

## **CLAS CIRCULAR 2021/11 (4 May 2021)**

### **Disclaimer**

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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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## FAITH & SOCIETY

### Changes to registration system in England & Wales

**For action**

As readers will be aware, the new electronic marriage register for England & Wales came into operation from today, 4 May 2021. Under it, the names of all four parents of the couple will be included in the marriage entry and on marriage certificates, instead of only the fathers' names.

The General Register Office has issued various guidance – not exclusively in relation to marriage registration:

- an updated version of the [Guidebook for Secretaries \(for Marriages\) of Synagogues](#);
- an updated version of the [Guidebook for The Clergy on marriages, baptisms and burials](#) – which is intended for clergy of the Church of England and the Church in Wales; and
- [A Guide for Authorised Persons](#), for those other than Anglican clergy who are authorised to solemnize marriages.

The *Guidebook for The Clergy* has been designed to be read in conjunction with the Faculty Office booklet [Anglican Marriage in England and Wales. A guide to the law for Clergy](#) [only available in hard copy, though the second supplement is available [here](#)].

[Source: HM Passport Office, 4 May]

### Formal consultation on draft Funerals Market Order

**For information**

The Competition and Markets Authority (CMA) has [published](#) a consultation – closing 17 May – on its draft Funerals Market Investigation Order 2021. A CMA report found that there are features of the relevant markets for funerals in the United Kingdom which 'individually or in combination prevent, restrict or distort competition'. The CMA therefore decided on a package of remedies to be implemented 'to remedy, mitigate or prevent the adverse effects on competition that it found and the detrimental effect on customers that may be expected to result'.

The consultation questions are as follows:

1. Is the Standardised Price List (see Part A to Schedule 1 of the draft Order) appropriately presented?

2. Does the Standardised Price List appropriately describe the items that are included under the Attended Funeral?
3. Do you agree with the items that are included under the Attended Funeral and Unattended Funeral (see Part B and Part C to Schedule 1 of the draft Order)?
4. Funeral Directors must maintain a register of any material charitable donations, contributions or payment of gratuities. Material has been defined as any individual or cumulative donation, contribution or payment within any 12-month period of £250 or more (see Article 7 of the draft Order and paragraph 71 of the draft Explanatory Note). Is £250 an appropriate de minimis figure?
5. Crematorium Operators must provide price information to local funeral directors and customers on a Crematorium Standard Fee Attended Service; a Crematorium Unattended Service if offered by the Crematorium Operator; and a Crematorium Reduced Fee Attended Service if offered by the Crematorium Operator (see Article 8(5) of the draft Order). Do these names appropriately identify the three services?
6. Articles 9 and 10 of the Order require Funeral Directors with five or more branches and ten or more branches to provide certain information to the CMA. Schedule B and Schedule C to the Explanatory Note list funeral directors with five or more branches and ten or more branches respectively. Please inform us if you consider your own or another Funeral Director business is erroneously included or excluded from the lists in these schedules.
7. If a party is aware that it is not compliant with any part of the Order, it must report this non-compliance to the CMA within 14 days of becoming aware that it is not compliant (see Article 11(6) of the draft Order). Is 14 days sufficient time for parties to report non-compliance to the CMA? If not, please give reasons.
8. The substantive requirements of the Order will come into force three months after the Order is made. Does this allow sufficient time for parties to make the necessary changes to their systems and processes so that they are in a position to comply with the requirements of the Order? If not, please give reasons.

[Source: Competition and Markets Authority, 21 April]

### Limit on mourners at funerals in England to be removed

**For action**

MHCLG has [announced](#) that the legal limit of 30 mourners will be removed as part of England's Step 3 of the roadmap. Instead, the number of people who can attend a funeral will be determined by how many people the venue – whether indoors or outdoors – can safely accommodate with social distancing. The change will take place from 17 May *at the earliest*.

[Source: MHCLG, 3 May]

## NORTHERN IRELAND

### Independent Review of Charity Regulation

**For action**

The Northern Ireland Executive has launched an online [Independent Review of Charity Regulation](#), charged with looking at how well the current charities regulatory framework is working and what could work better.

‘The review will consider the Charities Act (NI) 2008 and the roles of the Charity Commission and the Department thereunder. In particular, it will examine whether the Commission’s performance within the existing legal framework strikes the right balance, in light of best practice, between supporting charities to do the right thing and deterring, or dealing with, misconduct. It will make recommendations on changes that can be made to improve the delivery of services and the operation of the regulatory framework going forward.’

