

British Pub Confederation

Standing Up for Pubs and Publicans

Paul Scully MP

Parliamentary Under Secretary of State (Minister for Small Business, Consumers and Labour Markets)

Department for Business, Energy & Industrial Strategy

3 Whitehall Place

London

SW1A 2AW

7th May 2020

Dear Paul,

URGENT – support for pubs and publicans during the Covid-19 crisis

We are writing to you regarding the urgent issues facing for pubs and publicans during the Covid-19 crisis.

We have written previously to the Chancellor on 23rd March. We welcome the support provided for some pubs by the Government, which is vital for their survival. However many pubs are excluded from support which threatens their future and in addition some property owners of pubs, including the six regulated pub-owning businesses, are charging rent, despite it being illegal for the pub to trade.

The British Pub Confederation, formed in 2015, is the Confederation of organisations representing publicans and pub campaigners. We represent and speak for the non-corporate side of the pub sector, for publicans/licenseses and pub campaigners, as opposed to the pub-owning companies. Our member organisations are listed to the right.

We note that you have consulted with and met (presumably virtually) with some organisations representing certain organisations of the pub and pub sector. We are aware that one of these is the representative body of the large pubcos and large pub-owning breweries, the BBPA. We are concerned that you have not met with or heard the views of individual licensees and pub tenants/lessees. We are seeking to engage with you as a matter of urgency to rectify that. The needs of publicans/licenseses are very different from those of the large pub-owning companies, and it is the individual, self-employed pub 'landlord', operating under tenancies and leases and also independent freeholder operators who are at critical risk of financial ruin and the loss of their livelihoods, businesses and homes.

We are raising the following issues with you as a matter of urgency. The current crisis is an existential threat to thousands of small, independent pub businesses and to the livelihoods of thousands of families who rely on income from the pubs they run. The pub is such a vital part of our nation and will be crucial to helping the nation get back on track after this awful crisis is over, however, further urgent action is needed now to avoid the loss of many of our cherished pubs, as well as hardship for those publicans who operate them.

There are 6 key issues we need to raise with you, all of which are fundamental to the survival of tens of thousands of British pubs:

1. Make Government Grants available to ALL pubs

There is an urgent need for the arbitrary cut-off for access to Government grants to be removed, to allow ALL pubs to be eligible for such a grant. Approximately one fifth of pubs



Member organisations:

Forum of Private Business

Licensees Supporting Licensees

Guild of Master Victuallers

GMB

Scottish Licensed Trade Association

Fair Pint Campaign

Pubs Advisory Service

Justice for Licensees

Punch Tenant Network

Unite the Union

Protect Pubs

Society for the Preservation of Beers from the Wood

don't qualify and unless this is rectified, **many of these pubs will go out of business and some are already on the verge of doing so**. You must realise that it is absurd as well as unfair that there are pubs of broadly similar sizes, where one pub is just under the threshold and can or has received £25,000 as a grant and the other receives nothing. There are issues with the strange way pubs' rates are calculated which exacerbate the arbitrary nature of rateable value on some pubs and longer term this must be addressed, but for now the priority is for an announcement that all pubs and all publicans can access grants, without which, they will go out of business and pubs valuable to local communities and to the local economy and tourism, will be lost.

We support the Raise The Bar campaign, but we also ask for all pubs of any rateable value to be eligible (as a higher arbitrary cut-off isn't fair either). The pubs not eligible for grants include some of the very best public houses in the country with a significant proportion of these operated by individuals, who are in desperate need of help.

2. Stop Pubcos/property owners charging rents on business that have been forced to close

The fact that many property owners, including disgracefully the six regulated pub companies, are charging rent on closed pubs, unable to trade (and with it being illegal for them to do so) is a disgrace. The reality is that many businesses are facing loss of income from this crisis and all have the right to seek support for that loss from the Government. What this should mean is that publicans have lost all of their trade and all their income from operating the pub; the pub-owner loses the rent as the business cannot trade and should not seek rent on a forcibly closed business. Each business (the publican/pub operator and the property owner) must deal with their own losses and seek appropriate support on that basis. **Yet we have a situation where property owners of pubs, including the large pubcos, are seeking extensive Government support for themselves AND at the same time still charging business rent on a pub, a business, with no income. That is not only disgraceful but immoral.**

It is reasonable for people, including publicans, to continue to pay rent for living accommodation (as any other residential renter) on the basis of continuing to live there, but for any owner or business to be charging rent on a pub or small business with no trade and no income (when the premises are rented on the basis of operating a trading business) is shameful. We would welcome your support for Britain's pub tenants (and other pub operators who rent pubs) by condemning those who do so – and urging them to stop charging rent on businesses prevented from trading.

