

CLAS CIRCULAR 2015/19 (29 September 2015)

Disclaimer

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FUNDING

Charity fundraising

For information

The review of charity fundraising commissioned by the Government following concerns about how charities have made contact with potential donors has concluded that the Fundraising Standards Board (FRSB) has been ineffective in regulating fundraising and has lost the confidence of both the public and charities. The review panel consisted of three peers from different political parties – Lord Leigh of Hurley, Baroness Pitkeathley and Lord Wallace of Saltaire – and was chaired by Sir Stuart Etherington, Chief Executive of the National Council for Voluntary Organisations.

In its report, [*Regulating Fundraising for the Future: Trust in charities, confidence in fundraising regulation*](#), the panel has recommended that the FRSB be replaced with an independent regulator, provisionally entitled The Fundraising Regulator, with power to set its own standards for fundraising good practice. It has also recommended that the new regulator should set the rules which govern fundraising regulation and should have jurisdiction over all fundraisers, *whether they sign up to it or not*. Currently, the FRSB adjudicates against standards set by the fundraisers themselves via their trade body, the Institute of Fundraising; and the panel believes that this arrangement is inappropriate, that it is not in the public interest and that has damaged fundraising regulation.

The panel recommends that the proposed Fundraising Regulator should report regularly to the Commons Public Administration and Constitutional Affairs Committee so as to ensure that Parliament has an opportunity to scrutinise its work on the public's behalf. It should be funded by the charities themselves and should have strong links with both the Charity Commission for England & Wales and the Information Commissioner, in order to ensure that charities follow its rules – which should prioritise the public interest. All charities that spend over £100,000 a year on fundraising from the public – around 2,000 organisations – would be expected to contribute to its costs.

The report was welcomed by [Rob Wilson MP](#), Minister for Civil Society, and by [William Shawcross](#) on behalf of the Charity Commission. The Association of Chief Executives of Voluntary Organisations (ACEVO) also welcomed the “robust and timely response that will help restore the public's trust in the crucial endeavour of charity fundraising” and supported the principle of a regulator accountable to Parliament.

[Source: NCVO Press Release – 22 September]

ODDS & ENDS

Psychoactive Substances Bill and incense: update

For information

In an earlier Circular we noted that Lord (Alan) Howarth of Newport had raised the potential criminalisation of the liturgical use of incense during the House of Lords report stage of the Psychoactive Substances Bill. Since then, the Commons Home Affairs Committee has held a short inquiry into 'new psychoactive substances' in order to inform the Commons stages of the Bill. Written submissions were invited; and the Secretary sent a short [memorandum](#) to the Committee on behalf of CLAS, as did the Secretary of the Association of English Cathedrals. On 28 September the Minister [replied](#) in person, assuring us that that was not the Government's intention to criminalise the use of incense in worship. The nub of his response is as follows:

"We are dealing here with the trade in psychoactive substances. In looking at the workings of the Bill it is necessary to consider the definition of a psychoactive substance alongside the elements of the offences in clauses 4 to 8 of the Bill. We do not believe it right to equate the effect of incense wafting through the air with the direct inhalation of fumes, for example from a solvent. Moreover, the offences only apply where a substance is likely to be consumed for its psychoactive effect. As such, the use of incense in religious services will not be covered by the Bill. I hope that this letter has allayed your concerns."

He went on to say that he would be happy to reiterate that during the Commons stages of the Bill in order to make the Government's position clear in the *Hansard* record and we have asked him to do so.

It was never our belief that the Government consciously intended to make the use of incense in religious worship illegal; but unintended consequences are just that – unintended – and it is good to have the Minister's assurance on the point. In short, a result.

