

CLAS CIRCULAR

2017/10 (10 April 2017)

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CHARITIES & CHARITY LAW

Data protection: ICO fines more charities for breaching Data Protection Act 1998

For information and possibly for action

The Information Commissioner's Office has [fined](#) eleven charities a total of £138,000 for breaches of the Data Protection Act. This is in addition to the fines imposed on the British Heart Foundation and RSPCA in December, of £25,000 and £18,000 respectively. The charities and the amounts each has been fined are as follows:

- International Fund for Animal Welfare - £18,000
- Cancer Support UK - £16,000
- Cancer Research UK - £16,000
- Guide Dogs for the Blind Association - £15,000
- Macmillan Cancer Support - £14,000
- The Royal British Legion - £12,000
- The NSPCC - £12,000
- Great Ormond Street Hospital Children's Charity - £11,000
- WWF-UK - £9,000
- Battersea Dogs and Cats Home - £9,000
- Oxfam - £6,000.

The ICO said that some of the charities had been fined because they had "screened millions of donors so they could target them for additional funds," while others had "traced and targeted new or lapsed donors by piecing together personal information obtained from other sources. And some traded personal details with other charities creating a large pool of donor data for sale." Evidently, the ICO is getting much more interventionist about breaches of data protection – and will no doubt become even more so when the EU General Data Protection Regulation comes into force next year. Selling on private data is particularly reprehensible: how could anyone have imagined that it could be lawful?

Following this announcement, the Charity Commission has also [opened](#) compliance cases against all eleven charities and will be assessing whether the trustees of each charity have acted in accordance with their duties under charity law. The Commission's [guidance](#) to

trustees on fundraising makes it clear that trustees need to understand and comply with the relevant data protection laws and requirements.

The message of the latest round of fines is that data protection is not simply yet another tiresome bit of regulation; and we cannot emphasise too strongly how important it is for members to have a systematic, GDPR-compliant data protection policy in place and to make sure that it is adhered to. The reputational risk of being caught out in non-compliance is enormous – besides which, you wouldn't like someone to misuse your own personal data, would you.

[Source: ICO – 5 April]

HMRC updated guidance on GASDS

For action: please read

HMRC has updated its guidance on Gift Aid to reflect changes in the Gift Aid Small Donations Scheme: see [Claiming Gift Aid as a charity or CASC](#). It is now possible to claim on contactless card donations of £20 or less collected on or after 6 April 2017. The claims limit has also been increased to £2,000 for the new tax year, up from £1,250 for earlier years.

[Source: HMRC – 6 April]

Jehovah's Witnesses fail to block New Moston inquiry

For information

We have previously mentioned attempts by the Jehovah's Witnesses to block the Charity Commission's inquiry under s 46 Charities Act 2011 into the state of affairs at its New Moston congregation. In 2012, the Commission learned that a former trustee at New Moston, Mr Jonathan Rose, was awaiting trial for sexual offences against children – who, at the time of the offences some ten years previously, had been associated with the congregation. He was convicted and imprisoned, but it later came to light that it had been alleged during his trial that the New Moston elders had known of similar complaints in 1995 that had not been disclosed to the Commission. Worse, following his release from prison in 2014, he had been

accepted back into the Congregation and there had been a “disfellowshipping hearing” which his victims – now adults – had been forced to attend and answer questions (including from Rose himself). The Commission was informed that the hearing’s purpose was to allow the elders/charity trustees to decide whether Rose could remain a member of the Congregation.

In various subsequent proceedings in the Court of Appeal and the First-Tier Tribunal, the New Moston congregation sought – unsuccessfully - to quash the inquiry. In *Tayo & v Charity Commission for England and Wales* [\[2017\] UKUT 134 \(TCC\)](#), the trustees of Manchester New Moston Congregation again lost their latest appeal against the First Tier Tribunal’s decision.

[Source: BAILII – 4 April]

ODDS & ENDS

Currency old and new

For information and possibly for action

Paper £5 notes are to be [withdrawn](#) from circulation on **5 May 2017**. This means that the only £5 note that will be legal tender after this date will be the polymer £5 note featuring Sir Winston Churchill, which was introduced in September 2016.

