cost, business support, etc... This method of response allowed for a directly comparable dataset of replies between different pub models.

For Fully Tied outlets, the main reasons chosen for seeking that specific arrangement included wanting to run a particular individual pub (referred to by 6 out of 10 licensees) and the low cost of entry (5 out of 10). Lower numbers referred to the location (3 out of 10) and the business support offered (1 out of 10) as their reasons for choosing their Fully Tied arrangement.

All Partially Tied outlets stated that the main reason for seeking that arrangement was running a particular individual pub. 4 out of 5 responses subsequently stated low cost of entry, and a further 2 licensees who could not find any suitable freehold available. No respondents chose their pub for business support. One outlet also stated that they *"wanted to become self-employed in the pub trade"*.

IFT respondents stated that the 'financial/ investment opportunity' was the primary rationale for choosing their pub with 8 out of 10 positive responses. Half of the respondents (5 out of 10) wanted to run/ own that specific pub, and 4 respondents considered the independence and lower drinks prices important. Other reasons provided included *"always wanted to run own business"* and *"Tied pub options charged too much for products"*.

IFT outlet respondents clearly saw the business opportunity as a key priority. This was based upon the fact that the financial commitment to purchase a pub freehold was a far more significant and longer term investment.

Pub Companies certainly viewed the overall Tied model as a 'low risk' form of entry for the potential tenant/ lessee. There was a general view that the business support on offer was of primary importance to both Partially Tied and Fully Tied pubs. However, this did not compare favourably with the values assigned to this by respondents from both Tied pub types.

Differences between the individual pub models above highlighted different considerations in the decision making process. The data suggested that low cost entry was a primary motivator for both Tied models and was a major factor in the

type of pub selected. Conversely, based on previous assumptions that most Tied licensees were generally more inexperienced within the trade, the fact that a number found business support generally unimportant was surprising.

Agreement options

The research asked Tenanted respondents, both those Fully Tied and Partially Tied, what options they had to choose from different contract types. This included if they had any flexibility regarding amendments and, if so, what elements they were able to amend. These questions were asked in order to understand the negotiation process, and the flexibility offered around each contractual arrangement.

Around half of Fully Tied respondents (4 out of 10) stated that alternative agreement options were made available to them at the point of signing initial contracts, all described as in the form of longer term leases. None of the Partially Tied respondents interviewed had alternatives offered as part of the negotiations between them and their Pub Company.

All Partially Tied respondents, and 6 out of 10 of Fully Tied licensees, stated they were unhappy with their current agreement. Partially Tied respondents broadly defined the issue as being directly connected to a general problem in the Pub Company/ licensee relationship, primarily ongoing maintenance issues, and perceived lack of investment in that area (based on available responses). There were more Fully Tied licensees dissatisfied with their agreement than satisfied. A broad range of reasons was given, but no consensus provided.

Pub Companies did affirm that there were flexible options available for agreements. In fact, they believed they were flexible in agreement options on a case by case basis as need warranted. The Pub Company response did emphasise that they preferred good relationships and based this on the low level of dispute and complaints stated as received by them.

For Fully Tied outlets, 3 respondents said they had the opportunity to amend current ongoing contracts. Although the only options stated were exit strategy and machine income³³. This compared with all of the Partially Tied respondents who were able to amend their agreements, although these were primarily limited to agreement extension options, and shorter term release clauses.

Overall, there appeared to be a limited level of flexibility to amend contracts within the current system. It was clear that some Fully Tied outlets had the opportunity to choose longer term lease options at the start of their agreement, compared to Partially Tied outlets that did not have that option. However, all the Partially Tied respondents showed greater flexibility to amend within the context of their on-going agreement, even if it was limited to contract extension and release options. Partially Tied outlets, overall, appeared to enjoy less restrictive on-going contractual arrangements.

³³ Machine Income relates to the sharing of profit derived from any amusement machines on site within the pub.

Nevertheless, the degree of flexibility in their contractual arrangements did not appear to improve their satisfaction levels. Overall, these satisfaction levels were low. The primary factor appeared based on individual Pub Company/ Licensee relationship as opposed to issues of inflexibility in available agreement options. IFT respondents were not directly asked about contracts in this context, as they are a completely separate type of pub business model.

For all Tied pubs, the key commentaries suggested a general dissatisfaction with the Tie itself, limitation/ restriction of choice first, price second. Followed by a feeling that there was an overall lack of support, and SCORFA benefits were either not properly recognised, or received.

The bias of IFT pub comments was towards broad legislative issues perceived to have a potential negative effect on their business. The primary focus was VAT rates, minimum wage cost increases, and the drink driving law changes, especially for those pubs in more rural, isolated locations.

It was clear that for all Tied pubs, the perceived restrictions of the tie itself remained a focus of issue. However, there was also a broader recognition of wider legislative and regulatory issues, which they shared in their responses with a large number of IFT outlets.

For Partially Tied pubs, it was clear from licensee responses that they felt the benefits and freedoms of their current agreement did not go far enough. They thought that the free of tie option would be more broadly beneficial to their businesses based on freedom of choice to their customers, more than implications of cost.

The Pub Companies interviewed also had an opportunity to provide additional commentary regarding their position and perspectives of the Tied model.

The key areas of the Pub Company position focused on their summation of the current Scottish Pub Tie regulatory situation; capital investment, and the limited number of formal complaint/ arbitration issues within the estates.

Contract disputes/ resolutions

Contract disputes played a key role and drove the development of pub legislation in England & Wales. Licensees considered the level of disputes flagged a key element, and within the current agreements with their Pub Companies and how this affected their business relationships. Respondents were asked if they had any disputes (ongoing or otherwise) and how the dispute was being resolved.

Some Fully Tied outlets (6 out of 10) stated that they had been involved in landlord disputes. The majority of these disputes remained unresolved. Those who experienced a dispute (6 fully tied outlets), were also asked about the nature of the dispute. Most respondents (4 out of 6) based their reply on pub maintenance, repair and general upkeep issues. The two remaining stated financial issues for their

disputes. None of the Fully Tied respondents stated that overall beer pricing was a specific issue of dispute within the contract itself.

Disputes amongst Partially Tied respondents was minimal (only one stated they had experienced a dispute, namely around maintenance issues).

Pub Company responses recognised that disputes occurred and referred to protocols in place that would escalate them systematically. The Pubs Independent Conciliation and Arbitration Service (PICAS) and Pubs Independent Rent Review Scheme (PIRRS) are the ultimate means for resolution. PICAS and PIRR are independent, and the industry widely accepts that, based on this, they are both impartial and fair.

At the time that the research took place, none of the licensees stated that they had referred their dispute to PIRRS or PICAS. This suggested that either they had not considered the option, felt it was unnecessary at that time, or the dispute had not escalated to a point where it was a key option going forward. This tended to support the view shared by the Pub Companies that the overall level of serious dispute across the tenanted trade in Scotland was low.

Outside of the tie itself, the key areas of comment were broad legislative issues. Primarily VAT, the minimum wage, and the drink driving law changes – mainly based on the direct affect they had on their individual businesses.

In the context of the responses, the tone of the negative comments received suggested a certain level of ‘us and them’ mentality.

4.4 Products & Services

This section covers data collected around the products and services available for pubs. It specifically looks at beer purchasing behaviour, beer pricing and how these prices fluctuate over time. This section also covers special commercial or financial advantages (more commonly known as SCORFA) agreed as part of the contractual package between tenants and their Pub Companies.

Beer purchasing behaviour

Tied respondents, those Fully or Partially Tied, were asked which products (drinks or other product categories) they were tied to, and from whom they purchased these products. The key to this question was to understand how licensees used the freedom and flexibility to purchase where it was available.

Tied trade are by definition tied to the designated supplier set by the Pub Company. The product ranges presented were mostly market leader brands. Those pubs that are Partially Tied have, by definition, a greater degree of purchase flexibility than the Fully Tied option.

Generally, Fully Tied pubs were restricted in their beer purchasing behaviour by the terms of the contractual agreement with their Pub Company. Historically there was inherently no flexibility in their ability to purchase from alternative suppliers. However, case study responses indicated flexibility is more available. There was some evidence of purchasing 'local cask' beers from both Fully Tied (in a small number of cases) and Partially Tied respondents. This bears out information provided by Pub Companies in questions on supply relating to local/ regional purchasing flexibility. As expected, Partially Tied outlets were likely to have multiple suppliers. In fact, only one Partially Tied tenant used their Pub Company as their sole supplier. The others used different leading wholesale businesses operating in the Scottish market. One respondent, in particular, claimed to use five different beer suppliers.

Overall, Partially Tied pubs were actively 'shopping around' to obtain the best/ most competitive pricing available for the products for which they were not tied. This would not always result in them using a wide range of sources if not considered beneficial to their business. The ability to 'shop around' suggested a clear advantage financially compared to Fully Tied licensees. There was also some evidence of 'local' flexibility from Pub Companies to Fully Tied respondents to purchase regional beers and Scottish spirits.

When comparing Partially Tied with IFT outlets there remained a slightly lower level of varied purchasing behaviour from Partially Tied, primarily due to the fact that most respondents remained tied for several drinks categories. However, some interesting variation existed between a respondent who still used their pub company as 'sole supplier' and one who used a high number of different independent beer suppliers.

