Connected persons and independent examiners

Where the income of a church is between £10,000 and £250,000 per annum, the accounts must be examined by an independent examiner. This need not be a professionally-qualified person, but must be someone with suitable experience whom the trustees are confident can perform the task competently.

The selected person must also be independent of the trustees, which means, according to the Charity Commission's own guidance (Appendix 1 to publication CC63), that the following people are all excluded from being independent examiners:

- The trustees or anyone else closely involved in the administration of the church;
- Any major donors or major beneficiaries;
- A close relative, spouse, business partner or employee of anyone in categories (a) or (b).

The extent of "close relative" has not been defined precisely, but in comparable legislation defining a connected person, the definition always includes parents, brothers and sisters-in-law, sisters and brothers-in-law, children and anyone else living in the same house as the person concerned.

It is therefore acceptable for a church member to be "independent examiner" of his or her own church's accounts, provided that the selected member is not disqualified by one or other of the above exclusions. In some small churches, whose membership may consist of two or three extended families, it may well be difficult to find a church member who is sufficiently "independent" to undertake the role.

In such cases, churches may want to come to an arrangement with another church with which they have fellowship links, appointing appropriate members to be the independent examiner of each other's accounts. This can save both churches the cost of seeking professional help. Publication CC63 also contains guidance explaining the requirements and responsibilities of independent examiners.

Cost-effective energy

In these days of volatile energy prices, it is not always easy for churches to know for sure that they have identified the most cost-effective arrangement for their particular premises and needs.

One resource which churches can use in order to discover a cost-effective provider, or to test the competitiveness of their existing arrangements, is to enlist the help of a specialist energy broker.

One such broker, Church Energy Purchasing Group, is offering a free quotation which churches can then compare with existing and other potential suppliers. Churches need to go online to www.cepg.co.uk/register to complete an online enquiry form and email it back to CEPG.
Alternatively to speak to an energy broker for an informal discussion the Enquiry Hotline can be contacted on 0870 446 1006

CEPG will then search the market and come back with the best quotation they can find. There is no obligation on any church to accept any quotation and there is no cost to the church for this service. This is because, like all brokers, CEPG will be paid by the energy providers to which they introduce business. Unless the CEPG can undercut existing prices they wouldn't expect a church to move supplier.

The FIEC has no arrangement with CEPG, and derives no benefit from mentioning its services. It takes no responsibility for the services CEPG provides. However, it is happy to mention the existence of this company, and the service it offers, as churches will probably not be aware that an energy brokering service of this type is available.

CRB checks warning

While still requiring the trustees of charities involved with children or other vulnerable groups to be CRB-checked before the charity applies for charitable status, the Charity Commission has reduced the bureaucracy involved.

From 1 October 2007 the Commission no longer requires to see the disclosures obtained by trustees from the CRB. Instead the Commission will accept a statement confirming that disclosures have been obtained.

The Commission's requirement to obtain disclosures applies to all trustees who are legally *required* to obtain a disclosure; and to all trustees who are legally *entitled* to obtain a disclosure.

Explaining the reasons for its insistence that trustees should be CRB-checked, the Commission states: "All charity trustees have a duty of care, and a duty to act solely in the interests of the charity. The Commission believes that charity trustees risk being in breach of these duties if they fail, without good reason, to carry out appropriate CRB checks when they are entitled to do so. In some circumstances such failures may be viewed as evidence of misconduct and/or mismanagement in the administration of the charity."

As to what other categories of people, aside from trustees, associated with the work of a charity working among children or other vulnerable groups, are required to be CRB-checked, this has still not been clarified, and we will report on this further in a future issue of *Blue Pages*

Many churches already have child protection policies which include making CRB checks on those regularly involved in youth and children's activities. For those who use the FIEC as their umbrella body for the making of CRB checks on behalf of churches through the *Disclosure* system, the following charges will apply from 1 April:

For FIEC churches:

- If the person is paid to do the job for which a Standard Disclosure is being sought the fee is £31 plus FIEC's administration charge of £8 = £39 per person
- If the person is paid to do the job for which an Enhanced Disclosure is being sought the fee is £36 plus FIEC's administration charge of £8 = £44 per person
- If the job is voluntary (i.e. no remuneration, other than out of pocket expenses), then there is no charge by the CRB - just FIEC's £8 administration charge

