

## CLAS CIRCULAR 2019/21 (5 December 2019)

### Disclaimer

**CLAS is not qualified to advise on the legal and technical problems of members and does not undertake to do so. Though we take every care to provide a service of high quality, neither CLAS, the Secretary nor the Governors undertakes any liability for any error or omission in the information supplied.**

It would be very helpful if members could let us know of anything that appears to indicate developments of policy or practice on the part of Government or other matters of general concern that should be pursued.

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## POLITICAL UPDATE

### Election manifestos

For information

The main political parties have all unveiled their manifestos for the 2019 election. For the sake of brevity, the following is a summary of 'faith and society' policies that may be of interest to CLAS members.

#### Liberal Democrats:

- introduce a compulsory levy on gambling companies to fund research, education and gambling treatment .
- ban the use of credit cards for gambling.
- restrict gambling advertising.
- establish a Gambling Ombudsman.
- introduce a right to no-fault divorce.
- extend limited legal rights to cohabiting couples.
- complete the introduction of equal marriage, by:
  - removing the spousal veto
  - allowing those marriages that were dissolved solely due to the Gender Recognition process to be retrospectively restored
  - enabling the Church of England and Church in Wales to conduct same-sex marriages [?have they studied the legislation?]
- introduce legal recognition of humanist marriages.
- provide funding for protective security measures to places of worship, schools and community centres that are vulnerable to hate crime and terror attacks.
- complete reform of the Gender Recognition Act to remove the requirement for medical reports, scrap the fee and recognise non-binary gender identities.
- introduce an 'X' gender option on passports and extend equality law to cover gender identity and expression.
- replace Tier 2 work visas with a more flexible merit-based system.

#### Labour:

- review the Prevent programme.
- introduce a no-fault divorce procedure.
- decriminalise abortions.
- strengthen protection for religious communities and amend the law to include attacks on places of worship as a specific aggravated offence.
- review current levels of funding for and access to the Places of Worship Protective Security Funding Scheme.

- maintain funding in real terms for the Community Security Trust and consult on giving it statutory protection.

Conservatives:

- expand funding for protecting places of worship.
- introduce an Australian-style points-based immigration system that will prioritise people who have 'a good grasp' of English, 'have been law-abiding citizens in their own countries' and have good education and qualifications. Most people will need to have a job offer. The system will mean that:
  - people coming into the country from the EU will only be able to access unemployment, housing, and child benefit after five years;
  - people will not be able to claim child benefit for children living overseas; and
  - new arrivals must contribute to the funding of the NHS before using it and increasing the health surcharge so that it covers the cost of use.

[Source: Liberal Democrats, 20 November; Labour Party, 21 November; and Conservative Party, 24 November]

## CHARITIES & CHARITY LAW

### Charity Commission inquiries: Christ Embassy, City Hearts and Kingdom Life Ministries

For information

The Charity Commission has published its decisions in three recent inquiries into irregularities in small independent Churches:

- In the case of [Christ Embassy](#), which operates over 90 churches throughout the country, provides religious services to over 5,000 people and has a substantial international following, investigators found that a number of irregular grants and payments had been made, including over £1.2m to a broadcasting company, Loveworld Television Ministry, that was wholly owned by a trustee of the charity, together with free use of a £1.8m property. Financial management at the charity was also found to be poor. The inquiry concluded that there had been serious misconduct and/or mismanagement and took action to remove two of the trustees of the charity, however the individuals resigned before the sanction was applied. The Commission froze bank accounts and appointed an interim manager. A new board has made significant progress to address the governance issues and improve oversight and control of the charity.
- In the case of [City Hearts](#) – also linked with Hope City Church – the Commission found evidence of misconduct and/or mismanagement in relation to safeguarding incidents: senior figures at the charity had been unaware of incidents and did not have sufficient information about the charity's activities to manage them effectively. Furthermore, conflicts of interest and/or loyalty were not properly managed: for example, all the trustees were also members of Hope City Church and the charity was not able to demonstrate how it managed conflicts of interest and/or loyalty and how it made decisions only in the best interests of City Hearts.
- [Kingdom Life Ministries](#) was given an official warning and its three former trustees disqualified over unauthorised payments. The Commission found that all trustees had received unauthorised payments between June 2013 and November 2018 totalling £456,853 and that over £700,000 in cash had been withdrawn from the charity's account over three years, which did not match the former trustees' estimated expenses.

