

# Blue Pages

## Practical Information for Churches

Issue 99 November 2011

### Sketch plans need up-dating

Church premises are usually registered as places of worship under the provisions of the Places of Worship Registration Act of 1855. Although registration is not legally compulsory, there are two main reasons why registration under the 1855 Act is of benefit to churches.

- (a) The Valuation Office will require to see a certificate of registration of a place of worship in order to de-list the premises for the purpose of exemption from business rates.
- (b) Church premises can only be registered for marriages to take place if they are registered under the 1855 Act.

Original applications for registration need to be accompanied by a sketch plan showing the lay-out of the interior, and the use of each room in the building. This is to enable Register Office staff to ascertain that the building qualifies for registration on the basis of the way it is used (i.e. the sketch plan is evidence that the building's use is as a place of worship and for other activities ancillary to that purpose).

Churches are reminded that although a registration under the 1855 Act is a one-off procedure and does not require renewal while the same church is occupying the same premises, nonetheless if any reconfigurations or extensions are carried out to the premises, a fresh sketch plan should be submitted to the Register Office. This will ensure that the entire building will be continually covered by the benefits of registration.

### Marriage guidance

The General Register Office has republished its 37-page guidance booklet *A Guide for Authorised Persons*, covering all aspects of marriage law and procedure. The latest issue, dated September 2011, includes a number of useful specimen documents and forms and explains all that churches will need to know about conducting marriage ceremonies, and

the detailed requirements of an Authorised Person's duties, with precise clarity. Copies of the guidance can be downloaded free from the web site of the Home Office Identity and Passport Service. Simply type *A Guide for Authorised Persons* into a search engine.

### Food hygiene legislation

Current food hygiene legislation in the UK is directly related to the European Standards set out in EU Regulation 852/2004.

That regulation requires all organisations which provide food and catering on a regular basis and in an organised way to be registered with their local authority. Once registered, they will be subject to the food standards and requirements specified in the European regulations, and to the oversight of the Environmental Health Department of their local authority.

However, churches should not automatically register just because they have catering events, such as harvest suppers and anniversary meals, from time to time. Many churches may well be exempt from registration, as the following quotation (between the chevrons) from paragraph 3.8 of Regulation 852/2004 indicates:

#### <<< 3.8. The occasional handling, preparation, storage and serving of food by private persons

Operations such as the occasional handling, preparation, storage and serving of food by private persons at events such as church, school or village fairs are not covered by the scope of the Regulation. This is made clear in recital 9 of Regulation (EC) No 852/2004. The second sentence states that:

*"Community rules should only apply to undertakings, the concept of which implies a certain continuity of activities and a certain degree of organisation".*

The term "undertaking" is integrated in the definition of a "food business" (in accordance with Article 3(2) of the General Food Law (Regulation (EC) No 178/2002), a "food

business” must be an “undertaking”). Somebody who handles, prepares, stores or serves food occasionally and on a small scale (e.g. a church, school or village fair and other situations such as organised charities comprising individual volunteers where the food is prepared occasionally) cannot be considered as an “undertaking” and is therefore not subject to the requirements of Community hygiene legislation. >>>

It is clear from the above that occasional catering functions are outside the scope of the legislation. Where this is the case, and there is no requirement to register, there are no legal obligations of any kind governing the church’s catering activities.

Nonetheless, churches will want to set and maintain high standards of catering organisation, food hygiene and safety in respect of the preparation and handling of food. A lot of useful advice and information is available on web sites. One of them is the web site of the City of Edinburgh Council which has a useful booklet which can be downloaded called “Food safety advice for churches and other voluntary groups.”

