

CLAS CIRCULAR

2017/24 (9 October 2017)

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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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BREXIT

The Prime Minister's Florence speech: the main points

For information

Speaking on 22 September in Florence, the Prime Minister set out the following criteria for progress on the United Kingdom's departure from the EU:

- The UK wants to be the EU's 'strongest friend and partner'.
- The UK has always – and will always – stand with its friends and allies in defence of liberty, democracy, human rights and the rule of law: 'Our decision to leave the European Union is in no way a repudiation of this longstanding commitment. We may be leaving the European Union, but we are not leaving Europe.'
- The electorate made the choice to leave: but 'It does not mean we are no longer a proud member of the family of European nations. And it does not mean we are turning our back on Europe; or worse that we do not wish the EU to succeed. The success of the EU is profoundly in our national interest and that of the wider world.'
- While the UK's departure from the EU is inevitably a difficult process, 'it is in all of our interests for our negotiations to succeed. If we were to fail, or be divided, the only beneficiaries would be those who reject our values and oppose our interests.'
- 'to all EU citizens who have made their lives in our country – we want you to stay; we value you; and we thank you for your contribution to our national life – and it has been, and remains, one of my first goals in this negotiation to ensure that you can carry on living your lives as before. I am clear that the guarantee I am giving on your rights is real.'
- 'there are concerns that over time the rights of EU citizens in the UK and UK citizens overseas will diverge. I want to incorporate our agreement fully into UK law and make sure the UK courts can refer directly to it.'
- 'Where there is uncertainty around underlying EU law, I want the UK courts to be able to take into account the judgments of the European Court of Justice with a view to ensuring consistent interpretation.'
- 'we recognise that we can't leave the EU and have everything stay the same. Life for us will be different. But what we do want ... is to stay as partners who carry on working

together for our mutual benefit. In short, we want to work hand in hand with the European Union, rather than as part of the European Union.'

On the future economic relationship:

- 'We will no longer be members of its single market or its customs union. For we understand that the single market's four freedoms are indivisible for our European friends. We recognise that the single market is built on a balance of rights and obligations. And we do not pretend that you can have all the benefits of membership of the single market without its obligations.'
- 'we have the same rules and regulations as the EU - and our EU Withdrawal Bill will ensure they are carried over into our domestic law at the moment we leave the EU.'
- 'the question for us now ... is not how we bring our rules and regulations closer together, but what we do when one of us wants to make changes.'
- neither something based on European Economic Area membership or a traditional Free Trade Agreement would be best for the UK or best for the European Union: the answer is a creative solution to a new economic relationship that can support prosperity for all our peoples.
- to make a new-style partnership work, 'because disagreements inevitably arise, we will need a strong and appropriate dispute resolution mechanism.'
- the European Court of Justice – or indeed UK courts – could not be the arbiter of disputes about the implementation of the agreement between the UK and the EU: 'But I am confident we can find an appropriate mechanism for resolving disputes.'

On the future security relationship:

- 'it is essential that, although the UK is leaving the EU, the quality of our cooperation on security is maintained.'
- The Government is proposing 'a bold new strategic agreement that provides a comprehensive framework for future security, law enforcement and criminal justice co-operation': a treaty between the UK and the EU that would complement existing bilateral relationships.
- 'It is our ambition to work as closely as possible together with the EU, protecting our people, promoting our values and ensuring the future security of our continent.'

On implementation:

- 'during the implementation period access to one another's markets should continue on current terms and Britain also should continue to take part in existing security measures.'
- 'The framework for this strictly time-limited period, which can be agreed under Article 50, would be the existing structure of EU rules and regulations. How long the period is should be determined simply by how long it will take to prepare and implement the new processes and new systems that will underpin that future partnership.'
- 'during the implementation period, people will continue to be able to come and live and work in the UK; but there will be a registration system – an essential preparation for the new regime.'
- 'As of today, these considerations point to an implementation period of around two years.'
- 'there should be a clear double lock: a guarantee that there will be a period of implementation giving businesses and people alike the certainty that they will be able to prepare for the change; and a guarantee that this implementation period will be time-limited, giving everyone the certainty that this will not go on for ever.'

On the EU budget:

- 'The UK will honour commitments we have made during the period of our membership.'
- 'we will also want to continue working together in ways that promote the long-term economic development of our continent. This includes continuing to take part in those specific policies and programmes which are greatly to the UK and the EU's joint advantage, such as those that promote science, education and culture – and those that promote our mutual security.'
- 'in doing so, we would want to make an ongoing contribution to cover our fair share of the costs involved.'

