

CLAS CIRCULAR 2022/17 (19 December 2022)

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.

EMPLOYMENT.....	3
Employment Tribunal rulings on gender-critical beliefs in the workplace.....	3
Making flexible working the default.....	3
FAITH & SOCIETY	5
Church of England Parochial Fees 2023.....	5
Places of worship registered for weddings.....	5
ODDS & ENDS	6
The Protect Duty.....	6
International reporting standards for not-for-profits	7
PROPERTY & PLANNING	8
Direction on the rent standard	8
Fire safety remediation pilot - medium-rise buildings	8
Improving boiler standards and efficiency	9
Leasehold reform in England and Wales: what's happening and when?.....	9
Survey on Non-Domestic Alternative Fuel Payment support.....	9
SCOTLAND.....	11
Addressing racial inequality in the workplace.....	11
Modernising Scots law on Trusts	11
TAXATION	13
Buildings and construction (VAT Notice 708).....	13

WALES	14
Just Transition to Net Zero Wales.....	14
Non-domestic rates support for 2023-24.....	14
Renting Homes (Wales) Act 2016: commencement.....	14

EMPLOYMENT

Employment Tribunal rulings on gender-critical beliefs in the workplace

For information

The House of Commons Library has [published](#) a very helpful briefing on Employment Tribunal rulings on gender-critical beliefs in the workplace. The briefing discusses three cases considering gender-critical beliefs that have established two important points for employers:

- *M Forstater v CGD Europe and others (England and Wales : Religion or Belief Discrimination)* [\[2022\] UKET 2200909/2019](#).
- *Ms A Bailey v Stonewall Equality Ltd & Ors (England and Wales : Sex Discrimination, Sexual Orientation Discrimination/Transsexualism, Victimisation Discrimination)* [\[2022\] UKET 2202172/2020](#).
- *Mackereth v Department for Work and Pensions & Anor (Religion or belief discrimination - sections 4 and 10 Equality Act 2010 - direct discrimination - harassment - indirect discrimination)* [\[2022\] EAT 99](#).

[Source: House of Commons Library, 7 December]

Making flexible working the default

For information

BEIS has [confirmed](#) the Government's intention to introduce changes to the right to request flexible working legislation. The response states that the Government will take forward the following measures:

- make the right to request flexible working a day one right;
- introduce a new requirement for employer to consult with the employee when they intend to reject their flexible working request;
- allow two statutory requests in any 12-month period (rather than the current one);
- require a decision period of two months in respect of a statutory flexible working request (rather than the current three);

- remove the existing requirement that the employee must explain what effect, if any, the change applied for would have on the employer and how that effect might be dealt with; and
- develop guidance to raise awareness and understanding of how to make and administer temporary requests for flexible working.

The Government will also launch a call for evidence better to understand how informal flexible working operates in practice.

[Source: BEIS, 5 December]

FAITH & SOCIETY

Church of England Parochial Fees 2023

For information

The Church of England's Tables of Parochial Fees from 1 January 2023, prepared by the Archbishops' Council are now available on the C of E website at [Life events parochial fees and guidance](#) in the form of an [A3 table](#) and an [A4 table](#).

[Source: Church of England, 8 December]

Places of worship registered for weddings

For information **and possibly for action**

HM Passport Office has [updated its list of places of worship recorded by the Registrar General](#) as registered under the provisions of the Places of Worship Registration Act 1855. The list includes those places of worship registered for weddings under the Marriage Act, both for the marriages of opposite-sex and of same-sex couples. (The list does not include churches and chapels of the Church of England or the Church in Wales premises.)

It should be remembered that **registration is not an automatic process**. The GRO needs to be informed when a new place of worship is opened in order to register it. We suggest that any member denomination that has opened a new place of worship in the last twelve months or so should check that it is on the list.

In a similar vein, the House of Commons Library has published a [briefing on wedding venues](#) in England and Wales. The briefing paper addresses where couples may get married in England and Wales, with a very short summary of the position in Scotland (which is quite different). It also deals with the Law Commission's recommendations for the reform of weddings law.

[Source: HM Passport Office, 7 December: House of Commons Library, 30 November]

ODDS & ENDS

The Protect Duty

For information

The Home Office has [announced](#) some further details (Factsheet [here](#)) about the Protect Duty that would require venues to take steps to improve public safety, with measures dependent on the size of the venue and the activity taking place.

Premises will fall within the scope of the Duty where “qualifying activities” take place. This will include locations for purposes such as entertainment and leisure, retail, food and drink, museums and galleries, sports grounds, public areas of local and central Government buildings (e.g., town halls), visitor attractions, temporary events, Places of Worship, health, and education. It is proposed that the Duty will apply to eligible locations which are either: a building (including collections of buildings used for the same purposes, e.g., a campus); or location/event (including a temporary event) that has a defined boundary, allowing capacity to be known. Eligible locations whose maximum occupancy meets the above specified thresholds will be then drawn into the relevant tier. Therefore, premises will be drawn into the scope of the Duty if they meet the following three tests:

- That the premises is an eligible one – i.e., building or event with a defined boundary.
- That a qualifying activity takes place at the location.
- That the maximum occupancy of the premises meets a specified threshold – either 100+ or 800+.

