

CLAS CIRCULAR

2017/14 (19 May 2017)

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GENERAL ELECTION

Manifestos

For information

The three major UK parties have now published their Manifestos. There are very few mentions of 'religion' in any of them; however, the following points may possibly be of interest to CLAS members.

The [Conservative Party](#) will:

- Increase the personal tax allowance to £12,500 and the higher rate to £50,000.
- Hold the present level of VAT.
- Reduce corporation tax to 17% by 2020.
- Implement a full review of the business rates system to make sure it is up to date for a world in which people increasingly shop online.
- Make a commitment to simplifying the tax system.
- Take action against tax evasion to close the tax gap, including by tougher regulation of tax advisory firms.
- Develop a digital charter, working with industry and charities to establish a new framework that balances freedom with protection for users, and offers opportunities alongside obligations for businesses and platforms.
- Continue with the £1.9 billion investment in cyber security.
- Spend £600 million by 2020 with the intention that almost every car and van be zero-emission by 2050.
- Ensure that the UK remains a place of sanctuary for refugees and asylum seekers, establishing schemes to help individuals, charities, faith groups, churches and businesses to provide housing and other support for refugees.
- Require new faith schools to prove that parents of other faiths or none would send their children to the school.

On human rights, the Manifesto states that a Conservative Government 'will not bring the European Union's Charter of Fundamental Rights into UK law' – though it should be

remembered that the EU Charter applies to national authorities only in circumstances in which EU law is engaged.

More important, it includes a commitment not to

‘repeal or replace the Human Rights Act while the process of Brexit is underway but we will consider our human rights legal framework when the process of leaving the EU concludes. We will remain signatories to the European Convention on Human Rights for the duration of the next parliament’.

The [Labour Party](#) will:

- Repeal the Transparency of Lobbying, Non-party Campaigning and Trade Union Administration Act 2014.
- Give local government extra funding next year and initiate a review into reforming council tax and business rates, as well as considering new options such as a land value tax.
- Raise the Minimum Wage to the level of the Living Wage (expected to be at least £10 per hour by 2020) for all workers aged 18 or over.
- Make a commitment that there will be no rise in income tax for those earning below £80,000 a year and no increases in personal NICs or the rate of VAT.
- Undertake not to extend VAT to food, children’s clothes, books and newspapers and public transport fares.
- Increase corporation tax.
- Give HMRC further resources to tackle tax evasion and aggressive avoidance.
- Reduce the voting age to 16.

On Brexit, a Labour Government would repudiate the present Government’s White Paper and the proposal for a Great Repeal Bill. Its negotiating priorities would be to retain the benefits of the Single Market and the Customs Union and to ensure there is no detrimental change to workers’ rights, equality law, consumer rights or environmental protections.

The [Liberal Democrats](#) will:

- Introduce opposite-sex civil partnerships.
- Implement a 1p rise on the basic, higher and additional rates of Income Tax to generate £6 billion in additional revenue for the NHS.

- Aim to raise the employee National Insurance threshold to match the Income Tax threshold while protecting the ability of low earners to accrue pension and benefit entitlements.
- Reverse cuts to Corporation Capital Gains Tax, Capital Gains Tax extended relief and the Marriage Allowance and reverse the rise in the Inheritance Tax threshold.
- Commit to reviewing the Business Rates system towards reforms that promote the digital economy, smaller businesses and high streets.
- Consider introducing a Land Value Tax.
- Support social investment, ensuring that charities and social enterprises can access the support and finance they need to strengthen their governance and deliver innovative, sustainable solutions to challenges in their communities

On Brexit, the Liberal Democrats have made a commitment to a second Brexit referendum once negotiations are concluded.

[Source: CLAS summary – 18 May]

CHARITIES & CHARITY LAW

Charity Commission warning on Ransomware threat

For information and possibly for action

The Charity Commission has published an [alert](#) to charities following a recent Ransomware cyber-attack, which affected over 200,000 organisations in 150 countries, including the NHS. The vulnerabilities exploited by the hackers are the same for charities as they are for individuals, public or private sector organisations.