Independent purchasing behaviour exhibited a modest proliferation of drinks suppliers. In relation to beer and cider, the average number of suppliers used was two. The overall drinks supplier average was three. Overall, this level of variation suggests that IFT licensees do not purchase their drinks from a large number of different suppliers.

Additional commentary received from Partially Tied respondents focused on restriction of choice in relation to products (including in some instances local ones), something seen as detrimental to their business opportunity. However, cost of products was not a specific area of focus within the responses polled.

Beer charges

Through the face to face interviews, data on beer prices was also collected. This took the form of direct questions, but also through the collation of invoices. The rationale for this was to provide a direct comparison of the overall costs of beer between the different Tied pub models and IFT outlets. CGA brand segmentation and package types provided standardised product classification. The prices were then standardised to a purchase price per litre of product.

For beer data, the analysis below did not take into account brands but concentrated upon the overall product and the container, based on a broad range common to all pub outlets/ types.

The analysis showed that IFT pub owners paid less for their beer than pubs within a tenanted agreement (either Fully or Partially Tied). This was the case for bottled, cask and keg beers. For bottled beers, the disparity is 45 pence per litre, rising to 78 pence for cask, and 71 pence for keg per litre.

A similar pattern is evident when comparing tenants who are Fully Tied and those Partially Tied. Fully Tied outlets recorded that their average purchase price was higher than for the Partially Tied. In relative terms the Fully Tied set were paying 6 pence more per litre for bottled, and 5 pence more per litre for keg than Partially Tied. Cask beer costs were the same for both.

The table below provides further detail on the average cost of beer paid across different pub types.

Table 5: Average Purchase Price per Beer Litre

	Bottle	Cask	Keg
Independent Free Trade	£2.74	£1.59	£1.89
Partially Tied Pubs	£3.19	£2.37	£2.60
Fully Tied Pubs	£3.25	£2.37	£2.65

The following table shows retail selling prices (by beer container type) at a common volume of one litre. All prices include VAT at 20%. Consistently IFT are cheaper. Partially Tied pubs are more expensive for bottle and cask, but cheaper for keg beer. The former, however, are lower volume sales categories. Overall, the average beer price per litre will be similar.

Table 6: Average Retail Selling Price per Beer Litre

	Bottle	Cask	Keg
Independent Free Trade	£8.61	£4.84	£5.23
Partially Tied Pubs	£9.06	£6.95	£5.86
Fully Tied Pubs	£8.70	£6.30	£6.36

Using the retail selling prices provided by the case study respondents' analysis an average RSP per litre was calculated (as per the table above). In conjunction with the estimated purchase cost per litre the analysis produced the gross profit for each combination. Gross profit percentage was used to provide a standard comparison. The formula to calculate this is as follows:

$((\text{retail selling price less VAT}) - (\text{purchase price})) / (\text{purchase price}) * 100 = \% \text{ Gross Profit.}$

There were differences in unit profitability across the different types of pubs. Details are shown in table 7 below.

Table 7: Average Gross Profit % (excluding VAT)

	Bottle	Cask	Keg
Independent Free Trade	65%	61%	57%
Partially Tied Pubs	58%	59%	47%
Fully Tied Pubs	55%	55%	50%

Both Tied types had consistently lower gross profit percentages because their overall beer purchase costs were higher. IFT outlets had a high gross profit across all standard beer container types due to their ability to shop around for the cheapest purchase options. Whereas Fully and Partially Tied pubs had higher costs and higher retail selling prices. To achieve the same gross profit percentages in IFT, the Fully and Partially Tied pubs would need to increase their retail selling price further.

Percentage gross profit, cost price and retail selling price are data and analysis that produce regular business statistics. All data is converted into monetary values, in £'s per litre, as shown below. The unit cash profits are similar across all 3 cohorts. Viewing Table 8, one can see that each cohort has a highest, median and lowest gross profit in each beer container type. This strongly indicates that each cohort approaches pricing in an individual way.

Table 8: Average Gross Profit £/litre (excluding VAT)

	Bottle	Cask	Keg
Independent Free Trade	£4.43	£2.44	£2.47
Partially Tied Pubs	£4.36	£3.43	£2.29
Fully Tied Pubs	£4.00	£2.88	£2.65

CGA have recorded 1,631 different beers over the last 3 years (in pub) in Scotland. The average number of beers available to customers in individual pubs is c.40 (with a minimum recorded of 6 and maximum of 206 beers recorded). It is thereby self-evident that the individual product mix masks the potential complexity of the product range on offer to customers. Additionally, the impact of brewery tied agreements for supply remained an unknown. Pub Companies referenced these as a potential factor but the research did not specify it for inclusion. Due to the inherent variety of

beers available, it is potentially possible to substantially change financial outcomes based on the beers chosen.

Changes in beer prices

Tied respondents were asked about the level of changes to beer prices over a 3-year period. The rationale for this was to provide a direct comparison of the overall changes in beer prices, and any differences, between the pub tie models and IFT outlets. Pub Companies were also asked to provide information relating to beer price changes; however, this was provided at an annual level over a two-year period. Therefore, it is not possible to make direct comparisons between both sets of responses. However, the average annual trends for each set of responses show similar annual percentage increases for the most part. The beer price changes shown in this part of the analysis are based on an average of the percentage change details recorded from the surveys undertaken.

Pub Companies indicated that beer price changes were made on an annual basis, and have increased in the last year (2014 to 2015) by around 2-3% for all Tied pub types. The increase recorded by the Pub Companies for the previous year (2013 to 2014) was slightly higher at around 3-4%.

Overall, Tied and IFT pubs corroborated the increase in prices stated by the Pub Companies. However, the level of increase varied across the different pub types. Fully Tied respondents indicated that over the past three year's beer prices had risen by about 8% to 10%. The increase recorded by Partially Tied pubs was similar, at 6% to 8%. IFT respondents provided the widest range of responses, indicating that beer price increases ranged from 4% to 20% overall.

These results suggested that overall changes in beer prices, based on responses from Pub Companies and case study respondents, are very similar. The increase stated by the Pub Companies aligns with the responses of the overall Tied pub sample. It does indicate that Partially Tied and IFT experienced differing levels of beer price increases. There is a caveat to this statement. Brands have different pricing strategies and this may have acutely influenced the results.

Special Commercial or Financial Advantages (SCORFA) benefits

Special commercial or financial advantages or (as more commonly known) SCORFA benefits, were considered to be an important part of the Pub Company and Tied licensee relationship by the Pub Companies and industry associations. They show a clear statement of the benefits available to the tenant. These benefits include, amongst others, business help, marketing & PR, training and legal & compliance assistance. Annex 7 of this report outlines the full BBPA list of definitions for the SCORFA benefits.

Some respondents, across all pub types, acknowledged that certain specific SCORFA benefits had a value, but some had no value to them as individual licensees. Some respondents did not value SCORFA benefits at all.

In terms of comparing the data, the table below (Table 9) shows the average valuation, and perceived value, for all three pub respondent groups and the consolidated Pub Company position:

Table 9 Estimated value of SCORFA benefits by Pub types and Pub Companies

	Pub Company	Weighted average across all pubs	Total Tied	Partial Tied	Independent Free Trade
Business Help	£3,443	£2,160	£0	£0	£2,160
Legal & Compliance	£888	£1,570	£373	£500	£2,347
Property	£5,676	£3,995	£1,875	£1,000	£7,821
Memberships & Subscriptions	£300	£1,002	£70	£0	£1,188
Marketing & PR	£3,197	£1,878	£1,600	£2,000	£1,950
Products and Product Support	£557	£428	£213	£0	£750
Consultancy/ Business Services	£746	£750	£0	£0	£750
Training	£830	£635	£438	£150	£890
Other	£3,000				
Total	£18,636	£12,418	£4,569	£3,650	£17,855

Pub Company estimations and IFT expenditures were very close at item, and overall levels. The Pub Companies estimated the overall expenditure of SCORFA at around £18,600. IFT pubs, who do not have access to SCORFA through a Pub Company and would have to purchase/ pay for these, estimated the value of the benefits at a similar range (around £17,800).

Partially and Fully Tied respondents estimated the value of the SCORFA benefits received at a significantly lower level. Fully Tied outlets, rated the total value at around £4,600. This was marginally higher than the value perceived by those Partially Tied (at £3,650).

Considering specific individual benefits, the key areas of issue were 'Business Help' and 'Consultancy/ Business Services'. For both Fully and Partially Tied respondents, the value assigned to these benefits was negligible, compared to the Pub Company estimates of over £4,000.

The 'Property' benefit, which included maintenance costs, demonstrated that Fully Tied and Partially Tied licensees viewed it at a value considerably less than half of that assigned by the Pub Companies.

'Products and Product Support', which include benefits such as discounts on a designated range of products, and access to local products (via initiatives like the Society of Independent Brewers (SIBA) direct delivery service) also saw little value from the Tied licensee point of view.

