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Dear Darren,

I am writing to inform you that I have today published the Government's report on the first statutory review of the Pubs Code and Pubs Code Adjudicator. The report is available in the House libraries.

The Pubs Code was created in July 2016 after a number of Select Committee reports to address concerns about an imbalance in the relationship between large pub-owning businesses and their tied tenants (those who are contractually obliged to purchase some or all of the alcohol sold at the premises from the business owning the pub in return for lower rent and other support). The Pubs Code aims to ensure that tied tenants are treated fairly and are no worse off than if they were free of their tie and provides tied tenants with the right at defined times to exercise a "Market Rent Only" option to switch from the tied arrangements to a free-of-tie tenancy. The Pubs Code is enforced by the Pubs Code Adjudicator who has an arbitration function in resolving disputes and a regulatory role to ensure pub-owning businesses' compliance.

The Government is required by Part 4 of the Small Business, Enterprise and Employment Act 2015 (the Act) to review the Pubs Code and the performance of the Pubs Code Adjudicator every three years. This statutory review is backward-looking and covers the period from when the Pubs Code and the Pubs Code Adjudicator first began to operate in 2016 until 31 March 2019.

The statutory review was launched in April 2019 and included a 12-week period during which interested parties could share their views. The Department received 78 responses from a range of stakeholders including tied pub tenants, representative organisations, pub-owning companies and the Pubs Code Adjudicator, among others. After considering these and other publicly available evidence, the Government's report concludes that, while the Pubs Code is consistent with the principles set out in the Act, there are certain changes that could improve the operation of the Pubs Code and aspects of the Pubs Code Adjudicator's functions which will require further consultation. The main areas for action include to:

- consider and consult on better access to information to help informed decision-making by prospective and existing tenants;
- explore improvements to the Market Rent Only process, such as in respect of restrictive timescales and to allow for meaningful negotiation, and to consult on proposals;

- develop and consult on the creation of tailored dispute resolution rules to improve the arbitration process, and explore the scope for an alternative to the High Court as the arbitration appeal route; and
- ask the Pubs Code Adjudicator to retain such evidence it may come across of persistent poor behaviour by pub-owning businesses where it considers its existing powers are insufficient to enforce the Pubs Code.

Despite its brevity, the 3-year period under review since the Pubs Code came into effect has enabled certain issues related to the set-up of a new statutory regime to settle down and for other issues to emerge. Responses to the review presented wide and divergent views about the Pubs Code and I am aware that stakeholders on both sides will likely be disappointed that not all of their proposals are being taken forward. However, the evidence provided so far indicates it is too soon to determine whether more substantive changes might be necessary and it remains important to balance the rights and interests of the pub-owning businesses and their tied tenants.

However, the Government believes there are indications that the Pubs Code is starting to have an impact as can be observed from the published arbitrations, a number free-of-tie tenancies having been agreed in a more light-touch way and the recent completion of the Pubs Code Adjudicator's first investigation. The proposed measures outlined in this report should further help by addressing those parts of the Pubs Code that are not working as well as they should. The effectiveness of the Pubs Code regulatory regime, including any changes made, will continue to be monitored over the course of the next 3-year period under review to enable the Government to consider the case for further changes.

I am copying this letter to Toby Perkins, MP and Mike Wood, MP given their interest in this matter as the respective Chairs of the All-Party Parliamentary Group on Pubs and the All-Party Parliamentary Beer Group.



PAUL SCULLY MP

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Copied to:

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