

## **CLAS CIRCULAR 2018/17 (20 August 2018)**

### **Disclaimer**

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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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## CHARITIES & CHARITY LAW

### Charity Commission alert: insider fraud threats

For information **and possibly for action**

The National Fraud Intelligence Bureau (NFIB) has issued a national alert highlighting the insider threat from fraudsters and cyber criminals. According to the NFIB, over 50 per cent of organisations have suffered an insider attack in the previous year and 90 per cent of businesses feel vulnerable to a cyber-attack from within their own organisations. Furthermore, insider fraud poses a greater threat than external fraud because of differential access-levels to proprietary data and knowledge of an organisation's inner workings because insiders with access to confidential data can utilise basic operating system functions to steal data from organisational systems. Incidents sometimes go undetected because of a lack of proper auditing or data control measures.

The Commission points out that charities are as vulnerable to insider threats as the private or public sector. Its [research](#) found that on insider fraud was made easier because of:

- poor challenge and oversight;
- absence of internal controls or, where controls did exist, not applying them consistently; and
- too much trust and responsibility placed in one person.

We urge readers to have a careful look at the Commission's guidance on [protecting your charity from fraud](#) (or OSCR's equivalent [here](#)). It includes insider fraud prevention advice and information about cyber-crime – and, unfortunately, churches are not immune.

[Source: Charity Commission – 16 August]

## EMPLOYMENT

### HMRC instructs social care providers to continue back-pay self-assessment

For information **and possibly for action**

In our last Circular we reported that Unison – which represents many of the workers affected by the ‘sleep-in’ case, *Royal Mencap Society v Tomlinson-Blake* [2018] EWCA Civ 1641 – had [announced](#) that it was seeking permission from the Supreme Court to appeal against the Court of Appeal’s decision that care workers’ sleep-in shifts do not count as work time and do need to be paid for in line with the National Minimum Wage. Before the appeal hearing, HMRC had ruled that sleep-in shift workers that had not been paid the full minimum wage by social care providers were entitled to back pay for up to six years and in November 2018 launched the Social Care Compliance Scheme (SCCS), under which employers could self-assess their back-pay liability over the following twelve months then pay all arrears to workers have signed up to the SCCS, about 400 of which are charities. In July, following the judgment, HMRC e-mailed employers signed up to the SCCS advising them that they could suspend their self-review pending further advice from HMRC.

*Civil Society* now [reports](#), however, that HMRC has told social care providers to *resume* self-assessments of their potential back-pay liability and to pay all arrears under the same terms as before, despite the Court of Appeal’s judgment. According to *Civil Society*, an HMRC e-mail states that “All original timeframes and requirements of the scheme remain in place” and that providers must pay “any sleeping time arrears” to workers within three months of returning to HMRC their declaration of their back-pay liabilities or by **31 March 2019**, whichever is the earlier. A Government spokeswoman is quoted as saying that the SCCS will continue so that care providers can identify and pay “any remaining sleep-in shift pay which falls outside of the Court of Appeal judgment and other NMW arrears”.

[Source: *Civil Society* – 17 August]

## FAITH & SOCIETY

### Rough sleeping strategy

For information

MHCLG has published its [Rough Sleeping Strategy](#), the aim of which is to halve rough sleeping by 2022 and end it by 2027. It sets out a three-strand approach:

- prevention – understanding the issues that lead to rough sleeping and providing timely support for those at risk;
- intervention – helping those already sleeping rough with swift support tailored to their individual circumstances; and
- recovery – supporting people in finding a new home and rebuilding their lives.

Faith groups get several mentions; and one of the commitments in the strategy is:

“To enable the voices of small charities, including faith groups, into further iterations of the strategy, we will convene a roundtable bringing together a range of charitable organisations.”

The Strategy only applies to England.

[Source: MHCLG – 13 August]

## FUNDING

### Support for young people: the Building Connections Fund

For information

As part of the wider £11.5 million Building Connections Fund announced by the Government in June, applications open today, 16 August, for grants to charities and community organisations from a £2 million fund to expand or enhance support for young people

The youth-specific strand includes £1 million from the Co-op Foundation and £1 million match funding from the Government. Eligible organisations can apply to the Co-op Foundation for funding to explore youth loneliness in greater depth, test youth-led innovations within their existing provision and share their learning as part of the Foundation's national 'Belong' network. Grants of up to £80,000 are available, with [guidance for applicants and eligibility criteria](#) available on the Co-op Foundation website. The fund is targeted at organisations supporting young people in more deprived areas or with specific circumstances that increase the risk of loneliness. Applications will close on **Wednesday 26 September**.