There were also a number of more unquantifiable 'other' benefits valued by Pub Companies (at an average of £3,000). These other benefits include ease of surrender³⁴ or rent amendments to reflect material change of circumstances. It is likely that some licensees saw many of the other benefits provided by SCORFA in a similarly intangible way.

The results suggested that Fully Tied and Partially Tied respondents either undervalued SCORFA, or did not feel that their Pub Company provided that level of value to each individual benefit in their case. However, it also seemed likely that there was a lack of understanding regarding all the potential benefits available. For example, when there were a number of maintenance issue complaints from licensees, property capital-expenditure (which includes maintenance of the property) was stated as a key benefit, but it would appear that Pub Companies were either not communicating, or providing, all the benefits available clearly enough.

From the additional commentary provided from all Tied surveys lack of investment and dilapidation costs, both in relation to overall maintenance agreements and SCORFA benefit issues was also a key comment.

4.5 Financials

A range of questions were asked in order to provide a clear evidence base from which to directly compare the financial performance of different Tied pub models and IFT outlets against each other. The aim of the financial analysis was to uncover whether any pub type had a positive advantage against any other.

A broad range of financial information was collected, which included: information on standard prices paid for key drinks product categories, frequency and size of drinks/ rental price changes, rental payments, operational costs, capital expenditure, annual sales (as proportion of turnover), gross margins and profit and loss accounts.

Respondents were to provide accounting data (for the past two years) for cross referencing with Companies House entries (where available).

Internal data supplied by CGA Strategy (as part of its On Premise Measurement Service, OPMS)³⁵ was used to provide corroboration and triangulation of the financial data provided by licensees.

34 'Ease of surrender' definition - Financial/ legal penalties limited or not incurred if the licensee needs to leave the lease agreement

35OPMS – Is CGA's value and volume read for the Scottish market. It is part of a GB wide service.

Levels of capital investment were a positive example of the current situation. One Pub Company respondent stated that during the coming year they “*will invest over £3 million in joint developments with our Scottish leased and tenanted estate*”. This willingness to invest inferred their belief in the potential of the current tied pub model, and the potential benefits available to the tenant/ lessee. There was also the suggestion that legislative changes could have a negative effect on this position.

Turnover

Respondents were to provide their annual turnover. Turnover represents the comprehensive sales of all products and services the pub provides. Turnover is just a measure of business scale. Within the case study, all three pub types, with the exception of Managed, were within a similar range.

The latest data for a 12-month period across the different pub types (i.e. Fully Tied, Partially Tied and IFT), showed relatively similar results. Turnover for Fully Tied pubs averaged £325k; Partially Tied was £321k and IFT was £333k. Managed pubs sales by contrast were on average over £1m per annum (based upon CGA internal source data).

This was a small sample, but the indications showed that all the Tied outlets were of a similar stature. IFT by scale were comparable on a turnover basis, and Managed pubs again of a different, higher financial level.

Profitability

Gross profit is a calculation of turnover less cost of sales. This is a common metric used in retail trade. Licensees commonly differentiate between revenue streams. The most common differentiation of the revenue streams is between products classified as wet and dry. Wet refers to sales of drinks products (i.e. beer, cider, wine, spirits, soft drinks and snacks equates to total wet). Dry refers to food sales. A critical measure in this research was a comparison of the wet gross profit percentages across the different pub types.

Respondents were asked to report their percentage gross profit from their wet and dry sales. Table 10 summarises averages across the different pub types.

Based on the percentage total gross profit Fully Tied pubs appear to be the most profitable. Partially Tied and IFT appear less profitable and are below the overall combined average for all pub models.

Table 10: Calculated GP % from survey responses

	Fully Tied	Partially Tied	Independent Free Trade	Overall Average
Wet	67%	54%	57%	59%
Food (Dry)	66%	20%	65%	65%
Total Wet & Dry	67%	53%	58%	60%

Analysis of the financial data supplied enabled a comparable analysis to the face to face survey response data. Comparing the two there were disparities in results for the Fully Tied cohort. With regard to Partially Tied and IFT, the results were very similar. The implication drawn is that the Fully Tied cohort has a different perception of their financial status compared to that reported. This particularly focused upon the gross profit percentage statistic in Table 11 below.

Table 11: Calculated GP % from analysis of financial data provided

	Fully Tied	Partially Tied	Independent Free Trade	Overall Average
Gross Profit %	47%	50%	57%	52%

Balance Sheet and Profit & Loss Analysis

The balance sheet has the capability to measure liquidity. The liquidity ratio, which can be calculated from this data, is a particularly useful metric. It is the ratio between current assets and net current liabilities and commonly used by external analysts as a measure of the ability to pay short-term debt. The measure is based on reported financial performance. A caveat is that it is still possible such measures can be distorted.

Profit & Loss accounts are a standard measurement for performance over a set period, usually one year. Besides calculating gross profit and percentages, other relevant metrics can be calculated. These include measures of how the business is run.

This was an aggregation of the account information collected from the face to face sample respondents. The purpose of this consolidated balance sheet analysis was to show a summary of the three cohort's financial performance in a succinct manner. There are three critical areas of divergence in performance that illustrate the differences between Fully Tied, Partially Tied and IFT pubs.

Firstly, the liquidity ratio showed a significantly weaker status of both Tied cohorts compared to IFT. The Partially Tied liquidity ratio whilst slightly stronger than the Fully Tied was also significantly weaker than the IFT. Overall, this would indicate that the IFT pubs, based on the respondents in the sample, are stronger and more robust businesses.

Secondly, as stated earlier, the comparison of gross profit percentage indicated that IFT pubs operate with greater margins than either Tied cohort.

Lastly, stock coverage in days shows the number of day's stock held. The Fully Tied cohort hold comparably excessive stock levels compared to the Partially Tied

and the IFT pubs. By holding more days' stock, the outlet is tying up working capital, which is used to run day to day operations of the business.

Broadly, the analysis of the balance sheet and the liquidity ratio in particular, indicates that IFT outlets are most solvent. Fully Tied and Partially Tied are similar and markedly less solvent. On the surface, this indicates the IFT have stronger liquidity using reported financial data.

The analysis above suggested that overall IFT outlets are in a stronger financial position than both the Tied cohorts.

Table 12: Consolidated research respondents key P&L and Balance Sheet data

	Fully Tied	Partially Tied	Independent Free Trade
Profit and Loss Account			
Turnover	£325,365	£320,975	£333,155
Cost of sales	£145,680	£159,574	£141,651
Gross Profit	£151,956	£161,402	£191,504
Balance Sheet			
Current Assets	£51,525	£71,345	£41,294
Stock inventory	£9,214	£5,833	£3,029
Debtors	£9,988	£243	£5,339
Prepayments	£0	£0	£53
Cash	£32,323	£65,269	£32,873
Creditors: amount falling due within one year (Current Liabilities)	£61,353	£115,937	£41,653
Net current assets (liabilities)	-£9,828	-£44,593	-£359
Current asset ratio	0.84	0.62	0.99
GP %	47%	50%	57%
Mark-up %	123%	101%	135%
Stock Coverage in days = (Cost of Sales/ Stock Inventory)	23.02	13.31	7.78

Rents paid

Respondents were asked how much they paid (per month) in wet rent. 'Wet rent' being defined as the overall price the Pub Company charges for beer/ wine and spirits for which the pub is tied.

For clarity, tenants pay rent in their tied premises to the property landlord. This rent, is for the most part, based upon the estimated likely, or historical performance associated to the individual premise. The rent can vary dependent upon the type of agreement (Fully, Partially or free of Tie) between the tenant/ licensee and the property landlord around a large number of variable, negotiable aspects of the business, or its potential. The Tied pub market has great variation of the size and scale of each outlet. It is therefore highly likely that the levels of rents paid will vary equally.

The data collected revealed that a substantial number of renting options were on offer. Bearing this in mind, a comparison of rents purely on a financial value basis might not be robust, as rents would vary by location, size of business, agreement negotiated, etc...

The best way available to compare rents paid therefore was by comparing rent as a percentage of turnover. It would not be unreasonable to assume that there is a linear relationship between those two variables. The most robust comparison would be within the main Tied cohort as these outlets were confirmed to be Fully tied for beer and cider, although spirits in Scotland are a significantly more important product group.

To enable us to look at rents as a percentage of turnover we calculated average rent paid by cohort. The rents paid comparison between Fully and Partially Tied showed that the collective average respondent position was quite close with Fully Tied reading £3,000 per month, compared to the Partially Tied at £3,200 per month. Expressing this as a % of turnover Fully Tied rent was 12% whereas Partially Tied was 13%. This does bear out a slight premium for the Partially Tied outlets over Fully Tied. However, within each cohort the range of rent paid varied substantially. Across the combined cohort rent as a percentage of turnover ranged from 6% to 19%.

With regards to IFT, the comparison was slightly more tenuous. The nearest comparison was mortgage repayments, although some limitations to this approach need consideration. Respondents varied from those who inherited outlets debt free a number of years ago, to outlets recently acquired. A further distorting effect was that of property prices over the long term. Expressing the mortgage repayments as a percentage of total turnover the resulting mortgage repayment would be 14% of the total turnover. Fully Tied outlets appeared to be the lowest cost option available.