[Source: Charity Commission, 14, 22, 29 November]

**Charity Commission regulatory compliance case: Downside Abbey General Trust**

**For information**

The Charity Commission has [approved](#) the creation of a new charity to run Downside School separately from the Abbey, which will continue as [Downside Abbey General Trust](#).

The Commission decision states:

‘In light of a [report](#) by the Independent Inquiry into Child Sexual Abuse (IICSA) into appalling historic abuse at the charity, which ran a school and abbey, the Commission has overseen its separation into two separate charities, the Downside Abbey General Trust and [Downside School](#)... [The report] concluded that there was a culture of acceptance of abusive behaviour and the prioritisation of monks and their reputations over the protection of children.’

It also states that the creation of two separate charities is part of a number of measures that Downside has made in the interests of strengthening its safeguarding measures. It expects the trustees of both charities to ‘make safeguarding an absolute and unwavering governance commitment and ensure the lessons from their past are never forgotten.’

[Source: Charity Commission, 28 November]

## DATA PROTECTION

### ICO: The Data Protection Fee

**For information**

The Information Commissioner's Office (ICO) has [published](#) a blog post explaining the data protection fee, what the ICO is doing, and which organisations must pay.

Under the Data Protection Act 2018 organisations processing personal information are required to pay a data protection fee unless they are exempt. The cost of the data protection fee depends on a company's size and turnover. There are three tiers of fee ranging from £40 to £2,900, but for most organisations it will be £40 or £60.

The ICO has a self-assessment checker [here](#). The critical question for Churches and charities more generally is, 'Are you a not-for-profit organisation that qualifies for an exemption?' It continues:

Answer 'Yes' if your organisation was established for not-for-profit making purposes and does not make a profit. Also answer 'yes' if your organisation makes a profit for its own purposes, as long as the profit is not used to enrich others. You must:

- only process information necessary to establish or maintain membership or support
- only process information necessary to provide or administer activities for people who are members of the organisation or have regular contact with it;
- you only hold information about individuals whose data you need to process for this exempt purpose
- the personal data you process is restricted to personal information that is necessary for this exempt purpose.

If the answer to the question is 'yes', there is no fee payable.

[Source: ICO, 3 December]

## FUNDING

### Listed Places of Worship Grant extended to 2021

For information

It has been confirmed that the Government has extended funding for the Listed Places of Worship Grant Scheme (LPWGS) scheme until **31 March 2021**. In its [FAQs](#), LPWGS states that: ‘... The Government has confirmed the funding available for the scheme until 31st March 2021.’

Under the LPWGS, listed buildings that are used as places of worship and that meet certain conditions qualify for a matching grant to refund VAT spent on approved repairs and maintenance.

[Source: LPWGS, 4 November]



## NORTHERN IRELAND

### Historical Institutional Abuse (Northern Ireland) Act 2019

For information

The [Historical Institutional Abuse \(Northern Ireland\) Act 2019](#) gained Royal Assent on 5 November 2019. The Second Reading debate can be viewed [here](#).

The Act establishes the Historical Institutional Abuse Redress Board and confers an entitlement to compensation in connection with children who were resident in certain institutions in Northern Ireland. It also establishes the Commissioner for Survivors of Institutional Childhood Abuse.

[Source: Parliament 3 November and Parliament, 5 November]

## ODDS & ENDS

### Civil Partnership (Opposite-sex Couples) Regulations 2019

For information

The House of Lords [debated](#) the [Civil Partnership \(Opposite-sex Couples\) Regulations 2019](#) on 5 November. The motion – that the draft Regulations laid before the House on 22 October be approved – was agreed to. Additionally, the House of Commons Library published a [briefing](#) titled '*Civil partnership for opposite sex couples*'.

On Monday 2 December it became possible for opposite-sex couples in England and Wales to choose to enter into a civil partnership. Those who entered into civil partnerships in jurisdictions that already provide for them – such as the Isle of Man, the Netherlands, South Africa and New Zealand – had their unions recognised automatically as from that date; however, the first opposite-sex civil partnership ceremonies in England and Wales will not take place until 31 December, because 29 days' notice is required and in certain cases, this may be extended to 71 days, depending on immigration status.

[Source: House of Lords, and House of Commons Library, 5 November; *Law & Religion UK*, 2 December]

## PROPERTY & PLANNING

### Community Businesses within places of worship: request for information

**For action**

The Historic Religious Buildings Alliance is working with The Plunkett Foundation and a number of other organisations to look at how places of worship can accommodate community businesses that sustain and improve services for local residents – as well opening the doors of much valued buildings in the process. There are some good examples of such enterprises trading in places of worship already, including shops, cafes and accommodation.

