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## CLAS CIRCULAR 2020/10 (9 April 2020)

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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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## GOVERNMENT FINANCIAL SUPPORT FOR CHARITIES

For information

The Chancellor has [announced](#) £750m funding to help support frontline charities during the Coronavirus outbreak. The funding provides for the following:

- £360 million direct from Government departments to charities providing key services and supporting vulnerable people during the crisis, including:
  - hospices, to help increase capacity and give stability to the sector;
  - St Johns Ambulance, to support the NHS;
  - victims charities, including domestic abuse, to help with potential increase in demand for charities providing these services;
  - vulnerable children charities, so that they can continue delivering services on behalf of local authorities; and
  - Citizens Advice, to increase the number of staff providing advice;
- £370 million for small and medium-sized charities, including through a grant to the National Lottery Community Fund for those in England;
- The Government will match donations to the National Emergencies Trust as part of the BBC's 'Big Night In' fundraiser later this month – pledging a minimum of £20 million

The Chancellor also announced a total of £60 million consequential funding under the Barnett Formula for all the devolved administrations as a result of the £370 million funding allocated to charities in England: £30 million for the Scottish Government, £20 million for the Welsh Government and £10 million for the Northern Ireland Executive.

The Government press release notes that *'Departments will now work at pace to identify priority recipients, with the aim for charities to receive money in the coming weeks. The application system for the National Lottery Community Fund grant pot is expected to be operational within a similar period of time'*.

[Source: HM Treasury, 8 April]

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## COVID-19 GUIDANCE

### Guidance from the charity regulators

For information

The Charity Commission, OSCR and CCNI have all published guidance for charities in relation to the Coronavirus outbreak. The guidance covers issues such as holding virtual board meetings and changing charitable objectives to support the effort to tackle coronavirus:

- [Charity Commission](#), updated 7 April.
- [OSCR](#), published 30 March.
- [CCNI](#), published 1 April.

All three regulators point out that, where a charity's governing document does not give the trustees power to hold meetings over the phone or using digital solutions, they will be understanding about such a departure in the current circumstances, but *trustees should record their decision to hold a 'virtual' meeting in order to demonstrate good governance.*

[Source: Charity Commission, 7 April; OSCR, 30 March, CCNI, 1 April]

### Furloughed employees

For information

There is a considerable degree of confusion about what an employee 'on furlough' may and may not do. The Government [guidance](#) says this:

'Once you are on furlough you will not be able to work for your employer. You can undertake training or volunteer subject to public health guidance, as long as you're not:

- making money for your employer or a company linked or associated to your employer
- providing services to your employer or a company linked or associated to your employer.

If workers are required to, for example, complete training courses whilst they are furloughed, then they must be paid at least their appropriate minimum wage (NLW, NMW or AMW) for the time spent training, even if this is more than the 80% of their wage that will be subsidised.

Whilst furloughed your employer cannot ask you to do work for another linked or associated company.

If your contract allows, you may undertake other employment while your current employer has placed you on furlough, and this will not affect the grant that they can claim under the scheme. You will need to be able to return to work for the employer that has placed you on furlough if they decide to stop furloughing you, and you must be able to undertake any training they require while on furlough. If you take on new employment, you should make sure you complete the [starter checklist](#) form with your new employer correctly. If you are furloughed from another employment, you should complete Statement C. Any activities undertaken while on furlough must be in line with the latest Public Health guidance during the COVID-19 outbreak.

Your employer can still make you redundant while you're on furlough or afterwards.

Your rights as an employee are not affected by being on furlough, including [redundancy rights](#).

If your employer chooses to place you on furlough, you will need to remain on furlough for a minimum of 3 consecutive weeks. However, your employer can place you on furlough more than once, and one period can follow straight after an existing furlough period, while the scheme is open. The scheme will be open for at least 3 months.'

The Scheme appears to include office holders *always provided they are paid through PAYE*. It appears on the face of it that ministers of religion can be furloughed but, in reality, almost all of them are carrying on with their normal duties, with the exception of conducting public worship, so, in reality, it is difficult to see how they can be furloughed under the Scheme ***because they are still working***.

Furthermore, the advice of the NCVO – to which we have been referred by the Charity Commission, is as follows:

**'People can volunteer, but with some restrictions**

Furloughing is an 'all or nothing' decision. Furloughed employees cannot do any work for their organisation. While on furlough, employees must not provide services or make money for (or on behalf of) their employer. That includes volunteering.

The reasons are clear: furloughed staff members coming back to 'volunteer' in their same role while the organisation claims a government grant is not in the spirit of the scheme. There is a risk the scheme could be abused by employers and staff could be put under pressure to 'volunteer'. Breaching the guidance could invalidate the organisation's claim for grants under the scheme.

We are aware many charities have central office staff who already volunteer in charity branches and front-line roles – roles that are very different to their day job. *As things stand, these people would be prevented from taking on or continuing with these volunteering roles.* There are ongoing discussions with HMRC about whether there could be greater flexibility in the rules. But for now, *a furloughed employee can't volunteer for their organisation, even if it's in a different role.* We will update if this situation changes.' [emphasis added]

[Source: HMRC, 4 April; NCVO, 8 April]

### **Cremation: temporary changes to the Cremation (England and Wales) Regulations 2008**

**For information**

Those responsible for conducting cremations may find it helpful to know that the Ministry of Justice has published [guidance](#) in light of the temporary modifications to the Cremation (England and Wales) Regulations 2008 under the specific provisions in the Coronavirus Act 2020. The guidance is intended for those applying for the cremation of the remains of a person who has died and covers three elements of the application process:

- providing instructions to the crematorium on what should happen with the ashes following the cremation;
- notifying the presence of implants; and
- your rights to inspect the cremation medical certificate before the cremation takes place.

[Source: Ministry of Justice, 3 April]