In addition, the research asked respondents if their pub came with personal accommodation and if so, what the licensee saw as the perceived value of that. This was provided to ascertain if it was a tangible benefit (or not) to the respondent. This was an area where some differential between Scotland and England & Wales

occurred with only a small proportion of Scottish premises historically providing licensee accommodation.

This was borne out by the survey results with no Partially Tied outlets having accommodation, and only 1 out of 10 within the Fully Tied results. The single Fully Tied respondent valued the accommodation at c. £300-400 per month.

Overall, this suggested that there was only a small disparity between the rental costs between the two Tied models. It also confirmed that, in Scotland at least, living accommodation was not a major contributory factor, or seen as a particular benefit, to the licensee agreement.

Changes to rent

Respondents answered a number of questions regarding any changes to their rent made over the course of their agreement. These included whether they had a Retail Price Index (RPI) rent review clause, if not how often they had a rent review, and how much their rent had risen/ changed overall in the last 3 years. The information collected allowed direct correlation between key financial measures to the licensees of all Tied pub models.

In the Fully Tied group, rental changes are found to be extremely varied and most respondents have a Retail Price Index (RPI) review clause within their rental agreement. In terms of changes to rent, there was one large % increase from £10k per annum in 2010, to £18k in 2015. The current rent in this outlet was 5.7% of their quoted turnover (this was in the lower quartile of the rental percentage in the Fully Tied group). Additionally, one rent had fallen by 15%, and the rental as a % of turnover was 11.7%, which is in line with the Fully Tied sample average.

In the Partially Tied, it was a similar situation with most respondents claiming they had RPI clauses in their rents. Reviews were varied, two respondents informed the research that their rents had gone up in recent years and quoted substantial amounts. No specific information was provided by the respondents as to why this was the case.

The inclusion of an RPI rent review clause, in a large number of cases, suggested a level of clarity provided to the rent review process. Most responses to the % rental increase question were broadly 2-4%. There were exceptions to this, however, the detail for the exceptional change in rent were unclear. This indicates that rent increased in line with the general RPI.

4.6 Main findings from Managed pubs

Managed Pubs are a segment that includes pubs operated by focused companies, regional brewers and mixed Pub Companies. They are by broad industry definition, run by a company who operates the pub, specifies what it sells, and hires a salaried manager to run it.

In order to obtain a full representation of the pub market in Scotland, Managed pubs were also included in the data collection process.

CGA made requests for managed outlet case study data from the relevant operators in Scotland and with support from the relevant trade associations.

Nine Managed Pub businesses received an initial contact over a four-week period between May and June 2016. CGA requested that they complete a template survey to provide detailed financial information and supplemental comments.

No managed businesses agreed to take part in the self-completion survey. In total four businesses responded. The responses indicated that none of them would participate in the study. Among the reasons given for non-participation were:

- That a single/ few outlets would not be influential
- That enough information was already published in other Governmental reports and that the facts reported were still relevant
- In current circumstances day to day work had to take priority and that participation would deflect from these efforts

Therefore, other data sources were included. CGA obtained data from three primary, and additional secondary sources that enabled meaningful headline comparison between Managed Pubs, IFT and Tied models.

In order to provide a detailed analysis of some key metrics in the operation of Managed pubs in GB and Scotland, a thorough review of multiple data sources was undertaken by CGA. This data included: Trading Index³⁶, ALMR Benchmarking Survey³⁷, Companies House data, OPMS, various tertiary data and supplementary information collected through this Scoping Study.

The analysis undertaken on data did show the Managed pub to be different to the Fully & Partially Tied and IFT outlets that were the focus in the case study. Managed pubs compared to most Fully & Partially Tied and IFT pubs were at quite a different level (on both a financial and operational level) and thereby have less direct relevance. These differences related to the following areas. The study

36 CGA Trading Index – a weekly turnover benchmarking service since 2010, covering 17 UK based businesses as at September 2016

37 ALMR Benchmarking Survey – annual review of ALMR member performance matrix since 2007

analysed company accounts and premises numbers quoted. Outlet Index and other market research data corroborated the former. The result produced average outlet turnover and sales mix. The sales mix showed Managed pubs had significantly higher food mix and turnover than the case study outlets. The turnover was 3.5 times that of Tenanted (both Fully and Partially Tied) and IFT outlets.

The operational style of Managed pubs was also different to all other pub types. Many of the Managed pubs in Scotland are brands. These are primarily one segment, branded food pubs, containing outlets operating under the same fascia, offering the same menu and product range in all premises. Furthermore, many have substantial accommodation. This would have excluded them from the study based on the definition applied to the Hotel segment. Finally, an analysis of the location on Managed pubs classified many as rural "travel to destination" venues. The case study pubs were mainly suburban, community located pubs.

Historically, the discrepancies between managed and IFT/ Tied are clear. Outlet Index, over the last 10 years, showed that Managed pubs grew through new build. They located on prime and previously unlicensed sites. Tied and IFT outlets are on a more stable base with a high proportion of existing premises that have a long standing history. Almost 1 in 4 Managed pubs today are new builds or conversions of other premises since 2006. A substantial number of the other sites have been in receipt of significant investment during this time.

5. Conclusions and recommendations

Conclusions

The on trade is currently a very testing market in which to operate a retail business, and has been for some time. There are financial difficulties driven by significant social, legislative and economic long-term changes.

Consumer behaviour has changed with in-home consumption and casual dining now the focus for many drinkers. Legislative changes, from the smoking ban, to recent changes in the drink driving laws, have had predominantly negative effects upon performance. Economically, the impact from the global market crash in 2008 through to current Government fiscal policy, have also impacted negatively.

The CGA/ CAMRA pub closure numbers and the findings of previous Governmental reports (BIS Inquiries) in the sector are evidence of the challenges faced. These factors impact on trade retailers, Pub Companies, brewers and wholesalers. There is less demand from consumers for on trade consumption. This has impacted upon the economic viability of more pubs. As a result, closures will continue to occur.

It is difficult to compare Scotland to England & Wales because the structure is so different. The Scottish Pub trade has an emphasis towards the IFT pub business model. The research confirmed that the Fully Tied and Partially Tied pub model behaves differently to IFT. Many pubs have limited opportunity to change their offer due to structural limitations. This suggests that, as in England & Wales, there could currently be an over-supply within the Scottish pub sector.

The project ethos was to define whether any sector of the trade was being unfairly disadvantaged. It is extremely difficult to ascertain whether it is the operational aspects of the pub tie model, or the competitive environment created by differences in the pub trade structure, which is the primary issue here. The inference is that the business acumen and sector experience of the individual licensee can also have a significant effect on their potential for success.

The 'low cost' factor is very much about the cost of entrance, supported by both the tenants and the Pub Company view of the model. Essentially, licensees appear to have a tacit understanding that cost of purchase/ entry can link directly with the level of independence sought by tenants and pub owners. In essence, respondents understood that there was a higher price to pay for freedom within their business. The advantages, or disadvantages, of both clearly linked to this crucial factor.

From a rental perspective, there appeared to be little disparity between Fully Tied and Partially Tied rents. Unlike in England & Wales, living accommodation was not a contributory factor towards operational issues. Generally, most respondents confirmed a RPI rent review clause that provided a level of clarity to the review process. However, some individual respondents suggested value increases above this rate that may have the potential to cause future dispute. Overall, rents, within the context of the broader Scottish pub market, did not appear to be a significant cause of advantage or disadvantage.

Regarding the key issue of beer purchasing behaviour and charges there were some clear results. These mirrored broader opinions within the pub industry. Compared to Fully Tied pubs, Partially Tied showed a tendency towards mixed supply from a wider selection of drinks wholesalers and suppliers, rather than remaining with their Pub Company supply. This suggested they were actively 'shopping around' to ensure the most competitive pricing for the products for which they are not tied. There was also some evidence of purchasing of 'local' products for all Fully Tied respondents, which bears out the responses from Pub Companies that they offered limited local/ regional flexibility options for all. Cheaper beer prices are available however, there are trade-offs to be evaluated to realise this apparent advantage.

Analysis of overall beer costs between all models showed a clear purchase price advantage for IFT businesses. However, the differentials between Partially Tied and Fully Tied costs were minimal. Analysis of gross profit margins and retail prices corroborated the position broadly. All pub models provided similar levels of historical price changes/ uplifts that were within expected parameters. The key conclusion is that beer costs remain an advantage for IFT pubs over both the Tied models. However, none of the Fully Tied respondents stated that overall beer pricing was a specific issue of dispute within the contract itself. The analysis suggests that the 3 cohorts are making similar levels of profits, albeit at a total trade level and not specifically beer. SCORFA perceptions provided inconsistency between the value assigned by the Pub Company to the benefits offered, and the perceived value as viewed by the licensee. Interestingly, the fact that IFT respondents provided a far closer result to the Pub Companies suggests that those levels are closer to the overall reality. This based on the rationale that independent owners have to effectively purchase these benefits from outside (where necessary). **The conclusion of this was that Fully Tied and Partially Tied licensees either undervalued SCORFA significantly, or did not feel that their Pub Company provided that level of value to the benefit - in their personal opinion.**

There was undoubtedly a perceived disparity of SCORFA benefits provided by the Pub Companies. IFT based responses on estimated annual expenditure. However, the fact that licensees of all types assigned tangible values to a number of key benefits of SCORFA underlined the fact that it was an advantage to the Tied licensee compared to IFT pub owners. However, a suggested lack of communication between tenants and Pub Companies could complicate these perceptions.

