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Chairman: The Rt Revd Christopher Lowson, Bishop of Lincoln
Secretary: Frank Cranmer

CLAS CIRCULAR
2019/15 (4 October 2019)

CHARITIES AND CHARITY LAW

Charity Commission removes trustee from Rigpa Fellowship

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For information

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The Charity Commission has removed a trustee from her role and banned her from trusteeship after her failure to respond appropriately to serious abuse within Rigpa Fellowship, a national charity with objects to advance the Buddhist religion.

A statutory inquiry by the Commission found that the trustee knew of instances and allegations of improper acts and sexual and physical abuse against students at the charity but had failed to take appropriate action in response. She either failed to recognise or sought to downplay the seriousness of the allegations and was responsible for misconduct and/or mismanagement in the administration of the charity. The inquiry continues and the Commission intends to publish a full report setting out its findings and conclusions in due course.

[Source: Charity Commission, 23 September]

FUNDING

Historic England: National Capacity Building Programme

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│   **For information**   │
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Historic England's National Capacity Building Programme is now open for applications. Grants are available to third sector and voluntary organisations in England for projects which are national in coverage and that strengthen the ability of the sector to reduce or avoid risk to the historic environment.

Support is focused on building and maintaining sector capacity on the sustainable management and development of the historic environment. Activities and projects are expected to help to reduce or avoid risk to the historic environment and priority will be given to eligible activities and projects for which there is a lack of alternative sources of funding. The deadline is **10 November 2019**.

[Source: Historic Religious Buildings Alliance, 2 October]

NORTHERN IRELAND

Abortion, same-sex marriage and civil partnership

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For information

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The Northern Ireland (Executive Formation) Act 2019 requires the Northern Ireland Secretary, *inter alia*, to introduce secondary legislation providing for same-sex marriage, opposite-sex civil partnerships and greater access to abortion if a Northern Ireland Executive is not formed by 21 October 2019. On Monday, in a debate on the Report pursuant to s.3(14) of the Act, the Secretary of State, Julian Smith, made it clear that the Government will legislate if an Executive is not formed by the deadline:

> '... the Northern Ireland (Executive Formation etc) Act 2019 requires the UK Parliament to introduce laws on same-sex marriage and opposite-sex civil partnerships, abortion and victims payments. This House has spoken, and the duty to legislate will come into effect if the Executive are not back up and running before 21 October. My Department will shortly begin an awareness campaign to ensure that women and citizens across Northern Ireland are clear as to how we plan to proceed to regulate for these new legal duties.

> I recognise that these are sensitive issues, and this Government's preference is that they are taken forward by a restored Assembly and Executive, but to those who now lobby me and others in Government to somehow change the law I say that the only way for these laws to be changed and shaped in the best interests of Northern Ireland is for the Northern Ireland party leaders to form an Executive and get back into government. To that end, following the frustratingly slow pace over the summer caused by a range of factors, I will this week work urgently with the Northern Ireland parties and the Irish Government to do everything I can to break the logjam and to get Stormont up and running. The time for that is now. The party leaders need to show leadership and do the right thing for the people of Northern Ireland.'

On Thursday 3 October in the case of Ms Sarah Ewart, Keegan J followed the earlier decision by the Supreme Court and ruled in the High Court in Belfast that the current Northern Irish abortion law was incompatible with Article 8 ECHR in relation to fatal foetal abnormality. There is a summary of her judgment [here](#).

[Source: Commons *Hansard*, 30 September]

ODDS & ENDS

CJEU declares pre-checked boxes for cookie consent illegal

> **For information and possibly for action**

The European Court of Justice has handed down a judgment in which it has held that requiring website users to untick pre-checked consent boxes in order to prevent cookies from recording visitor information is illegal under EU data protection law. The judgment, Planet49 [2019] EUECJ C-673/17, was in response to a request for a preliminary ruling from the German *Bundesgerichtshof* [Federal Court of Justice] about an aspect of the interpretation of EU data protection law. The request arose from proceedings between two consumer organisations and Planet49 GmbH, an online gaming company, and the issue was a promotional Internet lottery organised by Planet49 and the validity of the online consent given by participants to:

- the transfer of their personal data to the company's sponsors and partners;
- the storage of information; and
- the access to information stored in the terminal equipment of those users.

Intending participants in the lottery had to enter their postcodes, which redirected them to a web page where they had to enter their names and addresses. Beneath the input fields for the address were two bodies of explanatory text accompanied by checkboxes. The first body of text with a checkbox did not have a preselected tick, but the second set of text with a checkbox *did* have a preselected tick. So the question for the CJEU was, 'Does asking someone to uncheck a pre-checked box constitute sufficient consent to data processing for the purposes of EU data protection law?'