The pub-owning companies who are still charging rent are all giving the misleading impression of being helpful by merely deferring rents, in other words they are still charging rent (in some cases in full) and are expecting tenants to pay them back once they are trading again. Deferring rents in reality means forcing tenants to accrue considerable debt, which the pubcos expect to be paid back from margins which are extremely tight even in normal trading conditions (something that is unlikely to return for a considerable time, even after pubs are allowed to open again). The build-up of significant rental debts for tenants during a period of enforced closure is clearly an immense worry to thousands of tied tenants, and without the certainty of knowing that rent is cancelled during the closure many will simply go bankrupt or give up.

What's more it is legally questionable as to whether or not companies who operate the 'beer tie' model (where they contractually oblige the tenant to buy beer and other products through them at inflated prices) are legally allowed to charge rent on tenants whose pubs are not trading. Such rents are based on the concept of 'Fair Maintainable Trade'. At a time when pubs have zero revenue, any rent based on such a system must surely cease entirely during the period of closure. Given the unique structure of tied agreements there are strong legal arguments surrounding the dependency of the rent on the ability to trade and that the insurance responsibility for the rent sits with the pub-owning businesses not the publican (or the Government). Currently, regulated pub-

owning companies are failing to respond properly to tenants who are contacting them and have also failed to respond to queries about the legal basis for charging rent when there is no trade, when the lease/tenancy clearly defines the rent as being linked to trade.

In reality, cancelling rent for the enforced closure period is the basic minimum level of support needed for tenants. Grants and business rate relief will all be taken up with other unavoidable expenses during what will clearly be a very lengthy period of closure, and then through any subsequent period when Government may well still advise social distancing. There is then bound to be a prolonged recovery period when the market will remain hugely uncertain, and very likely substantially diminished, which could easily last a year at the very least. This is borne out by stories of cautious consumer behaviour in other economies that are beginning to ease their social restrictions, whereby hospitality businesses in particular are having to cope with hugely reduced custom. We would therefore go as far as to urge Government to take measures to stop pubcos demanding rent on businesses unable to trade.

3. Make clear Government grants are for pubs and publicans, not pubcos/property owners

Related to point 2 is the scandal that some property owners, including the regulated pubcos, are expecting their tenants to hand over the grants provided by the tenant to the pub/publican. The field operatives (generally known as Business Development Managers) of the large companies have been contacting tenants asking them to inform them (the pubco) when they received the grant and all the companies are making clear they expect the tenants to use their grants to pay them rent, despite being closed and having no income.

We urge you to make clear that the grants are for individual businesses, in this case pubs, and not for pubcos. We hope you will make it clear that it is unacceptable for the regulated POBs to demand tenants' Government grants to pay rent, to cover their own loss of profits (when they claim that their business is based on successful pubs trading well). **If these companies believe they need assistance, they must make their own case to the Government and not be seeking money from their supposed business partners, who have no income.** We note that these companies (and the other companies still demanding rent) are also eligible for their own Government support, including for paying furloughed staff. So we question whether they should be allowed to seek further Government support, through rent payments direct from Government grants paid to small businesses, as they are doing.

The grants provided by Government are a lifeline, and the only reason many pubs (of all kinds) can possibly survive the closure period. They are clearly intended (as stated by the Chancellor on 17th March and recorded in Hansard) to provide licensees with "support with their cash flow and fixed costs" and "to help bridge through this period" where, through no fault of their own, a tenant's business is unable to generate any revenue at all. Without such support many tenants will have no choice but to cease trading, meaning the loss of entire pub businesses and of course the associated jobs and revenue. Without secure, established tenants remaining in place, the future of the pubs themselves will also then be at risk, with devastating implications for all the communities that rely on them as crucial social hubs, and are likely to need them more than ever once the Covid-19 crisis is finally resolved.