For any other independent church who can sign the FIEC Basis of Faith:

- If the person is paid to do the job for which the Standard Disclosure is being sought the fee is £31 plus FIEC's administration charge of £12 = £43 per person
- If the person is paid to do the job for which the Enhanced Disclosure is being sought the fee is £36 plus FIEC's administration charge of £12 = £48 per person
- If the job is voluntary (i.e. no remuneration, other than out of pocket expenses), then there is no charge by the CRB - just FIEC's £12 administration charge = £12 per person

Employment status of pastors

In the November 2007 issue of *Blue Pages* it was indicated that some guidance would be given to churches in the February 2008 issue enabling them to order their documentation and practice in a way which would be consistent with the "office-holder (minister of religion) employment status" and which would not create an employer-employee relationship.

In most independent evangelical churches, office-holder status for pastors is generally the status most appropriate to the structure of church life, and the relationship between the pastor and the church. It is also the form of appointment which is desired by most churches and most pastors.

An employee, by definition, is under the control and responsibility of an employer, whereas someone appointed to an "office-holder" category has much more independent freedom of action both in the general organisation of his working life and in his daily priorities.

In an employer-employee relationship, the employer decides what needs to be done and requires the employee to do it. In an office-holder relationship, the office-holder decides what needs to be done, within a general framework of expectations identified at the start of the appointment.

An office-holder has fewer employment rights than an employee. An office-holder is not entitled to redundancy pay, nor the national minimum wage, and is not subject to the Working Time Regulations. Even so, most pastors still prefer to be office-holders.

As was reported in the November issue of *Blue Pages,* the High Court has ruled in the case of the New Testament Church of God v Stewart that there is no automatic presumption in law that a minister of religion in a local church situation is "employed by God" and not subject to an employment relationship. The nature of the relationship is to be judged on the circumstances of each particular case.

In the light of this, churches wanting their relationship with their pastor to be on the basis of office-holder status should ensure that their documents, and their status, support this interpretation.

Although it is not possible to be sure how a court would interpret any particular practice or document in relation to the nature of the employment, churches are strongly advised to include something like the following wording in any letter of appointment or related documents or in other formal reference to the post.

<< The post is that of pastor, and is filled by a minister of religion serving within the definition of the official category of employment known as "office-holder." There is no intention by the pastor or the church to create a contract of employment, nor an employer-employee relationship.

The duties of the post are traditionally those of a minister of religion, exercising a preaching and pastoral ministry, and fulfilling the other duties of the post. The pastor is free to arrange and to fulfil his duties as he sees fit, and is at the call of everyone within and outside the church who wish to seek his help.

He receives a stipend from the church so as to enable him to devote his time to his calling without having to undertake other remunerative work to support himself and his family. The other terms and benefits of his appointment are set out below in order to enable the pastor to know what provision is available to him, and the church to know what expectations they may have of him. This arrangement removes anxiety, increases mutual understanding of the context and circumstances surrounding his appointment, and makes for a relationship which enhances the life of the church, aids its smooth running, and, it is hoped, increases the effectiveness of its ministries. >>

Excepted churches - proving charity status

Churches affiliated to one of a number of denominations or church associations listed in Statutory Instrument 180 (1996) are known as "excepted" churches, which means that they have charitable status, without having to be registered with the Charity Commission.

However, a problem they often face is that many public authorities, agencies, businesses and contractors are not aware that it is possible to be a bona fide charity without having a registered number.

Churches seeking the VAT concessions available to charities, such as those in respect of advertising and those in connection with adapting church premises for the benefit of the disabled, should quote VAT Notice 701/1 (Paragraph 2.2) to their supplier or contractor. This states as follows:

"Most charities in England and Wales are registered with the Charity Commission which confirms their charitable status. However some charities are not required to be registered: some are exempted by statute, such as universities; others are excepted because they are too small. In the case of a charity not registered with the Charity Commission, recognition of charitable status by the Inland Revenue is sufficient proof."

The VAT Notice is wrong in implying that charities are only excepted from registration because they are small, but the last sentence of the above statement should convince service providers that FIEC churches are entitled to charity exemptions from VAT on those goods and contracts which qualify to be provided free of VAT.

