

## CLAS CIRCULAR 2010/19 (18 November 2010)

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## EMPLOYMENT

### Pensions Protection Levy

**For action: this could cost you money.**

It has been brought to our attention by the URC that the Pension Protection Fund has published a consultation document entitled [The Pension Protection Levy: A New Framework](#) which raises potential problems for charities.

The document is very technical, but one of the problematic issues relates to the attribution of insolvency risk. The URC's actuary, Simon Corbett, is concerned about the way in which the document proposes to attribute an insolvency risk to charitable trust organisations with a Dun & Bradstreet failure score of 100 (ie, an extremely low probability of failure). If the consultation proposals are adopted, the attributed risk of insolvency (which feeds through directly to the Pension Protection Fund levy calculation) will increase from 0.03% to 0.2%. The increase in this insolvency risk factor arises primarily because the organisations with the best D&B scores will have a higher proportionate loading than worse-scoring entities applied in respect of the risk margin against worse-than-expected experience. He suggests that charitable trusts should seek to be treated separately to private sector employers in the way the PPF determine the risk margin against worse than expected experience.

This is not a matter that the CLAS Secretariat can sensibly take forward – it is far too complex and specialised for that – but individual members might wish to respond to the consultation.

The consultation period ends on **20 December 2010**. Responses should be e-mailed to [consultation@ppf.gsi.gov.uk](mailto:consultation@ppf.gsi.gov.uk) or sent in hard copy to Chris Collins, Head of Policy, Pension Protection Fund, Knollys House, 17 Addiscombe Road, Croydon CR0 6SR.

[Source: *URC* – 2 November 2010]

## IMMIGRATION

### Refined Tier 2 criteria

**For action: For Churches sponsoring non-EEA Tier 2 migrants.**

The UK Border Agency has published refined criteria which will be applied to Tier 2 (General) sponsors' requests for additional certificates of sponsorship. The criteria have been refined to give sponsors greater certainty, by ensuring all requests will be approved if they relate to an extension for a work permit holder or Tier 2 (General) worker already employed by a sponsor. The refined criteria is also designed to help maintain the overall [interim limit for Tier 2 \(General\) applications](#) introduced in July 2010.

Requests for additional certificates of sponsorship are considered by a panel of UK Border Agency managers, who normally meet on the first working day of each month. Because of the introduction of the refined criteria, the November panel will be delayed until **12 November**. This delay will allow UKBA to gather further information in advance of the November panel from sponsors who have submitted a COS(AR) request form. If further information is needed, the sponsor will shortly receive a letter detailing the information that they should supply.

UKBA will consider urgent cases outside the monthly panel for those sponsors whose applications cannot wait until 12 November (for example, where an existing employee's leave is due to expire before 19 November).

UKBA has revised its [guidance for Tier 2 and Tier 5 sponsors](#) to include the refined criteria and produced a revised [COS\(AR\) request form](#).

[Source: *UKBA News* - 1 November 2010]

## NORTHERN IRELAND

### Charity registration timetable

**For information.**

In an [interview with Third Sector](#), Frances McCandless, Chief Executive of the Charity Commission for Northern Ireland, has said that registration of charities is now expected to start in summer 2011, on the assumption that the necessary legislation to amend the Charity Act (Northern Ireland) 2008 to remove the current lack of clarity over public benefit is passed.

McCandless said that there will be a consultation on the new public benefit rules after which the registration process would be initiated and confirmed that registration would be compulsory for all organisations with purely charitable purposes *whether or not they make tax claims as charities*. However, charities already registered with the Charity Commission for England and Wales or OSCR would not be an early priority for registration by CCNI.

[Source: *Third Sector* – 11 November 2010]

## ODDS & ENDS

### Citizenship survey cancellation

**For action if you use data from the Citizenship Survey.**

The Department for Communities and Local Government has decided to cancel the Citizenship Survey because of the overriding need to find savings as a result of the fiscal deficit. DCLG has issued a [consultation paper](#), seeking information on

- how Citizenship Survey data are currently used;
- the implications of stopping Citizenship Survey data collection; and
- options for alternative information sources in the absence of the Survey.

