

## **CLAS CIRCULAR 2019/6 (11 April 2019)**

### **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 AND CHARITY LAW

### Brexit, European Parliament elections, campaigning and hustings

For information and possibly for action

Late on Wednesday evening, 10 April, the EU Council agreed that the UK should remain as a member state of the EU until 31 October, with the option to leave earlier if the Prime Minister can secure Commons support for the Withdrawal Agreement. Under the extension, the UK will need to hold elections for the European Parliament on 23 May if the Commons does not agree to the Withdrawal Agreement by then – or otherwise leave by 1 June.

The possibility of having to hold elections to the European Parliament has implications for non-party-political campaigning by charities and BWB has produced a helpful briefing on the situation. If the UK does participate in the European Parliament elections, there will be a retrospective regulated period under the Political Parties, Elections and Referendums Act 2000 that will apply to the EP elections in relation to any spending by individuals and organisations which could reasonably be regarded as intended to influence voters in relation to the election – and could also apply to a General Election called before 2022. The retrospective regulated period will be backdated to **23 January 2019**.

Importantly, organisations should be aware that *any regulated spending that they incur in relation to the prospective EU elections will also count towards their regulated spending limits for any General Election called during the next year.*

During the regulated period, a detailed framework of rules applies to 'non-party campaigners': organisations and individuals that are not standing for office or putting up candidates but which may be campaigning on issues. In particular, those rules include limits on how much can be spent on most public-facing activities which can '*reasonably be regarded as intended to influence voters to vote for or against political parties or categories of candidates, including political parties or categories of candidates who support or do not support particular policies or issues*': the 'purpose test':

- Individuals and organisations that register with the Electoral Commission will be able to spend just under £200,000 on UK-wide campaign that meets the purpose test ahead of the European elections; and
- For those who do not or cannot register with the Electoral Commission (broadly, only UK based organisations and individuals on a UK electoral register can do so), they will be able to spend just £20,000 across England and £10,000 across Scotland, and Wales.

The regulated spending limit in Northern Ireland is lower for registered campaigners than for unregistered campaigners – it will be £6,750 for a registered campaigner and £10,000 for an unregistered campaigner.

In relation to the EP elections, examples of regulated spending might include organisations supporting candidates who support a 'Soft Brexit', revocation of Article 50 or a 'No-deal Brexit':

The detailed briefing from BWB is available [here](#). The Electoral Commission's guidance can be found [here](#) (and specific guidance for Northern Ireland [here](#)).

[Source: BWB – 9 April]

## FAITH AND SOCIETY

### 'No-fault' divorce in England & Wales

For information

The Secretary of State for Justice has [announced](#) that the Government will legislate to introduce 'no-fault' divorce in England and Wales. The move comes after responses to the recent consultation on [Reducing Family Conflict: reform of the legal requirements for divorce](#) revealed general support for reform. The proposals follow the Supreme Court's judgment in *Owens v Owens* [\[2018\] UKSC 41](#), in which the Court unanimously rejected the wife's appeal in a contested divorce on grounds of unreasonable behaviour at which the husband contended that the marriage had not, in fact, broken down irretrievably. But the Court did so with obvious reluctance, Lady Hale PSC finding it 'a very troubling case' [46].

Currently, a petitioner for divorce must provide evidence that the marriage has broken down irretrievably on the grounds set out in [s.1\(2\)](#) of the Matrimonial Causes Act 1973:

- the other party's adultery;
- the other party's unreasonable behaviour ("that the respondent has behaved in such a way that the petitioner cannot reasonably be expected to live with the respondent");
- desertion;
- two years' separation if the other spouse consents to the divorce; or
- five years' separation if the other spouse does not consent.

The proposals for reform include:

- retaining the irretrievable breakdown of a marriage as the sole ground for divorce;
- replacing the requirement to provide evidence of factual evidence of behaviour or a period of separation with a requirement to provide a statement of irretrievable breakdown;
- retaining the current two-stage legal process of the decree nisi and followed by the decree absolute;
- retaining the option for one party to initiate divorce proceedings but creating the additional option of a joint application for divorce;
- removing the ability to contest a divorce; and

- introducing a minimum timeframe of 6 months from petition stage to final divorce: 20 weeks from petition stage to decree nisi; 6 weeks from decree nisi to decree absolute.

The proposed reforms will *not* extend to other areas of matrimonial law such as financial provision. The legislation is expected to be introduced “as soon as Parliamentary time allows”. Parallel changes will also be made to the law governing the dissolution of civil partnership, which broadly mirrors that for divorce.

The Government's full response to the consultation is [here](#).

[Source: Ministry of Justice – 9 April]

## PROPERTY & PLANNING

### Japanese knotweed: an update

For information

*Given that CLAS members own a substantial amount of land and some of it is almost bound to be infested with Japanese Knotweed, some of you may be interested in the following.*

The Environment Agency has issued a revised Regulatory Position Statement (RPS) [Treatment and disposal of invasive non-native plants: RPS 178](#).