"Recognition by the Inland Revenue" means the reference number under which the church claims Gift Aid relief from the HMRC.

Financial thresholds consultation

As a result of a Consultation currently taking place, some churches are likely to be relieved of some of their present legal obligations in connection with the accounts they are required to produce.

Entitled *Financial Thresholds in the Charities Acts: Proposals for Change,* the consultation is being carried out jointly by the Office of the Third Sector and the Charity Commission.

The consultation proposes that only charities with an annual gross income of £25,000 or more should be required to have their accounts independently examined. At present independent examination of accounts is compulsory for charities with an annual gross income of £10,000 or more.

It is also proposed to increase from £100,000 to £250,000 the threshold at which churches are required to keep accounts on an accruals basis. Only a few church treasurers have the expertise to keep accruals accounts, and the proposed change will save churches within the relevant income band the cost of obtaining the professional help they have needed to meet the present requirements. As hardly any churches have an annual gross income of £250,000 or more, the proposed change will mean that almost all churches will be able to keep their accounts on a "receipts and payments" basis.

Another proposed change is that only churches with an annual gross income of £25,000 or more will be required to prepare a Trustees Annual Report. The present threshold is £10,000.

Comments are invited to this consultation, which closes on 31 March 2008. Copies of the full proposals can be obtained by telephoning 0845 015 0010, and quoting URN 07/Z9 and the title of the publication (SEE ABOVE).

Manse expenses

In the November 2007 edition of *Blue Pages* it was incorrectly stated that all ministers living in manses could claim a tax deduction against all electricity and gas charges. This deduction is only applicable in cases where the minister's income from the church does not exceed £8,500. The correct position regarding the tax implications of various manse expenses is set out below:

Full-time ministers of religion who live in a manse provided by the church, and from which they fulfil their duties, are eligible for the following deductions from their taxable income:

- As statutory payments, water charges are wholly tax-deductible if paid for on behalf of a minister living in a manse, irrespective of the income level of the minister;
- A 25% deduction for payments in respect of maintenance, repairs, insurance, or the management of the premises;
- Where the minister has an income from the church of £8,500 or less, electricity and gas bills; cleaning and gardening expenses are wholly deductible.

In England and Wales, where the manse is owned by the church, no tax liability in respect of council tax falls on the minister.

Where the minister lives in his own house which has been leased back to the church under a leaseback scheme, the above tax exemptions apply, except those for council tax and water charges. In England and Wales council tax is only the liability of the church if the church owns the property. Under a leaseback scheme the church doesn't own the property, and therefore the minister is liable. As council tax and water charges are statutory charges, the minister is not exempt from tax on these payments, where paid by the church, if he is receiving rent for the property involved – almost always the case under a leaseback scheme.

If a minister pays rent for the house he uses as his manse, he is entitled to a deduction of up to 25% of the rental cost from his taxable income. The amount deductible is usually 25%, but could be assessed lower if the proportion of the house's use for manse purposes is lower.

Where a minister lives in his own house, and it is not leased back to the church, then he will be liable to tax on the amount of any property-related or household expenses paid for by the church.

Manse occupation

A number of legal matters have recently arisen in connection with manse occupation. These are currently being further considered, and a guidance note is expected to be available shortly which may be of help to churches with manses.

The difficulties recently encountered have been linked with the continuing occupation of the manse by a pastor and/or family members, after the pastor's ministry in the church has ceased. If a service tenancy is not in place, which links the occupation of the manse directly with the pastor's ministry in the church, there can be an issue as to whether the pastor, or members of his family or any other occupants, may have any continuing rights of occupation.

Although in most cases these issues do not arise, they do occur from time to time, and it is clearly not in the interests of the church or the pastor for there to be any lack of clarity in the arrangements existing between the pastor and the church. The advice, when available, will therefore include a suggested agreement which make clear the terms and conditions of manse occupation. In view of the legal costs incurred, a charge will be made for this guidance.

