



## AECW GREEN PAGES MARCH 2011

### Gift Aid

Churches need to be aware of two topical matters in connection with Gift Aid:

- (a) Transitional relief ends on 5 April 2011. This relief was introduced three years ago to cushion the losses charities would otherwise have experienced as a result of the reduction of the income tax level from 22p to 20p in the pound. By way of illustration, a gift of £1,000 given before 6 April 2011 will attract Gift Aid and transitional relief totalling £282. From 6 April onwards, Gift Aid on a gift of £1,000 will attract only £250. The difference is a reduction in the value of recovered tax of just under 9%. This difference will be particularly significant in connection with larger one-off gifts, say towards a church building project. Where possible, therefore, churches should encourage their members and friends to make their gifts by 5 April. Where members are able to do so, they could arrange to give some of their regular giving in advance. Gift Aid does not have to have been claimed from HMRC by 5 April, but the gift has to be in the possession of the church by that date.
- (b) The Finance Act 2010 imposed a new requirement on charities claiming Gift Aid. This new obligation, described as a “management condition,” requires charities to pass the “fit and proper persons” test. This is a test which is intended to confirm that the person or people who run charities are suitable people to fulfil that role. HMRC is at pains to emphasise that in normal circumstances (i.e. where it has no reason to believe to the contrary) it will assume that all those people appointed by charities are suitable persons. However, the existence of the new test gives HMRC more power to intervene where it has doubts or concerns. HMRC’s guidance on the fit and proper persons test can be found at:  
<http://www.hmrc.gov.uk/charities/guidance-notes/chapter2/fp-persons-test.htm> “

### National Minimum Wage

On 1 October 2010 the hourly rate of the National Minimum Wage increased to £5.93 for employees aged 21 or over. The rate for 18-20-year-olds is £4.92, and for those aged 16 or 17, £3.64. The rate for apprentices aged under 19, or over 19 but in their first apprenticeship year, is £2.50.

### Empty manses and Council Tax

It has recently been clarified that where a manse is held empty awaiting future occupation by a minister of religion, no Council Tax is payable. The manse does not have to be owned by the church for this exemption to apply. Council tax is always payable when the manse is occupied. If it is occupied by a minister, is situated in England or Wales, and is owned by the church, the Council tax is the liability of the church. If the minister is liable – for instance if the church has no manse but rents a house for the minister from a private landlord – the minister will not then be taxed on the benefit if his remuneration package includes an arrangement under which the church pays the Council tax. If the manse is let to other tenants in between pastorates, the occupants become the Council Tax payers.

### Changes to Listed Place of Worship Grants Scheme

Churches whose premises are listed buildings have since 2001 been able to apply for government grants to offset the VAT payable in respect of the repair and maintenance of their buildings. Although the Scheme has been extended for a further four years (i.e. until 31 March 2015), the range of works eligible for grant has been narrowed, from 4 January 2011, to exclude professional fees, organs, pews, bells and clocks. In order to qualify for grant aid, church premises must not only be listed, but must also be solely or principally used for public religious worship.

### Implications of leaseback arrangements

It is not uncommon for a minister who owns his own house to lease the house to the church on the basis that the tax advantages would make such an arrangement beneficial.

Whether such an arrangement is beneficial will depend on a wide range of factors applicable to the individual circumstances, but the following are the general advantages of such a scheme:

[1] If the church pays the market rent to the minister, and the minister’s stipend is reduced by the same amount, neither the church nor the minister pays National Insurance on the rent element. The minister is taxable on the rent income, though he can offset the costs of property repairs and of any mortgage interest he is paying against the rental income.

[2] The reduced stipend level may increase the minister's eligibility for some benefits, rebates and concessions. However, the reduced stipend level, together with the associated reduced National Insurance contributions, would reduce earnings-related pension and sick-pay entitlements.

[3] As the house is the minister's principal private residence, he is exempt from any capital gains tax if he subsequently sells the house at a profit.

