

LABOUR ELECTION PLEDGE ON NON TIE OPTION FOR TENANTS

The “Tie” has now become a general election issue thanks to the work of GMB pub tenant members in securing a Labour Party election manifesto commitment to take action if the pubcos fail to act.



This is what the Labour manifesto says:

“The local pub and social club are also hubs of community life. Too many pubs have closed that could have been sustained by local people. We will support pubs that have a viable future with a new fund for community ownership in 2010-11. Councils must take full account of the importance of pubs to the local community when assessing proposals that change their use, and we will make it more difficult to demolish pubs. Restrictive covenants applied by pub companies to property sales will be curbed and flexibility for pubs to provide related services promoted, making it easier to have live entertainment without a licence. A non-tie option should be available for pub tenants; we will act if the industry fails to make progress on this.”

Paul Kenny GMB General Secretary said “GMB welcomes this commitment. Pub customers now have an opportunity to vote to end the tie and secure a fairer deal for themselves, the pub tenants and their local communities.

“There will be hustings election meetings across the country and GMB members will be asking candidates from other parties where they stand on this issue.

“GMB pub tenant members can claim the credit for securing this progressive commitment in Labour’s election manifesto.”

GMB pub tenant members should now contact GMB regional political officers to get the issue raised at as many local hustings meetings in their areas as possible. Tenants should also raise the issue with pub customers. GMB will be producing material for this purpose. Make sure you have stocks.

BBPA AS USEFUL TO TENANTS AS “A CHOCOLATE FIREGUARD” SAYS KENNY

Paul Kenny wrote to Mr Hastings of the BBPA regarding GMB survey on tenants incomes. He said:

“On 12th April you wrote to GMB’s Paul Maloney on a GMB survey that is in the GMB submission to the OFT which shows that pub tenants have low disposable incomes and many of them are saddled with high levels of unsecured debts as a result of the current financial model that they and their customers are victims of.

“The GMB income figure confirms the BIS Select Committee survey which found that more than two thirds of pub tenants had gross earnings of less than £15,000.

“You wrote to Paul Maloney as follows and I quote from your letter:

***‘As you communicate the findings of
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your survey to media, candidates et al, we (BBPA) will be communicating the following as a comparator:

GMB member survey of tied tenants	National Statistics for UK families (BBPA claim)
Tied licensee net disposable income: 73% = £10,000 or less 27% = above £10,000	Average family net disposable income in the UK: £7,400
Tied licensee debt: 29% = £50,000 or above 71% = less than £50,000	Average household debt in the UK: £58,200

'I would be interested in your comments on the numbers.'

"GMB asked you to justify your UK income and debt figures and how they relate to pub tenants. It has taken our researchers some time to establish any connection between your figures and reality. We note that you have failed to respond to our requests for your information sources.

"You did ask for our comments which are as follows:

"GMB did a detailed analysis of the 2008 Living Costs and Food Survey, a real National Statistics publication, and this paints a very different picture from the figures used by the BBPA. This official study of over 25 million households shows that the average net disposable for families with employed and self-employed people in them is £442 per week. After average weekly expenditure on housing has been deducted that leaves £348 per week or £18,113 per year. This is the comparable income figure the BBPA should have used.

"Average household unsecured debt in the UK is around £9,000 excluding mortgages. The figure you quote included secured debts including mortgages while that of GMB members does not.

"Apart from comparing apples with oranges what is really disturbing about your response is that it shows that BBPA has not listened to what pub tenants are saying nor that it understands what the economic problems in the industry actually are.

"Finally any vestige of fig leaf type cover that BBPA were hiding behind as some sort of independent voice within the industry has been blown away by your lack of care towards the plight of tenants and it is clear where your loyalties lie.

"The sad truth is that 'Last Orders' have been called on both the pubco business model which has caused so much damage and the BBPA itself which is about as much use to tenants as a chocolate fireguard."

Yours truly



Paul Kenny

GMB General Secretary



PROGRESS ON LEGAL ISSUES

GMB Pub Revolution Branch has gone from strength to strength since it was established in Nov 2009. It has made real progress on legal issues.

Court cases that GMB has supported have all been won. GMB members must be aware that a case can only be won where the facts are considered to be in dispute by our GMB Legal Team. You can't simply take action as you see fit that may put you on the wrong side of the law and then expect legal representation.

Where a member requests legal advice the issue must be one that has occurred since they joined GMB. Don't wait for something to happen, join GMB now. It is essential that you seek legal advice as quickly as possible.