Taking all the above factors into account, a final key sector of research revolved around contract disputes and resolutions. Irrespective of overall satisfaction levels in relation to Pub Company/ licensee relationships, no respondents stated that they had looked to take their issues/ complaints to PICAS or PIRRS for resolution. This was borne out by the responses from the Pub Companies interviewed who confirmed no referrals and a very limited number of formal complaints over recent times.

Ultimately, where the focus is upon the apparent advantages and disadvantages of the pub tie itself, the key argument is costs. The cost centres include beer pricing,

investment, rental and administration. The key areas are discounts achievable from separate negotiation with suppliers, comparison of the tied rent against a commercial rent, and the option of outright ownership. The equivalised values assigned to SCORFA benefits are also a key area of consideration between Tied Pubs and IFT.

The variations seen on key metrics at the end of the financial analysis journey make it difficult to conclude definitively that there is disadvantage in any particular model. The on trade is a complex market. Sample research can only give a general indication. The samples in the research itself returned such varied responses and data that it makes specific evidence based decisions extremely difficult.

Recommendations

The evidence collected did not suggest that one sector of the pub market in Scotland is being unfairly disadvantaged in relation to another. As a result, it is our consideration that further dialogue between the relevant trade bodies, Government, and other interested parties, continues before any specific decision is undertaken.

The competitive state of marketplaces will continue to be the major influence on local market performance and business decisions. For some licensees the potential for an agreement, such as a MRO, could be more advantageous to them. For example, where Tied licensees are in a particularly competitive marketplace with other IFT pubs in their local area.

The differences between 'perception' and 'reality' are often a key area of issue for licensees as much as their agreements. As a result, there is a need for all parties to explore their relationships with greater clarity and communication. The new voluntary codes of practice, by placing emphasis back towards the Pub Companies and wider trade to independently implement ongoing change within the tied sector of the Scottish pub industry may go some way towards achieving this goal.

The evidence collected suggests, however, that more work is necessary to ensure that the relationship between Pub Companies and tenants/ lessees is strengthened and clarified. Beyond the clear and relatively accepted differentials in beer/ drinks and services supply costs, the understanding of the potential benefits of SCORFA for Tied licensees needs addressing.

The possibility exists that in this new environment, the individual voluntary reviews between licensee and Pub Company, afforded by the new voluntary code, will provide a framework for better working practices. A clearer, better communicated business arrangement that allows both parties to value and understand the benefits and advantages of the system to each. Whether, in the long term, some form of further legislative impetus, or guarantees from trade participants, is required in the future remains a moot point.

Annex 1: Role of Project Sounding Board

At the initial instigation of the project, the Scottish Government Project team convened a Sounding Board of key senior Scottish Licensed Trade figures, both from relevant trade associations and related businesses, with a defined interest and influence in the sector.

The primary role of the Sounding Board was to assist CGA produce the study based on the following key areas:

- To assist in identifying and supplying all relevant reports to CGA to ensure they had access to best known information
- To provide advice to CGA to identify what might work best to be able to extract information from those operating in the pub sector
- To encourage all parts of the pub sector to assist CGA, by providing relevant information
- To promote this study within their relevant networks and positively encourage through messaging, publications and advice to members of each body
- To help identify willing participants to the case studies (this was to be done in a way which protected the identity of the participant and was not to be shared amongst the group or Government but provided direct to CGA to anonymise accordingly), and advise relevant criteria on which to base the case study
- The Group's purpose was not to discuss the merits of their own interest but to provide information and contact details that would help CGA to come to a view

Annex 2: Details of the Chronological Research Process

Recruitment Calls – January 2016

CGA created a call file list of 400 Tenanted and Independent Free Trade pubs taken from the current Outlet Index database. An internal design team at CGA prepared, tested and produced an agreed questionnaire. Once installed on the CGA Telephone Research System calling commenced in late January 2016.

Initial recruitment research halted

The programme to recruit a base for selection for the face to face interviews halted on the third day. The researcher had conducted 87 calls. The calls resulted in not a single recruited pub for the research programme.

This situation required review with members of the Scottish Government team at length and the recruitment research placed on hold. It was agreed that the Sounding Board should be contacted and an understanding of the present situation taken.

Revisit Sounding Board & Scottish Government

A revised contact and awareness strategy was developed and CGA created a dedicated Sounding Board member email facility through which individual pub businesses could confidentially express their interest of participation in the Face to Face study.

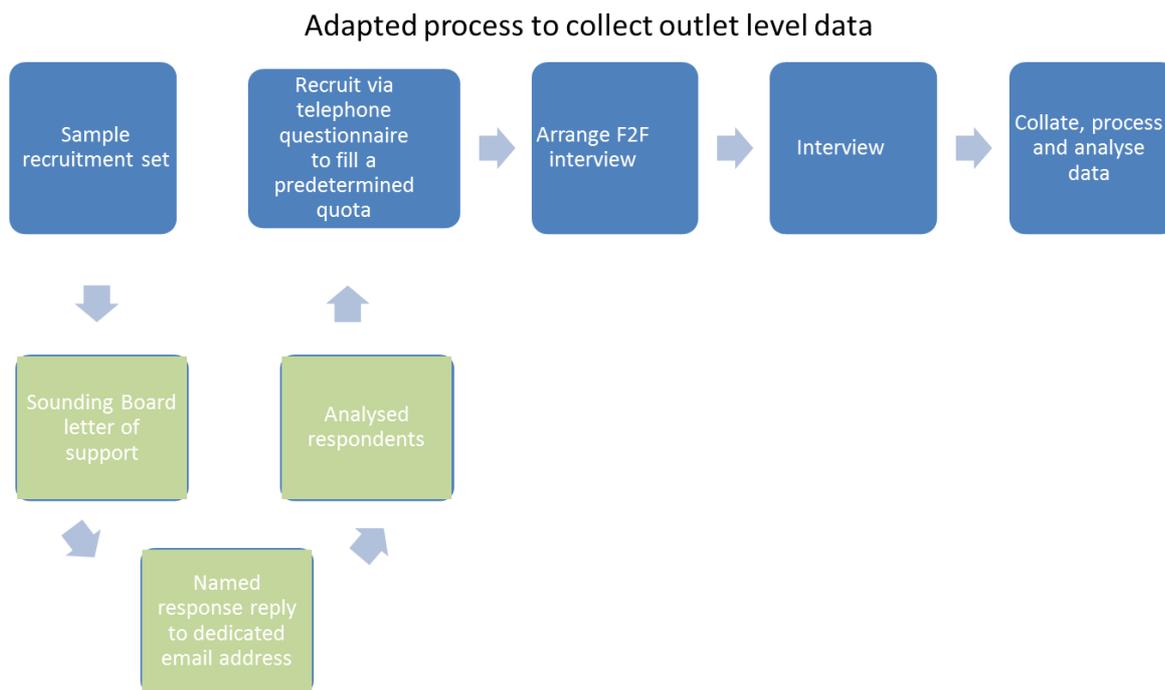
Respondents needed to supply their name, their pub name and address along with other contact details such as outlet phone number, mobile number and an email correspondence address.

Revision of the research process

The initial start on recruitment highlighted a problem of willingness amongst pubs to participate. The above actions altered the initial process as outlined in Figure 1.

The recruitment process became as shown in Figure 2 overleaf.

Figure 2



Restarted recruitment

The call programme to recruit direct by CGA recommenced in mid to late February 2016.

After several weeks, the number of recruited and voluntary interested pub businesses compiled had created a set of 40 potential interviewees. The dataset vetted for appropriateness so it could fulfil the target number of 25 interviews.

Identified that Tenanted Free of Tie were not represented

The subsequent call and the completion of the final selection questionnaire revealed a problem for the identified cohorts. There proved to be sufficient “Fully Tied” and “Independent Free” to fulfil the relevant quotas. While, there were some “Partial Tied” businesses recruited, there were no “Tenanted – Free of Tie” identified who were prepared to be involved in the case study process.

Further investigation with Sounding Board members corroborated the limited number of tenanted Free of Tie agreements amongst pubs in Scotland. With this additional knowledge, CGA suggested to Scottish Government that this cohort transferred to Partially Tied. A target of 5 interviews was set amongst tenanted pubs with partial ties.

The representation of the different pub types changed as follows:

	Number of pubs to be researched
Tenanted – fully tied	10
Tenanted – partially tied	5
Independent free	10

Final recruitment and selection of pubs and interview process

CGA returned to the pool of potential pubs and recruited a further four pubs for the Independent Free pub type. From further contacts in the trade, CGA recruited the last Independent Free pub type. The shortfall that originally existed in the “Tenanted - Partial Tied” came from the remaining list of outlets that had previously provided agreement to participate.

