

CLAS CIRCULAR 2018/23 (12 November 2018)

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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: changing the structure of charities

For information

The Charity Commission has updated its [guidance](#) on changing the structure of charities. The new guidance, which as a whole discusses various procedures for restructuring charities, focuses on converting charitable companies into CIOs and the requirements relating to conversion.

In particular, the update stresses that these conversion resolutions must contain the company number *and* the charity number or the request will be rejected.

The update also contains the [reminder](#) that as of **1 September 2018** Community Interest Companies can convert directly into CIOs.

[Source: Charity Commission – 26 October]

Charity Commission: changes to the Update Charity Details Service

For information

The Charity Commission has announced that the Update Charity Details Service is itself to be [updated](#). From **12 November 2018**, all charities will be required to check and update their details before they can access the annual return.

There is a range of guidance pieces on what information will be required (downloadable from the main article above), how it will be [processed](#), and how the Charity Commission processes personal data when an application is made for a [dispensation](#).

The changes also include an update on public displays of trustee names, the requirement for bank account details and an emphasis on keeping all contact details for the charity and its trustees up to date.

[Source: Charity Commission – 8 November]

EMPLOYMENT

Leave on the death of a child

For information

The Department for Business, Energy, and Industrial Strategy has confirmed the details of the new workplace rights for families who suffer the loss of a child. In a [press release](#), the Government confirmed that parents and carers will be eligible for a new workplace right to paid leave when they suffer a loss of a child under 18 (including a stillbirth from 24 weeks of pregnancy) and employees will not have to give notice for leave immediately after a loss, nor need to supply a copy of a death certificate to use as evidence.

The new Parental Bereavement (Pay and Leave) Act 2018 will be amended to extend beyond parents to include all primary carers for children, such as guardians, adopters, and foster-parents. It will also cover kinship carers (close friends and family members who have assumed caregiving roles in the absence of a child's parents). The law is expected to come into force in **2020** and will ensure that bereaved employees who lose a child under 18 will be entitled to two weeks' leave as of right. Eligible employees will also receive two weeks' statutory pay.

Following a [public consultation](#), the Government has published further details over how the new right will work:

- leave can be taken either in one block (of one or two weeks) or as two separate blocks of one week;
- leave and pay can be taken within a 56-week window from the child's death so as to allow time for important moments such as anniversaries;
- notice requirements will be flexible, so that leave can be taken without prior notice very soon after the child's death; and
- employers will not be entitled to request a copy of death certificate to use as evidence.

[Source: BEIS – 2 November]

FAITH & SOCIETY

Wedding law review

For information

As announced in the Autumn Budget, the Law Commission is set to conduct a [review](#) of wedding law in England and Wales, which it has previously described as 'outdated'. In its response to the Government's announcement, the Commission has expressed its pleasure at being able to tackle what it describes as the 'unnecessary red tape' surrounding weddings and, hopefully, make them 'more affordable for couples'.

The Law Commissioner in charge of the project, Professor Nick Hopkins, said:

'A couple's wedding day is a profoundly important event in their lives. But the current law does not meet the needs of modern couples. Reform of the law would aim to make the law more flexible and give couples greater choice so they can marry in a way that is meaningful to them, whilst also lowering the cost of wedding venues. We therefore welcome the Government's announcement and look forward to continuing our work in this area.'

It is now for the Law Commission and the Government to decide the precise terms of reference for the project and – obviously – we shall be watching progress very carefully.

[Source: Law Commission – 1 November]

MHCLG launches Faith Leader Training Initiative

For information

The Government, in response to a period of consultation with religious leaders, has published a prospectus laying out the aims and desired outcomes of its faith leader training initiative.

Following the publication in March of the Integrated Communities Strategy Green Paper, the Government made a commitment to supporting the training of faith leaders in order to strengthen ministering in the British context. As part of this commitment MHCLG are now inviting bids from prospective training providers interested in delivering non-theological, voluntary training for faith leaders.