GMB has a preferential package for GMB Pub Revolution members with specialist solicitors for the trade, whereby legal advice will be offered to GMB members related to issues in dispute, regarding their lease at a special 'one-off' rate of £250.00; with the specialist Law firm Ferdinand Kelly.

The case will then be referred back to GMB with advice on the prospects of success or failure; the Union's Legal Department will then decide whether GMB can offer any additional advice or support in respect of the case.

GMB is in the process of setting up a Legal Helpline, specifically in relation to Brulines and the operation of the beer tie. As soon as this is ready you will be informed.

All legal advice is dependent on each GMB member making contact with GMB at the earliest possible stage; being open, honest and frank with all the facts of the case. Seek legal advice in good time; do not leave it to only days before the Court Hearing.

ADVICE ON BRULINES

All Bruline fines should be challenged immediately if you believe them to be unfair and unjustified. If they are not resolved within four weeks GMB is looking at all the ways this can be challenged, including through the Courts.

Should you be faced with a Brulines fine and are confident that you have not bought out of tie then you must:

- 1 Challenge the fine immediately in writing
- 2 Ask for full facts and figures upon which the Pubco rely and how the decision was made to make the fine
- 3 Ensure that the Bruline fine is a 'stand alone matter' that is being challenged
- 4 Check that it is not put onto your Rent or Trade account. Insist that Rent, Trade and Fines are always kept separate and paid for under separate headings.

ADVICE ON TRADE

If you pay up front for supplies then you should receive the full order on the normal day of delivery. GMB Pub Revolution has had complaints where the Pubco take money for retail, won't deliver and then say that the

money was for rent or a fine.

- 1 Make sure that the accounts are kept separate.
- 2 You must challenge it immediately giving them the opportunity to deliver the goods that have been ordered and paid for
- 3 Tell them that failure to deliver will render the Pubco in breach of Contract, leaving you with no alternative but to **buy out** so as to be able to meet your rent, wages and bills.
- 4 This must be done in writing and a copy retained.

ADVICE ON RENT

Rent goes to the root of the Contract and must be paid at all times. If you encounter difficulties with payments you must:

- 1 Contact your BRM immediately for assistance and pointing out the probable causes of the problem
- 2 Make sure you reach an acceptable, reasonable and manageable resolution to rent issues and that you get it in writing. Remember it is as much the responsibility of the Pubco as it is yours to keep the business viable
- 3 Always take a witness with you to meetings.

GMB MEMBERS ACTION PLAN TO TAME THE PUBCOS

Following the GMB Pub Revolution Road Shows the campaign to tame the Pubcos moves now to a four pronged attack as outlined by Paul Kenny, GMB General Secretary at the hugely successful GMB tied tenant members lobby of Parliament in March. In front of the 100s of GMB members who attended and the 26 MPs at the lobby Paul Kenny said that there are 4 routes open to us:

- 1 Political action by the Government
- 2 Media & publicity
- 3 Legal help
- 4 Industrial action

The political route will include continuous lobbying of MPs, having questions raised in Parliament, pressing for legislation to regulate the industry and call the Pubcos to accountability.

During the General Election period, all tenants should invite Election Candidates to their pubs to meet their customers and explain why Pubcos are allowed to rip them off. Ask Candidates that, if they are elected, what they would do about Pubcos.

Encourage customers to question all Candidates who

call to their home about their proposals to deal with Pubcos.

Through the media and publicity we will ensure that the actions of the Pubcos are brought to the public attention, including the charging regime, evictions and bullying of tied tenants.

GMB will instigate legal action against Brulines fines where there is no evidence of buying out of tie, with a legal package that is value for money for initial legal advice from a specialist Lawyer.

GMB will also monitor legal cases to ensure that we all know about any important legal precedents which are set, that will protect Tenants for the future.

GMB members' ultimate course is the industrial route. GMB tied tenant members will be balloted to see if they are in favour of industrial action with a view to a mass boycott of tied supplies. Any action would mean that all tenants would collectively purchase their supplies from a wholesaler. The tenant would immediately increase their profit, enabling them to earn a living wage, offer a better service and a cheaper pint to their customers.