However, there is a downside. As the minister receives rent, he would be taxed on the benefit involved if the church pays his council tax and/or water charges. This is in contrast to the situation of a minister living rent-free in a manse, who would not be taxed if the church made those payments as part of a tax-effective salary package.

### **Charitable Incorporated Organisations**

Details of a new type of charity, the Charitable Incorporated Organisation (CIO), are expected to be published in late Spring.

This long-awaited new hybrid, which is a cross between a charitable company and an unincorporated association, is expected to have the character of a simple company structure, and to be governed by only one regulator, the Charity Commission (CC), rather than being regulated both by the CC and Companies House.

When the structure and obligations of CIOs have become known, *Blue Pages* will comment on the details, and advise on the suitability of the CIO structure for churches in different circumstances.

### **Changes in copyright legislation**

A new copyright law came into effect on 1 January 2011 requiring churches to obtain a Phonographic Performance Limited (PPL) licence if they intend using copyright-protected music recordings.

Circumstances in which a PPL licence would be required include the playing of music from records, CDs, radio or television in the course of church activities other than public worship services, which are exempt. The charge only applies from 1 January 2012.

A church which uses the premises of another organisation – one which holds its activities in a local school, for instance – may find that its host organisation already has a PPL for the building, in which case the church would be covered by the host's licence.

The cost of a licence is based on a scale of charges, but for a small church is expected to be about £40 a year.

Churches already need one or more copyright licences, depending on the nature of the material they use. These licences are generally obtained from Christian Copyright Licensing International (CCLI). CCLI is in discussions with PPL over possible arrangements for CCLI to issue PPL licences. Further information on this can be obtained from CCLI by email to [info@ccli.co.uk](mailto:info@ccli.co.uk) or by telephoning 01323 436100.

### **Vetting and barring scheme**

In February, the government announced proposals to revise the CRB Disclosure system and the Vetting and Barring Scheme.

The proposals, which come after a comprehensive review of the existing system, include:

- the merging of the Criminal Records Bureau (CRB) and the Independent Safeguarding Authority (ISA) to form a streamlined new body providing a proportionate barring and criminal records checking service;
- a large reduction in the number of positions requiring checks to just those working most closely and regularly with children and vulnerable adults;
- the portability of criminal records checks between jobs to cut down on needless bureaucracy;
- an end to the proposed requirement for those working or volunteering with vulnerable groups to register with the VBS and then be continuously monitored by the ISA; and
- measures to stop employers from requesting criminal records checks if they are not entitled to make such checks.

The government will also keep the scope of CRB checks under review to ensure that they are not discouraging people from volunteering.

Full details of the review can be found at <http://www.homeoffice.gov.uk/publications/crime/vbs-report>  
The legislation necessary to put these proposals into effect will be included in the Protection of Freedoms Bill. It is envisaged that this Bill will complete its passage through Parliament by November 2011, with its provisions implemented from 2012 onwards.

Until these new proposals are passed into law and implemented, the existing arrangements for CRB Disclosure checks remain in place and should be adhered to by churches.

### **First aid provision in churches**

Although there are certain legal obligations to provide first aid facilities in places of employment, this requirement has not yet been extended to churches or other voluntary organisations holding meetings or events at which the public gather. However, it is easy to imagine that incidents will occur in churches which involve the need for first aid. These will include various types of accident and people suffering collapses or suddenly becoming ill. In some cases an ambulance will need to be called, but in others it would be helpful if some skilled and appropriate immediate treatment could be given on the spot. In all cases, the patients will benefit from there being someone available who knows what to do.

Quite apart from incidents occurring in churches, every Christian is involved in a wide range of different circumstances throughout the week, in any one of which an incident could occur in which first aid knowledge and ability would be a blessing and a useful ministry. The inquest into the deaths of the 52 people killed in the London Underground bombings in July 2005, an atrocity in which many other people were seriously injured, has shown how valuable some first-aid knowledge can be in times of sudden need. In the case of the London bombings, some lasting friendships between rescuers and rescued have resulted. Every day, if Christians are well prepared, the providence of God would have great scope. In an emergency context there are many benefits if there is someone present who knows what to do. Not only is it satisfying to the first-aider if he or she can act usefully, but it is immensely reassuring to the victim(s) and it also enables other volunteers at the scene, who are willing but lack knowledge, to be guided as to how best to help.