[Source: CLAS Summary – 23 September]

CHARITIES & CHARITY LAW

Online charitable giving

For information

On 27 September, the Charity Commission and the Fundraising Regulator [convened](#) a meeting with senior representatives from fourteen of the major giving platforms in the UK to discuss issues around online giving, including possible fraudulent activity, oversight over the end-use of funds and transparency about fees charged by sites. The aim was collectively to agree principles to increase public understanding and transparency about the different forms of donating on online platforms, in order to secure public trust and confidence.

The Charity Commission and the Fundraising Regulator will report back to the Minister for Civil Society on the progress of discussions and their assessment of the adequacy of the current regulatory framework.

Online giving is probably not yet a major issue for most CLAS members, at least at the congregational level; but it is increasingly the direction of travel for donations in the wider world and, we feel, an area that should be monitored.

Key areas of discussion

- the role online giving platforms play, and will increasingly play in the future, in connecting people and communities who want to give and those in need;
- the tension between the speed of public response to disasters and high-profile humanitarian events and the pace with which charities can distribute funds raised to beneficiaries;
- the clarity of advice about the choices available to fundraisers (and the consequences of those choices) given by online platforms regarding setting up pages for crowdfunding and person to person fundraising, as well as donating direct to a charity;
- further collaborative work to be done to ensure clear and consistent advice is given across different platforms, in particular on issues such as the role Charity Commission, eligibility of donations for Gift Aid and what happens in the event of a failed appeal;
- ensuring that counter-fraud processes are in place and committed to, providing regulators and ministers with more detailed information;

- the legal responsibility of platforms, acting as commercial participators for charitable donations, to make it clear to donors upfront what proportion of their donation will reach the charity;
- a review of the Code of Fundraising Practice, including updating and expanding the standards for online fundraising;
- registration with the Fundraising Regulator - which is now open to third party fundraisers including online platforms - and the opportunity to demonstrate public commitment to meeting the highest standards for fundraising; and
- tackling complaints to the Regulator from the public, in relation to online giving platforms, and ongoing engagement with platforms to resolve complaints and address areas of growing public concern.

[Source: Charity Commission – 27 September]

FAITH & SOCIETY

Organ donation – presumed consent

For information

One aspect of the Prime Minister's speech to the Conservative Party Conference on 4 October that received relatively little media attention was her [announcement](#) of plans to move to a system of presumed consent for organ donation in England, under which everyone would be presumed to agree to the removal and reuse of body parts after death unless opted out, rather than the present situation in which it is necessary to opt in to organ donation. Members may recall that the proposal for an opt-out scheme in Wales – which was subsequently implemented – was the subject of considerable controversy among religious groups and attracted criticism from the then Archbishop of Wales, Dr Barry Morgan.

[Source: CLAS Summary – 9 October]

No-fault divorce?

For information

At her first press conference since her appointment as President of the Supreme Court, Lady Hale suggested that the Government should look again at the legislation on no-fault divorce. Currently, under the Matrimonial Causes Act 1973 there are five grounds on which an opposite-sex marriage in England and Wales may be held to have “irretrievably broken down”, three of which are fault-based: adultery, unreasonable behaviour and desertion. Lady Hale told the press that, because the current grounds for divorce are “open to interpretation”, no-fault divorces already go through the courts – but she still wants to “turn practical reality into legal reality”. Though not precisely in point, the UKSC is due to hear an appeal in *Owens v Owens* [\[2017\] EWCA Civ 182](#), in which Mrs Tini Owens is seeking a divorce on the grounds that her marriage has irretrievably broken down because of her husband's unreasonable behaviour – which he has successfully disputed thus far. Both her petition and her appeal were dismissed with, in the words of Hallett LJ at [99], “no enthusiasm whatsoever”.

[Source: CLAS Summary – 9 October]

FUNDING

Consultations on good fundraising practice

For information and possibly for action

The Fundraising Regulator has opened a [consultation](#) on changes to the Code of Fundraising Practice, to make sure that the document complies with data protection rules including the upcoming General Data Protection Regulation (GDPR).

The Code governs what fundraisers are allowed to do in the course of their work. The purpose of this consultation is therefore to make the Code as clear as possible about fundraiser's duties in relation to data protection, and, in particular, to ensure that they:

- understand and comply with their legal duties regarding personal data;
- recognise the data protection implications and duties for any activity involving personal data and manage these adequately with individuals;
- adequately inform individuals about how they will use their data;
- have an appropriate basis for sending Direct Marketing to individuals: either clear, unambiguous and adequately evidenced consent or an appropriate, sensitive and transparent use of the "legitimate interest" condition; and
- review all existing consents received, to ensure they comply with the new Regulation.

The Regulator is seeking views both on the proposed changes and on how it can ensure that any changes are communicated to charities and implemented effectively.

Responses should be made via [email](#), before **8 December 2017**. While CLAS does not currently intend to make a response, any church organisations that undertake fundraising operations should certainly consider doing so.

