

CLAS CIRCULAR 2020/17 (12 June 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.

GOVERNMENT GUIDANCE FOR THE SAFE USE OF PLACES OF WORSHIP IN ENGLAND DURING THE PANDEMIC	2
FAITH & SOCIETY.....	3
Catholic Bishops' Conference of England & Wales on reopening churches	3
Church of England on reopening churches	4
Divorce, Dissolution and Separation Bill [<i>Lords</i>]	6
Government brings forward reopening date for churches in England.....	7
Notice Fees for civil partnerships and marriage: coronavirus	7
ODDS & ENDS	8
Coronavirus roundtable	8
PROPERTY & PLANNING.....	9
Coronavirus guidance for landlords and tenants	9
Historic England: second emergency grant fund	9
When is a listed building not a building? <i>Dill v S of S for Housing, Communities and Local Government</i>	9
SCOTLAND.....	12
Bishops' Conference response to COVID-19	12

GOVERNMENT GUIDANCE FOR THE SAFE USE OF PLACES OF WORSHIP IN ENGLAND DURING THE PANDEMIC

For action

MHCLG has [published](#) guidance on the safe use of places of worship in England during the pandemic, pending the possible reopening of places of worship for private prayer on 13 June. The guidance covers the following:

- [Key principles for safely reopening places of worship for permitted activity](#)
- [Guidance for individual prayer within a place of worship](#)
- [Travel to and from a place of worship](#)
- [Guidance for early years and childcare use](#)
- [Should you visit if symptomatic?](#)
- [Individuals who are self-isolating due to a possible or confirmed case of COVID-19 in the household](#)
- [Individuals who are extremely clinically vulnerable/shielding](#)
- [What leaders can do to help prevent the spread of infection](#)
- [How can places of worship communicate this guidance to visitors?](#)

[Source: MHCLG, 12 June]

FAITH & SOCIETY

Catholic Bishops' Conference of England & Wales on reopening churches

For information

The Catholic Bishops' Conference has issued detailed [Guidance: Re-opening Catholic Churches – Private Prayer](#), dated 1 June. The Guidance proceeds from the assumption that:

'Individual prayer within a place of worship is defined as a person or household entering the venue to pray on their own and not as part of a group, led prayer or communal act. They must be socially distanced from other individuals or households. Collective or communal prayer and regular scheduled services are not permitted at this time. This includes any minister of religion or lay person leading devotions or prayer.'

It incorporates the Government's principles for the safe reopening of churches:

- i. Protecting those at higher risk (e.g. the elderly, those extremely vulnerable and shielding or clinically vulnerable and accessing annual flu immunisation);
- ii. Enhanced cleaning of premises - more regularly and no sharing of items;
- iii. Social Distancing - including when using outdoor spaces;
- iv. Face coverings for reassurance;
- v. Hygiene (hand-washing) or hand sanitising facilities for all; and
- vi. Managing children.

It notes that, even before churches can reopen, there are some important preparations that will need to be made, to ensure that the fundamentals of infection control are in place to protect those who are vulnerable:

- Assembling a team of stewards to ensure that the guidance can safely be put into effect;
- Securing sufficient supplies of alcohol hand gel, cleaning materials (including gloves for cleaners) and tape to mark appropriate distances on floors and to block off areas of seating;
- Mark distances on the floor and block off pews/chairs to ensure adequate social distancing (2 metres/6 feet between each person) is maintained throughout the church or, alternatively reconfiguring seating if that is possible;
- Removing from the church all printed materials that are not designed for a single use. This would include service books, hymn books, CTS pamphlets etc;

- Preparing appropriate signage, e.g. asking people to sanitise their hands, on entry and exit, not to touch or physically venerate statues or relics, clear entrance and exit signs, maximum safe capacity etc;
- Maintaining as much ventilation within the church space as possible; keeping doors open decreases transmission risk through touching but also allows a flow of fresh air into the church space. If the church has windows that can be opened, these should be; and
- Ensuring that all taps, toilets and other water storage devices are run well to flush the systems before anyone uses them, especially if the church has not been in use for some time.

