

CLAS CIRCULAR 2020/13

(5 May 2020)

Disclaimer

CLAS is not qualified to advise on the legal and technical problems of members and does not undertake to do so. Though we take every care to provide a service of high quality, neither CLAS, the Secretary nor the Governors undertakes any liability for any error or omission in the information supplied.

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.

| | |
|--|----------|
| CHARITIES AND CHARITY LAW | 2 |
| Virtual meetings of trustees..... | 2 |
| CORONAVIRUS UPDATE..... | 3 |
| Coronavirus guidance | 3 |
| FAITH & SOCIETY | 4 |
| Protecting places of worship consultation..... | 4 |
| Validity period of marriage notifications in England & Wales | 4 |
| ODDS & ENDS | 5 |
| Copyright and live streaming of services | 5 |
| PROPERTY & PLANNING | 7 |
| The Court of Appeal upholds the ‘right to rent’ scheme | 7 |

CHARITIES AND CHARITY LAW

Virtual meetings of trustees

For information

In a helpful article in *Lexology*, [*Covid-19 and charities: key questions and answers*](#), Jonathan Conder, Nicholas Harries and Emma Cox of Macfarlanes LLP address a range of difficult issues, one of which is virtual meetings – on which they say this:

'Holding physical meetings such as AGMs, board meetings and trustees' meetings is likely to be difficult under the current circumstances. Unless the charity's governing documents expressly prohibit virtual meetings, it is generally accepted that meetings held via video link are valid, so long as the participants can all see and hear each other.'

Normally, unless the governing document specifically permits the use of a telephone-only meeting, a meeting conducted via telephone may not be validly held since the participants cannot see each other. However, the [Charity] Commission has indicated that it will take a more relaxed approach to telephone meetings under the circumstances, so long as any decisions made at the meeting are recorded. Nevertheless, meetings should be conducted via video wherever possible.

Where a meeting is to be held remotely, the usual requirements regarding giving notice of the meeting and circulating minutes should be complied with.

Charities might also consider alternatives to holding meetings, for instance by approving decisions through unanimous written resolutions where the governing documents allow this. There is also case law to suggest that a simple majority of trustees of an unincorporated charity may bind the minority, but the safest course of action would be to seek unanimous approval'.

In addition, if holding a meeting online or by telephone, it would be in accordance with good practice to minute that fact.

[Source: *Lexology*, 9 April]

CORONAVIRUS UPDATE

Coronavirus guidance

For information

The Historic Religious Buildings Alliance has [collated](#) numerous guidance notes from external bodies in relation to the coronavirus pandemic. It also notes consultations and calls for evidence.

[Source: Historic Religious Buildings Alliance, 1 May]

FAITH & SOCIETY

Protecting places of worship consultation

For information and possibly for action

The Home Office's consultation on [protecting places of worship](#) has been extended until **28 June** due to the coronavirus pandemic. The consultation will consider what steps should be taken to provide greater protection from hate crime for places of worship in England and Wales.

We have not submitted a corporate response from CLAS because many of the questions ask for personal reactions and anecdotal evidence – which we are not in a position to provide.

[Source: Home Office, 29 April]

Validity period of marriage notifications in England & Wales

For information

The Government has [stated](#) that it is considering the effect that COVID-19 has on the validity period of notices of marriage in England & Wales. In response to a question in Parliament, Alex Chalk MP stated that:

'The Government acknowledges the significant upheaval that Covid-19 is causing for couples who were looking to marry at this time. The requirement to solemnize a marriage within twelve months of giving notice to marry is set out in primary legislation and would require primary legislation to amend.'

'We are exploring what changes might be possible in relation to marriages at this time, and in line with Public Health England guidance on social distancing.'

We have also been in correspondence on the matter with the General Register Office.