Two questions have also arisen in connection with property tenure under the Disability Discrimination Act 1995:

(a) Does the Act require a landlord to permit a disabled tenant or occupant to carry out adaptations to the premises, if the disabled person wants to carry out such works at his or her own expense, and if they are works related to the tenant's disability?
(b) If so, is the disabled person required to restore the premises to their original condition at the end of the tenancy?

At present, the answers to these questions are not clear, but if any relevant information comes to light, we will include it in future issues of *Blue Pages.*

New model constitution

A new model constitution has been made available to churches and can be downloaded free of charge from the web site of the Evangelical Alliance. This new model was prepared by a consortium made up of the EA, Stewardship, the Afro-Caribbean Churches and Anthony Collins Solicitors LLP, and agreed with the Charity Commission.

However, the document has been drawn up to address specific issues, and as it stands we believe that it is not suitable for most independent evangelical churches, for the following reasons:

- The document provides for a group of managing trustees which does not necessarily include the elders of the church, whereas the circumstances in most independent evangelical churches will require the elders to be among the managing trustees;
- The model assumes to the trustees a power to use the church's capital to further the general objects of the church, whereas in cases where this capital is "permanent endowment," the money involved can only be used for the acquisition of land and buildings unless the Charity Commission has given approval for some other use;
- The model gives trustees, rather than the whole church membership, the power of decision over the admission and removal of church members, which runs contrary to the congregational principles which apply in most independent evangelical churches;
- In the event of the church closing, the model gives elders the power to reject a resolution by the members to dissolve the church, even when such a resolution is passed by at least three-quarters of the membership voting in favour.

Churches using this new freely-available model are urged to take advice on the above points and to ensure that the document is adapted to fit legal requirements and the church's circumstances.

National Minimum Wage

Following a consultation in the autumn of 2007, the government has decided to make no changes to Section 44 of the National Minimum Wage Act 1998. During 2008 it will, however, be issuing fresh guidance to clarify what is meant by the provisions of Section 44.

During the recent consultations it became clear that the following is the understanding of the government and of the Low Pay Commission, the agency which polices the Act, in respect of the meaning of Section 44:

- Voluntary workers who undertake a regular arrangement to work for a charity (including a church) may be provided with subsistence and accommodation appropriate to the circumstances;
- Training provision is limited to training connected with the role being undertaken – any other kind of training provision would amount to a benefit in kind and the national minimum wage would immediately become payable;
- All "work" is "employment," whether paid or not. This means that a person cannot undertake part of a working role as a paid employee, and part as a volunteer. For the purposes of the Act, if a person is remunerated at all (other than by the provision of subsistence and accommodation, where applicable), the whole number of hours worked is required to be remunerated at a rate of at least the national minimum wage.

As a result of bullet point one above; if someone retires early and augments his or her company pension with eight hours of part-time administrative work for the church, this must be paid at the rate of at least the national minimum wage, since that kind of arrangement could not be classed as "subsistence."

The following is the text of the relevant paragraphs in Section 44:

44 Voluntary workers

(1) A worker employed by a charity, a voluntary organisation, an associated fund-raising body or a statutory body does not qualify for the national minimum wage in respect of that employment if he receives, and under the terms of his employment (apart from this Act) is entitled to,—

(a) no monetary payments of any description, or no monetary payments except in respect of expenses—

(i) actually incurred in the performance of his duties; or

(ii) reasonably estimated as likely to be or to have been so incurred; and

(b) no benefits in kind of any description, or no benefits in kind other than the provision of some or all of his subsistence or of such accommodation as is reasonable in the circumstances of the employment.

(2) A person who would satisfy the conditions in subsection (1) above but for receiving monetary payments made solely for the purpose of providing him with means of subsistence shall be taken to satisfy those conditions if—

(a) he is employed to do the work in question as a result of arrangements made between a charity acting in pursuance of its charitable purposes and the body for which the work is done; and

(b) the work is done for a charity, a voluntary organisation, an associated fund-raising body or a statutory body.

(3) For the purposes of subsection (1) (b) above—

(a) any training (other than that which a person necessarily acquires in the course of doing his work) shall be taken to be a benefit in kind; but

(b) there shall be left out of account any training provided for the sole or main purpose of improving the worker's ability to perform the work which he has agreed to do.