A budget of £200,000 per financial year has been agreed between January 2019 and March 2020.

To be eligible to receive the grant, the organisation, or the lead partner in a consortium bid, must:

- Be a registered charity or have charitable status.
- Be based in England. UK-wide organisations will be eligible to submit bids, providing the work is to be delivered in England
- If applying as a consortium, organisations must have an agreed lead partner to manage the programme and a system for dividing the work and funds between partners and for managing performance.

The evaluation criteria and scoring guide have also been published in a separate guide.

Completed application forms must be sent to FaithLeaderTraining@communities.gov.uk by 5pm Thursday 20 December 2018.

[Source: MHCLG – 7 November]

FUNDING

HMRC: completing your Gift Aid donations schedule

For information

HMRC has published a new [online guide](#) intended to help charities complete their Gift Aid donations schedules accurately. It will be particularly useful for those who are new to Gift Aid or who have been having difficulties filling in their schedules.

HMRC has also published helpful [guidance](#) on how to use the schedule spreadsheet, with information on appropriate software.

[Source: HMRC – September]

PROPERTY & PLANNING

Waste collection and charging for churches

For information

We have recently had an inquiry about charging for the collection of waste from churches and we thought that it might be helpful to repeat and update our previous advice.

Paragraph 1 of Schedule 1 to the [Controlled Waste Regulations 2012](#) classifies waste from a hereditament or premises exempt from local non-domestic rating by virtue of, in England and Wales, [paragraph 11 of Schedule 5 to the Local Government Finance Act 1988](#) as household waste. In practice, this means waste from places of religious worship is regarded as domestic waste and authorities with waste collection duties must collect it and may not charge for its collection or disposal. Under paragraph 11(1) and (2) of Schedule 5 to the Local Government Finance Act 1988, that provision also applies to buildings used in connection with the conduct of public religious worship – such as an office or church hall.

However, if a church, mosque, synagogue or whatever hires out such buildings to other groups not connected with the conduct of religious worship, that would be regarded as a commercial activity and any waste arising from such use would be commercial waste – for which a charge for both collection and disposal can be made.

A further consideration would be where the waste arises from a building or renovation project, for which private waste collection arrangements would generally be necessary. The Diocese of London [notes](#) that the waste generated by a single extension or reordering project 'could likely exceed all the other waste from the same church for a period of years' – and reminds churches contemplating major projects that the likely cost should be taken into account at the project planning stage.

[Source: CLAS – 7 November]

TAXATION

Ministers of religion, business rates and holiday lettings

For information

MHCLG has published a [consultation](#) on closing an apparent business rates/council tax loophole. The accompanying press release said this:

A business rates 'loophole' which could be costing English councils millions in lost Council Tax is to be reviewed by ministers with a consultation launched today (7 November 2018).

Currently, second-home owners pay Council Tax on their properties including when the property is available to rent infrequently during the year.

Properties are valued for business rates when owners declare their property is available to let as 'holiday accommodation' for 140 days or more in a year.

Any property registered for business rates, rather than Council Tax, are likely to qualify for small business rate relief. This provides 100% relief from business rates, so no tax is due on properties with a rateable value of £12,000 or less.

Around 47,000 holiday lets in England are liable for business rates, of which circa 96% have rateable values of £12,000 or less. Currently there is no requirement for evidence to be produced that a property has actually been commercially let.

Genuine businesses can claim the relief to which they are entitled. However, the government is aware of concerns that owners of second homes which do not fall into this category, could exploit the system by not paying Council Tax, whilst still using local services.

We are well aware that many clergy own a home which they rent for so long as they live in the parsonage house, with the intention of moving to their own property on retirement. What we do *not* know is whether many of these are let as holiday accommodation rather than on a full tenancy basis.

We think that we should flag up the issue to MHCLG in any event, but it would be helpful to know whether the practice is widespread.

[Source: MHCLG – 7 November]