[Source: Commons *Hansard*, 27 April]

ODDS & ENDS

Copyright and live streaming of services

For information

On 30 April, the Church of England issued [new guidance](#) on the live streaming of services and copyright. Because the principles are of general application rather than merely of interest to C of E churches, we reproduce the main points below:

CCLI

CCLI introduced a [streaming licence](#) in mid-March 2020. It is available to any church which holds a CCLI Church Copyright Licence. For many churches, this licence will cover them for their streaming activity:

- For churches who are streaming their services via YouTube or Facebook, the CCLI [Streaming Licence](#) will cover them for live worship music performed as part of that stream. (This would include services streamed or webcast via YouTube but embedded into the church's own website).
- You can check on the [CCLI website](#) as to whether permissions for a particular hymn or song are covered by them.
- If the church is hosting the stream/webcast on their own website, they will need the [PRS for Music Limited Online Music Licence \(LOML\)](#) in addition to the CCLI Streaming Licence.
- The CCLI Streaming Licence includes the right to show the words on screen.
- The CCLI Streaming Licence allows a church to make recordings of the services available on their website indefinitely provided you keep renewing your streaming licences.
- These licences cover 'live' music performances. If a church is using recorded music as part of the stream, additional rights come into play. Commercially available CDs or music recordings cannot be played unless specific permission is granted by the copyright holder.

There are several other Christian organisations that provide apps or software that provide backing tracks for worship, some of which are giving churches permission to use their pre-recorded tracks as part of their streams. Please carefully check first before using this material.

Using other copyrighted material

- Permission should also be sought from the owner(s) of any other creative works included in the service. If reproducing bible verses, or liturgy, usually there will be copyright information

in the front of the publication, and usually they will allow for a certain proportion to be reproduced.

- For any images etc. the same rules would apply as in normal circumstances. Never assume that you can take an image found on Google and use it in a church service or include it in a service sheet or similar without permission.
- Regarding a Service Sheet, as long as there are appropriate licences/permissions in place, making that service sheet available online should be fine.

One License

- Another licence, [One License](#) [sic] is available which covers an additional range of church and choral music e.g. Taizé, GIA Publications, Oxford University Press, Wild Goose Resource Group, Kevin Mayhew.
- While some materials from these publishers may already be covered by a CCLI Church Copyright Licence, this is worth exploring if you wish to stream a wider range of music. However, the same rules described above over seeking permission for 'recorded' performance still apply. The Church of England uses both a One Licence and CCLI Streaming Licence for the [weekly online services](#) to enable access to a broad range of Christian music.

Advice on using Zoom to stream services

- Churches using Zoom to stream services need both the CCLI Streaming Licence and the [PRS for Music LOML](#). This is because Zoom doesn't currently have an agreement with PRS for Music as YouTube and Facebook do.

[Source: Church of England, 30 April]

PROPERTY & PLANNING

The Court of Appeal upholds the 'right to rent' scheme

For information

Residential landlords in England are required to undertake '[right to rent checks](#)' prior to the commencement of a new tenancy, to ensure that the person wishing to rent a property does indeed have a 'right to rent'. Intending occupants must therefore provide satisfactory evidence that they are UK citizens or have leave to enter or remain in the UK.

In March 2019, the 'right to rent' was challenged in the Administrative Court by the Joint Council for the Welfare of Immigrants, with the Residential Landlords Association, the Equality and Human Rights Commission and Liberty as interveners, and the trial judge held that ss.20-37 of the Immigration Act 2014, on residential tenancies, was incompatible with the European Convention on Human Rights: specifically, with Article 14 ECHR (prohibition of discrimination) in conjunction with Article 8 ECHR (right to respect for private and family life).

The Government appealed, however, and the Court of Appeal reversed the judgment at first instance: see *The Secretary of State for the Home Department v R (Joint Council for The Welfare of Immigrants) [2020] EWCA Civ 542*. The Court of Appeal held that the 'right to rent' scheme was *a proportionate means of achieving a legitimate objective and was therefore justified*.

As a result, nothing has changed: churches letting vacant properties should note that landlords in the private sector must continue to comply with the requirements of the Scheme.

[Source: CLAS, 4 May]