Northern Ireland Charities Bill

A new Northern Ireland Charities Bill is currently before the Northern Ireland Assembly, and is expected to become law by the summer of 2008. It will bring Northern Ireland into line with the charity regulations now in force in England and Wales, and in Scotland.

The Bill establishes a Charity Commission in Northern Ireland. It also requires charities to register, and to be able to show that they exist for the public benefit. The new requirements will apply to the Province's many churches.

Pastors' stipends

Where a church does not have a suitable alternative basis on which to judge an appropriate stipend level for its pastor, it may wish to consider a comparison with the classroom teacher's pay scales in the State education system.

The government has just announced a three-year package for classroom teachers which take effect from September 2008. The figures, excluding London weighting, are as follows:

Spine point	September 2007-2008	September 2008-2009	September 2009-2010	September 2010-2011
	£	£	£	£
1	20,133	20,627	21,101	21,587
2	21,726	22,259	22,771	23,295
3	23,472	24,048	24,601	25,167
4	25,278	25,898	26,494	27,103
5	27,270	27,939	28,582	29,239
6	29,427	30,148	30,841	31,551

If churches want the comparable figures for Inner London, Outer London and the Fringe, these are available and can be emailed on request. Guidance notes are also available outlining all the factors which need to be considered when deciding on the level of a pastor's stipend, and how the classroom teacher's pay scale might be applied to a pastor in a church situation.

Public benefit requirement for charity registration

On 15 January 2008, following two consultations during 2007, the Charity Commission published its guidance on the "public benefit requirement" which will be obligatory upon charities from April 2008 under the provisions of the Charities Act 2006.

The published guidance applies to all charities, but there is to be a further consultation, covering matters particularly applicable to the religious charity sector.

However the newly-published guidance contains a number of indications which will be encouraging to churches:

- It makes clear that the charitable status of the religious sector, taken as a whole, is not under threat, as the quotation below shows:

"The Charity Commission's role in assessing public benefit is not about assessing whether a particular group of charities, or a section of the charitable sector as a whole, is for the public benefit. We consider each case on its own merits."

- The guidance knocks on the head the idea that only "tangible" public benefit will count:

"Benefits to the public should be capable of being recognised, identified, defined or described, but that does not mean that they also have to be capable of being quantified or measured. For example, the benefits of ..... spiritual contemplation ..... can still be identified and experienced, even though not touched or seen and (it) cannot be quantified or measured."

- Charities whose aims may not be universally regarded as "for the public benefit" will not have to take on additional activities which are more obviously for the public benefit in order to qualify for charitable status. In fact they won't be allowed to do so:

"Benefits to the public that are not related to an organisation's aims cannot be used as a way of demonstrating that the aims are for the public benefit. They are not therefore taken into account when assessing public benefit."

In considering the issue of public benefit, the Commission seems to be indicating that it will take into account whether an organisation is actually fulfilling its stated aims, without making a judgement about those aims, other than to ascertain that they come within the general headings of a charitable purpose, such as "the advancement of religion." The following statement shows that the Commission will not be dissecting doctrinal statements in order to find a "public benefit" aspect which will justify the grant of charitable status.

"For example, it is not within the Charity Commission's remit to look into traditional, long-held religious beliefs, or to seek to modernise them."

If these statements are applied in accordance with their plain meaning, then churches will have no difficulty in meeting the public benefit requirement. The actual public benefit of providing an opportunity for people to attend a service of worship, and to listen to God's word being preached, cannot be emphasised too much. This is fundamentally a charitable purpose, comprehensively fulfilling the core aims of an evangelical church.

[] Compulsory registration Churches with a gross annual income of £100,000 or more will be required to register as charities from 1 October 2008. However, the Commission has now clarified that if a church exceeds this threshold in one untypical year, perhaps because of a building project or the receipt of a large legacy, it will not be required to register, unless its normal income is near to the £100,000 threshold.

It has now been established that in the compulsory registration period, which starts on 1 October 2008, the Charity Commission will not be accepting any voluntary registrations from churches which currently

have “excepted” status, unless there are exceptional reasons for doing so. Commission staff will have their hands full in dealing with the compulsory registration of an estimated 7,000 churches with an annual gross income of £100,000 or more.