There seems to be a lack of understanding (and a deliberate failure to communicate, on the part of some pubcos) the reality of the Government grants given to pubs. They are taxable as income and must also be used to pay outstanding bills and also for pub operators to pay VAT. So for property owners, including regulated pubcos, to be seeking rent – in many cases tens of thousands of pounds – from licensees unable to trade is dangerous as well as unethical. Tenants simply can't use the grants to pay rent (on their closed pub) and put aside money for essential bills, including VAT. **So some will end up being unable to pay their VAT bills as a result of pubcos charging rent.**

The Government grants are surely intended to support and save small businesses, such as pubs from closure, for these reasons. They cannot be intended to go to hugely profitable global companies. Heineken, who own Star Pubs and Bars, made a staggering €4 billion pounds profit worldwide from their most recent figures. Greene King recorded a profit of £246.9 million, Marston's PLC £178.7 million and EI Group PLC £247 million. So for these companies to be demanding rent – and Government grants – from tenants with no income is downright disgraceful. Furthermore, we note that one of the regulated pubcos (EI Group PLC) has a parent company (Stonegate Pubs) with its head office based in the Cayman Islands. It surely cannot be the intention of the Govt for the grants provided to pubs to be funnelled into such offshore companies based in tax havens. Similarly it cannot be the intention that the grants should ultimately go to service the huge unsustainable debt burden of companies such as Punch Taverns, whose debts resulted from their own irresponsible acquisition spree, and are now sustained only by the overvaluation of their pub estate. We also note that Greene King are owned by Hong Kong's largest property company CKA, owned by a billionaire in Hong Kong. This cannot be where you intend the grants (taxpayers' money) provided to help publicans and to save pubs to go to. So we urge that you make clear that the grants provided to pubs are indeed intended for those pubs, and not for huge property companies, overseas creditors, and shareholders.

4. Intervene in the Insurance Sector urgently to ensure pubs are covered now and going forward

The situation facing pubs and insurance is dire. The way many insurance companies have responded to this crisis is disgraceful with most pubs reporting to use that they have been unable to claim for the loss of trade from their insurers (when this should be precisely what insurance is for). This is, of course, as you are well aware, hugely increasing the need for Government support as well as reflecting very poorly on the insurance industry. So we urge the Government to intervene to see pubs and other business to be able to claim for loss of trade.

There is potentially a further disastrous situation going forward too. Pubs now face a situation where they may not be insured against further loss of trade or closure, or even from being sued by customers who claim they have been exposed to the virus at the pub. So the Government must also step in and instruct insurers to provide proper cover to pubs, without raising premiums, to allow them to operate or you will see licensees unable to put themselves at risk and walking away or in a situation where they are unable to reopen until a vaccine is fully available.

5. Urge utility companies to defer payments

We also urge you to ask suppliers including utility companies to agree to defer payments and to assist pubs and other small businesses through a time of having no income. Some are behaving well and others are not, so an announcement from the Government would be very helpful.

6. Announce support for as long as pubs are closed/restricted and then as they recover

There is still speculation that pubs, bars and restaurants will remain closed for some time and be amongst the last business sectors to reopen. Even then, it is suggested that trade will be restricted through social distancing measures which will reduce trade for all pubs and make it unviable or actually impossible for other pubs (smaller pubs) to open at all. With pubs already missing out on the Spring trade and now facing losing some or all of the Summer, it will be impossible for many, especially those reliant on pub gardens and in tourist areas, to survive at all. **So if the Government wishes to save the Great British Pub it must support them for as long as the Government restricts trade.** There must also be ongoing support for when pubs reopen in the form of reduced rates (after April 2021 and potentially VAT). We must make clear that cuts in beer duty, whilst they assist brewers, do not assist individual pubs or publicans and indeed assist the large pubcos and supermarkets. So we urge pub-focused support, that will actually help pubs and publicans survive.

We also urge that you speak to your colleagues in the Department for Communities and Local Government about tightening up the planning system to stop indebted pubcos selling off pubs (after their tenants have left due to their charging rent during closures) for alternative use and stop predatory developers and supermarkets seeking to exploit the Covid-19 crisis and the fact some publicans cannot continue by buying, demolishing or converting pubs that can and would be able to recover and begin trading successfully again after the crisis.

Please act soon to save British pubs and a key part of our nation and culture

So we urge you to engage with and listen to individual publicans, freeholders and tenants to properly understand the issues facing pubs (as opposed to the pubcos). We hope if anything good comes from this crisis it will at least be a more diverse and fairer pubs sector with more pubs in local ownership and fewer in the hands of property companies. This could also allow greater direct access to our many small independent brewers who are also suffering from this crisis.

We know you are doing what you can to support and save businesses and commend the Government for this. but we urge you to please make announcements on the above points as soon as possible, in order to avoid financial hardship and in some cases destitution for publicans, and to prevent the closure and permanent loss of many cherished pubs.

Yours sincerely,



Greg Mulholland
Chair, British Pub Confederation



Simon Clarke
Secretary, British Pub Confederation

cc The BEIS Select Committee