GMB COMPLAIN TO SUFFOLK POLICE

Last December GMB Pub Revolution member Ms Sharon Leslie, tenant of Trowel and Hammer Inn in Stowmarket, Suffolk, found a Mr Dave Moorland of Brulines had gained illegal entry into the pub while it was closed. When asked to leave he became highly aggressive and threatening. The tenant reported this illegal entry to Suffolk police and asked them to investigate this matter.

The police did begin this investigation but advised Ms Leslie that they would not be proceeding with the matter.

Ms Leslie has now asked GMB to take up the matter with Suffolk police as she considers that gaining illegal entry to premises is a criminal offence that should be dealt with by the police.

She said "It is completely unacceptable that the police are refusing to investigate Brulines worker illegal entry into my home There would be an outcry if workers from British Gas or BT did this"

See full story on GMB website



GMB SLAMS BBPA FOR PROTECTING BUSINESS MODEL

Paul Kenny blasted the BBPA open letter to GMB published on the day of the GMB lobby of Parliament. In his reply, he said, "Thank you so much for your letter of 15 March 2010 and for advising me that you now act for the members of the BBPA in this matter as listed in your letter.

"I note from the list of members that you represent in this dispute, that you have both property owning companies such as Punch Taverns Plc and Enterprise Inns Plc along with others that we term Pub Co's, together with companies who appear to us, to have no tied tenants or lessees and whose business appears to be brewing and supplying services to the other group of your members, the Pub Co's themselves. It is noted by us that the breweries and the property companies appear to be joined together under your Association in this matter, in order to protect a particular business model which is causing such damage and distress to many tenants the length and breadth of the country. advise you that we will be contacting the members you have listed as being parties to your actions against us.

"Turning now to the issue you raise in terms of interpretations of the Trade Union and Labour Relations (Consolidation) Act 1992 (TULCRA). The question about whether the contractual roles between your various members of the Association and the members of the GMB have a status under the Act is obviously a matter of dispute between us. The information we have gathered gives us sufficient reason to believe that the relationship of a contracted worker exists between a number of relevant parties of the Association and our members and, we will deal with that in the normal way with the individual members of the Association as employers. I would be interested to know, given your Associations demands upon the Union, whether you are claiming that you are acting legally on behalf of the members of your Association that you have listed. This would be helpful information in the event of any actions that will be brought against individual members of your Association in due course.

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UNITY

For too long publicans have been played off against each other and have had to stand alone to face the wrath of Pubcos, but over the last few months we have seen Tenants from all the major Pubcos come together under the umbrella of GMB Pub Revolution to fight for justice for all and the trade.

It is more important than ever to make sure that every tenant is a member of GMB. Unity is Strength.

Every tenant should get another 10 tied tenants to join GMB and increase the strength of the Union; and in turn the voice of the tenants.



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*Our Pub Revolution Branch in Southern Region can be contacted via Senior Officer, Bobby Stokes, in our South Coast Office. Bob is the first point of contact for Southern Region.

HOW DO I JOIN? JOIN ONLINE AT WWW.GMB.ORG.UK

Or just fill in parts 1, 2 and 3 in the form below. Hand the form to your local GMB representative or post it to GMB, GMB Southern Region, FREEPOST KT 786, 205 Hook Road, Chessington, Surrey KT9 1BR (you do not need a stamp). If you have any questions contact your local GMB office, email info@gmb.org.uk or visit our website www.gmb-southern.org.uk

FOR UNION USE ONLY Section Branch No P 4 0 Membership No Date of joining Employer 5 6 0 1 6

GMB MEMBERSHIP APPLICATION FORM PLEASE USE BLOCK CAPITALS

1 TELL US ABOUT YOU

Surname First name Title Mrs/Miss/Ms/Mr Date of birth

Home address Postcode Home Tel Email

Date Mobile I agree to abide by GMB rules Signature

We ask for your ethnic origins as part of our equal opportunities policy of improving services to all members
 Bangladeshi Black African Black Caribbean Black British Chinese Indian Irish Pakistani White Other:

2 TELL US ABOUT YOUR JOB

Employer Your job

Address where you work Postcode

How many hours a week do you work?

Pay No

Work Tel Pay Date

3 INSTRUCTION TO YOUR BANK OR BUILDING SOCIETY TO PAY BY DIRECT DEBIT



Please fill in the form and send to **GMB Southern Region**, Cooper House, 205 Hook Road, Chessington, Surrey KT9 1EA
 Name and full postal address of your Bank or Building Society branch

Originator's Identification Number
 9 7 4 3 3 0

To the Manager of Bank/Building Society
 Address Postcode

For GMB official use only. This is not part of the instruction to your Bank/Building Society. If your A/C number is not available fill in your address below.

