

CLAS CIRCULAR

2023/10 (18 May)

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 AND CHARITY LAW

Internal financial controls for charities (CC8)

For information

The Charity Commission has updated its guidance on [Internal financial controls for charities \(CC8\)](#), on managing charities' financial activity and using internal financial controls to reduce the risk of loss. The guidance has been redesigned and updated to reflect changes to practice and the law.

Last month, the Department for Science, Innovation and Technology published research which reported that 24 per cent of charities had experienced a cyber-attack in the last 12 months. New sections of the Commission's guidance cover issues such as using mobile payments systems, such as Google Pay and Apple Pay, and considering donations of crypto-assets such as cryptocurrency and Non-Fungible Tokens.

[Source: The Charity Commission, 27 April]

EMPLOYMENT AND VOLUNTEERING

Consultation on Retained EU Employment Law

For information **and possibly for action**

The Department for Business & Trade has published a [consultation on Retained EU Employment Law](#). The consultation covers reforms to the Working Time Regulations, Holiday Pay, and the Transfer of Undertakings (Protection of Employment) Regulations. It ends on **7 July**. Jo Broadbent, Katharine Savage and Stefan Martin of Hogan Lovells LLP have produced a helpful [summary of the proposed changes](#).

The Working Time Regulations and TUPE are probably of little or no interest to CLAS members; however, *the issue of holiday pay for part-time workers may well be*. We intend to take a very careful look at it.

[Source: DBT, 14 May]

FUNDING

Plunkett Foundation

For information **and possibly for action**

With funding from the Benefact Trust, the Plunkett Foundation has extended its programme of funding until the end of 2023. The Foundation continues to offer free business support and grants to help community groups and active Christian places of worship across the UK to explore co-location. It can provide free adviser support on everything from engaging with your community to legal structures. There are also grants up to £5,000 available to help with feasibility and development work. The Foundation can be contacted on 01993 630 022 or info@plunkett.co.uk. More information on the [Plunkett's website](#).

[Source: Plunkett Foundation, 1 May]

PROPERTY AND PLANNING

Rent Standard and guidance for social housing

For information

The Department for Levelling Up, Housing, and Communities (DLUHC) has updated its guidance on rent standards for social housing. In September each year, the annual Consumer Price Index (CPI) figure is set which is used to establish the limit on annual rent increases for social housing. Full guidance on how to calculate formula rents can be found in the [Policy Statement](#) on Rents for Social Housing on the DLUHC website. It sets out the Government's policy on rents, including the rent ceiling in place from 1 April 2023 to 31 March 2024.

The Government's guidance states that rents for 2023/4 are permitted to increase by 10.1% in line with inflation, plus an additional 1%, to a maximum of 11.1% in total.

[Source: DLUHC, 9 May]

Renters (Reform) Bill

For information

On 17 May, DLUHC published the [Renters \(Reform\) Bill](#), which aims to enhance the rights of tenants and landlords in the private rented sector *in England and Wales*. Some of its features will be relevant to denominations that operate social housing. There is a DLUHC press release [here](#).

The legislation would abolish so-called "section 21" no-fault evictions, but it would also make it easier for landlords to recover properties in order to move in a close family member, or when tenants wilfully do not pay their rent.

The key measures in the Bill include the following:

- Scrapping Section 21 'no fault' evictions and introducing reformed grounds for possession to make sure that landlords have effective means to gain possession of their properties when necessary.
- Private rented tenancies will come to an end once a tenant decides to vacate the property unless the landlord has grounds for possession under a revised Section 8 process.

- It will become illegal for landlords or agents to place blanket bans on renting to families with children or to those in receipt of benefits.
- The Bill will introduce new grounds for landlords who wish to sell a property and will allow landlords and their close family members to move into a rental property *but will not allow the use of these grounds in the first six months of a tenancy*.
- The Bill will increase the notice period for the existing rent arrears eviction grounds to four weeks and retain the mandatory threshold at two months' arrears at the time of serving notice and hearing.
- In cases of criminal or seriously antisocial behaviour, the Bill will lower the notice period for the existing mandatory eviction grounds.
- The Bill will provide stronger protections against "back-door eviction" by ensuring that tenants can appeal to an independent tribunal against rents that are excessively above market rates and are designed to force them out.
- There will be a new Privately Rented Property Portal so that tenants, landlords and local councils have all the information on private rented tenancies in one place.
- The Bill will establish a private renters' Ombudsman scheme to help enforce renters' rights. Membership of the scheme will be mandatory for all landlords, and local councils will be able to take enforcement action against landlords who fail to join the Ombudsman scheme.
- Tenants will have the right to request permission to keep a pet, which the landlord must consider and may not unreasonably refuse. The Government will also amend the Tenant Fees Act 2019 so that landlords can request that their tenants have pet insurance.