Unless there is feedback from users indicating an overriding need to continue with the Survey, *the Department proposes that it will not be continued after the 2010–11 Survey.*

The consultation will run for four weeks from Monday 1 November to **5pm on Tuesday 30 November 2010.**

Responses should be sent by e-mail to [citizenship.survey@communities.gsi.gov.uk](mailto:citizenship.survey@communities.gsi.gov.uk) or by post c/o Philippa Robinson, Communities Analysis Division, Department for Communities and Local Government, 7/E8 Eland House, Bressenden Place, London SW1E 5DU.

We understand that the Church of England makes use of the Survey's volunteering and religious data and will be submitting a response. We will not be submitting a corporate CLAS response because we know very little about the use that members make of the Survey's data, but we urge any member with an interest in the Survey to respond .

[Source: *DCLG News* - 1 November 2010]

## Copyright licensing

**For information: *this is our current understanding of the situation but any updates from members would be very welcome.***

As members will be aware, CLAS has been heavily involved in negotiations over the ending of the charity exemption under the Copyright, Designs and Patents Act 1988 – with limited success. The Government has now announced the new licensing system for mechanical copyright – an issue that has taken up a lot of our time over the last eighteen months.

### *The outcome of the negotiations*

Under the new regime public venues, including those used by a charity or not-for-profit organisation, which play music from records, CDs, radio or television will require a licence both from PPL (previously known as Phonographic Performance Limited) and from the Performing Right Society (aka PRS for Music). The new system is brought into force by the (slightly impenetrable) [Copyright, Designs and Patents Act 1988 \(Amendment\) Regulations 2010](#), whose key provision is to repeal [section 67 of the 1988 Act](#) – the section that currently exempts organisations whose 'main objects are charitable or are otherwise concerned with the advancement of religion, education or social welfare.'

The changes in the law in relation to PL will come into effect on **1 January 2011** but PPL will exempt charities from paying for licence for the first year of the new scheme.

Under PPL's new system:

- there will be a flat rate of £40 for organisations with a 'defined income' of up to £10,000 and 1% of defined income thereafter: the Government estimates that the £40 tariff should cover more than 60 per cent of community buildings.
- the licence for community buildings has been extended to cover outdoor events like village fetes and carnivals.
- if organisations believe they have been treated unfairly by PPL they will be able to appeal to a new independent reviewer.
- PPL and PRS for Music will create a single licensing system so that organisations will only have to make one application.

We understand that 'defined income' excludes income from donations and legacies, so on that basis the vast majority of churches that make any use of recorded music should qualify for the £40 flat rate. It should be emphasised, however, that PRS for Music also operates a

licensing system for which the basic tariff is £40, so small organisations that use recorded music will be paying about £80 in total.

PPL will operate the same voluntary exceptions as PRS for Music does: religious services, family occasions such as wedding-receptions (which are regarded as private events rather than public ones), domestic use of music in care homes and use in NHS hospital wards and in medical treatments taking place in NHS hospitals.

#### *The general licensing rules*

We have had a query from a member who had received an exploratory letter from [Christian Copyright Licensing International](#) (CCLI), the umbrella body which issues licences to churches that provide copyright cover for such activities as photocopying, performing music and playing records and DVDs. The query was whether or not one requires a licence in order to show a film on DVD to a youth group gathered in a private home.

As members will be aware, copyright is a minefield. What follows is an attempt to set out what we understand to be the current rules.

- As noted above, playing music or showing films *during acts of worship* is currently exempt from the various licensing regimes, however, if you photocopy music in order to perform it during a church service you should have a Music Reproduction Licence in respect of the *music* and a Church Copyright Licence in respect of the *words*.
- Playing recorded music at (eg) a wedding reception is not covered by the licensing regime because a wedding reception is a private occasion rather than a public one.