The review covers nine areas:

- registration;
- reporting;
- engagement with the Charity Commission for NI;
- charity compliance procedures;
- charity investigation procedures;
- charity enforcement procedures;
- Charity Commission powers of delegation;
- the role of the Department for Communities in charity regulation, including its responsibility for areas of the Charities Act that may require revision; and
- other matters for consideration.

The consultation closes on **12 May**.

[Source: Northern Ireland Executive, 14 April]

## PROPERTY & PLANNING

### Consultation: new code of practice for external walls

**For information and possibly for action**

The British Standards Institution has [published](#) a consultation – closing on **20 May** – on a on new code of practice to assess external walls and cladding systems.

This PAS gives recommendations and guidance on undertaking a fire risk appraisal and assessment (FRAA) of the external wall construction of a multistorey, multi-occupied residential building. Its purpose is to assess the risk to occupants from a fire spreading externally over or within the walls of the building, and to make a decision as to whether, in the specific circumstances of the building, remediation is considered necessary. It is applicable where the risk is known or suspected to arise from the presence of combustible materials within the external wall build-up.

[Source: British Standards Institution, 20 April]

### Fire Safety Act 2021

**For information**

The Fire Safety Bill has received Royal Assent. The [Fire Safety Act 2021](#) makes provision about the application of the Regulatory Reform (Fire Safety) Order 2005 where a building contains two or more sets of domestic premises and confers power to amend that order in future for the purposes of changing the premises to which it applies.

[Source: legislation.gov.uk, 29 April]

### Project Gigabit

**For information**

DCMS has [announced](#) that more than one million hard-to-reach homes and businesses will have next-generation gigabit broadband built into them in the first phase of its £5bn Project Gigabit infrastructure investment scheme. Up to 510,000 homes and businesses in Cambridgeshire, Cornwall, Cumbria, Dorset, Durham, Essex, Northumberland, South Tyneside and Tees Valley will be the first to benefit. Contracts for these first areas will go to tender in the spring and work will begin in the first half of 2022.

The Government expects to make the next announcement in June, with the intention of connecting up to 640,000 premises in Norfolk, Shropshire, Suffolk, Worcestershire, Hampshire and the Isle of Wight.

[Source: DCMS, 20 April]

### **Town and Country Planning (General Permitted Development) (England) (Amendment) (Coronavirus) Order 2021**

**For information and possibly for action**

The [Town and Country Planning \(General Permitted Development\) \(England\) \(Amendment\) \(Coronavirus\) Order 2021](#) came into force on 16 April. It amends the Town and Country Planning (General Permitted Development) (England) Order 2015 (SI/2015/596) (“the General Permitted Development Order”).

The purpose of the Order is to support hospitality businesses and historic visitor attractions to utilise outdoor space as England exits COVID-19 restrictions. It introduces a new temporary permitted development to provide moveable structures within the curtilage, and for the purposes, of—

- (a) a building used as a public house, wine bar, drinking establishment or drinking establishment with expanded food provision,
- (b) a building used for the sale of food and drink to visiting members of the public where consumption of that food and drink is mostly undertaken on the premises, or
- (c) a listed building operated as a historic visitor attraction.

[Source: legislation.gov.org, 15 April]

## SCOTLAND

### COVID-19: Moving to Level 3

**For action**

First Minister Nicola Sturgeon has [announced](#) details of the further relaxation of restrictions across Scotland.

From Monday 26 April, hospitality venues such as cafés, pubs and restaurants can reopen, along with tourist accommodation. Non-essential retail outlets and close contact services such as beauty salons can also reopen, in addition to indoor attractions and public buildings such as galleries, museums and libraries.

The First Minister confirmed that all parts of the country will move to Level 3 from Monday 26 April. The remaining travel restrictions within Scotland will be lifted and travel within the UK will be permitted for any purpose. If everyone continues to follow the rules, the First Minister said it is expected that all of Scotland will move to Level 2 on Monday 17 May.

Further changes from 26 April include:

- adults on the shielding list can return to the workplace, if they cannot work from home, while children who have been shielding can return to school
- non-essential work inside people's homes – such as painting, decorating or repairing – will be permitted, subject to mitigations
- non-essential informal childcare will resume
- driving lessons and tests can take place, while gyms and swimming pools can reopen for individual exercise
- the attendance limit for funerals and weddings – and related events such as receptions – will increase to 50
- cafés, pubs and restaurants can resume full outdoor service, subject to local licensing, and serve food indoors without alcohol until 8pm
- takeaways to resume normal service, with physical distancing and face masks in premises

[Source: Scottish Government, 20 April]

## TAXATION

### Gift Aid on waived refunds and loan repayments

**For information and possibly for action**

HMRC has [updated](#) its guidance for charities on how the tax system operates. Chapter 3.45 has been added to clarify rules on claiming Gift Aid on waived refunds and loan repayments. The updated guidance is as follows:

‘3.45.1 HMRC will consider donations made from a waiver of a right to either a refund or loan repayment to be eligible for Gift Aid. This is provided there is a record of a formal waiver held by the charity and all other Gift Aid rules are met. The donation will be considered to have been made at the date of the waiver and not the date of the original payment. A Gift Aid declaration will need to be collected by the charity if one is not already held for the donor.