[Source: Catholic Bishops' Conference of England & Wales, 10 June]

Church of England on reopening churches

For information

Becky Clark, Director of Churches and Cathedrals and Secretary to the Church Buildings Council and Cathedrals Fabric Commission, has circulated the following update on reopening of church buildings – which is reproduced here with her permission.

New risk assessment template

In response to the Government's announcement that individual private prayer may resume in our churches and cathedrals from 15 June, we have published a revised risk assessment to help parishes and Chapters decide whether they are in a position to open safely and, if they are, to fulfil the requirement that we understand will be in Government guidance that a risk assessment be completed. It is very important to emphasise that churches *may* open from 15 June, not that they must or should.

The Bishop of London, as Chair of the Recovery Group, wrote to all Bishops on 9 June:

'As you are already aware, the Government announced at the weekend its intention that individual prayer will be permitted by law in places of worship in England from next Monday (15 June). This is very much a permissive change rather than a prescriptive one - it will still be a matter for local churches and cathedrals in liaison with their bishops or deans to decide to what extent they wish to take this up, if at all, in light of their own particular circumstances. We are awaiting new Government guidance and regulations on this area to be published but, in the meantime, we have now updated our risk assessment template for church buildings. That can be downloaded from the Coronavirus page of the Church of England website.'

The current version is marked as a 'planning document'. This is because we don't yet have the final government guidance and so will update this document as soon as it is available.

You can access the risk assessment, in an editable Word format, [here](#).

New guidance on temporary permissions

We have published a new document which outlines the approach that the Dean of the Arches and the Cathedrals Fabric Commission believe should be taken to the temporary necessary changes to enable social distancing and hygiene measures to be put in place. The message from the Dean of the Arches has been sent directly to Chancellors and Registrars. You can access the guidance on permissions [here](#).

As part of our general work checking and consolidating guidance, we have combined the existing guidance for contractors and for construction workers into a single document with a separate, dedicated risk assessment at the end of the new document. You can access this revised document [here](#).

Later this week I hope to also be able to let you know of an update to our general guidance document on accessing church buildings, which will reflect changes in various elements of government guidance and recent decisions of the House of Bishops.

There are now resources available on the main Church of England Coronavirus pages from the Liturgical Committee and advice notes to help with planning for when ordinations, baptisms, and weddings can take place, as well as advice on Holy Communion. These will be updated as the situation develops. These are not primarily focused on buildings matters but are intended to help churches and cathedrals plan for the near future

Guidance on singing and music is in preparation, although we are dependent on Government for when it may be published. Dr David Knight from my team is involved in developing that and we will circulate it as soon as it is available

Funerals in church buildings

Following a meeting of the House of Bishops this morning, 9 June, the Bishop of London wrote to outline a decision of the House relating to funerals

‘Following on from that Government announcement, and in light of the changing circumstances it reflects, including a welcome reduction in the rate of Covid-19 related deaths, the House of Bishops has revised its advice on conducting funerals inside church buildings from 15 June as long as they take place within Government guidance. However, as with individual prayer, this is permissive and not prescriptive. There will be places where, for a number of reasons, it might not still be advised to conduct funerals inside church buildings and the decision will be taken locally, with the diocesan bishop.’

There is a [guidance note on the website](#) to help local churches plan to conduct funerals safely.

Accessing church buildings for clergy, staff and volunteers

We have been working with the Government to gain confirmation that accessing cathedral and church buildings for purposes of preparation to re-open is allowed under the Emergency Regulations, even

though this purpose is not specified in the legislation. Happily, we have now received this update from MHCLG

'The regulations require a place of worship to be closed [except for the uses permitted](#): funerals, to broadcast worship, provide essential services and early years childcare. Our lawyers advise that if the place of worship is being cleaned or preparing to open, there's a strong argument it's still closed whilst these activities are happening, provided members of the public can't access it.'

We have asked for specific clarification on the matter of organists or other musicians coming into church buildings to practise and will update you on this as soon as possible. At present, under the Regulations it is not permitted.