In particular, the Commission has suggested the following steps:

- install system updates on all devices as soon as they become available
- install anti-virus software on all devices and keep it updated
- create regular backups of your important/business critical files to a device that is not left connected to your network, as any malware infection could be spread to that too
- do not meet any stated demands and pay a ransom - this may be requested via Bitcoins (a form of digital or 'crypto' currency)

If a charity thinks it has fallen victim to cyber-attack, it should report it to [Action Fraud](#) by calling 0300 123 2040. Trustees are advised to also [report](#) suspected or known fraud incidents to the Commission. Serious incident reporting helps the Commission to gauge the volume and impact of incidents within charities and to understand the risks facing the sector as a whole.

[Source: Charity Commission – 15 May]

Charity Commission class inquiry into “double defaulters”

For information

The Charity Commission [opened](#) a statutory inquiry into Bethel United Church of Jesus Christ Apostolic UK on 22 March 2017. In 2016, the charity was included in the Commission's class inquiry into “double defaulters” – charities that had failed to comply with their statutory obligations to submit their annual accounts for two or more financial years. Although the

charity submitted its outstanding accounting information to the class inquiry last year, it has again failed to comply with its legal obligations to file accounts and the accounts for the year ending March 2016 are now overdue.

As a result of its engagement, the Commission has identified further serious regulatory concerns regarding the charity's financial controls and governance, which will be examined as a part of the statutory inquiry, including:

- the extent to which the trustees are complying with their legal duties in respect of their administration, governance and management of the charity
- the charity's financial management including its financial controls and the extent to which the charity's interests and property have been adequately protected
- the extent to which the trustees have complied with previously issued regulatory guidance

The charity was also subject to a [compliance case](#) in 2014 after a significant amount of funds had been misappropriated by a trustee, making this the third time in as many years that the Commission has investigated this charity.

The Charity Commission has also published a [review](#) detailing wider findings from the class inquiry. The review looked at accounts filed by 27 charities in the inquiry and found that:

- six charities had closed and failed to tell the Commission
- six charities had filed their accounts with Companies House but failed to submit them to the Commission
- two charities had submitted accounts without the correct external scrutiny and were instructed to re-submit their accounts
- in the 2015-16 class inquiry, evidence was uncovered of poor financial management and misuse of charity funds in 3 charities and standalone investigations were opened

The review found that of the majority of accounts submitted were of good and acceptable quality and those who used the Commission's accounts templates were more likely to have good quality accounts. However, it was clear that not all trustees understood the external scrutiny requirements.

[Source: Charity Commission – 3 & 10 May]

FAITH & SOCIETY

Religious charities and social action

For information

Religion and social affairs think-tank Theos has published a new report [Doing good better: the case for faith-based social innovation](#), which suggests that faith-based charities are struggling to tap in to new sources of funding for social innovation projects and should do more support social entrepreneurs within the sector.

Funding is available to faith-based organisations from specialist grantmakers and Government departments' innovation funds but, says Theos, few faith-based charities are engaging with these funding sources. This, it suggests, is out of step with the fact that churches and religious institutions already have a strong track record of helping those in need; and it argues that social innovation should play a key role in that agenda, rather than being an optional extra.

However, the report also suggests that some religious social change agents have found themselves being "regarded with suspicion" by secular grant funders and suggests ways to try and combat this. One of the problems, of course – which we have highlighted on more than one occasion – is the fact that excepted charities do not have registration numbers, and some grantmakers do not seem to understand why that should be.