Paper £5 notes, which features a portrait of Elizabeth Fry, will continue to be able to be spent until 5 May, after which they will have to be exchanged at the Bank of England, in person or by post.

It is also worth noting that the [new twelve-sided £1 coin](#) came into circulation on 28 March 2017. Old coins will remain legal tender until **15 October 2017**, after which time they will no longer be accepted by businesses but can be exchanged at the bank.

[Source: Bank of England – 5 April]

PROPERTY

Heritage Lottery Fund to end Grants for Places of Worship scheme

For information and possibly for action

The *Financial Times* reported on 1 April that the Heritage Lottery Fund is to end its £25m Grants for Places of Worship fund in 2018: grants for the maintenance of church buildings will instead come out of its overall heritage programme. The HLF, part of the Department for Culture, Media and Sport, told the *FT* that church organisations would still be able to apply for funding for repairs and it would target a similar amount of spending for churches and other religious buildings.

The last deadline for new project submissions will be **August** for decisions in November / December. For 2018, churches will need to compete with other heritage and community projects through the 'Our Heritage' (grants £10,000 - £100,000) or 'Heritage Grants' (over £100,000) programmes.

The rationale behind the ending of the scheme is that Lottery income is falling, with HLF budgets scheduled to shrink considerably in 2017-18; however, reaction has been understandably negative. According to the *FT* report, Becky Clark, Director of the Church of England's Cathedral and Church Buildings Division, pointed out that previous funding levels would no longer be guaranteed and that, because of the demands of the application process, the change would hit under-resourced churches with little or no community particularly hard, especially those in poorer inner-city areas and remote rural locations. Eddie Tulasiewicz, Head of Communications and Public Affairs at the National Churches Trust, pointed out that application to the Grants for Places of Worship fund had been relatively straightforward but, under the general schemes, churches would be in competition with everybody else: "A church with a congregation of, say, ten people just doesn't have that resource. So this change is really going to penalise that sector."

Our initial assumption was that the decision was final; however, we understand that the Church of England, the National Churches Trust and others will be lobbying to try and reverse the decision. Much of the argument is that the decision has been taken outside the HLF's next Strategic Framework review (when the programmes have previously been amended or removed) and, in England, in advance of the Sustainability Review – and without any consultation.

Sara Crofts, HLF Head of Historic Environment, has posted an explanation of the change: [A new approach to supporting places of worship](#) and there are now a series of [FAQs](#) on the HLF website. Members seeking grant funding are urged to consult it. There is also a helpful [explainer](#) on the website of the Historic Religious Buildings Alliance.

[Source: *Financial Times* – 1 April – and thanks to Gethin Rhys of *Cytûn* and Alex Glanville of the Church in Wales]

TAXATION

Tax changes from 6 April 2017

For information

The following tax changes relevant to charities came into operation on 6 April 2017:

- new [Off-payroll working rules](#) for public sector employers;
- [Apprenticeship Levy](#) payments, which will be collected by HMRC via PAYE;
- provisions (mentioned above) in the [Small Charitable Donations and Childcare Payments Act 2017](#);
- provisions (also mentioned above) in the [Donations to Charity \(Gift Aid Declarations\) Regulations 2016](#) affecting Gift Aid and intermediaries;
- the enlargement of [Social Investment Tax Relief](#);
- limits on benefits-in-kind provided under [salary-sacrifice schemes](#); and
- a [new penalty](#) on those individuals or entities who enable the use of tax avoidance arrangements which HMRC later defeats ('enablers').

On the associated issue of the taxation of employer-provided accommodation, the new call for evidence was expected in March: we are still waiting for it.

[Source: HMRC – 6 April]

Minister of religion tax form for 2017

For information

HMRC has published the latest edition of its [tax form](#) for Ministers of Religion, relating to the tax year 2016-17.

[Source: HMRC – 6 April]