The Bill will impose a duty on the owners and operators of certain locations to increase their preparedness for and protection from a terrorist attack by requiring them to take proportionate steps, depending on the size and nature of the activities that take place there. Proportionality is a fundamental consideration for this legislation. It will therefore establish a tiered model, linked to the activity that takes place at a location and its capacity:

- A standard tier will drive “good preparedness outcomes”. Duty holders will be required to undertake “simple yet effective activities to improve protective security and preparedness”. This will apply to qualifying locations with a maximum capacity of over 100. This could include larger retail stores, bars, or restaurants.
- An enhanced tier will see additional requirements placed on high-capacity locations in recognition of the potential catastrophic consequences of a successful attack. This will apply to locations with a capacity of over 800 people at any time. Locations with a capacity of over 800 people at any time, will additionally be required to undertake a risk assessment to inform

the development and implementation of a thorough security plan. Subsequent measures could include developing a vigilance and security culture, implementation of physical measures like CCTV or new systems and processes to enable better consideration of security.

Government intended for places of worship to receive bespoke treatment under the duty, reflecting the existing range of mitigation activities delivered and funded by Government to reduce their vulnerability to terrorism and hate crime. **All places of worship will be placed within the standard tier of the Duty regardless of their capacity, barring a small cohort across all faiths that charge tourists for entry and/or hire out the site for large commercial events.** Charities, community groups and social enterprises own and operate a broad range of locations (museums, national trust sites, sizeable public venues e.g., the royal opera house and national theatre). Some organisations also hire out premises to others for various purposes. As most locations owned or operated by charitable organisations, community groups and social enterprises will likely fall below the 800+ capacity threshold, Government considers the requirements to be proportionate.

The Government will establish an inspection and enforcement regime, promoting compliance and positive cultural change and issuing credible and fair sanctions for serious breaches. Dedicated statutory guidance and bespoke support will be provided by the Government to ensure those in scope can effectively discharge their responsibilities, with small venues also able to benefit from this and take voluntary action. Expert advice, training and guidance is also already available on the online protective security hub, ProtectUK.

The legislation will apply across the whole of the United Kingdom and the Government will publish a draft bill in the early Spring.

[Source: Home Office, 19 December]

International reporting standards for not-for-profits

For information

The first-ever draft guidance on international reporting standards for not-profit organisations has been published as part of a project to develop global rules for charity accounting. Humentum and the Chartered Institute of Public Finance and Accountancy (CIPFA) announced the release of the International Non-Profit Accounting Guidance, Exposure Draft 1 (INPAG ED1) at the World Congress of Accountants in India earlier this week. A [consultation](#) on the first part of the draft guidance is open until 31 March 2023.

[Source: Civil Society, 24 November]

PROPERTY & PLANNING

Direction on the rent standard

For information

The UK Government has [published](#) Directions that require the Regulator of Social Housing to set a rent standard for registered providers of social housing. The Direction on the rent standard 2023 now requires the regulator of social housing to set a rent standard for registered providers of social housing with effect from 1 April 2023. The Direction on the rent standard 2023 will operate alongside the Direction on the rent standard 2019. They are accompanied by a new policy statement which sets out the government's policy on rents for social housing from 1 April 2023 onwards. This replaces the policy statement on rents that was issued in February 2019.

[Source: DLUHC, 14 December]

Fire safety remediation pilot - medium-rise buildings

For information **and possibly for action**

DLUHC has [announced](#) that an initial pilot for the medium-rise scheme (11-18m) will provide funding for the remediation or mitigation of the fire safety risks linked to unsafe external wall systems on medium-rise buildings where a responsible developer cannot be identified.

You may be able to apply for a grant in the next few months to address external wall system related life-safety fire risks on your building if:

- It is 11 to 18 metres high.
- It is a residential or mixed-use building with at least one flat with a long lease.
- You are responsible for the building's external repairs and maintenance.

[Source: DLUHC, 30 November]

Improving boiler standards and efficiency

For information and possibly for action

BEIS has [published](#) a consultation – closing 21 March – on on domestic gas boiler efficiency, hydrogen-ready boilers and hybrid heating systems. The consultation seeks views on a range of topics, including:

- proposals to improve boiler and heating system efficiency through improvements to minimum standards
- proposals to mandate that from 2026 all newly-installed gas boilers are 'hydrogen-ready'
- the potential role of gas boiler-electric heat pump hybrids in heat decarbonisation in the 2020s and 2030s

These proposals aim to reduce domestic gas consumption, thereby lowering consumer bills and carbon emissions, improving energy security, and preparing for the transition to low-carbon heating.

[Source: BEIS, 13 December]

Leasehold reform in England and Wales: what's happening and when?

For information

The House of Commons Library has [published](#) a briefing titled "Leasehold reform in England and Wales: What's happening and when?" The Government is committed to reform leasehold tenure to make buying/extending lease agreements "easier, faster, fairer and cheaper". The briefing explains what is known about the reforms and timetable.

