

## CLAS CIRCULAR 2020/33 (21 December 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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## COVID-19 UPDATES

### Christmas COVID-19 guidelines and updates

For information and **possibly for action**

After a joint statement by the UK and devolved Governments on Wednesday 16 December outlining relaxations of the COVID-19 restrictions between 23 and 27 December, there nevertheless appeared to be divided opinions about any relaxation. The joint statement notwithstanding, Nicola Sturgeon continued to stress that 'the strong recommendation of the Scottish Government to people across Scotland is to celebrate Christmas this year within your own household and in your own home – and as far as possible to keep any interaction with other households to a minimum'. Soon afterwards, the UK-wide approach began to unravel when the Welsh Government decided that interactions should be limited to two households only and would be followed by a further lockdown from 28 December, while the Northern Ireland Executive announced a six-week lockdown starting on Boxing Day to be reviewed after four weeks.

On Saturday afternoon, 19 December, the Prime Minister [announced](#) that the Christmas relaxation in England would be for Christmas Day *only* and would be scrapped altogether for London, the South East and the East of England, which yesterday morning entered a new Tier Four level of restrictions, broadly equivalent to national restrictions that were introduced in England in November – *though public worship under the current restrictions will be allowed to continue*. The Tier Four restrictions will last for two weeks and will be reviewed on **30 December**. The updated Christmas guidance for England is [here](#) and the Regulations are [here](#).

On **weddings, civil partnerships and funerals**, the guidance is as follows:

'Weddings, civil partnership ceremonies and funerals must only take place in COVID-19 secure venues or in public outdoor spaces unless in exceptional circumstances.

Funerals can be attended by a maximum of 30 people. Linked religious, belief-based or commemorative events, such as stone settings and ash scatterings can also continue with up to 6 people in attendance. Anyone working is not counted in these limits. Social distancing should be maintained between people who do not live together or share a support bubble.

Weddings and civil partnership ceremonies should not take place except in exceptional circumstances, for example where one of those getting married is seriously ill and not expected to recover ("deathbed wedding") or due to undergo debilitating treatment or life-changing surgery. These weddings are limited to 6 people.

If you live in a tier 4 area and are going to a wedding, funeral or linked commemorative event outside the tier 4 area, the event must follow the tier 4 gathering limits on the events.

If you live outside a tier 4 area and are going to a wedding, funeral or linked commemorative event inside the tier 4 area, you must comply with the tier 4 gathering limits on the events.'

On **visiting churches and other places of worship**, the guidance says:

‘From 2 December, you can attend places of worship in all tiers. The rules on who you can meet with whilst at places of worship will depend on your tier. [Check the rules for your tier.](#)

On 25 December, you may also attend a place of worship with members of your Christmas bubble if you choose to form one. You should continue to practise safe behaviours including making space between members of different households wherever you can.

There is further information in the [guidance for the safe use of places of worship during the pandemic.](#)’

Later on Saturday, the Welsh First Minister [announced](#) that the Welsh Government had decided to apply the new Tier Four restrictions in Wales in line with the action being taken in London and the South East and East of England, with effect from midnight. As in England, the Christmas relaxation will apply only on Christmas Day. The latest Regulations are [here](#).

Separately, MHCLG has published two guidance notes that may possibly be of interest to CLAS members in England:

- [Guidance on celebrating religious festivals during coronavirus](#) (last updated 10 December).
- [Guidance for small marriages and civil partnerships](#) (last updated 16 December).

[Source: CLAS, 20 December]

### Stop Press: Northern Ireland Christmas COVID-19 guidelines

For information and **possibly for action**

After an extraordinary meeting of the Executive yesterday (Sunday) evening, it was decided to limit the arrangements for people to come together over Christmas. A [statement](#) from the Executive says that ‘Christmas bubbling will now be reduced to one day only on a date between 23 and 27 December, to ensure flexibility for those working on Christmas Day to choose an alternative day that suits best.’

Further: ‘The Executive is urging everyone to travel only if it is absolutely necessary. Travel is not permitted in or out of Tier 4 areas in England. Restrictions apply in other tier areas. Everyone should comply with all travel restrictions in place for each region and check the guidance at both the point of departure and destination. The Executive also discussed the issue of restricting travel and Ministers agreed to consider this further when they next meet.’

