

## **CLAS CIRCULAR 2016/15 (16 June 2016)**

### **Disclaimer**

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## CHARITIES & CHARITY LAW

### Charity Commission consultation on external scrutiny of charity accounts (CC32)

For information

The Charity Commission has opened a [consultation](#) on changes to its guidance on the external scrutiny of charity accounts: [Directions and guidance for independent examination \(CC32\)](#).

At present, all charities with an income over £25,000 must have some form of external scrutiny, either a full audit or, for the smaller ones, an independent examination. The consultation seeks comments on the impact that the following proposals might have on regulatory burdens on examiners and trustees:

1. Three new Directions on: examiner independence, conflicts of interest and disclosure of related party transactions, and financial sustainability and going concern; and new simpler guidance for each Direction;
2. extending independent examination to consolidated (group) accounts;
3. a new, simpler format for the examiner's report;
4. changes to the reporting of matters of material significance;
5. new guidance on the reporting of 'relevant matters'; and
6. an approach that makes it clearer that the guidance is *expected* practice not simply *recommended* practice

The consultation closes on **30 September 2016**. The changes are intended to come into effect for reporting periods ending on or after 31 March 2017.

[Source: Charity Commission – 3 June]

## Fundraising guidance and regulation

For information

### Guidance

The Charity Commission has released its new guidance for charities trustees about fundraising from the public. The Commission points out that trustees have a key role in overseeing their charity's fundraising and ensuring that it reflects their charity's values. The new guidance is part of the Commission's response to some of the high-profile problems identified about the fundraising practices of some charities and the agencies that they had employed over the past year. *The Commission emphasises the need for trustee boards to have effective oversight over fundraising and to focus on donor care.*

See:

- [Charity fundraising: a guide to trustee duties](#)
- [Taking responsibility for our charity's fundraising: a checklist for trustees](#)
- [Key fundraising principles \(CC20\)](#).

### The new Regulator

According to *Civil Society*, Gerald Oppenheim, Head of Policy at the new [Fundraising Regulator](#), has said that the Regulator aims to be operational in four weeks' time.

The new Regulator will take over from the Fundraising Standards Board as the body that receives complaints: it will also investigate issues proactively. Oppenheim also expects that the Code of Fundraising Practice will be transferred from the Institute of Fundraising by the time the Fundraising Regulator is launched and that it will acquire the rule-books on street and door-to-door fundraising from the Public Fundraising Association.

He also highlights the importance of the Charity Commission's revised fundraising guidance – see above – and the European Union General Data Protection Regulation – due to come into force in 2018 – which requires charities to have unambiguous consent before contacting anyone.

### The Government's view

Minister for Civil Society Rob Wilson MP has responded to a [written question](#) from Michelle Donelan MP (*Con, Chippenham*) regarding the progress his Department is making on tackling aggressive fundraising activities by charities, as follows:

"Last year the Government accepted the recommendations made in a sector-led review of fundraising regulation to support the setup of a new independent regulator with stronger sanctions and control of the code of practice.

Since then there have been several positive changes. The Code of Fundraising Practice has already been strengthened in several areas. The law has been changed in the Charities (Protection and Social Investment) Act 2016 to better protect vulnerable individuals and encourage greater accountability. The Charity Commission has published updated fundraising guidance that emphasises trustees' role in over-seeing fundraising. Many charities and their representative bodies are already taking their own steps to improve fundraising practices.

The new Fundraising Regulator is due to open in July and will proactively ensure that charities fundraise to the high standards the public expect."

### **Comment**

The new controls on fundraising by charities are unlikely to have any great impact on the activities of the majority of our members. *However*, CLAS members that solicit donations from the general public by mail need to be very careful indeed to observe the new guidance on fundraising (and, of course, the data protection legislation).

[Source: Charity Commission – 7 June: *Civil Society* – 9 June: Commons *Hansard* – 14 June]

## EMPLOYMENT

### Apprenticeship Levy guidance timeline

For information

The Apprenticeship Levy stakeholder team has recently given confirmation of its intended timeline for releasing further information about how the Levy will work. This will supplement the full employer [guidance](#) published in April 2016.

In **June 2016** there will be information about:

- provisional funding bands, which will set the maximum amount of funding which is available for each apprenticeship from April 2017;
- the provisional level of the government support that will be available from April 2017 towards the cost of apprenticeship training if you are not a levy-paying employer;
- the provisional level of the extra payment from April 2017 for hiring 16- to 18-year-old apprentices;
- the provisional amount that will be paid from April 2017 for English and maths training for apprentices who need it;
- eligibility rules that set out whom you are able to spend apprenticeship funding on, and where you can spend it; and
- more information on who can provide apprenticeship training and how you can set up your organisation to deliver apprenticeship training

In **October 2016**:

- the final levels of funding, government support, 16 to 18 payments, and English and maths payments for apprentices starting from April 2017; and
- full, draft funding and eligibility rules

In **December 2016**:

- final detailed funding and eligibility rules; and
- further employer guidance from HMRC on how to calculate and pay the Apprenticeship Levy.