Field research interviews preparation

CGA produced three structured bespoke questionnaires in the months of February and March 2016. The questionnaires designed to be relevant to each pub type but at the same time maximising comparability across them and professionally printed in an A4 booklet amounting to 28 pages in total. The questionnaires included the content, structure and flow guidance notes published on the facing page to the specific research questions. A separate guidance document allowed for the collection SCORFA information.

Two experienced CGA Field Researchers conducted the face to face interviews.

The Field Researchers planned and arranged the appointments directly with the individual interviewees. The research process took 11 weeks to complete 24 of the 25 selected interviews. One of the selected interviewees proved to be problematic. After extensive contact attempts an alternative outlet replaced it in the sample.

Recruitment of the replacement occurred in early July 2016, and a full interview conducted on 19th July 2016.

Research data

CGA Field Researchers were responsible for the input and maintenance of the collected data. CGA Field Researchers input the content of the questionnaire using CGA’s own research data collection system “Gabriel” following completion of the interview.

The interview questionnaire data entered by the Field Researcher was made available to the CGA project research team in a database format for the purpose of analysis. However, before this was conducted the data entry was verified by

comparing the information on the original questionnaire to that in the reporting database. A number of discrepancies were identified. These related solely to free format comment areas at the end of the questionnaire³⁸.

The additionally gathered research material was specifically grouped into a dedicated interview pack. All material dispatched by the researchers was received and cross-checked and corroborated by staff in CGA's Stockport office on receipt to ensure CGA accounted for all research materials gathered.

Leased/Tenanted Pub Companies & Managed Businesses

Definitions and tasking

To ensure that the full spectrum of operational types was represented in the research exercise, Pub Companies and Managed Pubs were also included.

The Sounding Board was instrumental in providing CGA with access to key people within the core businesses identified by CGA as having a significant presence in Scotland within their particular operational types.

Sample Creation/ Selection

At this point – in conjunction with CGA - both the BBPA, and representatives of key managed pub operations within the Sounding Board, were tasked with identifying those businesses required which would form the basis of the research.

A total of 8 pub companies and 9 managed businesses were identified as being best representative of their sectors of the market in Scotland. Chosen on the basis of set criteria including: total number of pubs in Scotland within all business types, overall size of business (financial and geographical), perceived influence within the sector, profit and turnover.

Survey Creation & Development/ Sign Off

The differing requirements of the information needed from the Pub Companies and Managed Businesses – based on operational practices and project perspective – identified a requirement to produce two separate individualised survey questionnaires. These were designed to take into account the primary function of these operational types and to maximise comparability with the tenanted sample.

Managed pubs were given a template (for self-completion), whereas Pub Companies were initially interviewed over the phone, and then self-completion

³⁸The additional information collected as “free format” covered a number of topic study areas. These were namely company accounts, SCORFA benefits, retail selling prices, product purchase prices and general comment on the research programme and area of study submitted by the interviewees. It was therefore necessary to conduct a preliminary analysis of each material dataset and design a framework to capture the data for the purpose of analysis.

template surveys were used to provide detailed financial information and supplemental comments.

Recruitment Processes and Interviews

Communications between CGA and key contacts was instigated at the beginning of May 2016.

A formal request was made for cooperation, along with provision of details outlining the required information – based on the needs of the reporting.

The next phase of the process was to arrange interviews (whether in person or by phone) from which a view on the individual businesses position could be reached and to ensure clarity regarding the completion of the surveys.

Some respondents required additional reassurance in terms of confidentially non-disclosure agreements (NDA). This was primarily in relation to the release of sensitive financial information.

After several months of following this process – there remained a number of businesses which CGA had either not been able to persuade, or gain a willingness, to engage.

Overall Data Collection assessment

The process of obtaining the necessary data proved to be time consuming, with research needing to be conducted over a 12-week period – and some final returns not received until early August 2016. Throughout this time, CGA was in regular contact with key people within each business to ensure that data provision and return was as speedy as possible.

Research Data Processes

Once the completed research data was received – both in the form of completed CGA surveys, detailed financial, pricing and operational information – the base responses were reviewed, collated and processed into a bespoke internal database.

The complexity and breadth of data created further delays – as a significant process of individual product coding was necessary to integrate pricing models into the broader comparative datasets. Any additional information or appendices sent subsequently were validated and processed for integration into the wider database, or held to provide additional context to the data analysis.

Annex 3: Recruitment Questionnaire

INTRO TEXT:

Standard CGA phone survey introduction: CGA Strategy Limited has been commissioned by the Scottish Government to undertake independent research on the operation of the pub sector in Scotland. The research will require CGA to gather evidence from licensees across different operating models. As a result, we initially need to know the sector in which you operate and whether - based on the following information - you would be willing to participate in a detailed research study.

Q1. Is this the **[INSERT OUTLET NAME]**?

Q2. Is the Licensee available please? Yes / No

IF NO AT Q2

Q3. Are you a manager employed to run the outlet on a day to day basis?
[only continue if yes]

IF YES AT Q2

Q4. Record name of Licensee

READ OUT: To give you an idea this conversation from now on should take about 6-8 minutes of your time.

Q5. Before we continue can we confirm the type of pub business you run? Which of the following best describe your premises?

Pub

Bar

Hotel

IF HOTEL CODED AT Q5, ASK Q5a:

Q5a. How many letting bedrooms do you have?
Only continue if five or less

Q5b. Is the letting of rooms the main part of your business or the pub/bar?
Only continue if 'yes'

Q6. Which of these definitions best describes your business tenure?

Independent

Pub Co or Brewery Tenancy

Pub Co or Brewery Lease

Pub Co or Brewery Managed House

READ OUT:

I now have a statement to read to you regarding this research.

CGA Strategy Limited has been commissioned by the Scottish Government to undertake independent research on the operation of the pub sector in Scotland. This research will involve directly interviewing licensees like yourself to understand

the mechanics of their business and collect financial information. Because of the sensitive nature of the data collected, I would like to offer you reassurance that all data collected will be handled securely and that maintaining confidentiality of all the data is one of the key cornerstones of our business; and this project. It will not be possible for the answers you provide to be linked directly back to you as individual respondents and the details will be collated alongside all other responses. Your assistance would be greatly appreciated. **[IF RESPONDENT RELUCTANT SAY]:** There is also a direct letter of support available from the Minister responsible for the Scottish pub sector, Fergus Ewing MSP. *[Possible to post letter/email letter to respondent if required]*

Q7. In order to ensure we interview a wide range of different pub business types we now need to establish some of the property details. Which of the following best describes the ownership arrangements?

Wholly owned without commercial mortgage or other property loan

- What is the name of the owner / registered company?
- For how many years have you been mortgage or other property loan free?
- Are you tied in any way for your drink supplies?
- What products are tied: is this all; and/or partial? Beer, Cider, Wine, Soft drinks.

Wholly owned with a commercial mortgage or other property loan

- What is the name of the owner / registered company?
- With whom is the mortgage/property loan?
- How many years remain on the mortgage or other property loan?
- Are you tied in any way for your drink supplies?
- What products are tied: is this all; and/or partial? Beer, Cider, Wine, Soft drinks.

Owned with a commercial mortgage or other property loan

- What is the name of the owner / registered company?
- With whom is the mortgage/property loan?
- How many years remain on the mortgage or other property loan?
- Are you tied in any way for your drink supplies?
- What products are tied: is this all; and/or partial? Beer, Cider, Wine, Soft drinks.

Owned by a commercial landlord

- What is the commercial landlord?
- Is it a lease or a tenancy?
- How many years remain on the original agreement?
- Are you tied in any way for your drink supplies?
- What products are tied: is this all; and/or partial? Beer, Cider, Wine, Soft drinks.

Owned by a Pub Co or Brewery

- What is the Pub Co or Brewery?

- Is it a lease or a tenancy?
- How many years remain on the original agreement?
- Are you tied in any way for your drink supplies?
- What products are tied: is this all; and/or partial? Beer, Cider, Wine, Soft drinks.

Q8. At this point, are you still interested in being involved with this research?

The research will gather evidence from licensees across different operating models to establish if any part of the pub sector in Scotland is being particularly disadvantaged in relation to others. It is expected to provide a robust evidence base which will assist Ministers in coming to a view as to whether legislative change on the operation of the pub sector in Scotland is required and, if so, the scope of such change.

There are a number of key considerations to this which we need to inform you of prior to concluding this call:

- We will need to arrange a visit from our Field Researcher from 18th January 2016 onwards at your pub
- The study interview and data collection process should take no longer than 90 minutes
- At the interview CGA will require access to a minimum of the last 2 full years' financial accounts available for your business
- If agreed, our Field Researcher will contact you direct shortly (within the next 5-7 days) to arrange a mutually convenient date and time for the visit

Bearing these considerations in mind would you still prepared to participate in the full case study research programme?