[Source: Northern Ireland Executive, 20 December]

## CHARITIES & CHARITY LAW

### Charity Governance Code: update

For information and **possibly for action**

The Charity Governance Code Steering Group is a cross-sector collaboration with an independent chair, [Rosie Chapman](#). The group's purpose is to review, develop, promote and maintain the Code for the sector. The steering group's members are [ACEVO: Charity Leaders Network](#), the [Association of Chairs](#), [ICSA: The Chartered Governance Institute](#); the [National Council for Voluntary Organisations \(NCVO\)](#), the [Small Charities Coalition](#); and [Wales Council for Voluntary Action \(WCVA\)](#). The [Charity Commission](#) is an observer on the group.

The Steering Group has announced a "refresh" of the Code – which can be downloaded [here](#) and which, it should be emphasised, *is not statutory*. The principal changes are to the renamed *Equality, Diversity and Inclusion (EDI) Principle*; they update the *Integrity Principle* to emphasise ethics and the right of everyone who has contact with the charity to be safe.

The Code recommends four stages of practice for charities in implementing EDI – Boards should:

1. Think about why equality, diversity and inclusion is important for the charity and assess the current level of understanding.
2. Set out plans and targets tailored to the charity and its starting point.
3. Monitor and measure how well the charity is doing.
4. Be transparent and publish the charity's progress.

As to safeguarding, the refreshed Code includes new recommended practice that asks trustees to:

- understand their safeguarding responsibilities;
- establish appropriate procedures that are integrated with the charity's risk management approach; and
- ensure that everyone in contact with the charity knows how to speak up and raise concerns.

[Source: Charity Governance Code, 8 December]

## EMPLOYMENT

### Chancellor extends furlough and loan schemes

For information and **possibly for action**

The Chancellor has [announced](#) that the furlough scheme has been extended until the end of April 2021, with the Government continuing to contribute 80 per cent towards wages. These changes come ahead of the Budget, which the Chancellor has also confirmed will take place on 3 March 2021.

[Source: HM Treasury, 17 December]

### New criminal record disclosure rules take effect

For information

On 28 November 2020, [The Police Act 1997 \(Criminal Record Certificates: Relevant Matters\) \(Amendment\) \(England and Wales\) Order 2020](#) came into force, implementing important changes to the criminal records disclosure rules in England and Wales.

The criminal records disclosure regime provides information through Disclosure and Barring Service (DBS) certificates to employers about an individual's criminal record. That information is then used by employers when considering the suitability of applicants for eligible roles or work.

The Order removes the requirement for automatic disclosure of youth cautions, reprimands and warnings and removes the "multiple conviction" rule, which required the automatic disclosure of all convictions where a person has more than one conviction, regardless of the nature of their offence or sentence.

[Source: *UK Human Rights Blog*, 1 December]

## Sponsoring a Minister of Religion or Religious Worker

For information and **possibly for action**

UK Visas and Immigration has [published](#) guidance for sponsors on sponsoring a Minister of Religion or Religious Worker:

- The Minister of Religion route is for the recruitment of a person who has a key leading role within his or her faith-based organisation or religious order in the UK.
- The Religious Worker route is for people who want to support the activities of religious institutions in the UK by conducting religious work, such as working in a religious order or filling non-pastoral placements, for no more than two years.

The guidance was published *after* CLAS held its meeting with the Home Office. It therefore supersedes any apparent internal contradictions in CLAS's note of the meeting with the Home Office. CLAS will be in contact with the Home Office to seek clarification of any contradictions between what we were told and what the guidance notes appear to say. We will also engage with the Home Office on any points that members raise with CLAS.

[Source: UK Visas and Immigration, 9 December]

## FAITH & SOCIETY

### Draft changes to the Family Procedure Rules

For information

The Family Procedure Rule Committee has [published](#) a consultation – closing 2 March 2021 – on proposed amendments to Part 6 (Service) and new rules in Part 7 (Procedure for Applications in Matrimonial and Civil Partnership Proceedings) of the Family Procedure Rules 2010, which seek to give procedural effect to the revised legislative framework brought about by the Divorce, Dissolution and Separation Act 2020.

The consultation paper outlines the principal changes proposed by the Committee, most notably in respect of service (both within and outside the jurisdiction) and joint applications. Other key changes include the definition of disputed cases and the listing of case management hearings in disputed cases.