### **New copyright restriction**

Changes to the Copyright, Designs & Patents Act, 1988 (CDPA) came into effect on 1 January 2011. These changes affect all churches that play sound recordings on their premises and/or during their activities because it is likely that in a number of circumstances they will now need a new PPL Church Licence (PPL). However, there are some exceptions, as follows:

- **Divine worship:** The new licence will not be required for worship occasions, matching the arrangement with the Performing Right Society for music.
- **Weddings and funerals** are deemed to be domestic occasions rather than public ones, and thus exempt. However, if the wedding or funeral is being audio- or video-recorded (on a video camera or ‘phone) while sound recordings are being played then those making the recording require a Limited Manufacture Licence, available from [www.PRSforMusic.com/lm](http://www.PRSforMusic.com/lm).
- **Church home groups** are deemed to be domestic occasions, rather than public ones, and thus exempt.
- **Live concerts** do not require a PPL Church Licence if only live music is played – but if copyright music is played live they will require a PRS for Music Church Licence.
- **Private functions** such as birthday and Christmas parties are deemed to be domestic occasions, and thus exempt.

Christian Copyright Licensing International (CCLI) is able to advise churches on how they can determine if they need a PPL. If one is required, churches will need to obtain it by 1 January 2012. It can be purchased from CCLI. Churches in doubt, or which already know that they need the new licence, may contact Chris Williams at CCLI on 01323 436101.

### **Charitable Incorporated Organisations**

The long-awaited new category of charity, the Charitable Incorporated Organisation (CIO), is still some months away from being a reality. Parliamentary secondary legislation is required, and this is not now expected to be in place until March 2012. The CIO will then be a third type of governance structure available to charities, alongside the charitable company and the unincorporated association.

Although similar in form to a charitable company, the CIO will have the advantage of simpler obligations, and will also be entirely within the jurisdiction of the Charity Commission, rather than, in the case of the charitable company, of the Charity Commission and Companies House.

*Blue Pages* is not at this stage advising churches as to whether or not they should consider becoming CIOs. Further information and advice will be given when the CIO-related legislation is published and the structure, obligations and advantages of the new status are fully known.

### **New insurance booklet**

The Charity Commission has recently revised (May 2011) its 20-page guidance booklet on insurance for charities (CC49). Although the new booklet states that it is not advancing any new or different policy advice, it sets out clearly the issues involved for charities in deciding whether or not certain types of insurance are necessary.

Some insurances are legally required, such as Employer’s Liability, and motor insurance, where the charity owns vehicles. Of the other types of insurance covered in the booklet, those most relevant to churches are buildings, contents, public liability, legal expenses, professional indemnity insurance and trustee indemnity insurance.

*Blue Pages* is not advising churches that they need all these insurances. Church officers are, however, encouraged to familiarise themselves with the insurances available, and consider whether in their church’s circumstances, taking out insurance would be cost-effective and a sensible protection against a real risk. Some insurances may not be appropriate, in the light of the remoteness of the risk, the exclusions which apply, or the high cost, but it is good practice from time to time to make a fresh assessment of the church’s insurance needs.

## A network of administrators

Many churches are now employing church managers or administrators, either full-time or part-time.

A network, entitled UCAN, which stands for UK Church Administrator Network, has been established offering information and support to people fulfilling such roles. It is run by John Truscott, who used to run Administry, and there is a useful web site (<http://www.john-truscott.co.uk/Administrators/Application>), which explains the work of UCAN more fully.

## Clearing snow

It is not known yet whether the 2011-2012 winter will be severe or relatively mild. However, if there are heavy snowfalls, churches will need to know how best to keep their sites safe, both for the parking of vehicles and for pedestrians. Churches have been known to be cautious about clearing snow from their frontage or car park, fearing that they might then be liable in law if people slip over in the cleared area and injure themselves. This is one of the many health and safety myths which abound.

In fact the myth became so prevalent that the then Communities Secretary John Denham issued a statement on 12 January 2010 which included the following:

*“The response (to the challenges of the severe weather) showed Britain's community spirit in action with many people volunteering their support where needed, from lending vehicles to help transport food to vulnerable people, to digging clear paths to re-open schools, or coming out of homes with shovels to get stranded emergency vehicles moving. With the cold spell set to continue in many parts of the country, the Government is joining forces with local government and the Health and Safety Executive to bust the myth that people who volunteer to undertake a civic duty could be at risk of facing legal action under health and safety laws. For example, there is nothing in health and safety legislation to prevent a person taking sensible steps to clear a pathway to improve the situation, or volunteer to do shopping for a neighbour in need. Nor should anybody who volunteers to support their community feel they are in danger of being sued and be put off wanting to help others.”*

This statement should be sufficient to enable churches to continue to make access to their premises as safe as possible, adopting a commonsense approach to achieving this, without any fears or anxieties that additional legal liabilities will arise.