[Source: House of Commons Library, 6 December]

Survey on Non-Domestic Alternative Fuel Payment support

For action

A reminder that BEIS is seeking feedback from organisations that are responsible for non-domestic buildings such as business, agriculture, schools, charities and not-for-profit organisations which are

not connected to the mains gas grid and use alternative fuels, such as heating oil. This research is aiming to provide information from users to help shape the design of the support scheme.

BEIS has created a user survey ([Microsoft Forms](#)) to collect this information. The survey should take about 5 minutes to complete. Responses from members will be “extremely helpful” to allow BEIS to ensure that this support meets the needs of those it is intended for.

[Source: BEIS, 16 December]

SCOTLAND

Addressing racial inequality in the workplace

For information **and possibly for action**

The Scottish Government has [launched](#) a new strategy to make Scotland's workplaces more "diverse, fair and inclusive". The strategy will support employers:

- to improve their collection of workforce data, including reporting their pay gap, and take action on the findings;
- to take an anti-racist approach to remove barriers in their recruitment, retention and progression practices to improve representation of workers; and
- to drive cultural, attitudinal and organisational change through building an understanding of the impact of institutional racism and the processes and practices in an organisation that lead to the unfair treatment of people on the basis of race.

[Source: Scottish Government, 9 December]

Modernising Scots law on Trusts

For information

The Scottish Government has [announced](#) the introduction of a new Bill that will consolidate, reform and modernise the law of trusts in Scotland. The proposed reforms in the [Trusts and Succession \(Scotland\) Bill](#) will focus on the management of trusts, including the powers and duties of trustees, powers of the court in trust matters, and trust administration. It would also amend the order in which certain family members inherit a person's money or property where they die without leaving a will. Regarding *charitable* trusts, the [explanatory notes](#) state that: "The Bill provisions on trusts replace all existing trust legislation, other than that dealing specifically with charitable and public trusts. Charitable trusts are governed by the Charities and Trustee Investment (Scotland) Act 2005, though provisions in the Bill cover general aspects of trust law that apply equally to public and charitable trusts and to private trusts; so to that extent the Bill is relevant to charitable and public trusts. While the Bill replaces all existing trust legislation, it does not provide a comprehensive statutory statement of trust law in Scotland. The Scots common law of trusts, where it is not altered by provision made in the Bill, will remain operative and will apply alongside the Bill provisions."

[Source: Scottish Government, 23 November]

TAXATION

Buildings and construction (VAT Notice 708)

For information

HMRC has [updated](#) a VAT Notice 708, regarding how to work out the VAT on building work and materials if you are a contractor, subcontractor or developer. Section 14.7.4 has been amended to show the updated conditions where buildings fall into the category of village halls and similar buildings.

[Source: HMRC, 24 November]

WALES

Just Transition to Net Zero Wales

For information

The Welsh Government has [published](#) a consultation – closing 15 March 2023 – on a “just transition to Net Zero Wales”. The consultation seeks views to inform the development of Wales’s decarbonisation pathway to Net Zero. It will also provide an initial step towards potentially developing a Just Transition Framework for Wales.

[Source: Welsh Government, 6 December]

Non-domestic rates support for 2023-24

For information

The Welsh Government has [announced](#) non-domestic rates support for 2023-24. It has opted to freeze the non-domestic rates multiplier for 2023-24 and ratepayers whose liability is increasing by more than £300, as a consequence of revaluation, will receive transitional relief.

Any increase in non-domestic rates liability as a result of revaluation will be phased in over two years. A ratepayer will pay 33% of their additional liability in the first year (2023-24) and 66% in the second year (2024-25), before reaching their full liability in the third year (2025-26). In addition, the Welsh Government will also be providing over £140m of non-domestic rates relief for retail, leisure and hospitality businesses in Wales. Eligible ratepayers will receive 75% non-domestic rates relief for the duration of 2023-24.

[Source: Welsh Government, 12 December]

Renting Homes (Wales) Act 2016: commencement

For information **and possibly for action**

The [Renting Homes \(Wales\) Act 2016](#) came into force on 1 December. Some of the main changes that it introduces are as follows:

- All landlords are required to provide a written copy of the “occupation contract” to the tenant (this sets out the rights and responsibilities of both parties).
- “No-fault” notice periods increase from two months to six months for new tenants, and for existing tenants from Thursday, 1 June 2023. It will no longer be possible to issue a notice in the first six months, meaning that all contract-holders will have a minimum 12 months of security at the start of their tenancy.
- A strengthened duty on landlords, to ensure that the property they rent is fit for human habitation including the installation of smoke and carbon monoxide alarms and regular electrical safety testing.
- Addressing the practice of “retaliatory eviction” (whereby a landlord serves notice on a tenant because they ask for repairs or complain about poor conditions).
- The introduction of a consistent approach across sectors to eviction where antisocial behaviour and domestic violence occur.

[Source: Welsh Government, 1 December]

AND A HAPPY CHRISTMAS TO ALL OUR READERS!