Government officials have also provided some information on more than one person being present in the place of worship for these purposes

'[Reg 7 covering mass gatherings](#) should be considered if there is to be more than one person working in the place of worship at any one time, which says that more than one person gathering indoors is not permitted unless under certain exceptions in 7(2), the most relevant of which would be if the gathering is 'reasonably necessary [...] for work purposes, or for the provision of voluntary or charitable services'. This should cover those employed by the place of worship, or those contracted to provide services such as cleaners, maintenance staff, but this could also cover volunteer members of the community.'

[Source: Church of England, 9 June]

Divorce, Dissolution and Separation Bill [*Lords*]

For information

The Divorce, Dissolution and Separation Bill was [given its Second Reading](#) in the Commons on 8 June, by 231 votes to 16. The Commons Library has prepared a research briefing on the Bill, [here](#).

[Source: House of Commons Votes & Proceedings, 8 June]

Government brings forward reopening date for churches in England

For information

On 10 June, the Government announced that 'From **13 June**, you will be able to ... Attend your place of worship for the purposes of individual prayer': the original date had been 15 June. *The announcement applies to England only.*

[Source: Cabinet Office, 10 June]

Notice Fees for civil partnerships and marriage: coronavirus

For information

On 11 May, in answer to a Written Question to the Home Secretary – whether she has plans to suspend notice fees for (a) marriages and (b) civil partnerships for couples that have been required to cancel their wedding as a result of the covid-19 outbreak and whose notice period will expire before the wedding can be rearranged – the Parliamentary Under-Secretary of State, Kevin Foster, replied:

'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]

ODDS & ENDS

Coronavirus roundtable

For information

On 8 June, the Minister of State for Human Rights Lord (Tariq) Ahmad of Wimbledon [chaired a meeting](#) of leaders from the UK's major faith and belief groups and faith-based aid charities to discuss the global impact of coronavirus on communities. They discussed the importance of religious support services in tackling the pandemic, including those based in mosques, churches, temples, synagogues and other religious or non-religious organisations.

[Source: DfID, FCO, 8 June]

PROPERTY & PLANNING

Coronavirus guidance for landlords and tenants

For information

MHCLG has updated its non-statutory guidance for [landlords, tenants](#) and [local authorities](#) in the private and social rented sectors in the context of COVID-19. The guidance has been updated to reflect amended regulations and changes to wider Government and public health advice. It also provides [Technical Guidance on Eviction Notices](#).

[Source: MHCLG, 1 June]

Historic England: second emergency grant fund

For information **and possibly for action**

Historic England has launched [a second emergency grant fund](#). The maximum amount of grant is £25,000 and the closing date for expressions of interest is **28 June 2020**. It is open to Grade I and II* buildings and, under limited circumstances, to Grade II buildings. Places of worship are eligible. The grant is to help 'fix urgent problems at locally-cherished historic buildings and sites ... so that they can re-open as quickly as possible, subject to COVID-19 restrictions, and thrive once again. The funding can be used to address problems such as damaged roofs, masonry and windows, to hire scaffolding to prevent structural collapse, or commission surveys necessary to inform urgent repairs'

[Source: HRBA, 10 June]

When is a listed building not a building? *Dill v S of S for Housing, Communities and Local Government*

For information

In *Dill v Secretary of State for Housing, Communities and Local Government & Anor* [\[2020\] UKSC 20](#), the dispute was about early 18th-century lead urns on limestone pedestals. They had been erected in the historic garden at Wrest Park in Bedfordshire but had been moved several times since 1939. In

1973, Major Dill (the appellant's father) moved them to the garden of Idlicote House and in 1986 they were added to the list of listed buildings under s.54 of the Town and Country Planning Act 1971. In 1993, Mr Dill acquired the house and the urns and, unaware of the urns' presence on the list, he sold them at auction in 2009. In 2015, Stratford-on-Avon District Council discovered that the urns had been sold and told him that he should have sought listed building consent to remove them. When he applied for retrospective consent in February 2016 it was refused, and the Council issued a listed building enforcement notice requiring their reinstatement. After a series of unsuccessful appeals, the dispute arrived in the Supreme Court.