The remaining £9.5 million of the Building Connections Fund is being delivered by the Big Lottery Fund, made up of £4.5 million from the Government and £5 million of National Lottery funding. Grants of between £30,000 and £100,000 are available to support projects which reach out to people of all ages who feel lonely or isolated, and encourage them to take part in activities, helping them to feel more connected. Guidance and criteria are available on the Big Lottery Fund website.

Groups should apply to the strand which is most appropriate to support their work; and Successful applicants will be announced in December 2018, with funding available to support prospects until March 2021.

The fund only applies to projects in England.

[Source: Co-op Foundation – 16 August]

## IMMIGRATION & NATIONALITY

### Irish nationals in the UK

For information

The Home Office has clarified the position of Irish citizens in the UK after Brexit. According to [Free Movement](#), Home Office officials have confirmed that Irish citizens living in the UK are considered to be “settled” for the purposes of immigration law and that officials who had previously denied in individual cases that Irish citizens were settled as soon as they took up residence in the UK *had been wrong to do so*.

Apparently, the Home Office has reissued the guidance to ensure that decision-makers are aware of the correct position, as follows:

“Irish citizens have a special status in the UK. The rights of Irish citizens in the UK are rooted in the Ireland Act 1949 but also provided for in subsequent legislation. These rights include the right to enter and remain without being subject to a requirement to obtain permission. Irish citizens are treated as settled from the date they take up ordinary residence in the UK. They are considered to be settled as they are free from any restriction on the period for which they may remain-paragraph 6 of HC 395.

The rights of Irish citizens will be protected as the UK leaves the EU. The Home Office Statement of Intent for the EU Settlement Scheme issued on 21 June 2018 stated:

‘2.6. Irish citizens enjoy a right of residence in the UK that is not reliant on the UK’s membership of the EU. They will not be required to apply for status under the scheme (but may do so if they wish), and their eligible family members (who are not Irish citizens or British citizens) will be able to obtain status under the scheme without the Irish citizen doing so.’”

[Source: *Free Movement* – 8 August]

## PROPERTY & PLANNING

### MHCLG consultation on social housing

For information

The Ministry of Housing, Communities and Local Government has published a Green Paper, [A New Deal for Social Housing](#). According to MHCLG, it aims to “rebalance the relationship between landlords and residents, tackle stigma and ensure social housing can act as a stable base and support social mobility”. Residents across the country were asked for their views on social housing; almost 1,000 tenants shared their views with ministers at 14 events, with over 7,000 submitting their opinions, issues and concerns online.

The Green Paper has five core themes:

- tackling stigma and celebrating thriving communities;
- expanding supply and supporting home ownership;
- effective resolution of complaints;
- empowering residents and strengthening the regulator; and
- ensuring that homes are safe and decent.

MHCLG has launched a consultation on its proposals which will run until **6 November**. This is not a consultation to which CLAS could reply corporately, but any member that operates any kind of social housing scheme might wish to respond.

The consultation only applies to housing in England. Housing policy is devolved in Scotland, Wales and Northern Ireland.

[Source: MHCLG – 16 August]

## SCOTLAND

### OSCR: consultation on draft guidance for charities with investments

For information

OSCR has launched a [consultation](#) on its draft guidance for charities with investments. The draft guidance is designed to support trustees that have investments or are considering investing charity funds.

Comments and suggestions on the content of the draft guidance should be submitted by e-mail to [info@oscr.org.uk](mailto:info@oscr.org.uk) by **21 September**.

[Source: OSCR – 14 August]

### Scottish Government: consultation on funeral costs

For information

The Scottish Government has opened a [consultation](#) on draft statutory guidance on funeral costs under s.98 of the Burial and Cremation (Scotland) Act 2016. The accompanying commentary says that the draft guidance is about improving the transparency and availability of funeral pricing information. Because many Scottish cemeteries and crematoria are operated by local councils, the guidance also includes a section specifically for local authorities on charge-setting and tackling funeral poverty.

The consultation closes on **8 November**.

[Source: Scottish Government – 17 August]