Thank you for your time

NB: directional instructions omitted

Annex 4: Overview of tenant's face to face questionnaires

	Independent Free Trade	Partially Tied	Fully tied
Classification of Pub: IFT, Partial Tie or Tied?	X	X	X
Who is the current Pub Co / Brewer?	X	X	X
What is the Licensees Name?	X	X	X
Do you have all the pre-requested documentation?	X	X	X
What is your personal history with the pub and the trade?	X	X	X
What are your operational and ownership arrangements?	X	X	X
What advice did you take when taking your pub?	X	X	X
Why did you choose / select the pub and business model you operate?	X	X	X
Are there issues with your landlords and how might they be resolved?		X	X
For what products are you tied?		X	X
What are, and how much do you pay for, your leading products (including machines)?	X	X	X
How much (estimated average %) have your drinks / machine play prices changed in the last 3 years?	X	X	X
What is your annual turnover exclusive of tax (for the last financial year)?	X	X	X
Who supplies your drinks products?	X	X	X
What are your rental/property costs?		X	X
Does your pub/lease come with personal accommodation?		X	X
What is your overall sales mix %? / Overall GP margins?	X	X	X
How would you evaluate the list of SCORFA benefits you have received?	X	X	X
Additional comments / any other submissions	X	X	X

Annex 5: Managed Pub Case Study template

Letter accompanying case study template

Thank you again for agreeing to participate in this independent CGA research study on the operation of the pub sector in Scotland and to your Pub Company for agreeing to participate.

As part of this research, CGA is interviewing a wide range of pub types including managed pubs, tenanted and independent variants.

CGA would like to offer reassurance that all data collected will be handled securely and that maintaining confidentiality of all the data is one of the key cornerstones of our business; and this project. It will not be possible for the answers provided to be linked directly back to individual respondents and the details will be collated alongside all other responses.

Ideally we would like you to provide the specific individual case study information including some detailed aspects about trading for a selection of the pubs you operate in Scotland.

*We require that a **minimum of 5 business responses** are collated as individual complete standalone document responses and sent back to us to enter into the 'case study'.*

This document should be used as a guidance of the type of information we require. We hope you will provide us with as much detail as possible

*Additionally, please provide **invoiced sales information as distinct years 2013-14 & 2014-15**. The financial accounts should be as detailed as possible and enable analysis of costs that will identify all Wet goods by beer, wine, spirits, cider and soft drinks, employment, and utilities with a full stated profit and loss for each outlet. This will be handled in the utmost confidentiality and CGA can provide a legally binding Non-Disclosure Agreement if/ as required to the Pub Company/ Businesses involved.*

If any further additional information is needed on the requirements listed above, please contact the CGA Project Team in confidence.

The following questions are required to be completed for each individual outlet

1. Please state outlet name is [OUTLET NAME]

2. Please state premises type is a: [Pub / Bar / Hotel]

3. Why is the pub company choosing to run this pub as a managed operation?

4. Why and how was the Manager chosen to run their current pub?

5. How long has the Manager been in the Pub Industry?

6. How long have they managed their current pub?

7. Does the Manager have flexibility regarding amendments/renegotiations to their current contract? If so, what are the key areas of flexibility?

8. Can you confirm the managed operational type/ agreement (freehold/ leasehold/ tenancy/ other) for the selected pub? If 'other', please specify which type of pub.

9. How often, on average, are your drinks prices or services in the category types below changed/ reviewed (i.e. 6 monthly/ annually/ less often)?

- Beer Draught:

- Beer Packaged:

- Cider Draught:

- Cider Packaged:

- Spirits:

- Wines:

- Soft Drinks:

- Machines (optional):

10. By how much (in % terms) has the wholesale purchase price of your drinks changed in the following category types below in the last 3 years?

- Beer Draught:
- Beer Packaged:
- Cider Draught:
- Cider Packaged:
- Spirits:
- Wines:
- Soft Drinks:
- Machines (optional):

11. If the following services are not explicitly included within the Profit & Loss accounts provided can you outline what you consider to be the average total annual operational cost of them (in £)?

Services/ Benefits	Average total annual operational cost per business (in £)
Business Help	
Legal & Compliance	
Property	
Memberships & Subscriptions	
Marketing& PR	
Products and Product Support	
Consultancy/ Business Services	
Training	
Other (please specify)	

Annex 6: Pub Co Case Study template

Introduction:

Thank you for agreeing to participate in this CGA research study. Further to our original discussion we would like to ask you a selection of key questions to help us with our independent research on the operation of the pub sector in Scotland from your business perspective.

RECORD: [COMPANY NAME] / [NAME/ POSITION]

CGA Strategy Limited has been commissioned by the Scottish Government to undertake independent research on the operation of the pub sector in Scotland. Because of the sensitive nature of the data collected, CGA would like to offer you reassurance that all data collected will be handled securely and confidentially. It will not be possible for the answers you provide to be linked directly back to your business and the details will be collated alongside all other responses.

Q1. Can you provide a breakdown of your current Scottish pub business estate operations (as a total number of outlets in the following: Tied/ Free of Tie Leased/ Tenanted and Managed)?

	Last Year	This Year
i) Tied Leased/ Tenanted		
ii) Free of Tie Leased/ Tenanted		
iii) Managed (Temporary)		
iv) Managed (Permanent)		

Q2. Do you intend to retain or change this business model going forward? If so, why?

Q3. What do you see as the particular advantages and disadvantages of the 3 business types set out below in the three identified areas?

LEASED / TENANTED - PARTIAL AND FULLY TIED

Costs/ Profitability

Efficiency

Partnerships/ Relationships

LEASED / TENANTED - FREE OF TIE

Costs/ Profitability

Efficiency

Partnerships/ Relationships

MANAGED

Costs/ Profitability

Efficiency

Partnerships/ Relationships

Q4. Are you happy with the structure of your current pub portfolio? If not, why?

Pub Agreements

Q5. Over what length of time are your average current lease agreements?

Q6. Are there any specific criteria potential licensees have to fulfil for them to be taken into consideration?

Q7. Do you provide the option for individuals to obtain independent financial or legal advice?

Q8. Do you provide the option to choose from different contract types?

Q9. What type of options are available/ are most popular?

Q10. Do you have, or offer, independent contractual dispute resolution?

Q11. Do you offer any flexibility regarding amendments, or renegotiations to current contracts?

Q12. Which products and services does your Pub Co provide on a tied basis? - Mark each that apply with a "Y"

	Managed	Tenanted Tied	Tenanted Partial Tie	Free of Tie
Beer				
Cider				
Spirits				
Wines				
Soft Drinks				
Machines				

Q13. Please provide examples for the last 2 financial years available Product cost and selling price lists for these shown below with a ""Y"" that relate to products and services within the categories identified by you in Question 12.

Q14. Please provide schedules separately to this questionnaire for each pub business model you are operating.

	Managed	Tenanted Tied	Tenanted Partial Tie	Free of Tie
Beer				

Cider				
Spirits				
Wines				
Soft Drinks				
Machines				

Q15. How often are your cost and wholesale beer and wine / spirits prices changed / reviewed?

Q16. How much have your cost and wholesale beer and wine / spirits prices changed in the last 3 years?

Q17. What are the key reasons given by your licensees for choosing a pub with your company?

- Low cost entry into the industry
- For the business support offered
- Number of pubs available
- Wanted to run a pub from your portfolio specifically
- Other (please specify)

Q18. What is the average licensee monthly rent?
For this year and last year

Q19. Do any of your pubs come with personal accommodation?
If so, what is the estimated percentage of your total properties which offer accommodation?
If so, what estimated financial value (relative to equivalent local housing rents) would you put on the benefit offered to the licensee?

Q20. Do you offer a detailed breakdown of the rent calculation to the leaseholder?

Q21. Do you include an RPI (Retail Price Index) rent review clause in your standard contracts?

If you don't include an RPI rent review clause how often are rents reviewed?

Q22. How much (approximately) have your standard rents risen or fallen in the last 3 years

Q23. What is the average estimated total annual £ turnover (ex VAT) of each pub business type detailed below?

- i) Tied Leased/ Tenanted
- ii) Free of Tie Leased/ Tenanted
- iii) Managed

Q24. Can you please outline:

What you consider to be the average value of the following SCORFA benefits (where applicable) provided to your licensees

AND

How much do you think they are worth annually as a percentage of overall turnover of an average individual business?

	Average Annual Value	Total Value as a % of total turnover
Business Help		
Legal & Compliance		
Property		
Memberships & Subscriptions		
Marketing & PR		
Products and Product Support		
Consultancy/ Business Services		
Training		
Other (please specify)		

Q25. In an overall view do you think your licensees are happy/ unhappy with their current agreement?

Please provide additional comment to your previous response

Q26. Do you feel that the current Scottish regulatory situation is satisfactory/ unsatisfactory?

Please provide additional comment to your previous response

Q27. Do you have any other comments/ statements to make regarding the Scottish pub sector?

Annex 7: SCORFA Benefits

A supplemental guidance survey was included in each individual interview to assist both the respondent and CGA with ensuring that coverage and understanding of SCORFA benefits was as comprehensive and inclusive as possible. The list was provided by the BBPA and includes the most detailed industry approved/ recognised definitions currently available.