[Source: DLUHC, 17 May]

SCOTLAND

Charities (Regulation and Administration) (Scotland) Bill

For information

The [Charities \(Regulation and Administration\) \(Scotland\) Bill](#) has passed Stage 1 and is being considered by the Social Justice and Social Security Committee. The Scottish Parliament Information Centre produced a helpful [briefing](#) on the Bill in advance of the Stage 1 debate.

The Bill aims to strengthen and update the current legislative framework for charities by:

- increasing transparency and accountability in charities;
- making improvements to OSCR's powers; and
- bringing Scottish charity legislation up to date with certain key aspects of charity regulation in England, Wales and Northern Ireland.

Provisions in the Bill include:

- Updating the criteria for the automatic disqualification of charity trustees and extending it to individuals with specific senior management positions in charities.
- Removal from the Scottish Charity Register of unresponsive charities that fail to submit statements of account.
- A requirement for all charities in the Scottish Charity Register to have and retain a connection to Scotland.
- A requirement on OSCR to publish the statements of account for all charities in the Scottish Charity Register.
- Requirements on OSCR to include charity trustee names in the Scottish Charity Register, to keep an internal schedule of charity trustees' details and to create a publicly searchable record of charity trustees removed by the courts.

The Scottish Government consulted on proposals put forward by OSCR in 2019 and consulted again on a number of specific reforms in 2021 and found a majority of support for the changes.

[Source: Scottish Government, 11 May]

TAXATION

VAT Notice: Fuel and Power update

For information **and possibly for action**

HMRC has published an updated version of [VAT Notice 701/19 Fuel and Power](#).

Charities are entitled to have certain energy supplies taxed at the reduced rate of VAT where the building is used for non-business use of the charity.

The VAT Notice explains how suppliers **and users** should treat supplies of fuel and power for VAT purposes. It clarifies the requirements for certificates concerning their business and non-business use and supplies of fuel and power for use in such non-business activities.

Suppliers of fuel and power to a charity that carries out business and non-business activities on the same premises may need to apportion their supplies between qualifying use and non-qualifying use. For this, a certificate is required, with the details outlined in the VAT Notice.

You can find further information about charities and their business or non-business activities, in [VAT guide \(VAT Notice 700\)](#) and [How VAT affects charities \(VAT Notice 701/1\)](#).

[Source: HMRC, 12 May]

Gift Aid

For information **and possibly for action**

At a meeting with HMRC on 17 May at which CLAS was represented, HMRC reported on the work that it has been doing towards on a major replacement of the current Gift Aid Online service, which is regarded as dated and in need of a substantial overhaul. The process has included user research involving charities of different sizes with a range of value and volume of claims, as well as with third party solution providers and fundraising platforms.

The top five user challenges have been identified as:

- understanding the causes of errors and messages shown;
- submitting a mistake-free Schedule
- general (mis)understanding of the service;
- difficulties using the Schedule upload and download; and
- signing into the service (including via Government Gateway access).

The Secretariat has seen a mock-up of the new system screens. They are driven by a series of questions and drop-down menu responses, each with links to contextual help. HMRC's aim is for a front end to the claims system that is intuitive and does not require users to refer to separate guidance. Our initial impression is that the replacement system is straightforward and user-friendly.

Subject to receiving the necessary funding to proceed, HMRC estimates that building the new system will take around three months.

More generally, Ministers have agreed that HMRC may engage with Charity Tax Group's Future of Gift Aid Project, on which CLAS is represented. *Officials are now looking for proposals for general improvements to be put forward that improve processes, administration and reduce burdens*, including opportunities to digitise, though at this stage they are not looking to make major changes or to change the legislation on the nature of reliefs.

Could any readers of this Circular who have suggestions for improving Gift Aid please e-mail us with their thoughts, so that we can raise them with HMRC?.

[Source: HMRC, 17 May]

HMRC consultation on tax compliance by charities

For information and possibly for action

In our last Circular, we mentioned that HMRC had announced a consultation on charities' tax compliance, closing on **20 July**, to explore with the sector "reasonable and proportionate" changes on how to reform some tax relief rules that do not work as intended. The following areas are being reviewed as part of the consultation:

- preventing donors from obtaining a financial benefit from their donation, and the operation of the Tainted Charity Donation rules;
- preventing abuse of the charitable investment rules;
- closing a gap in non-charitable expenditure rules; and
- sanctioning charities that do not meet their filing and payment obligations.

At the meeting yesterday, officials emphasised to us that *no decisions have been made on any of the measures proposed* and that they are keen not to burden charities unduly because of any of the changes proposed.

CLAS is in the process of preparing a response, but we think that It is important that interested parties familiarise themselves with the contents of the [Consultation Document](#) and respond

as appropriate to help ensure that there are no unintended consequences or unnecessarily increased burdens.

[Source: HMRC, 17 May]