[Source: BIS – 14 June]

## PROPERTY & PLANNING

### Listed Places of Worship Roof Repair Fund

For information

A recent meeting of the Historic Religious Buildings Alliance heard a report from Debbie Yates, the Programme Manager for the Listed Places of Worship Roof Repair Fund. In the second tranche of the LPWRRF:

- there were 1502 applications (about 800 of which were resubmissions): the average request for funding was for £58,000;
- the quality of the applications had improved;
- 84 per cent of applications were from England, the highest proportion being from the South West;
- all applications had now been assessed; and
- it was expected that 400 projects would be funded: the budget this year is £25m – 502 grants had been awarded in the first round against a budget of £30m.

75 per cent of applications came from the Church of England and 4 per cent each from the Church in Wales, the Church of Ireland, the Church of Scotland and the Roman Catholic Church (which, we suspect, is probably very roughly proportionate to their respective shares of listed churches). In terms of listing grades, there were similar numbers of applications relating to Grade I, Grade II\* and Grade II, all with over 400 applications.

Decisions will be made at the Committee meeting being held at the end of June and the successful projects will be notified within days of this meeting. A list will also appear on <http://www.lpowroof.org.uk/>. Successful projects will also be invited to attend workshops that are being organised to take place in July across the country. Advisers will be welcome to attend.

The successful projects will have six months in which to submit the necessary documentation and apply for permission to start and to draw down the first tranche of the grant. The projects must be delivered within two years.

[Source: CLAS summary]

## SAFEGUARDING

### Inspection of "out-of-school education settings"

For information

As was mentioned very briefly at the General Meeting last week, the Government has been blowing hot and cold on the issue of inspecting education – broadly defined – outside the school system. Ministers had at first given assurances that they did not intend that OFSTED should regulate such activities as Sunday schools, summer camps and intensive choir rehearsals. It then appeared that the Counter-Extremism and Safeguarding Bill was going to include provisions – unspecified – on the inspection of out-of-school education settings. Yesterday (15 June 2016), in the Lords, however, there was an answer to a Question from Lord Mawhinney that seems to clarify the situation:

**Lord Mawhinney:** Whether they plan to require Ofsted inspectors to judge whether the work of mainstream Christian churches with young people, either directly or through approved Christian organisations which specialise in working with young people, in activities such as holiday Bible clubs, church weekends, and summer camps, is in accordance with a "British Values" test; and if so, when such plans would be introduced. [HL565]

**Lord Nash:** The Government is committed to safeguarding all children and protecting them from the risk of harm and extremism, including in out-of-school settings. The Prime Minister announced plans to introduce a new system of oversight for out-of-school education settings – such as supplementary schools and tuition centres – which teach children intensively, on 7 October 2015. These were confirmed in the Government's Counter-Extremism Strategy which was published on 19 October. These plans to regulate out-of-school settings which teach children intensively were set out in the call for evidence which ran for 6 and a half weeks between 26 November and 11 January.

*We are not proposing to regulate settings teaching children for a short period every week, such as Sunday schools or the Scouts, or one-off residential activities, such as a week-long summer camp. We are looking specifically at settings providing intensive education outside school where children could be spending more than six hours a week.*

The call for evidence sought views on the appropriateness of seeking to prohibit teaching which undermines or is incompatible with fundamental British values. Now that the call for evidence has closed, we are considering carefully the responses received as we develop the proposals further. We will be publishing our response to the call for evidence and setting out the next steps on the proposals in due course.

We submitted a memorandum in response to the Call for Evidence and have been monitoring the situation very careful since then. Obviously, we shall continue to do so.

[Source: Lords *Hansard* – 15 June]

## TAXATION

### Common Reporting Standard charity guidance

**For information – though of very limited interest**

HMRC has published new [guidance](#) for detailing the reporting requirements of the recently introduced Common Reporting Standard (CRS).

Unlike its US counterpart, FATCA, *there is no exemption from reporting requirements for registered charities under CRS*. This means that if a charity is an [Investment Entity](#) – that is to say, it is managed by a Financial Institution and more than 50 per cent of its income comes from investing in financial assets such as interest, dividends, royalties and annuities – it must report to HMRC any relevant payments it makes to tax residents outside the UK.

If a charity is considered to be a Non-Financial Entity, or if its income comes mostly from gifts, donations, grants or legacies, then it will not need to provide its financial account information; however, if a charitable trust, foundation, company or similar entity *is* a financial institution, any payments it makes to beneficiaries under its charitable objectives may need to be reported.

This is highly unlikely to affect CLAS members except, perhaps, in a few very special cases; however, and member that is in any way uncertain as to its status in relation to the CRS should seek professional advice to make certain of its legal position and any subsequent reporting requirements.

[Source: HMRC – 6 June]