[Source: Theos – 3 May]

NORTHERN IRELAND

Northern Irish charity register

For information

Four-in-ten registered Northern Ireland charities are at risk of possible regulatory action after failing to keep their details up-to-date with the Charity Commission for Northern Ireland. The Commission has warned that only 62% of registered charities have accessed their online record on the Register of Charities in the past 11 months – a figure which it finds “suspiciously low”. That means that up to 18,000 charity trustees may be missing important messages from CCNI – and they may also be failing in their duties to be transparent and provide accurate information to inform the public about their work. A Commission [report](#) published in March outlined how failure to update details had led to one charity failing to submit its annual accounts and going into default and another having a concern raised about its management.

Trustees should remember that, though the Commission has contented itself, so far, with issuing formal guidance on those occasions, it does have the power to issue orders and take further legal action if it regards matters as more serious.

[Source: CCNI – 9 May]

Serious incident reporting - consultation

CCNI has launched a [consultation](#) on its draft [Serious incident reporting](#) guidance, which aims to set out how charity trustees can identify serious incidents and how they should be reported to the Commission. A serious incident is an adverse event, *whether actual or alleged*, which results in or risks a significant loss of charity money or assets, damage to charity property or harm to the work of the charity, its beneficiaries or reputation. All charities must report serious incidents to the Commission when they occur or in their annual report.

This is not a matter on which CLAS can usefully make a submission; but members in Northern Ireland may wish to do so individually.

Responses should be sent using the [online survey](#) or via [email](#), before **21 July**.

[Source: CCNI – 18 May]

SCOTLAND

New OSCR factsheet on reserves

For information

OSCR has published a new [guidance factsheet about reserves](#). Reserves are the part of a charity's unrestricted funds that is freely available to spend on any of the charity's purposes.

The factsheet is aimed at charity trustees of small to medium sized charities looking to produce or update a reserves policy. It covers:

- What is meant by the term 'reserves'.
- The charity trustee's responsibility to consider whether their charity needs reserves.
- Key points to consider when developing a reserves policy.

Having a reserves policy is not a legal requirement but it can help charities to meet their legal responsibilities and charity trustees to fulfil their duties.

[Source: OSCR – 11 May]

OSCR guidance on completing online annual returns

OSCR has published [guidance](#) on completing the online annual return. It is a legal requirement for Scottish charities to send OSCR their reports and accounts. Scottish charities have nine months to submit their full documentation after their accounting year end using OSCR Online.

The guidance covers:

- logging in to OSCR online;
- the information you need to provide for each question; and
- how to upload your required documentation.

[Source: OSCR – 11 May]

TAXATION

VAT on e-publications

For information

The European Parliament's Economic and Monetary Affairs Committee (ECON) has [voted in favour](#) of accepting a European Commission proposal to enable Member States to charge a reduced rate of VAT on e-books, which would bring them into line with VAT levied on printed matter.

Currently, e-books have to be taxed at an EU minimum standard rate of 15%, whereas Member States are free to charge the reduced rate of at least 5% on printed publications - the UK applies a zero-rating.

The proposal will now be voted on by the European Parliament as a whole in a plenary session on 31 May or 1 June.

[Source: European Parliament – 3 May]

Decision given in Brockenhurst College VAT case

For information

The Court of Justice of the European Union (CJEU) has produced a positive decision in the case of [Brockenhurst College \(C-699/15\)](#), which relates to the VAT treatment of certain ancillary supplies made by an education provider.

The case is a UK referral from the Court of Appeal asking whether supplies of restaurant and entertainment services made by an educational establishment to paying members of the public (who are not recipients of the principal supply of education) are 'closely related' to the provision of education and, therefore, exempt from VAT under EU law (Article 132(1)(i) of the VAT Directive) in circumstances where making those supplies is facilitated by the students (who are the recipients of the principal supply of education) in the course of their education and as an essential part of their education.

The First Tier and Upper Tribunals had accepted that these supplies were exempt as 'closely related' supplies, but nonetheless the Court of Appeal referred the point to the CJEU for a

determination. The Advocate General had then caused concern in December last year by giving the opinion that the supplies were taxable. However, the CJEU has upheld both earlier decisions, thereby agreeing that such charges are exempt from VAT.

[Source: CJEU – 4 May]