The CJEU held – again in brief – that *it does not*. It ruled that the necessary consent referred to in the various EU Data Protection Regulations

> 'is not validly constituted if, in the form of cookies, the storage of information or access to information already stored in a website user's terminal equipment is permitted by way of a pre-checked checkbox which the user must deselect to refuse his or her consent.'

If you use pre-checked boxes on your website for (eg) requests for e-mail notifications about new material, you should think very hard about amending them to remove the ticks. It all may sound very trivial, but the law on consent around the use of personal data has become much more stringent since the advent of the GDPR.

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For a longer and more detailed version of this note, see the blog post: CJEU declares pre-checked boxes for cookie consent illegal: Planet49.

[Source: CJEU, 1 October]

Conservative Party Conference 2019: summary

For information

The Conservative Party Conference 2019 came to a close on 2 October with the party announcing a few policies that may be of interest to CLAS members:

Nicky Morgan, DCMS Secretary: to "dramatically speed up" the rollout of gigabit broadband right across the UK.

Sajid Javid, Chancellor of the Exchequer:

- a new Roads Investment Strategy, investing £29 billion for strategic and local roads over the next five years;
- the National Living Wage for 21+ to reach £10.50 by 2024;
- committing £5 billion to support full-fibre rollout to the hardest-to-reach 20 per cent of the country; and
- a White Paper on further devolution in England.

Theresa Villiers, DEFRA Secretary:

- an Environment Bill that will include the creation of an independent environmental watchdog (?in addition to the Environment Agency and SEPA or instead of?); and
- the creation of 'extensive' new forests in Northumberland.

[Source: Conservative Party, 30 September and Conservative Party, 2 October]

ICO advice on data protection for charities

For information

The Information Commissioner's Office – via the Fundraising Regulator – has published a blog outlining its top data protection tips for charities and third sector organisations.

The blog discusses:

- supporting people accessing their data;
- keeping people's data secure;
- being transparent about people's data;
- preparing for the unexpected; and
- data protection and Brexit.

[Source: ICO, 18 September]

Labour Party Conference 2019: summary

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For information

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The Labour Party Conference 2019 came to a close on 23 September with the party announcing several policies of note:

Shadow Chancellor John McDonnell announced:

- the introduction of a new Living Wage of at least £10 an hour;
- forcing large companies to have a third of its directors elected by workers and a tenth of shares owned by those workers – with the potential to impact the larger members (as employers)?
- reducing average full-time hours to 32 per week within the next decade, with no loss of pay;
- banning zero-hour contracts;
- capping rents and building a million 'genuinely' affordable homes; and
- ending the opt-out from the EU Working Time Directive, requiring working hours to be included in legally binding sectoral agreements and setting up a Working Time Commission with the power to make recommendations to Government on increasing statutory leave entitlements.

 The Conference also backed:

- maintaining freedom of movement and extending migrant rights; and
- a new Scotland Act that will provide for the devolution of employment law.

[Source: Labour Party, 23 September and and BBC, 25 September]

PROPERTY & PLANNING

'No-fault' eviction

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For information

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In July, MHCLG launched a consultation on *Overcoming the barriers to longer tenancies in the private rented sector*. The consultation closes on **12 October** and we are currently working on a response on behalf of CLAS. Any thoughts would be very welcome indeed.

[Source: MHCLG, 2 July]

SCOTLAND

Civil Partnership (Scotland) Bill

For information

The Scottish Government has published the Civil Partnership (Scotland) Bill: 'An Act of the Scottish Parliament to enable persons of different sexes to be in a civil partnership'. Links to the Bill and the associated documents are here.

[Source: Scottish Government, 1 October]

WALES

Welsh Government: consultation on RE and RSE

For information and possibly for action

The Welsh Government has launched a [Consultation on proposals to ensure access to the full curriculum for all learners](). It is seeking views on the impact of proposals that the new curriculum for Wales which will be introduced in 2022 should **not** include a right to withdraw from Religious Education (RE) and Relationships and Sexuality Education (RSE). It also proposes a change of name for RE to 'Religions and Worldviews'.

No doubt Cytûn will be making a submission on behalf of its members and the Welsh Churches will already be aware of the proposals; however, Churches based elsewhere with congregations in Wales may not.

This is a written, electronic consultation. Questions can be found at the end of the consultation document and you can complete the online form, download the form, complete it manually and post it or send it via e-mail. The consultation ends on **28 November**.

[Source: Welsh Government, 3 October]