**Official guidance on clearing snow can be found on a government website at [http://www.direct.gov.uk/en/N11/Newsroom/DG\\_191868](http://www.direct.gov.uk/en/N11/Newsroom/DG_191868)**

## A nice little earner

In the July issue of *Blue Pages* reference was made to the potential cost-effectiveness of gifts made to charities under Gift Aid, by people earning between £100,000 and £114,950. This is a complex area of tax accounting, but the benefit works as in the following example:

A donor earning £110,000 gives £1,000 to a charity under Gift Aid. The charity receives £1,250. Under the present tax rules, the donor is treated for tax purposes as having given £1,250. In his earning band, the donor qualifies for higher rate tax relief of 40% on the amount of his gift, which in this case is £500.

He has therefore benefited the charity to the extent of £1,250 at a net cost to himself of only £500.

## Payments under Gift Aid by family members

In the July 2011 issue of *Blue Pages* there was an item about the limited extent to which donors were eligible to support missionaries under Gift Aid if the missionaries being supported were their own family members. In the light of what appeared to be contradictory information from two HMRC sources, *Blue Pages* sought clarification, and this has been received.

It is now clear that family members can support missionaries under Gift Aid if the missionaries concerned will not receive any more money as a result of the family gifts. The case example below will illustrate the circumstances in which this rule applies.

A church sets up a missionary fund to support a missionary, and commits itself to providing the sum of £10,000 per annum. This amount is given to the missionary, or to his or her missionary society or agency, irrespective of whether the missionary fund reached its target – any deficiency being topped up from general funds. It is also given irrespective of whether a family member contributes to the missionary fund or not. Consequently, the missionary is receiving no *additional* income by virtue of the family gifts.

For family donations to qualify under Gift Aid, there must be no *additional* benefit. It is not possible therefore for family members to give an extra £5,000 to the fund, and as a result, for the church to give £15,000 in a particular year instead of the promised £10,000. This would amount to *additional* benefit, and would link the amount being given by family members directly to the amount received by the missionary. In those circumstances, the gifts can still be made, but the family members' Gift Aid is disallowed.

## Grants for listed building projects

Under Object E of the Landfill Communities Fund (LCF), a government agency, Waste Recycling Environmental (WREN) is able to fund the repair, maintenance or restoration of a building or structure of architectural or historic importance, including places of worship.

The WREN board has directed that grant funding will be made available annually for historic building restoration and a new WREN Heritage Fund programme has been established. In fulfilling this funding programme, WREN works in partnership with English Heritage, Historic Scotland, Cadw (Wales) and the National Churches Trust.

WREN will not consider nor accept applications submitted directly by applicants. All Heritage Fund applications must be recommended and supported by one of the four key partner organisations.

The eligibility criteria for WREN grants are narrowly drawn:

- WREN will only consider funding for Grade 1 (Grade A in Scotland) and Grade 2\*star listed buildings or structures, including places of worship.
- WREN wishes to support priority heritage projects which urgently need repairs within the next two years.
- WREN will consider awarding grants of between £15,001 and £50,000 specifically for capital costs of fabric repair /restoration work for historic buildings and structures, including places of worship. This will be an annual programme of funding.
- All projects must be situated within 10 miles of an active and licensed Waste Recycling Group landfill site.

Not many independent evangelical churches have premises which are Grade 1 or Grade 2\* listed buildings, and so very few will qualify.

## Water charges

Following the item which appeared in the July issue of *Blue Pages*, one church has recently been reimbursed £5,340 by Severn Trent Water in respect of six years of overpayment of water charges.