[Source: Family Procedure Rule Committee, 16 December]



## ODDS & ENDS

### Independent Human Rights Act Review

For information

The Ministry of Justice has [announced](#) the membership and [Terms of Reference](#) of the much-trailed Independent Human Rights Act Review. The Review is to be chaired by Sir Peter Gross, a retired Lord Justice of Appeal. Specifically, the review will consider:

- The relationship between the domestic courts and the European Court of Human Rights, including how the requirement under s.2 of the Act to “take into account” ECHR case law has been applied in practice, and whether or not dialogue between the UK domestic courts and the ECHR works effectively and if there is room for improvement.
- The impact of the HRA on the relationship between the Judiciary, the Executive and Parliament, and whether domestic courts are being unduly drawn into areas of policy.
- The implications of the way in which the Human Rights Act applies outside the territory of the UK and whether there is a case for change.

[Source: Ministry of Justice, 7 December]

### Review of the Gambling Act 2005

For information

DCMS has [published](#) the Terms of Reference and Call for Evidence for its review of the Gambling Act 2005. The review aims to ensure the regulatory framework protects children and vulnerable people, prevents gambling-related crime, and keeps gambling fair and open in the digital age. The Government's objectives in establishing the Review are:

- 15.1. to examine whether changes are needed to the system of gambling regulation in Great Britain to reflect changes to the gambling landscape since 2005, particularly due to technological advances;
- 15.2. to ensure there is an appropriate balance between consumer freedoms and choice on the one hand, and prevention of harm to vulnerable groups and wider communities on the other; and

- 15.3. to make sure customers are suitably protected whenever and wherever they are gambling, and that there is an equitable approach to the regulation of the online and the land based industries.

In its [response](#) to the House of Lords Select Committee's report on the Social and Economic Impact of the Gambling Industry, the Government said that:

'As the Committee identified, it is necessary to maintain the right balance between the freedom to enjoy gambling as a leisure activity and the need to protect vulnerable people. The Government recognises that, while the vast majority of those who gamble do so without experiencing even low levels of harm, some people and those around them experience very significant harm.'

[Source: DCMS, 8 December]

## PROPERTY & PLANNING

### Business evictions ban extended until March

For information

MHCLG has [announced](#) that, in a 'final extension' of the scheme, business owners affected by the pandemic will be protected from eviction until the end of March 2021. The Welsh Government has also [announced](#) similar measures.

[Source: MHCLG, 9 December]

### MHCLG updated renting and letting guidance

For information

MHCLG has published updated versions of its guidance on [How to Rent](#), [How to Let](#) and [How to Rent a Safe Home](#).

[Source: MHCLG, 10 December]

### Treasure Act 1996

For information

The Government has published its [response](#) to its consultation on revising the definition of treasure in the Treasure Act 1996 and revising the related Codes of Practice. DCMS plans:

- to create a new definition of treasure that incorporates "cultural significance";
- to update the current Codes of Practice under the 1996 Act "to ensure that the whole treasure process is efficient, transparent and fair";
- to undertake more regular and sustained engagement with the British Museum and other interested parties, to improve best practice and to work together to ensure that the 1996 Act continues to deliver its aims; and

- to work with the Ministry of Justice to commence, when practicable and in accordance with legal advice, specific sections of the Coroners and Justice Act 2009.

*It should be noted that that Treasure Act 1996 does not extend to Scotland.*

[Source: DCMS, 4 December]

## SCOTLAND

### New standards for short-term lets

For information **and possibly for action**

The Scottish Government has announced that existing hosts of short-term lets will have until April 2023 to apply for a licence under [plans for regulation](#). A report into the consultation on the proposals was also [published](#).

Secondary legislation will be laid at the Scottish Parliament later this month (December) and, if approved by Parliament, the licensing scheme will come into force on 1 April 2021.

Local authorities will have until 1 April 2022 to establish a scheme in their area and open it to receive applications, with existing hosts having until 1 April 2023 to apply.

[Source: Scottish Government, 10 December]

## WALES

### Building Regulations Part L and F Review – Stage 2A

For information **and possibly for action**

The Welsh Government has [published](#) a consultation – closing 17 February – as part of the Stage 2A of the Building Regulations Part L and F Review. The review will consult on plans to improve the energy efficiency requirements for existing homes and overheating in new dwellings.

[Source: Welsh Government, 25 November]

### Welsh business rates frozen for 2021 to 2022

For information

The Welsh Government has [announced](#) that business rates in Wales will not be subject to an inflationary increase in 2021-22.

[Source: Welsh Government, 15 December]

***AND A HAPPY (SOCIALY-DISTANCED) CHRISTMAS TO ALL OUR READERS!***