

CLAS CIRCULAR 2023/01 (12 January 2023)

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

Questions for the Charity Annual Return 2023 for England & Wales

For information

The Charity Commission has published its [response](#) to the consultation on the questions to be included in the Annual Return for 2023. The final list of questions is [here](#).

[Source: Charity Commission, 21 December]

FAITH & SOCIETY

The Protect Duty: the Government's conclusions

For information

In a [written statement on 19 December](#), the Home Secretary announced 'the foundational policy elements that will form the basis of this Government's upcoming Protect Duty Bill' developed in response to feedback received to the Government's consultation in 2021 – to which CLAS responded in some detail. Its two primary objectives will be to clarify who is responsible for security activity at locations in scope, thereby increasing accountability, and to improve outcomes UK-wide so that security activity is delivered to a consistent level. An inspection and enforcement regime will seek to educate, advise, and ensure compliance.

The Government appears to have accepted that requirements under the legislation should be proportionate, and the legislation will therefore establish a tiered model, introducing a requirements framework that is linked to the type of activity that takes place at eligible locations and the number of people that the location can safely accommodate at any time. There will be two tiers:

- *Standard*: 'Locations with a maximum occupancy of greater than 100 people at any time will be required to undertake low-cost, simple yet effective activities to improve protective security and preparedness. This will be achieved by accessing free awareness raising materials and development of a basic preparedness plan considering how best a location can respond to a terrorist event in their locale.'
- *Enhanced*: 'Locations with an occupancy of 800+ at any time will additionally be required to take forward a risk assessment and subsequently develop and implement a security plan. Enhanced Duty holders will be required to meet a reasonably practicable test.'

Locations with a maximum occupancy at any time of fewer than 100 will not be within scope, but they will be encouraged to adopt good security practices voluntarily and will be supported by free guidance and training materials. The Government will have the ability to adjust capacity thresholds in response to changes in the nature of the terrorist threat.

Enforcement will predominantly be delivered via a civil sanctions regime (with proof to the civil standard) rather than through the criminal law, though a limited number of criminal offences will be created to deal with the most flagrant breaches.

Places of worship

There will be some limited exclusions and exemptions from the Duty and the statement says that places of worship will receive "bespoke treatment": the statement says that

'Government [intends] for places of worship to receive bespoke treatment under the Duty, in reflection of the existing range of mitigation activities delivered and funded by Government to reduce their vulnerability to terrorism and hate crime. *All places of worship will be placed within the standard tier of the Duty regardless of their capacity, barring a small cohort across all faiths that charge tourists for entry and/or hire out the site for large commercial events.*'

What is *not* clear from the statement is whether the Duty will still apply to places of worship with a maximum occupancy of fewer than 100 or whether they will be out of scope. *We assume the latter, but we must wait and see what is in the detailed legislative proposals.*

[Source: Commons *Hansard*, 19 December]

Regulation of gambling

For information and possibly for action

The House of Commons Digital, Culture, Media and Sport Select Committee has launched an [inquiry into the regulation of gambling](#). It will be investigating the progress that the Government has made in addressing the issues raised by Parliament: how to ensure that regulation can keep up with innovations in online gambling, and the links between gambling and broadcasting and sport. It has invited written submissions on the following issues:

1. What is the scale of gambling-related harm in the UK?
2. What should the key priorities be in the gambling White Paper?
3. How broadly should the term, 'gambling', be drawn?
4. Is it possible for a regulator to stay abreast of innovation in the online sphere?
5. What additional problems arise when online gambling companies are based outside of UK jurisdiction?

The Committee is inviting written evidence on its questions by **5 pm on Friday 10 February**.

[Source: DCMS Committee, 21 December]

Outdoor religious weddings in England & Wales?

For information

In answer to a Written Question in the Lords from Lord Pickles as to why the Government has committed to legislating for outdoor religious marriages outside of wholesale reform of marriage law [HL4172], Lord Bellamy, Parliamentary Under-Secretary of State at the MoJ, [replied as follows](#):

‘As part of the response to the Covid-19 pandemic, in which the circumstances were exceptional, the Government accelerated legislation to allow outdoor civil weddings and civil partnership registrations to take place within the grounds of existing approved premises. Following a recent consultation on these measures, the provisions were made permanent. In addition, respondents were overwhelmingly in favour of the proposal to permit outdoor religious ceremonies in the grounds of places of worship, as long as this is permitted by the respective religious bodies. The Government will therefore take these proposals forward in due course.’

[Source: Lords *Hansard*, 20 December]

FUNDING

Managing fuel costs: reliefs for charities

For information

The Government has put in place automatic energy bill relief for non-domestic customers until **31 March 2024**, though the current level of support will be reduced after 31 March 2023. Further details on how the discounts are calculated and applied can be found in guidance from the Department for Business, Energy & Industrial Strategy here: [Energy Bill Relief Scheme](#).

Additionally, charities (including places of worship) can check whether they are currently paying the correct rate of VAT on the fuel that they purchase – see [VAT for charities: What qualifies for VAT relief](#).

Contact your supplier if you believe that you may qualify for a refund.

[Source: Charity Commission, 20 December, updated 11 January]

TAXATION

Spring Budget 2023 representations

For information **and possibly for action**

Following the Chancellor of the Exchequer's announcement of a Budget and OBR forecast on **15 March 2023**, HM Treasury has published [guidance on submitting Spring Budget 2023](#) representations.

The document sets out guidance for interest groups, individuals and representative bodies on how to submit a written representation to HM Treasury commenting on Government policy and/or suggesting new policies to be considered as part of the upcoming Budget. Stakeholders should also continue to provide views on specific policies to other relevant government departments in the usual way.

The representations portal will close on **1 February 2023**.

[Source: HM Treasury, 19 December]