Apart from those situations, you need a licence to:

- photocopy, whether you are photocopying music and words or books and magazines;
- play music (live or from CDs) *outside of service times*;
- make audio or video recordings of services for non-commercial use (which includes people using camcorders at weddings);
- make audio or video recordings of services for sale;
- show films or DVDs other than during a church service;
- download song lyrics from the Internet.

There is a useful [quick guide](#) to the various licences on the CCLI website, from which this information has been taken.

Finally, what about showing DVDs or playing recorded music in private homes? Our contention is that so long as one does not charge friends and neighbours for the privilege, showing a DVD does not engage the licensing regime because:

- there is no charge;
- the world at large is not being invited, so it is not a public occasion; and
- the showing is taking place in a private house rather than a public building.

On that basis, the fact that members of (eg) a church youth-group are present should make no difference. *But we will not be in the least surprised if someone tells us that we are wrong.*

[Sources: *Intellectual Property Office Press Release* – 8 November 2010: *CCLI Website* – 18 November 2010]

#### **Equality Act 2010: further update**

**For information.**

As widely predicted, the Home Secretary has [announced](#) that the socio-economic duty in section 1 of the Equality Act 2010 is to be scrapped. Section 1 obliges a public authority 'when making decisions of a strategic nature about how to exercise its functions, [to] have due regard to the desirability of exercising them in a way that is designed to reduce the inequalities of outcome which result from socio-economic disadvantage'. She described this as 'just another bureaucratic box to be ticked. It would have meant more time filling in forms and less time focusing on policies that will make a real difference to people's life chances'.

Section 1 of the Act has not yet been commended and, following the Home Secretary's announcement, it will not now be introduced and the Government will seek to repeal it.

[Source: *Government Equalities Office News* - 17 November 2010]

## Financial reporting

**For action: accountants need to read this and respond, though the timescale for responses is generous.**

The Accounting Standards Board has published [The Future of Financial Reporting in the UK and the Republic of Ireland](#), setting out proposals for a three-tier reporting framework, which aims to balance the needs of preparers and users of accounts. The document includes an explanation of the proposals, a draft Impact Assessment and the two new proposed standards. Its purpose is to explain to companies and other entities which set of accounting standards will apply to them and to simplify UK standards into a concise, coherent and updated form.

The proposed three-tier approach, developed and consulted on over the past six years, builds on the existing system:

- quoted groups will continue to report under international financial reporting standards (IFRS), as adopted by the EU. They would be joined in Tier 1 by other companies that are publicly accountable;
- the smallest companies (which will presumably include most charitable companies) will continue to use the simplified version of UK standards, known as the FRSSE; and
- those in between would report under a new standard based on the IFRS for SMEs, which is considerably shorter and less complicated than current UK standards. The FRSME, as it would be called, would be modified to comply with UK and EU law and to ease tax reporting.

Crucially, in response to feedback during previous consultations, ***the ASB plans to develop a standard tailored to the needs of public benefit entities such as charities. It will also retain the sector-specific statements of recommended practice (SORPs) where there is a clear need.***

A Key Facts document and the full Exposure Draft are available as follows:

- [FRED: The Future of Financial Reporting - Part One: Explanation](#)
- [FRED: The Future of Financial Reporting - Part Two: Draft Financial Reporting Standards](#)
- [FRED: The Future of Financial Reporting - Appendices](#)
- [The Key Facts](#).

The consultation period will run until **30 April 2011**. It is proposed that the new framework would be effective from 1 July 2013.

[Source: *Accounting Standards Board Press Release* – 29 October 2010]

## PROPERTY & PLANNING

### Big Lottery Fund grant scheme for England

**For information.**

The Big Lottery Fund is opening a £75m community buildings grants programme for voluntary organisations and parish and town councils in England. Not-for-profit groups will be able to apply for sums of between £100,000 and £500,000 each from the BLF's [Reaching Communities programme](#) from early December. A BLF spokeswoman said that funding would be available for "all types of multi-purpose buildings used by communities, including memorial halls, community centres and village halls".

Each project should have a total value of no more than £750,000 and applications will be assessed on a rolling monthly basis. Organisations can register for further information by calling 0845 410 2030.