Churches may want to consider training up as many of their own people as possible, not only to enable the most effective response to church-related incidents, but also to be as useful as possible in the general milieu of life, seeing it as a wider caring ministry.

Excellent courses are run by St John Ambulance, an organisation it would be worth approaching to ask if they would consider running a course appropriate to the needs likely to arise in churches, as well as equipping people to be able to respond to emergencies elsewhere. It is often possible for such a course to be conducted on church premises for an agreed fee. Perhaps a number of local churches could combine to arrange such a course. In most parts of the country, there are local branches of St John Ambulance to which inquiries can be made in the first instance.

The government and the Health and Safety Executive have sought to emphasise that those who act in good faith will not be subject to legal redress or liability. The precise legal position can be clarified with St John Ambulance during the courses.

### **Waveband closure will affect churches**

Spectrum changes being introduced by OFCOM may leave some churches with a redundant amplification system.

OFCOM is closing down the 800 MHz waveband used by Channel 69, the channel through which many churches operate their wireless microphones. From the changeover, which is due to take place during 2012, churches affected will need to switch to Channel 38, but some older equipment may not be serviceable on the new channel and may need to be replaced.

The cleared 800 MHz waveband is expected to be dedicated to meeting the needs of a new generation of mobile broadband services.

### **Driving on church business**

Churches which organise transport rotas either for one-off events or on a regular basis are reminded of the need to check with their insurance broker or insurance company whether any special insurance arrangements or procedures need to apply. The issue is whether a driver's ordinary motor insurance is sufficient to cover risks arising from journeys undertaken on behalf of the church as part of a structured transport system arranged by the church. Alternatively individual drivers can check this with their own motor cover providers. Different insurance companies may well have different requirements and expectations in this area, and therefore *Blue Pages* cannot give any standard advice.

Drivers who of their own volition take other people to church or to church events, without this being organised by the church, are not affected and their ordinary policy will cover them.

This query is purely an insurance issue and is nothing to do with child protection or the safety of other vulnerable groups.

### **Civil partnership**

There has been considerable publicity recently about the possibility of civil partnership ceremonies being allowed to take place on church premises, and about the possibility of same-sex couples being allowed to enter into marriage, rather than merely into civil partnership. These two issues are quite separate, but there has been a lot of misinformation, including some from Christian sources.

In connection with the possibility of civil partnership ceremonies being conducted on church premises, the Equality Act of 2010 allows for the principle of this happening, but it is not lawful at present, since the mechanics for achieving this have not been worked out, and further legislation will be required before it can happen. A Consultation is due to begin in April 2011 which will consider all the practicalities involved, and the government will then make proposals.

However, current fears that churches will either be compelled to permit civil partnerships on their premises, or risk being sued if they refuse to do so, are both wide of the mark. For any civil partnerships to be carried out, the premises will have to be licensed, and there is no law which makes it obligatory to apply for a licence. Furthermore, no-one can be successfully sued for failing to do something (apply for a licence) which is not obligatory in law. Hence, churches need have no fears on this count.

In connection with the possibility of the definition of marriage being extended to include same-sex couples, a separate Consultation is to begin in April 2011 to consider this. The government has not yet given any indication as to what will follow the Consultation. All churches will be able to make their views known during the Consultation.

If as a result of the Consultation the government proposes, for instance, that the definition of marriage should be extended to include same-sex couples, that is the point at which evangelical Christians and churches will become vulnerable, since most evangelical church premises are already licensed for marriages, and if the definition of marriage is extended, and churches refuse to conduct same-sex marriages, this could be viewed as unlawful under present discrimination law. Specific exemptions would therefore need to be written into any law enacted.

In the meantime, we need to take every opportunity to argue for the retention of a definition of marriage which is uniquely the “union of one man and one woman.”

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