1. Business Help

- Difference between the rent we pay the owner of the property & what we charge our tenants
- Demographic analysis of market
- Access to financial loans at relatively low cost / interest free
- Holding of the Tenants inventory
- Payment days can be amended to assist cash flow
- Seasonal rents
- Services of a dedicated BDM / RM
- Free Accountant provided by brewery
- Free Stock taker provided by brewery
- Provision of free stock for business development or cash flow assistance
- Business support - business recovery, rent steps and no Upward Only Rent Review

2. Legal and compliance

- Health and Safety manual employment support service
- Licensing support service
- Legal / Compliance
- Lease assignment services
- Compliance advice and support

3. Property

- Property insurance
- Architect / Surveyor services/Planning Liaison
- Development investment
- Maintenance Cap Ex (Sewage systems, wiring, plumbing, etc.)
- Repairs carried out - average spend per annum
- Cellar cooling provision and maintenance
- Boiler certification / gas checks
- Electrical Test & Report
- Fire risk assessment
- Fire compliance works

- Sewage treatment plants
- PAT testing
- Signage and external appearance packages (Ex Dec)
- Rate reviews & challenges carried out by property consultants
- Asbestos Testing
- Cask Marque accreditation - funded or part funded
- BII Membership
- Publicans Morning Advertiser subscription
- FLVA membership

4. Memberships and Subscriptions

5. Marketing and PR

- Marketing Advice and investment
- Marketing tool box / support kit
- PR Advice and support
- Provision of a microsite to advertise your pub on the company website
- Purchase of domain name for the pub and ongoing site registration
- Access to a website provider at preferential rates
- Online accommodation booking facility / Table reservation systems provided
- Promotional materials advising on maximising profit from events
- Free / subsidised Wi-Fi
- Free / subsidised Sky TV
- Pub awards - internal and external

6. Products and Product Support

- Discount offered in tied products against wholesale trade prices
- Cellar and beer raising equipment
- Line cleaning fluid / services
- Flow meters / Dedicated Regional Dispense Manager to advise on best cellar practice
- gaming support
- logistics support
- Access to local craft beers through SIBA direct delivery service
- Everyday low pricing on a range of packaged beer and cider / Monthly featured cask ale

7. Consultancy / Business Services

- Food consultancy services (online, consultants, suppliers)
- Services of a wine development manager and online menu production.
- Buying Group membership fees
- Reduced rates offered by suppliers to licensee members
- Benefit from centralised energy advice and consultancy
- Banking / Chip & PIN / EPOS deals
- Mystery visits - free/subsidised

- Gaming management/advice
- Introduction and referral scheme

8. Training

- Initial training on taking a pub
- Ongoing training courses for licensees and their staff
- Cellar training
- Retailer staff recruitment
- Roadshows

9. Other unquantifiable benefits

- Ease of Surrender
- Rent to reflect material change of circumstance
- Part of family brewery brand
- Flex of SP&B Machine Share from 50% to 10% to relieve distress
- Free of Tie on certain products
- Access to low cost dispute resolution / rent arbitration (PIRRS, PICAS)

Annex 8: Chronological overview of historical reporting / assessments

- Beer Orders legislation 1989:
 - Covered all GB
 - Intended to increase competition in brewing and wholesaling
 - Created the legislative and commercial environment from which the current Pub Company was born
- Office of Fair Trading Report 2000:
 - Reviewed effect of the 1989 legislation
 - Due to the changes in the industry over the intervening decade it was concluded that legislation should be rescinded at that point
 - Legislation was finally revoked in 2003
- Select Committee Inquiry 1 England & Wales (2004):
 - Overall review of the current pub sector
 - Made note of perceived inequalities between the powers of pub companies and their tenants
 - Requested revision of BBPA voluntary pub code
- Business & Enterprise Committee (BEC) Inquiry 2 England & Wales (2008/9):
 - Review of continuing validity of the 2004 report
 - Recommendations made to refer to Competitions Commission
 - View towards limitations on current tie legislation
 - Requested further urgent review into implications of potential legislative restriction to the tie
- BEC Follow Up Inquiry 3 England & Wales (2010)
 - Review on the effects of new framework Code of Practice issued by the BBPA
 - Recommendation for a move towards formal legislative action if the relationship between the Pub Companies and tenants did not improve
 - Initial timeline set at June 2011
 - Government drafted a support package for pubs including business assistance and local authority action
- Business, Innovations & Skills Committee (BIS) Inquiry 4 England & Wales (2011)
 - Task to review the results of the previous inquiry recommendations and the new Code of Practice
 - Little evidence was found of a major, lasting improvement in the pub company/ tenant relationship
 - As a result, the consideration was that statutory legislation was the only way forward
- BIS Consultation Document England & Wales (2013):

- Following a lengthy period of submissions and debate the Secretary of State advocated the move towards statutory legislation in January 2013
- The outline statutory framework provided a model for the power and function of the proposed Pub Adjudicator
- BIS Consultation Document England & Wales Governmental Response (2014):
 - The response stated clearly that the intention was to legislate at the earliest opportunity to establish a Statutory Code and Adjudicator to cover the tenanted sector (for pub companies with over 500 pubs)
- The Small Business, Enterprise and Employment Act (Part 4) 2015:
 - England & Wales only
 - Introduced in March 2015 after additional Impact Assessment by BIS
 - Provided enabling powers for the Code and Adjudicator
 - Also allowed the option for Pub Co tenants to have a Market Only Rent (MRO) agreement if unhappy with their current tie arrangement
- The Enterprise Act 2016:
 - Designed to address the deficiencies in the earlier legislation
 - Delays in enacting the legislation highlighted the difficulties and lengthy processes experienced in progressing the required legislation in England & Wales
- BBPA & IFBB Codes of Practice for leased/ tenanted pubs and pub companies (with fewer than 500 pubs):
 - Released in July 2016 for England & Wales
 - Two separate codes one for lessees and one for tenants
 - Separate single code also released for Scotland at the same time

Annex 9: Ministerial Letter of Support to the Project

Minister for Business, Energy and Tourism
Fergus Ewing MSP
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11th November 2015

I announced in the Scottish Parliament on 20 May that the Scottish Government intended to carry out an independent study into the Pub sector to look at the various pub models that are operating in Scotland and investigate whether parts of the sector face an unfair disadvantage, compared to others, and provide recommendations for future action.

For this study to be successful, it will require the expertise of stakeholders who have knowledge of the sector to advise the appointed contractor and the willingness of publicans to be interviewed and reveal information which may be considered commercially sensitive. Importantly, the study will provide an evidence base which will assist Scottish Ministers in coming to a view as to whether legislation is/is not required to regulate the operation of Pub Companies (Pub Companies) in Scotland or other parts of the Scottish pub sector. It should be understood that the Scottish Government has not come to a view on this issue, and the purpose of this study is to help us in our deliberations.

CGA Strategy Ltd were the successful bidder to carry out this research through a competitive tender process. Those participating and providing advice to CGA Strategy Ltd should be assured that neither industry nor government will be privy to commercially sensitive information given to the researchers which would identify an individual or company. As a consequence, those participating should feel sure that information provided by them will be treated in a confidential manner by the contractor and that anonymity will be ensured when presenting findings.

Given the importance of this research, I would urge all those who are approached by CGA Strategy Ltd to support their work on this project and that companies and individuals use their networks to encourage greater participation.

Yours Sincerely

Fergus Ewing

Annex 10: Comprehensive list of abbreviation and trade terminology

BBPA	British Beer & Pub Association
BEC	Business & Enterprise Committee
BII	British Institute of Innkeeping
BIS	Business Innovations & Skills Committee
CAMRA	Campaign for Real Ale
FLVA	Federation of Licensed Victuallers Association
IFBB	Independent Family Brewers of Britain
IPC	Independent Pub Confederation
MRO	Market Rent Option
MRS	Market Research Society
NDA	Non-disclosure agreement
NDR	Non-Domestic Rating
OFT	Office of Fair Trade
PICAS	Pubs Independent Conciliation and Arbitration Service
PIRRS	Pubs Independent Rent Review Scheme
RPI	Retail Price Index
SCORFA	Special Commercial OR Financial Advantages
SBPA	Scottish Beer & Pub Association
SLTA	Scottish Licensed Trade Association

Technical/ Analytical Acronyms and definitions

Barrel	36 imperial gallons
Cap Ex	Capital expenditure (financial resource provided for the maintenance and upkeep of pub premises based on lease agreements)
EPoS	Electronic Point of Sale (In relation to <u>daily</u> sales data provided directly from till receipts)
Firkin	¼ of a barrel – 9 Gallons
GP	Gross Profit
IFT	Independent Free Trade Freehold pubs wholly owned by the licensee and free to purchase to all drinks from independent sources
OPMS	(CGA) On Premise Measurement Service
Fully Tied	Leased/ Tenanted Pubs with a total Tie to their Pub Company for drinks
Partial Tied	Leased/ Tenanted Pubs with a partial Tie to their Pub Company for drinks (some agreed drinks can be purchased outside their agreement)

How to access background or source data

The data collected for this social research publication:

- are available in more detail through Scottish Neighbourhood Statistics
- are available via an alternative route <specify or delete this text>

X may be made available on request, subject to consideration of legal and ethical factors. Please contact < socialresearch@gov.scot > for further information.

- cannot be made available by Scottish Government for further analysis as Scottish Government is not the data controller.



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The views expressed in this report are those of the researcher and do not necessarily represent those of the Scottish Government or Scottish Ministers.

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