The Heritage Alliance's Places of Worship Project (which brought the programme to our attention) has been assured that, as with the 2008 Community Buildings Programme, faith groups will be eligible so long as they meet the criteria.

[Source: *Places of Worship Project Newsletter* – December 2010]

### Community Infrastructure Levy: update

**For information.**

DCLG has confirmed that the Community Infrastructure Levy, introduced by the previous Government in April 2010, will be continued, on the grounds that it provides a fairer system for funding new infrastructure. CIL will give councils the option to raise funds from developers building new projects in their areas and provide a more certain and flexible system for house-builders. However, CIL will be reformed to ensure that neighbourhoods will receive a proportion of the funds councils raise from developers.

DCLG suggests that the new system will be more transparent than the old, with levy rates (unlike planning obligations) set in consultation with local communities and developers. All but the very smallest building projects will be liable for CIL. Under DCLG's revised proposals:

- independent examiners will ensure that councils do not set unreasonably high levies;
- councils will control the detail of what type of levy rate is charged, including what rates are set for specific areas and types of development;
- the threshold for imposing CIL will remain at 100 sq m;
- councils will be allowed to set their own flexible payment deadlines and offer the developers the option to pay by instalments; and
- the £50,000 minimum threshold for payments in kind will be scrapped, so that councils can accept a payment in kind for any level of contribution.

No significant changes will be made to the current rules about planning obligations (aka section 106 agreements), which will continue to fund affordable housing and will remain scaled back so that they directly relate to the proposed development.

Councils will monitor the use of the levy and provide regular reports to ensure that local people understand how new development brings benefits to their area.

Some changes to CIL will require amendments to legislation and regulations. The Government will include provisions in the forthcoming Localism Bill to limit the binding nature of examiners' reports and amend the Community Infrastructure Levy Regulations 2010 to give local communities more control over CIL and make it more responsive to local needs.

[Source: *DCLG Press Notice* - 18 November 2010]

## SCOTLAND

### End of Life Assistance (Scotland) Bill Committee Stage 1 Report

**For information.**

The Committee considering Margo MacDonald's End of Life Assistance (Scotland) Bill has recommended to the Scottish Parliament that the Bill should not be further proceeded with. The Committee's [report](#) concludes that

... the majority of the Committee was not persuaded that the case had been made to decriminalise the law of homicide as it applies to assisted suicide and voluntary euthanasia, termed 'end-of-life assistance' in the Bill, and, accordingly, does not recommend the general principles of the Bill to the Parliament.

The matter now goes back to the Plenary for a decision.

[Source: *Scottish Parliament* - 18 November 2010]

## TAXATION

### Tax returns for smaller charities

**For information.**

HMRC has announced that, for a transitional period, smaller charities (among which must be the vast majority of church congregations) required to file their accounts using iXBRL will instead be able to file in PDF format. HMRC recognises that the accounting principles by which smaller charities prepare accounts mean that the accounts template included in the free software provided by HMRC may not be suitable for them; and until HMRC provides free software that is suitable for smaller charities, **HMRC will continue to accept accounts from smaller charities in PDF format.** Computations must be filed in iXBRL format but the free HMRC software should be suitable for these.

A 'smaller charity' for the purposes of this arrangement is one where, together with any wholly owned subsidiaries (companies owned by the charity), the combined income does not exceed £6.5 million for the accounting period. Charities with a combined income above £6.5 million will, in almost all circumstances, need to use commercially available software to file their Company Tax Return, their accounts and any computations in iXBRL format.

Unincorporated associations and charities that are incorporated, say, by guarantee, shares or charter (or in future, are incorporated under the Charities Act) must submit computations in iXBRL format, but can continue to submit accounts as a PDF or in iXBRL format.

Members who think that they may be affected by this are urged to consult the relevant part of [Chapter 6 – Claims and Returns](#) of HMRC's Detailed Guidance Notes, as updated.

[Source: *HMRC What's New for Charities* - 11 November 2010]