[Source: CLAS Summary – 28 September]

PROPERTY & PLANNING

Smoke and Carbon Monoxide Alarm (England) Regulations 2015: update

For information

Further to our note in Circular 2015/17, we have been asked to make it clear that the [Smoke and Carbon Monoxide Alarm \(England\) Regulations 2015](#) (which require landlords in the private rented sector in England to ensure that a smoke alarm is fitted on every storey of a rented dwelling occupied under a tenancy and that a carbon monoxide alarm is fitted in any room which contains a solid-fuel burning appliance) apply to England *only* – as the title suggests. The regulations were approved by Parliament on 15 September and will come into force on 1 October.

The House of Commons Library has just published a helpful briefing: [Smoke Alarms, Carbon Monoxide Detectors and Legionella: Landlords' Responsibilities](#) which sets out the obligations on private landlords in relation to smoke alarms, carbon monoxide detectors and the avoidance of Legionnaires' Disease (caused by the Legionella bacteria).

[Source: House of Commons Library – 24 September]

SCOTLAND

Consultation on charity guidance

For information and possibly for action

OSCR has announced a full revision of its [Guidance for Charity Trustees](#), which has been updated in light of OSCR's experience of regulating the sector over the past nine years. Key features of the updated text include a less formal tone, illustrative examples and web-based sections that allow users to navigate between areas of particular interest to their own organisations. The *Guidance* was last updated in September 2010: since then, OSCR has conducted over 2,000 inquiries into charity governance and produced [Who's in Charge](#), a guidance document summarising issues of independence and control in charities. The updated guidance has also been informed by OSCR's high-profile governance reviews. The consultation runs from 28 September to **18 December**.

The Scottish Churches will certainly be aware of the consultation; however, its relevance also extends to denominations like the Methodists, the URC, the Quakers and the Salvation Army that operate in both jurisdictions.

We have not yet had time to have a careful look at the consultation but we shall certainly do so; and we shall probably submit a response. It would be very helpful if any member submitting an individual response could let us have a copy.

[Source: OSCR website – 28 September]

Consultation on civil partnership

For information

The Scottish Government has announced an on-line consultation on the future of civil partnership in Scotland. The publication, [Review of Civil Partnership – A consultation by the Scottish Government](#), follows the coming into force of the [Marriage and Civil Partnership \(Scotland\) Act 2014](#) and the introduction of same-sex marriage. The options under consideration are:

- no change, with civil partnerships remaining available to same-sex couples only; or
- changing the law so that no new civil partnerships could be entered into in future; or
- introducing opposite-sex civil partnership.

The Government makes it clear that, in any event, existing civil partners will be able to remain as civil partners if they so wish: there will be no obligation for them to convert their civil partnership into a marriage. It also states that it does not have a view at this stage on which of the first two options should be followed; however, as to opposite-sex civil partnership it says that the evidence suggests that demand would be low, that there would be limited recognition of Scottish opposite-sex civil partnerships beyond Scotland and that there would be costs involved. The Government also points out that opposite-sex couples seeking to enter into a registered relationship already have the option of marrying.

The consultation follows the publication of data indicating that the number of civil partnerships being registered is continuing to fall.

It is not intended to submit a response on behalf of CLAS.

[Source: Scottish Government Press Release – 22 September]

Land Reform (Scotland) Bill

For information

The Scottish Parliament's Rural Affairs, Climate Change and Environment has been taking evidence on the [Land Reform \(Scotland\) Bill](#). The Bill's principal objects are:

- to establish the Scottish Land Commission and provide for its functions and the functions of the Land Commissioners and the Tenant Farming Commissioner;
- to make provision about access to, and provision of, information about owners and controllers of land;
- to make provision about engaging communities in decisions relating to land;
- to enable certain persons to buy land to further sustainable development;
- to make provision about access rights to land;
- to amend the law on agricultural holdings to provide for a new form of agricultural tenancy;
- to remove the requirement to register before tenants of certain holdings can exercise a right to buy;
- to provide a new power of sale where a landlord is in breach of certain obligations; to make further provision about rent reviews;

- to expand the list of the persons to whom holdings can be assigned or bequeathed or transferred on intestacy and to make provision about landlords' objections to such successor tenants.

Further details [here](#).

[Source: Scottish Parliament – updated 15 September]