In England and Wales, the primary statutory provisions are s14(2) and Schedule 9 to the [Wildlife and Countryside Act 1981](#) (WCA). S.14(2) of the 1981 Act establishes an offence of planting 'or otherwise causing to grow in the wild' (whatever that might mean) any of the species listed in Schedule 9 – which includes knotweed. In Scotland, those provisions been amended by the [Wildlife and Natural Environment \(Scotland\) Act 2011](#) and subsequent provisions. The Scottish Environment Protection Agency (SEPA) has no statutory duty to control knotweed; however, it does have an alliance with the police and local authorities for enforcement under the WCA in the case of a waste offence.

Local authorities have enforcement powers to require clearance of knotweed under [s.215 Town & Country Planning Act 1990](#) and any failure to comply can lead to prosecution, a fine and remedial costs. A community protection notice under the [Anti-social Behaviour, Crime and Policing Act 2014](#) also contains powers that might be used against an occupier failing to clear knotweed.

In addition to the revised RPS, other Government guidance is available:

- [Prevent Japanese knotweed from spreading](#), which gives information on how to [identify](#), prevent its spread and dispose of it. [Published 30 March 2016, Updated 18 January 2018].
- [Prevent harmful weeds and invasive non-native plants spreading](#), which provides further guidance, [Published 23 September 2014, Last updated 30 March 2016].

[Source: Environment Agency – 29 March]

**National Churches Trust: grants for church maintenance**

For information

*Historic England has asked us to disseminate the following information on grants from the National Churches Trust.*

**Foundation Grants:** The Trust makes Foundation Grants to places of worship of all Christian denominations in the UK towards work that addresses urgent maintenance that has been identified as a priority in a recent Quinquennial Inspection Report or survey. The works should be standalone projects costing between £1,000 and £10,000 excluding VAT. Grants range from £500 to £3,000. The **next deadline is 12 May 2019** for a decision in July.

In order to apply, applicants should have two quotes for the work, 50% of funding in place and the necessary permissions (e.g. List B consent, Faculty, Trustee approval or its equivalent) and be able to evidence the urgency for the work. Projects should be led, overseen and supervised by a suitably-qualified architect or surveyor, with conservation accreditation if the building is listed. *The Trust cannot fund work retrospectively*, though work may commence after an application has been submitted.

To date, NCT grants have been used to fund small-scale roof repairs, repointing, drainage, guttering and suchlike. The grants can also be used to fund small investigative works and surveys.

Applications should be made online via the relevant grant programme page [here](#). Please be sure to read the guidance note before applying. Please contact [grants@nationalchurchstrust.org](mailto:grants@nationalchurchstrust.org) or call 020 7227 1933 to speak to the grants team if you have any questions regarding grant programmes.

In addition, a reminder of the NCT's other grant programmes (see also the website [here](#)) and ongoing initiatives.

- **Gateway Grants** are awards of £3,000 to £10,000 to support churches to develop high-quality, well-researched, sustainable projects through the diagnosis of issues affecting the it, by testing the viability of proposed solutions and through developing plans up to RIBA stage 1 in advance of applying to a major church heritage funder. Next deadline **9 May 2019** for a decision in July.
- **Cornerstone Grants** are awards of £10,000 to £50,000 towards urgent and essential structural repairs with an estimated cost of at least £100,000 (including VAT and fees) and/or the introduction of kitchens and lavatories costing at least £30,000. Next deadline **1 July 2019** for a decision in November.
- **MaintenanceBooker** is a service designed help churches and chapels avoid having to carry out major repairs to their buildings by making it easy to carry out regular maintenance. The service

is available to churches, chapels and historic buildings across England and Wales and provides an online 'one stop shop' where churches and chapels can book accredited contractors for services including gutter clearance, tree maintenance, lightning protection system inspections and asbestos management services. Small grants are also available towards the costs of some services booked via the site. For more information, see [here](#).

- [ExploreChurches](#) is the programme through which the NCT aims to develop a high-quality resource for visitors and churches. The potential for churches to attract visitors and for visits to be enjoyable and worthwhile is huge; and the NCT would like to include all churches, chapels and meeting houses that are open for visitors, even if this is only during specific hours or on certain days. There is an online form here: <https://www.explorechurches.org/add-your-church>.

[Source: Historic England – 9 April]

### Village Halls fund

For information

The Government has [launched](#) its new £3 million fund to improve village halls. Village hall committees are now able to apply for grants of up to £75,000 towards refurbishment and alteration of their buildings, from improvement works on existing facilities through to new meeting rooms. The new funding will cover 20% of the total costs of a project (acting in effect to cover the costs of irrecoverable VAT on renovation costs). Multi-purpose Church Halls and Scout and Guide buildings are also eligible where they are open for the whole community, there is no alternative village hall in situ, they are not single use and they are clearly advertised as multi-purpose. Full details, including eligibility criteria can be found [here](#).

[Source: DEFRA – 5 April]



## TAXATION

### Self-Assessment supplementary forms and notes for 2019 published

For information

The 2019 Ministers of religion (SA102M) form and notes have now been published and can be downloaded [here](#). The form should be completed when filing SA100 tax return to record employment income and expenses, and work out the service benefit cap.

[Source: HMRC – 6 April]