Two other water companies, Northumbrian Water (NW) and United Utilities (UU), operate concessionary schemes which cap the amounts paid by churches for surface water drainage at a flat rate of £100.30 per annum (UU) and £109.30 (NW). In both cases it is a condition of eligibility for the concession that churches have water meters.

Some churches without water meters may be on an annual fixed charge, or may be below their supplying company's radar altogether, as non-metered supplies are generally charged on the basis of rateable value, and premises registered as places of worship have no rateable value.

If churches have meters, they should make sure they are in the relevant concessionary scheme. If they are non-metered, they should compare what they pay now with what they would pay under the concessionary scheme, and if the latter is more favourable, apply for metering.

## Income from letting manses is tax-free

Churches which let their manses to commercial tenants will not be taxed on the income, even if the rent received amounts to more than approximately 25% of the church's total income – the maximum proportion of a charity's total income normally allowed tax-free.

HMRC guidance (shown below between the chevrons) makes clear that property lettings by charities are not regarded as "trading."

### <<< Property lettings by charities

Rental income from land or buildings, received by a charity, is exempt from tax provided that the profits arising are applied for charitable purposes. However, if the charity provides services such as a caretaker, food or laundry, the provision of the services might amount to a trade.

The income from property lettings is always business income for VAT purposes. >>>  
[www.hmrc.gov.uk/charities/tax/trading/basics.htm#6](http://www.hmrc.gov.uk/charities/tax/trading/basics.htm#6)

Even though income from property lettings counts towards trading income for VAT purposes, few churches are likely to reach the VAT registration threshold, which is currently £73,000.

## VAT on waste collection charges

In normal circumstances, churches should receive a waste collection service free of charge from their local authority or from the local authority's appointed contractor. The law requires waste collected from church premises to be "treated as household waste." Local authorities do not charge for household waste.

However, in some circumstances – usually because the church regularly hires out its premises for other uses - a waste collection charge is legitimate.

For churches which are being charged, HMRC determined in February 2011 that charges made by local authorities or their contracted agents for collecting waste should not be subject to VAT. As this decision was made as a result of legal advice, it means that charges in that category ought never to have been subject to VAT, which means that churches

position to apply for a refund. Refunds are limited to a period of four years.

Charges made by waste collection contractors commissioned privately by individual organisations – i.e. not acting on behalf of the local authority - are still likely to be subject to VAT.

### **Admission to Church of England Schools**

Since September 2011 it has been easier for parents connected with Affinity churches to gain admission for their children into Church of England Schools. The FIEC is the major constituent body within Affinity and all FIEC churches are therefore Affinity churches.

The Church of England Board of Education has agreed to recognise Affinity churches on the same basis as it had already recognised churches linked with Churches Together and the Evangelical Alliance. This recognition has now been included in the official guidance available to Church of England Schools, published in June 2011.

Church of England Schools have always been free to make their own judgements about whether they accept Affinity parents as meeting the church adherence requirement, and in many cases Affinity parents have been accepted without difficulty. However, some schools have adhered strictly to the official guidance and have in the past given Affinity parents lower priority as a result of the failure of the C of E Board of Education to give official recognition to Affinity churches.

The following is the wording now appearing in the Admission Advice from the Board of Education/National Society to Diocesan Boards of Education:

#### **d. Affinity**

Affinity is an umbrella organisation to which independent churches belong, similar to and including the Fellowship of Independent Evangelical Churches. It has been agreed that Affinity and FIEC should be treated on the same basis as CTE and the Evangelical Alliance (EA) members for the purpose of admissions to Church of England schools.

This new provision will not guarantee applicants a place in their chosen school, as there are other legitimate factors which schools have to take into account. For instance, popular schools may be over-subscribed. However, at least it will mean that evangelical parents will no longer be penalised for belonging to the wrong kind of church.

*Blue Pages* is published by The Fellowship of Independent Evangelical Churches, 39 The Point, Market Harborough LE16 7QU. Tel. 01858 434540 (Email: kevin@fiec.org.uk). While every effort has been made to verify the accuracy of the material it contains, the FIEC can accept no responsibility for the consequences of the use of its information or advice.

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