Mr Dill's argument was that the urns could not be "buildings" for the purposes of the Planning (Listed Buildings and Conservation Areas) Act 1990. Giving the unanimous judgment of the Court, Lord Carnwath said that

'A listed building means "a building which is ... included in [the] list ...". Thus there are two essential elements: it must be both a "building" and it must be "included in [the] list ...". If it is not in truth a building at all, there is nothing to say that mere inclusion in the list will make it so' [24].

Further, the case:

'... revealed a disturbing lack of clarity about the criteria which have been adopted by the relevant authorities, not only in this instance but more generally, in determining whether free-standing items such as these are regarded as qualifying for listing protection, whether as "curtilage structures" or as separate "buildings" as in this case. Even now, in spite of the issue having been raised by Mr Dill in 2015 ... he has had no official explanation of the criteria by which it was determined that these items qualified as "buildings"' [28]: 'If they had been resting on the ground, rather than a plinth, I doubt if it would have occurred to anyone that they might qualify as buildings' [58].

Lord Carnwath said that the case revealed a lack of clarity about the applicable criteria for determining whether a free-standing item should qualify for listing protection. He referred to the Court of Appeal's judgment in *Skerritts of Nottingham Ltd v S of S for the Environment, Transport and Regions (No 2)* [2000] JPL 1025, which laid down a threefold test for whether such an item constituted a building, involving 'considering size, permanence and the degree of physical attachment' [46].

The Court remitted the enforcement appeal to the Secretary of State for redetermination [26]; however,

'Even if his appeal were ultimately to fail, the practicability of restoring the vases to their previous location in the grounds of Idlicote House is uncertain. Accordingly, this court's formal order for remittal should not prevent the respondents from giving serious consideration to whether in all the circumstances it is fair to Mr Dill or expedient in the public interest to pursue this particular enforcement process any further' [60].

Comment

From the point of view of the Church of England and the Church in Wales, the issue of moveables such as lead urns is subject to the faculty jurisdiction and is covered whether the church building is listed or not. For the other denominations currently exempted from listed building controls, however, the judgment in *Dill* might have greater relevance.

Mgr Nicholas Rotherham was involved in a similar case dealt with by the Historic Churches Committee of the Catholic Bishops' Conference which had involved the removal and sale of a statue from a church. The statue had come into the church's possession in about 1920 and had been placed in various locations over the years, and the applicants wished to sell it in order to stabilise the very difficult financial position of its building as a whole.

The sale was controversial, and the applicant hoped that a positive decision from the HCC would help to support the sale. In the event, the sale did not go ahead, but Mgr Rotherham suggests that the HCC should not have considered the matter in the first place, on the grounds that *it did not relate to a listed building*. He further suggests that *Dill* is a useful reminder to (non-Anglican) exempt denominations to ensure that their decisions relate solely to the architectural merit of listed buildings and not to other matters that may be important and controversial but which do not form part of their remit.

[Source: BAILII, 20 May]

SCOTLAND

Bishops' Conference response to COVID-19

For information

The Bishops' Conference of Scotland has issued a [pastoral letter](#) which notes that the Scottish Bishops have established a Covid-19 Working Group chaired by Sir Harry Burns, former Chief Medical Officer for Scotland, to look at 'what will be required to make our churches and liturgies safe spaces for private prayer and a phased return to our common liturgical life' and a Pastoral Ministry Working Group, chaired by Bishop Brian McGee, to offer 'guidance on parish pastoral ministry until the pandemic abates'. The pastoral letter goes on to say that

'Our aim is to act in harmony with the guidance of the Government and the health authorities, with whom we are in conversation, and to return to our normal liturgical and devotional practice in a safe and phased way. It is important that we act together as the Catholic Church in Scotland, in step with one another, and clear about what is legitimate and prudent at each stage of the process.

Until further notice, the requirement to attend Mass on Sunday and Holy Days of obligation remains suspended.'

The Working Group on COVID-19 Infection Control has issued detailed [COVID-19 Infection Control Guidance for churches](#).

[Source: Bishops' Conference of Scotland, 5 June]