Name(s) of account holder(s)

Bank/Building Society Account Number

Bank/Building Society Sort Code

Reference number (Office use only)

Instructions to your Bank or Building Society.
 Please pay GMB Direct Debits from the account detailed in this Instruction subject to the safeguards assured by the Direct Debit Guarantee. I understand that this Instruction may remain with GMB and, if so, details will be passed electronically to my Bank/Building Society.

Signature(s)

Date

Banks or Building Societies may not accept Direct Debit instructions for some types of account

“The GMB has done nothing unlawful nor does it have any intention of doing anything unlawful and, frankly your threats do not persuade us that your arguments have merit in law. On the issue about tenants being liable for court action from the members of your Association, I suggest you ask those members of your Association how many fines, evictions, and rent review disputes are currently leading to litigation and court actions, varying from the County to the High court.

“Perhaps you would also ask your Association members how many tenants they have tried to evict over the last couple of years. Perhaps you would also ask your Association members how they justify the rent reviews and the lack of support to tenants which is so widely reported to us. It is not apparent that you personally, or your Association have any real understanding of the difficulties that tied tenants are facing, of the incredible pressure which the members of your Association are putting on members of the GMB within the industry, the drive to deliver more and more cash to service the debts, that a number of your members have because of their leverage activities. I do not believe that you or your Association fully understand the impact on the health of so many tenants, brought about by these pressures and the lack of support from the members of your Association. I do not believe that you or the members of your Association can justify charging tenants above market prices in terms of the wet trade, which not only forces prices up in those tied establishments but gives both the tenant and the public a very shabby deal indeed.

“The business model, that the BBPA and its members are supporting, has brought misery, lease surrender, debt and pub closures to an industry that is so vital, not just for our communities but actually for the sustainment of direct employment in many parts of the country. Is it not bad enough having to compete with cheap off sales from supermarkets who can afford to slash profit margins on the basis of their turnover but to have your own suppliers charge you more than the market rate determines, is frankly a restriction of free trade. The BBPA must determine itself, what action it intends to take against the GMB. Let me however say to you and your Association, that it is quite clear to us and to many of our members where your interests lay. The business model you are seeking to protect, and in whose interests the protection of that business model benefits and for whom you currently speak.

“The GMB will continue to campaign politically, organisationally through the media, in the courts and where appropriate through the use of lawful industrial action to highlight the damaging impact of the current business model, its unfairness, and the behaviour of some of the members of your Association and their actions impact on our members. We will continue to campaign for support and protection for our members within the industry and for the general public at large who frankly are being over charged because of the business model that you and the members of your Association are so intent on protecting.”

Yours truly, Paul Kenny

BRULINES FACE GMB LEGAL CHALLENGE TO £5,711 FINE ON EAST LOTHIAN TENANT BASED ON NON-EXISTENT DATA

GMB Pub Revolution member Diane Wamsley, a pub tenant of the Old Ship Inn in Port Seton near Edinburgh, is mounting a legal challenge to a court citation for a £5,711.18p “fine” by Punch who claims that the Brulines monitoring equipment reveals discrepancies between the amount of product she sold in the pub and what she bought from pubco Punch between October 2009 and January 2010. During this period there was no monitoring equipment operating in the pub.

Diane is supported in this legal challenge by GMB, the union for tied pub tenants. They are forced to buy wholesale supplies at double free market prices from the property companies that own the pub buildings. Pubcos employ Brulines, based in Stockton on Tees, to monitor beer sales using flow meters attached to beer lines relaying wireless data from 25,000 pubs across the UK to computers on Teeside. The accuracy of this equipment has been challenged in the industry because if Brulines data reveals discrepancies between the amount of product sold in pubs and what is bought from pubco the pub tenants face “fines” from their pubcos.

Mick Conroy GMB Regional Officer for pub tenant members said *“GMB are contesting this ‘fine’ on the tenant of the Old Ship Inn because during the period in question there was no Brulines monitoring equipment installed in the pub relaying data back to Stockton. The ‘fine’ in the court citation has been computed on basis of data that does not exist.*

“Pub tenants across the UK are shocked by this £5711 ‘fine’ on this East Lothian tenant. It is scandalous and outrageous and is akin to a protection racket. It is typical of how hard working tied tenants are being treated by the pubcos and their agents like Brulines”