

CLAS CIRCULAR 2021/24 (24 November 2021)

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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CHARITIES & CHARITY LAW

Charity Commission: appointing interim managers

For information

The Charity Commission has the power to appoint an Interim Manager ('IM') to act as receiver and manager in respect of the property and affairs of a charity. An IM has the same duties and responsibilities as a trustee in relation to the management and administration of a charity.

The Commission can only use this temporary protective power after opening a statutory inquiry [under section 46 of the Charities Act 2011](#) if it is satisfied either that there is or has been misconduct and/or mismanagement in the administration of a charity or that it is necessary or desirable to protect the charity's property.

It has updated its documentation on the use of its powers as follows:

- [Practitioner and Interim Manager Code of Practice](#).
- [Charity Commission power to appoint an Interim Manager for a charity](#).
- [Application checklist: areas of expertise](#).
- [List of Approved Practitioners](#).

[Source: Charity Commission, 12 November]

Charity Commission: safeguarding for charities and trustees

For information

The Charity Commission has updated 'Safeguarding for charities and trustees'. It stresses that trustees must make sure that their charity fulfils the responsibility to safeguard children or adults at risk. *Even if some activities are delegated to a safeguarding lead or group, the trustees retain overall responsibility.* It includes a new section on managing the safeguarding risks when operating online. It also updates some terminology and links to other sources of support.

Contents:

1. [Identify and manage risks](#)
2. [Have suitable policies and practices in place](#)

3. [Carry out necessary checks](#)
4. [Protect your volunteers and staff](#)
5. [Handle and report incidents appropriately](#)
6. [Further support.](#)

The guidance applies to England and Wales

- [Guidance for Scotland](#)
- [Guidance for Northern Ireland.](#)

[Source: Charity Commission, 17 November]

EMPLOYMENT

Increase in Living Wage rates

Possibly for action

The Living Wage Foundation [announced](#) on 15 November that the hourly Living Wage rates will be increased to £9.90 across the UK (40p increase), and £11.05 in London (20p increase).

The Living Wage is an entirely voluntary obligation which employers are invited to adopt: currently, there are more than 300,000 workers whose employers have signed up to it.

[Source: Living Wage Foundation, 15 November]

FAITH & SOCIETY

Crime in places of worship

For information

The Countryside Alliance has published [data](#) obtained under the Freedom of Information Act which suggests that over 4,000 crimes have been committed at churches and religious premises over the last year in England, Northern Ireland and Wales – Police Scotland did not respond to the request for information.

The figures for 2020/21 reveal that some 115 lead thefts were recorded, along with 1336 thefts, 1688 incidents of vandalism and criminal damage – including arson – and 824 incidents of violence, including sexual assault and assault on an officer. 207 incidents were specifically marked as burglary. The worst-hit areas were largely in the south-east of England with Sussex Police recording 367 crimes, Kent 209 and the Metropolitan Police 575.

[Source: Countryside Alliance, 22 November]

Marriage and Civil Partnership (Minimum Age) Bill: Second Reading

For information

The [Marriage and Civil Partnership \(Minimum Age\) Bill](#), a private Member's ballot bill, was published earlier in the week, with the [Explanatory Notes](#), and was given unanimous Second Reading in the Commons on Friday after [90 minutes of debate](#). The Bill extends to England & Wales only, though it includes an interesting provision about not recognising marriages and civil partnerships of under-18s domiciled in England & Wales which have been contracted in Scotland or Northern Ireland.

Pauline Latham (Con, Mid Derbyshire) moved that the Bill be read a second time. She noted it was a shock to many she had spoken to when they learned that child marriages was not already illegal in the UK. In the last 12 months, the national charity Karma Nirvana had responded to 76 known cases of child marriage in England and Wales, with the youngest case concerning a seven-year-old girl. The point of the Bill was to prevent young people being coerced into marriage, given the law currently permitted marriage for 16 and 17-year-olds, with a parent's permission. She argued this current provision for marriage was outdated, to which many other Members agreed.

