

CLAS CIRCULAR 2018/25 (19 December 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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FAITH & SOCIETY

Candles and fire precautions

For action

It's that time of year again – and probably worth a reminder about the advice from Ecclesiastical Insurance, published in June 2018, about the [safe us of candles](#).

For services with large numbers, Ecclesiastical recommends appointing a team of stewards, each with specific duties in accordance with a list of written procedures. A steward should be appointed to each door and should ensure that it opens easily before the service starts. Similarly, responsibility for fire extinguishers should be given to specific stewards who know how to use them.

In brief:

- Good quality slow-burning candles are best: cheap candles burn down quickly and the flame may soon get dangerously close to foliage or decorations.
- Great care needs to be taken where the congregation is given candles to hold; apart from the risk of igniting service sheets etc, molten wax can cause damage to clothing and is very hot. Purpose-made candles are available and should be used with proper slide-on card drip trays.
- Where children are involved even greater care is necessary: to avoid the risk of clothing and hair being set alight, they should be properly supervised and should not stand too close together.
- Keep candles well clear of all combustible materials including flammable decorations, foliage and electrical equipment. Ideally, put them in metal holders on non-combustible surfaces – and never place them directly on Christmas trees.
- Every church should have at least two extinguishers of the appropriate type, they should be examined and serviced at regular intervals and the stewards must know where the extinguishers are *and how to use them*.
- Have at least one fire blanket available.
- To ensure adequate means of escape, all doors must be unlocked before the service and capable of being opened quickly. A steward should be located at each door and at least one person should be given the task of calling the Fire Brigade in an emergency.
- The person leading the service should be aware of the fire risk and, in an emergency, be ready to ask everyone to leave in an orderly fashion following the directions of the stewards.

- For large services, a trained first-aider with first aid equipment should be available.
- Candles must never be left burning when there is no responsible person left in the church: always check that all candles are extinguished before locking up.

[Source: Ecclesiastical Insurance – 28 June]

Organ donation and religious sensitivities

For information

The BBC [reports](#) that people who join the NHS's UK organ donation register are to be asked if they want their religious beliefs to be considered in the donation process. Research has found that religious and cultural beliefs are the main barrier to organ donations by people from black and Asian backgrounds and it is hoped that the measure will provide reassurance that donation can take place in line with their faith or beliefs and increase the low proportion of BAME donors.

[Source: BBC – 13 December]

'Religious' content in civil wedding ceremonies?

For information

Professor Rebecca Probert, of Exeter University, and Dr Stephanie Pywell, of the Open University, have published the findings of their recently research on what may and may not be included in a civil wedding ceremony – but sometimes is...

The [Marriage Act 1949](#) simply prohibits any 'religious service' being used in a civil marriage ceremony (ss 45(2) and 46B(4)). But in 1995 – just after the option of having a civil marriage on approved premises was introduced – new regulations provided that anything included in a civil marriage ceremony 'must be secular in nature' (see [The Marriages \(Approved Premises\) Regulations 1995](#), SI 1995/510, Sch 2, para 11). This was soon recognized as being overly restrictive, so in 2005 new regulations specified instead that any additional material 'shall not be religious in nature' (see [The Marriages and Civil Partnerships \(Approved Premises\) Regulations 2005](#), SI 2005/3168, Sch 2, para 11).

In order to find out what couples wished to include – and what they would be permitted to include – in civil wedding ceremonies, they carried out two surveys: of couples who had recently married, or

were planning to marry, in a civil ceremony in England and of registration officers (ROs) who conduct civil marriage ceremonies in England's 153 registration districts. In the second – which is much the more interesting from a CLAS perspective – they asked ROs for their instinctive responses about whether they would permit certain vows and rituals. The law leaves individual ROs to determine what is permissible in the civil ceremonies that they conduct, and the responses revealed that there is a significant variation in practice.

Nearly 80 per cent of respondents said that they would not permit ceremonies to include vows that were religious in nature but, when they were offered a range of vows from various religious traditions, it became apparent that the only vow that is immediately recognised as 'religious' is the one from the Anglican *Book of Common Prayer* ('to have and to hold, to love and to cherish ...') – which would not have been permitted by 75 per cent of respondents. By contrast, the words in *Common Worship* ('all that I am I give to you, and all that I have I share with you...') would have been permitted by nearly 90 per cent. Similarly, vows from other religions were not recognised and are, therefore, usually permitted unless deemed inappropriate for some other reason. 93 per cent of respondents were willing to allow a vow taken from a Hindu marriage service, though only 79 per cent of respondents were willing to allow words taken from the marriage vows of the Baha'i faith.