The HRBA's ambition is to see more communities and places of worship taking up this opportunity and will keep you updated with this project as it progresses and it would be grateful for details of any examples you know of where an existing community business is located within a place of worship or where a community business is directly supported by a place of worship, even if it operates from another premises.

For this purpose, the HRBA is defining 'a community business' as a community enterprise that is owned and run democratically by members of the community, on behalf of the community. You can read more here: <https://plunkett.co.uk/inspire/>. The Plunkett Foundation has recently published a report on community shops and pubs 'A Better form of Business': <https://plunkett.co.uk/community-pubs-and-shops-booming-against-backdrop-of-closures/>.

*Please send responses to [HRB@theheritagealliance.org.uk](mailto:HRB@theheritagealliance.org.uk), not to us.*

[Source: HRBA, 1 December]

### Law Commission update on enfranchisement regime

**For information**

The Law Commission has [updated](#) its website with information regarding its enfranchisement regime review. The Commission's website states: 'As a result of restrictions on the Commission's activities during the pre-election period we are unable to publish our report on valuation in enfranchisement in November 2019. **We will provide updates on the timeline for publication after the election.** We aim to publish our final recommendations for reforming all other aspects of the enfranchisement regime in February 2020 [emphasis added].'

[Source: Law Commission, 19 November]

## SAFEGUARDING

### Government response to IICSA recommendation on abuse of trust

The Ministry of Justice has [published](#) the Government's response to recommendation 3 of the Independent Inquiry into Child Sexual Abuse (IICSA) report of the 9 May 2019 *Anglican Church Case Studies: the Diocese of Chichester and the response to allegations against Peter Ball*.

Recommendation 3 suggests that Section 21 of the Sexual Offences Act 2003 should be amended so as to include clergy within the definition of a position of trust. This would criminalise (under ss.16-20) sexual activity between a cleric and a person aged 16 to 18 over whom the cleric exercises pastoral authority, involving the abuse of a position of trust.

[Source: Ministry of Justice, 4 November]

## SCOTLAND

### Scottish Government: permitted development rights

For information

The Scottish Government has [published](#) a consultation – closing **28 January 2020** – on the proposed Work Programme and associated Sustainability Appraisal report for reviewing and extending permitted development rights (PDR) under the [Town and Country Planning \(General Permitted Development\) \(Scotland\) Order 1992](#). The Scottish Government has identified 16 broad categories of development types for further consideration of potential changes to PDR:

- Digital communications infrastructure
- Non-domestic solar energy
- Development relating to active travel
- Householder developments
- Town centre changes of use
- District heating and supporting infrastructure
- Habitat pond creation
- Electric vehicle charging infrastructure
- Agricultural development
- Energy storage (nondomestic)
- Peatland restoration
- Defibrillator cabinets
- Micro-renewables (domestic and non-domestic)
- Energy storage (domestic)
- Allotments and community growing schemes
- Snow sports.

[Source: Scottish Government, 5 November]

### Scottish non-domestic rates relief statistics

For information

The Scottish Government has [published](#) statistics on non-domestic rates relief.

Three types of relief – Small Business Bonus Scheme (SBBS), Charity, and Empty Property – accounted for 92% of all reliefs awarded, and 79% of the total value of reliefs. Of the total value of reliefs awarded, 68% was accounted for by either SBBS (36%) or Charity relief (31%).

Additionally, 71% of all reliefs awarded were for SBBS, and 12% were for Charity relief. SBBS relief had the highest value in both years, with a total value of £266.5m in 2019, followed by Charity relief (£232.4m) and Empty Property relief (£82.5m).

CLAS members may be interested to know that religious exemptions accounted for 2.8% of all reliefs awarded (a total of 4,760 – down on last year), with an overall relief value of £27.6m.

[Source: Scottish Government, 31 October]

## TAXATION

### Buildings and construction (VAT Notice 708)

For information

HMRC has [updated](#) guidance on buildings and construction (VAT Notice 708) sections 9.3.1 and 10.3, to clarify the meaning of a protected building. The guidance explains how to work out the VAT on building work and materials.

[Source: HMRC, 6 November]

## WALES

### National Infrastructure Commission for Wales: call for evidence

For information

The Welsh Government has [published](#) a call for evidence by the National Infrastructure Commission. The call for evidence focuses on ten key issues relating to digital communications, energy and transport.

[Source: Welsh Government, 27 November]