

CLAS CIRCULAR 2020/15

(26 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.

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EMPLOYMENT & VOLUNTEERING

Coronavirus Job Retention Scheme

For information

As noted in our last Circular, on 12 May the Chancellor [announced](#) that the Coronavirus Job Retention Scheme would be extended until the end of October. On 23 May, he announced that from 1 August, the employer's contribution would rise, though by what percentage we do not yet know.

[Source: HM Treasury, 23 May]

FAITH & SOCIETY

Civil partnership and marriage: Coronavirus

For information

CLAS had understood that the issue of refunding wedding and civil partnership notice fees, where a ceremony has had to be cancelled because of the COVID-19 pandemic and the notice has expired after twelve months, had been raised with Government unsuccessfully. The response, as CLAS understood it, was that it was a statutory fee that could not be varied without amending legislation. In answer to a Written Question on the issue by Dame Diana Johnson, however, Kevin Foster replied on behalf of the Home Office as follows:

'The notice fee is paid to the local authority and is for the service provided at the time the notice is given. Fees can be reduced, waived or refunded on compassionate grounds or in cases of hardship, and it is for each local authority to determine when this can be applied.'

[Source: Commons *Hansard*, 11 May]

Reopening of places of worship

For information

We mentioned in Circular 2020/14 that five new ministerial-led taskforces have been set up to develop plans for how and when closed sectors can reopen safely in England, one of which is looking at places of worship, including faith, community and public buildings, under the aegis of the Ministry for Housing, Communities and Local Government. The Government has set out its ambition to reopen places of worship in England in step 3 of its plan to lift restrictions: reopening is expected to be no earlier than 4 July *and is subject to further scientific advice*.

The Places of Worship Taskforce, which includes leaders and representatives from all the major faiths, had its first virtual meeting last week. Members agreed to work together to consider whether some forms of worship, such as individual prayer, might be permitted in places of worship before they fully reopen in step 3, where it is appropriate and safe to do so in line with social distancing guidelines. Members of the taskforce also agreed to consult their faith communities on the measures being considered and to support ongoing engagement with their communities on this important work as it develops. The Taskforce will produce guidance jointly with MCHLG to support places of worship across England to reopen safely.

The Communities Secretary also confirmed that Faith Action will receive £125,000 to consult and engage with different community groups and places of worship up and down the country to ensure that their views are represented at the Taskforce's meetings.

Members of the Taskforce at the meeting included:

- The Archbishop of Canterbury;
- The Cardinal Archbishop of Westminster;
- Chief Rabbi Ephraim Mirvis;
- Shaykh Dr Asim Yusuf of The British Board of Scholars and Imams;
- Rajnish Kashyap, Hindu Council UK;
- Jasvir Singh, City Sikhs; and
- Daniel Singleton, Faith Action.

Other faith representatives and government officials may be invited to attend future meetings, depending on the Taskforce's priorities.

[Source: MHCLG, 15 May]

FUNDING

Gift Aid Small Donations Scheme and COVID-19

For information

With the suspension of religious services, the question has arisen as to whether, if a regular cash donor put £200 cash in an envelope and marked it as 10 weeks of £20 weekly donations for the occasions on which that person had been unable to make a regular cash offering in church, HMRC would be prepared to allow the church to regard those payments as a series of eligible small donations for the purposes of the Scheme.

When a group of charities led by the Charity Tax Group raised the point with HMRC, officials responded helpfully as follows:

'In respect of [*the Scheme*], guidance on the eligibility for donations for inclusion ... is clear in stating that claims can only be made on cash donations of £30 or less; and contactless card donations of £30 or less collected on or after 6 April 2019. The decision over what constitutes an eligible donation is one for the church/charity to make for themselves, rather than for HMRC, but the conditions for something to be considered a "small donation" are clearly set out in legislation. Where it is the case, for example, of separate donations being given in a single envelope, then if the church/charity official is happy these are clearly separate "small donations" (and clearly stated as such) then they will be eligible for GASDS, as is the case where separate envelopes are used'.

[Source: HMRC, 13 May]

ODDS & ENDS

Vicarious liability again

For information

In *FXF v Ampleforth Abbey Trustees* [2020] EWHC 791 (QB) the Ampleforth Trustees admitted vicarious liability for sexual abuse carried out by Fr Damian Webb, a member of the Ampleforth Benedictine community; however, primary limitation expired in 1985, Webb had died in 1990 and Ms FXF's claim was not issued until 2017, 32 years after the expiry of the limitation on the action.

Lambert J weighed the reasons for the delay against the prejudice that it caused the Defendant and concluded that the prejudice outweighed the reasons for the delay. Though FXF genuinely believed that she had been abused, there were lapses in her memory and there were no contemporaneous records to fill the gaps.

Because Webb was dead, the Ampleforth Trustees were unable to advance a positive case in rebuttal. Had FXF had a very strong case 'this would have weighed heavily in the balance in her favour' [105] but the gaps in FXF's evidence meant that this did not apply. Lambert J decided not to exercise her discretion under s.33 Limitation Act 1980 and, as a result, the claim was time-barred.

[Source, BAILII, 2 April]

PROPERTY & PLANNING

Guidance on construction work in churches

For information

The Church of England has published a new FAQ and guidance, [Can construction work be carried out?](#), extracts from which are reproduced below in the hope that other members may find them interesting.

It is possible to carry out construction work, providing the following guidance is adhered to:

- [Guidance for opening church buildings for works to the building and interior including by professional contractors.](#)
- [Guidance for access to churches and cathedrals buildings for construction work.](#)

The guidance on opening church buildings includes links to many professional organisations which provide guidance for contractors on safe working practices and COVID-19.

- [Guidance for construction work](#), (19 May)
- [Guidance for architects and surveyors](#), (link to the RICS site).
- [Guidance for archaeologists](#), (10 May).
- [Guidance for organ builders](#), (28 April).
- [Guidance for ecologists](#), (various).

[Source: Church of England, 20 May]

SAFEGUARDING

Coronavirus (COVID-19): safeguarding in schools, colleges and other providers

For information

The Department for Education has updated its [guidance](#) on safeguarding in educational settings. The guidance is relevant to all schools in England, whether maintained, non-maintained or independent (including academies, academy trusts, free schools and alternative provision academies), maintained nursery schools and pupil referral units. Where the guidance refers to 'colleges', the term includes further education colleges, sixth-form colleges, 'institutions designated as being in the further education sector' and other further education providers, funded by the Education and Skills Funding Agency, such as 16 to 19 academies and independent learning providers, including special post-16 institutions

This is interim safeguarding guidance – it is currently under review and will continue to be reviewed and updated as required, at the latest by **1 June**.

Separately, the Government also [confirmed](#) that schools, colleges and nurseries across England "remain on track" to open to more children from 1 June. The PM announced that:

- primary school children in Reception, Year 1 and Year 6s would return; and
- children of all ages in nurseries and other early years providers would start returning.

Secondary schools, sixth forms and colleges will provide face-to-face contact for Year 10, Year 12 and equivalent 16-19 further education students from 15 June, with around a quarter of these secondary students in at any point.

[Source: DfE, 20 May and Prime Minister's Office, 24 May]

SCOTLAND

Civil Partnership (Scotland) Bill

For information

The Civil Partnership (Scotland) Bill, which will extend to opposite-sex couples the right to enter into a civil partnership, has passed its first stage in the Scottish Parliament. The Policy Memorandum on the Bill is [here](#).

[Source: Scottish Government, 19 May]