Rituals (as opposed to prayers) from various religions were more widely recognised than prayers and would not generally have been permitted. The majority of respondents would not have permitted the Jewish custom of the groom breaking a glass by stamping on it or the Hindu ritual of the father of the bride washing her future spouse's feet. In both cases, however, a number of ROs based their refusal on health and safety factors or practical considerations.

The authors' conclusion is that most ROs take their role very seriously and are keen to accommodate couples' wishes wherever possible; however, confusion and inconsistencies are arising because – understandably – ROs cannot be expert in the marriage traditions of all religions. They suggest that, at the very least, more comprehensive guidance is needed. But, further than that, they wonder if it may be time to rethink the current stark distinction between civil and religious marriages. No RO should be expected to conduct a religious service; but permitting ROs merely to observe couples saying religious words or participating in religious rituals would mirror what ROs can already do when they attend places of worship to register religious marriages.

Perhaps this is an issue that might figure in the forthcoming Law Commission project on wedding law in England and Wales. The full conclusions are published in S Pywell and R Probert, 'Neither sacred nor profane: the permitted content of civil marriage ceremonies' [2018] *Child and Family Law Quarterly* 415.

[Source: Rebecca Probert and Stephanie Pywell – 10 December]

IMMIGRATION

Change to the Immigration Rules

For information and possibly for action

The Government has published a new [statement of changes in the Immigration Rules \(HC1779\)](#) which confirms that a 12-month cooling off period will be introduced for Tier 5 (temporary worker) religious and charity workers with effect from **10 January 2019**.

If an application has been made for entry clearance or leave to enter or remain before 10 January 2019, the application will be decided in accordance with the Immigration Rules in force on 9 January 2019. This means that the individuals will need to spend a minimum of 12 months outside the UK before returning in either category.

[Source: House of Commons – 11 December: *with thanks to Bates, Wells, Braithwaite*]

Immigration White Paper

For information

The Home Secretary has announced plans for a new single, skills-based immigration system which marks the end of free movement within the EU. The new immigration system will introduce a new route for skilled workers, with the intention that net migration will be reduced to sustainable levels.

In line with the recommendations made by the Migration Advisory Committee (MAC), the proposals in the White Paper, [Future skills-based immigration system](#), will:

- remove the annual cap on the number of work visas issued;
- widen the skills threshold to include people with qualifications equivalent of A levels; and
- end the requirements for labour market tests by employers wanting to sponsor a worker.

As to EU citizens, in summary:

- EU citizens who have been living in the UK continuously for five years will be eligible for settled status in UK law.

- EU citizens who arrived before the end of the Implementation Period, but who have not been here for five years, will be eligible for pre-settled status, enabling them to stay until they have accumulated five years, after which they may apply for settled status.
- The Withdrawal Agreement will also allow close family members who live in a different country to join an EU citizen at any time in the future under current rules, if the relationship existed before the end of the Implementation Period.
- EU citizens protected by the agreement will continue to be able to work, study and establish a business in the UK as now.
- EU citizens with settled status or pre-settled status to stay may access healthcare, pensions and other benefits and services in the UK, as they do currently.
- Frontier workers (EU citizens who reside in one state, and work in the UK) will continue to be able to enter the UK to work under current rules, if they started this work before the end of the Implementation Period.

The Common Travel Area (CTA) and associated rights between the UK, Ireland and the Crown Dependencies will be unaffected by the UK's exit from the EU. Irish and British citizens will continue to enjoy the freedom to travel within the CTA without the need for immigration controls or residence/work permits. Irish citizens do not need to obtain settled status in the UK.