Tom Pursglove (Parliamentary Under-Secretary of State for Justice) replied to the debate and expressed the Government's support for the Bill. He reminded the House that it was considering measures that related to England and Wales and, though he wanted the UK 'to live up to the rhetoric

towards which we ask others to work' and that it was 'right that directly elected politicians in Northern Ireland and in Scotland reach the decisions that are appropriate for the communities that they serve ... what we are dealing with here is a very serious matter that relates to the welfare and wellbeing of young people. I would like to think that the Scottish Government and the Northern Ireland Assembly will want to level up their provisions in the way that we are doing today with this Bill, so that, as one United Kingdom, we have a consistent position'.

He also pointed out that the UN sustainable development goals required all countries to 'eliminate all harmful practices, such as child, early and forced marriage and female genital mutilations by 2030' and that the UN Committee on the Rights of the Child had recommended that there should be no legal way for anyone to marry before they turned 18, even if there was parental consent: 'The fact that it is currently possible to marry at 16 is setting the wrong example both at home and abroad.'

[Source: *Commons Hansard*, 19 November]

Emergency services and crime scenes: ministers of religion

For information

On 22 November in a Lords Oral Question, [Lord Moylan \(Con\) asked Her Majesty's Government](#) "what plans they have to establish a multi-professional strategy for the emergency services concerning the attendance of ministers of religion at the scene of situations involving serious injury".

The Minister of State, Home Office, Baroness Williams of Trafford, replied that decisions regarding the management of such situations remained an operational issue for the emergency services involved and there were no plans to establish a multi-professional strategy on the issue. The criteria for the police to consider in such incidents were the protection of life, the risks at the scene and the preservation of evidence at the scene. With regard to the dialogue between the Archbishop of Westminster and the Metropolitan Police Commissioner on the issue, she hoped and expected a sensible and pragmatic conclusion from the discussions:

'The group led by the National Police Chiefs' Council, joined by the Catholic Church and the College of Policing, will determine what such a framework looks like. It was a surprise to me that this had not come up before, and therefore it needs some thinking about, including on whether changes are required to the guidance issued to police faced with such situations.'

[Source: *Lords Hansard*, 22 November]

NORTHERN IRELAND

Northern Ireland: consultation on changes to marriage law

For action

The Northern Ireland Department of Finance has launched [a public consultation](#) on changing two aspects of local marriage law.

The first issue is changing marriage laws to include belief marriage. The proposal is that belief weddings, such as those conducted by humanist celebrants – which are currently subject to temporary arrangements – should be put on an equal legal footing with religious weddings.

The second is the minimum age at which people can legally marry or enter a civil partnership. Views are sought on raising the current minimum age from 16 with parental consent (as in England and Wales, though not as in Scotland) to 18. The Department notes that there has been [a recent call](#) from the Office of the UN High Commissioner for Human Rights for the minimum age for marriage to be raised to 18 in those jurisdictions which currently allow child marriage. On 19 July 2019, the UN Human Rights Council adopted a [Resolution](#) on child, early and forced marriage expressing concern on prevailing impunity and lack of accountability.

The consultation will run until 18 February 2022.

[Source: Northern Ireland Department of Finance, 15 November]

ODDS & ENDS

Warning from CLAS member regarding fraudulent letter

For action

With thanks to the member who shared this information with us, CLAS wishes to make other members aware of a letter that a church treasurer and member of the clergy received. The letter was formatted as an HMRC request for overdue payments going back to 2015/16. The member spotted that the telephone number seemed to be incorrect and so reported the letter to the HMRC phishing team.

CLAS would reiterate the importance of acting on any suspicions that you may have regarding correspondence such as the above, including verifying the validity of the correspondence.