New arrangements were also introduced for the [regulation of fundraising](#) by charities in Scotland in 2016. Charities are supported in these arrangements by the Scottish Fundraising Standards Panel.

In line with a commitment made when the new system was introduced, an external review of the regulatory system has been commissioned by the Scottish Government. The Fundraising Standards Panel is asking interested stakeholders to complete a [short survey](#), to help ensure that fundraising regulation in Scotland remains fit for purpose.

Key questions include considering whether the system of self-regulation remains the correct approach for Scotland, looking at whether still having a UK-wide Code of Fundraising Practice is appropriate and asking whether the Scottish regulatory system is accessible, streamlined and integrated enough with other regulators.

Responses should be made before **20 October 2017**.

[Source: Fundraising Regulator – 5 October; OSCR – 26 September]

PROPERTY & PLANNING

Compulsory Purchase compensation claim form

For information

The Department for Communities and Local Government (DCLG) has [published](#) updated guidance on the compulsory purchase process and the Crichel Down Rules, revised to reflect legislative changes and case law since 2004.

The model compensation claim form is intended to streamline the process of claiming and assessing the compensation due to those who are affected by compulsory purchase. The form sets out all the information which needs to be provided in support of a claim.

The guidance is intended to make it easier for people to access the information that they need to understand how the compulsory purchase system works. It replaces Circular 06/2004 'Compulsory purchase and the Crichel Down Rules' and 13 other circulars and government guidance documents. It applies to England only.

[Source: DCLG – 29 September]

TAXATION

Gift Aid and community buildings

For information

HMRC has issued updated [guidance](#) on the Gift Aid Small Donations Scheme (GASDS) with the section 'Community buildings' revised to clarify how much a charity can claim under the Gift Aid Small Donations Scheme from 6 April 2017. The rules, which were devised at least in part to cater for denominations such as the Salvation Army and the Roman Catholic Church that have more than one place of worship operating within the same charitable trust, remain very complex nevertheless.

The relevant parts are as follows [*HMRC's grammar and syntax, not ours*]:

"Community buildings

The community buildings rules affect how much your charity can claim under GASDS. There's no limit on the number of eligible community buildings that a charity can have.

Collections in community buildings from 6 April 2017

If you're a charity with two or more community buildings, you can claim a maximum of £8,000 on either:

- small donations collected anywhere in the UK
- small donations for each community building collected in the same [Local Authority area](#) as the community building you're claiming for.

You can choose the option that benefits you the most.

If you're a charity with fewer than two community buildings, it's better to claim on small donations collected anywhere in the UK.

From 6 April 2017 you can claim top-up payments on small donations collected at any time, you don't have to collect them during a charitable activity. The community buildings rules will still apply.

You can't charge a fee to enter the building (or the part of the building) where the charitable activities take place.

The activities must:

- include at least 10 people who'll benefit from the charitable activity
- take place at least 6 times a year
- be open to members of the public

Collections in community buildings before 6 April 2017

You can claim top-up payments on donations collected in community buildings before 6 April 2017 for 2 tax years after the collection date. This means you can claim top-up payments on donations collected during tax year:

- 2014 to 2015 until 5 April 2017
- 2015 to 2016 until 5 April 2018
- 2016 to 2017 until 5 April 2019

Before 6 April 2016, the claim limit for a tax year was £5,000 on donations collected:

- in each community building
- in the same Local Authority area

If your organisation is connected to another charity, other rules apply."

[Source: HMRC – 25 September]

Tax software for SA10M

For information and possibly for action

As we have previously mentioned, Philip J Cooke, Honorary Taxation Adviser to the Baptist Union of Great Britain, negotiated a concessionary rate of £12 for Baptist ministers for [SimpleTax software](#), which enables users to complete the Minister of Religion – SA102M section of the self-assessment return online. SimpleTax is still offering this concessionary rate to all those who need to complete SA102M, whether Baptists or not. You can try it [here](#); the discount code is **MORST2017**.

[Source: CLAS summary – 27 September]

WALES

Rates and bands set for new Welsh taxes

For information

Welsh Finance Secretary Mark Drakeford has [published](#) the new rates and bands for Wales's new taxes, Land Transaction Tax (LTT) and Landfill Disposals Tax (LDT), which will be introduced on 1 April 2018 and replace Stamp Duty Land Tax and Landfill Tax respectively.

The relief from which charities currently benefit under Stamp Duty Land Tax will be retained.

For the first two years of Landfill Disposals Tax, the standard and lower rates will remain consistent with those for Landfill Tax, at £88.95 and £2.80 respectively (rising to £91.70 and £2.90 respectively in 2019-20). The new unauthorised disposals rate will be set at 150% of the standard rate.

[Source: Welsh Government – 4 October]