[Source: HM Government – 19 December]

ODDS & ENDS

Census questions for 2021

For information

Members may be interested to know that the Government has [accepted](#) a proposal from the Office for National Statistics that the 2021 Census should include a non-compulsory question on sexual orientation and gender identity. *Help Shape Our Future: The 2021 Census of Population and Housing in England and Wales* includes this:

In making recommendations for the content of the census the National Statistician and the Office for National Statistics (ONS) consulted widely with users and others who have an interest in particular aspects. One result among other things is a proposal to include new questions on sexual orientation and gender identity, only for those who are aged 16 and over, to help decision-makers monitor their service provision in line with the Equality Act 2010, although nobody will need to tell us their sexual orientation or gender identity if they don't want to. The UK Statistics Authority and the government will consider how to ensure this is the case.

[Source: HMG – December 2018]

Data protection

For information

"He's makin' a list / He's checkin' it twice / He's gonna find out who's naughty or nice / Santa Claus is in contravention of Article 4 of the General Data Protection Regulation (EU) 2016/679."

As the ICO points out, that one has been doing the rounds of social media for weeks (I plead guilty myself). However, in an attempt to dispel some of the more lurid myths that have sprung up around the data protection legislation, the ICO has published a [post](#) tackling some of the misconceptions. In particular, that *Churches cannot ask for Christmas prayers for named parishioners who are ill or sick, because their health data is protected.*

To which the response is:

This is another case caused by confusion surrounding the need for consent. The new laws exist to give people more rights and freedoms, not to act as a barrier to small community groups. If this is

something that the parishioner concerned might reasonably expect and welcome and the church can justify processing their health data, then it is unlikely to be breaching the law.

[Source: ICO – 6 December]

PROPERTY & PLANNING

Law Commission: commonhold consultation

For information and possibly for action

The Law Commission has published its Consultation Paper on commonhold reform: [Reinvigorating commonhold: the alternative to leasehold ownership](#). It previously published a Call for Evidence on commonhold on 22 February 2018. Documents can be accessed [here](#). The project looks at aspects of the law of commonhold which may be preventing its uptake.

Responses to the Call for Evidence highlighted a number of issues within the current law of commonhold which may be making commonhold unattractive to homeowners and across the wider property sector. In particular, the Consultation Paper includes proposals which would:

- enable commonhold to be used for larger, mixed-use developments which accommodate not only residential properties but also shops, restaurants and leisure facilities;
- allow shared ownership leases and other forms of affordable housing to be included within commonhold;
- make it easier for existing leaseholders to convert to commonhold and gain greater control over their properties;
- improve mortgage lenders' confidence in commonhold to increase the choice of financing available for home buyers;
- provide homeowners with a greater say in how the costs of running their commonhold are met; and
- enable homeowners to end unattractive long-term contracts imposed by developers.

The Commission will be holding a number of consultation events across England and Wales at which officials will discuss some of the Commission's proposals and ask for views. The consultation closes on **10 March 2019**.

It is not intended that CLAS should make a response; however, CLAS members that hold property for investment purposes might wish to engage with the consultation.

[Source: Law Commission – 10 December]

SCOTLAND

The Scottish Budget 2019-20

For information and possibly for action

The Scottish Government has published the [Scottish Budget 2019-20](#). *Obviously, the Scottish Churches will already be aware of this; but a brief note may be helpful to CLAS members based in England & Wales that have congregations in Scotland.*

The statement noted that Scotland's resource block grant will be almost £2 billion lower in real terms in 2019-20 than it was in 2010-11: a fall of seven per cent. It also noted that the Scottish Fiscal Commission has revised upwards its forecasts of GDP growth in every year, now forecasting Scottish GDP to grow 1.4 per cent in 2018, which was faster than the growth expected in the UK as a whole. It then expects the Scottish economy to grow by 1.2 per cent in 2019, 1 per cent in 2020 and 2021, 1.1 per cent in 2022 and 1.2 per cent in 2023.

Following are some of the key points.

Public services: The Scottish Government will continue in 2019-20 to deliver a Public Sector Pay Policy that lifts the one per cent cap on public sector pay. The policy for 2019-20 will:

- provide a three per cent pay rise for all earning £36,500 or less – higher than forecast inflation;
- cap the pay bill at two per cent for all those between £36,500 and £80,000; and
- continue to contain pay rises at the higher end, capping any increase for those earning over £80,000 to £1,600.

Education: Education will receive a real-terms increase. The Government will also:

- provide almost £500 million to expand early learning and childcare, supporting the recruitment and training of staff and investment in the building, refurbishment and extension of around 750 nurseries and family centres;
- invest over £180 million to raise attainment in schools and close the attainment gap – including £120 million that will go directly to head teachers through the Pupil Equity Fund;
- invest over £600 million in Scotland's colleges and maintain investment at over £1 billion in Scotland's universities; and
- invest over £214 million in apprenticeships and skills to support their ongoing expansion.