[Source: CLAS, 23 November]

PROPERTY & PLANNING

COVID-19: commercial landlords and tenants

For information

BEIS has [published](#) a note for commercial tenants mandated to close to be further protected from enforcement action to pave the way for proportionate resolution of COVID-19 related rent debts. A related Bill will:

- Propose a new binding arbitration process to help landlords and tenants find proportionate resolution of COVID-19 related rent debt.
- County Court and High Court Judgements on rent debt claims issued from 10 November 2021 to be considered by the arbitration system.
- Bankruptcy proceedings commenced from 10 November 2021 and resulting orders to be made void
- These provisions are included in the Commercial Rent (Coronavirus) Bill: there is a House of Commons Library briefing note on the Bill [here](#).

[Source: BEIS, 9 November]

Improving Energy Performance Certificates: action plan - progress report

For information

The Government has [published](#) a progress report that provides an update on the delivery of the EPC action plan, designed to improve the quality of Energy Performance Certificates (EPCs).

[Source: BEIS, 8 November]

SCOTLAND

Civil Partnership (Scotland)

For information

The [draft Civil Partnership \(Scotland\) Act 2020 and Marriage and Civil Partnership \(Scotland\) Act 2014 \(Consequential Modifications\) Order 2022](#) makes provision, principally in consequence of the [Civil Partnership \(Scotland\) Act 2020](#) which introduced opposite sex civil partnership, to reflect the introduction of opposite sex civil partnership in Scotland and therefore that civil partnership is no longer simply a same-sex institution.

The draft Order amends [s.110 Equality Act 2010](#), about the liability of employees and agents in relation to discrimination. The amendments provide that there is no contravention of section 110 where a religious or belief celebrant refuses to solemnise a marriage for the reason that the marriage is between persons of the opposite sex who are in a civil partnership with each other. The Explanatory Memorandum is [here](#).

[Source: legislation.gov.uk, 22 November]

Licensing short-term lets

For information

The Scottish Government has [announced](#) that it has laid legislation on licensing short-term lets. Under the legislation, all local authorities will be required to establish a short-term lets licensing scheme by October 2022. Existing hosts and operators will have until 1 April 2023 to apply for a licence for each property that they operate as a short-term let. All short-term lets in Scotland will have to be licensed by 1 July 2024. Further information on the Scottish Government's short-term lets legislation is available [here](#).

[Source: Scottish Government, 23 November]

Register of Persons Holding a Controlled Interest in Land

For information

OSCR has [announced](#) that the [Register of Persons Holding a Controlled Interest in Land](#) (RCI), operated by Registers of Scotland, will be launched on 1 April 2022.

The RCI will be Scotland's new land ownership transparency register. It is likely charities that are unincorporated associations or trusts that manage land (and buildings) will need to be entered in the new register. When launched, the RCI will:

- increase public transparency over decision making concerning land; and
- ensure there can no longer be categories of owner or tenant where, intentionally, or otherwise, control of decision making is obscured.

If you want to know about the purpose of the new Register and whether your charity needs to supply information to the RCI, Registers of Scotland is running a webinar on **25 November**. Please visit <https://www.ros.gov.uk/about/events/upcoming-events/RCI> to book a place.

[Source: OSCR, 3 November]

Towards a circular economy

For information

The Scottish Government has [announced](#) the next steps in its plan to reduce waste and its impact. Actions include the appointment of waste and sustainability expert Dr Colin Church as the independent chair of the review into the role of incineration in the waste hierarchy in Scotland, and the first round of funding through the Scottish Government's £70 million Recycling Improvement Fund.

[Source: Scottish Government, 17 November]

WALES

Tobacco control strategy for Wales and delivery plan

For information

The Welsh Government has [published](#) a consultation - closing 31 January - on the tobacco control strategy for Wales and delivery plan. The consultation seeks views on:

- how the strategy will help Wales to become smoke-free by 2030; and
- the actions from the first delivery plan supporting that, including:
 - making smoke-free the norm in Wales;
 - supporting groups and communities that have higher levels of smoking; and
 - tackling the sale of illegal tobacco.

The Welsh Government defines "smoke-free" as a position in which fewer than 5 per cent of adults in Wales are smokers.

[Source: Welsh Government, 8 November]