3.45.2 What HMRC considers to be a formal waiver depends on the amount being waived. For a small amount, for example a couple of tickets to a fund-raising event, which has been cancelled. The charity should keep an auditable record of correspondence between the charity and the taxpayer, confirming that no refund is required and that this amount is to be treated as a donation. Examples of this correspondence could include an e-mail exchange, a letter out to the taxpayer and their response or a recorded telephone call.

3.45.3 Where the amount being waived is more than a nominal amount, such as a loan repayment, HMRC would expect there to be a legally enforceable document in place. Amongst other things, the document should include details of what is being waived (make it expressly clear that the lender is giving up all legal rights to any future repayment) and confirmation the amount waived is to be treated as a donation for Gift Aid

The charity must keep a copy of this document for audit purposes and all other Gift Aid rules should be adhered to.

3.45.4 In all circumstances, HMRC expects the charity to explain clearly to the individual that they have a choice between obtaining a full refund or waiving the right to a refund and have this classed as a qualifying donation. There must be no pressure placed on the individual to waive their right to a refund. The individual must positively choose to waive their right.

3.45.5 The individual must ensure that they have paid sufficient tax to cover their donation, for the year in which the donation is deemed to be made.’

[Source: HMRC, 4 May]



## WALES

### Further relaxation of COVID-19 restrictions

**For action**

The Welsh Government [announced](#) that further relaxations would be brought forward from 17 May to 3 May, when Wales moved to Coronavirus Alert Level 3. The relevant regulations can be seen [here](#).

Under Schedule 3, which is now in operation, the most significant change in relation to places of worship is that community centres are now permitted to open for an extended range of activities – and this applies to community activities in places of worship. Although the fully-revised Welsh Government guidance for community centres and places of worship has yet to be published, the Welsh Government has asked Cytûn to emphasise that *the reopening does not allow community centres or places of worship to host activities which are not permitted elsewhere*. So the following are not allowed:

- Serving refreshments indoors (except for wedding receptions or funeral teas/wakes for up to 15 people – 30 outdoors – see below). For now, therefore, tea, coffee or other refreshments should not be offered as part of any other activity arranged indoors.
- Singing, with the exception of organised singing or music groups under the arrangements outlined [here](#).
- Entertainment, such as operating as a cinema, bingo hall, bowling centre, indoor play area, gambling, theatre or concert hall.
- Indoor visitor attraction, including operating as a museum or art gallery.
- Parties.

The numbers who may attend activities in a community centre are limited to 15 indoors and 30 outdoors (not counting those who are working or providing voluntary service by arranging or leading the event, and children under 11). This upper limit is not applied to organised activities for children under 18 years of age (age as on 31 August 2020). The usual arrangements regarding risk assessment, cleaning, distancing, face coverings, hygiene, etc are all still applicable.

A number of relevant Welsh Government guidance documents have been updated, including:

- Organised activities for children and young people up to 18 years of age (age on 31 August 2020) - - <https://gov.wales/organised-childrens-activity-frequently-asked-questions>. This includes activities such as Sunday Schools and similar. The following guidance regarding dancing and singing should be noted: *where activities include dancing, using dance moves that avoid direct contact or practice individual skills. When singing ensuring face to face singing is avoided, even where social distancing is maintained. Singing should take place outdoors where possible.*

- Registered and unregistered child care - <https://gov.wales/childcare-and-play-frequently-asked-questions>.
- Performing arts, including music and singing groups - <https://gov.wales/rehearsing-performing-and-taking-part-performing-arts-guidance-phased-return-html>.
- Funerals (including funeral teas) - <https://gov.wales/guidance-funerals-covid-19-html>.
- Weddings and civil partnerships - <https://gov.wales/guidance-weddings-and-civil-partnerships-receptions-and-celebration-events-html> Note that most of this guidance relates to the reception etc, but there is also guidance regarding holding the ceremony.

[Source: Welsh Government, 22 April: Cytûn, 4 May]