Social Security and Older People: In 2019-20, total forecast expenditure on social security assistance will be £435 million, including:

- £37 million for Carer's Allowance supplement; and
- £12.4 million for the new Best Start Grants to assist low-income families with essential expenses on the birth of a child and at key transitions in early years.

It will also include:

- nearly £100 million to continue mitigation of the Bedroom Tax and UK Government welfare cuts; and
- an increase in the Fair Food Fund from £1.5 million in 2018-19, to £3.5 million in 2019-20, with £2 million specifically to tackle food insecurity during school holidays.

Land and Buildings Transaction Tax: For those purchasing additional properties, the Additional Dwelling Supplement will be increased from 3 per cent to 4 per cent; if approved, the rate change will come into force on **25 January 2019**.

Business rates: The increase in the rates poundage in 2019-20 in Scotland will be capped at a below-inflation level of 49 pence, limiting the increase to 2.1 per cent. The poundage will also be uprated in line with CPI for the remainder of the Parliament. The Government also proposing changes to non-residential Land and Buildings Transactions Tax; under the proposals, two thirds of all non-residential transactions will pay less tax in future than at present.

Income tax: None of the rates of income tax will be increased; however, in 2019-20, the Starter and Basic Rate bands will be raised by inflation to protect lowest- and middle-income taxpayers. The Higher Rate Threshold will be frozen at the current rate. The table below sets out the Scottish Government's proposed rates and bands for 2019-20:

Scottish bands	Band name	Scottish rates (%)
Over £12,500* – £14,549	Starter	19
Over £14,549 – £24,944	Basic	20
Over £24,944 – £43,430	Intermediate	21
Over £43,430 – £150,000**	Higher	41
Above £150,000**	Top	46

HM Treasury has previously confirmed that although the income tax bands differ from the UK rates, ***for practical reasons charities should continue to claim Gift Aid relief at the UK basic rate whether or not the donor was a Scottish taxpayer.*** HM Treasury officials have also provided information for those donors that wish to claim higher rate relief. Read more [here](#).

Health: Health spending will be increased by almost £730 million: an increase of almost £500 million in real terms.

Local Government: Total support for local government in 2019-20 will be £11.1 billion – an overall real-terms increase of over £210 million. In early 2019, the Scottish Government will bring forward primary legislation to deliver recommendations of the Barclay Review, including the shift to a three-yearly revaluation cycle and policies to address known tax avoidance tactics around second homes, charities and empty properties. The Barclay Review has also recommended the removal of rates relief for independent schools: read more [here](#).

Office of the Scottish Charity Regulator: OSCR's budget for 2019-20 will be £3.3m, compared to £3.0m in 2018-19. In 2019-20, OSCR will

- ensure public confidence in charities through effective regulation and sharing of information;
- support charity trustees to understand and comply with their legal duties;
- facilitate effective management via straightforward and proportionate reporting (increasing online services where appropriate); and
- investigate apparent misconduct in charities, taking remedial or protective action as necessary.

VAT assignment: The Scotland Act 2016 provided for the first 10 pence of the Standard Rate of VAT and the first 2.5 pence of the Reduced Rate to be assigned to the Scottish Government. The assignment of VAT will be based on a model that will estimate expenditure in Scotland on VATable goods and services. The draft model for calculating Scottish VAT receipts has been published; and finalising it will be discussed through the Joint Exchequer Committee in spring 2019.

The Scottish Government will continue to monitor the methodology in advance of a final agreement, including a focus on the robustness of the data that underpins it and the potential level of undue volatility which may be associated with its operation. 2019-20 will be a transitional year, where VAT assignment will be forecast and calculated, but with no impact on the Scottish Budget. From 2020-21, provided both Governments are assured that the assignment methodology is working effectively, the Scottish Budget will be determined by forecast and final estimated VAT receipts in Scotland and corresponding block grant adjustment. The Scottish Fiscal Commission will forecast Scotland-assigned VAT receipts.

[Source: Scottish Government – 12 December]

AND A HAPPY CHRISTMAS TO ALL...