[] **Activities must be entirely charitable** An issue has recently arisen in connection with a church which specified in its government document an activity which the High Court has judged as not being charitable. This Court decision, and other related matters which have arisen, have the potential for very wide implications, which will be considered in a future issue of *Blue Pages.*

In the meantime all churches are advised, when preparing or revising their governing documents, to describe their activities in general terms, such as “the public worship of God,” “the advancement of the Christian faith,” or “the teaching of the Bible.” Lists of more specific itemised activities run the risk of including one which might be construed as not charitable, giving rise to queries over the use of the charity’s funds, premises and other resources to support that activity, and the eligibility of Gift Aid.

Sexual Orientation Regulations

In the light of the Sexual Orientation Regulations, which took effect in England, Scotland and Wales on 30 April 2007, a number of churches have been considering whether to add a paragraph to their Constitution or Church Rules making clear that their attitude to homosexuality is based on biblical and doctrinal principles.

It is for individual churches to decide whether they wish to incorporate such a paragraph in their documents, but if they do, a suitable paragraph which could be used is included below:

<< Marriage and homosexuality - the Members of the Church agreed in adopting these Rules that in the understanding and application of the statement in the Basis of Faith on the Bible the teaching of the Bible is that all extra-marital sexual practices are sinful and wrong. This includes homosexual practices (Romans 1v24-32; 1 Corinthians 6v9-11). The Bible also teaches that we must not be actively or passively complicit in sin (1 Corinthians 6v18-20; Ephesians 5:8-16; 1 Timothy 5v22) and that faith without works is dead (James 2v17). It is therefore part of our doctrine that in relation to any activities of this church we must in no way condone, promote, assist or encourage homosexual practices." >>

Substantial donors

Some innocent charitable giving has been put at risk by new legislation aimed at curbing tax avoidance abuses.

The new legislation, contained in Section 54 of the Finance Act 2006, applies to a category of benefactor defined as a “substantial donor.” A “substantial donor” is defined in the Act as someone who gives £25,000 or more to a single charity in a 12-month period, or £100,000 or more to a single charity in a six-year period.

The new legislation restricts the extent to which financial “transactions” between a “substantial donor” and the charity qualify as “charitable.” One of its effects is that it will not be lawful to treat as charitable any benefits provided by the charity to “connected persons” of the “substantial donor.” As the definition of “connected person” includes family members, business associates, employees and other organisations over which the donor may have control or influence, and as the relevant time period can be up to 18 years, Section 54 creates a spider’s web of complexity.

Charities likely to be affected are concerned that the new legislation will:

- impose on charities a regulatory burden out of all proportion to the abuses likely to be occurring;
- hit a significant number of “innocent” transactions, leading to a loss of income to the charity;

- discourage giving by "substantial donors," in view of the increased monitoring, and personal information, which will be required.

While the "substantial donor" thresholds are not low enough to affect the vast majority of evangelical churches, this new law will have a hugely detrimental impact in the case of the few to which it will apply.

Interpretative guidance on the new legislation, issued by HMRC in May 2007, is currently being challenged by some of those most affected. Any changes resulting will be reported in future issues of *Blue Pages.*

Surface water charges

Some churches are about to be subjected to huge increases in water charges. This results from a decision by some water undertakings, encouraged by OFWAT, to charge for surface water drainage on the basis of site area, rather than on rateable value or a standard fixed annual charge.

The front-runner in the move towards the new charging basis is United Utilities, the Warrington-based company which supplies water services mainly in the North-West of England. Under the new system, for example, one church will be required to pay a total of £560 in annual water charges instead of £75.

Some other water companies are considering implementing the new system, while others have taken no action so far. *Blue Pages* views the steep increase in charges to churches the new system will impose as unjustified and unreasonable, and will be taking the matter up with the undertakings, OFWAT and the government. Progress will be reported in future issues of *Blue Pages.*

Waste collection charges – latest DEFRA guidance

Churches will be aware of the continuing failure by some local authorities in the UK to collect waste free of charge from church premises, even though free waste collection from churches seems to be an unambiguous requirement under the terms of the Environmental Protection Act 1990 and the Controlled Waste Regulations 1992.

Our interpretation of the law appeared to be confirmed by a letter personally signed by Mr Hilary Benn, MP, Secretary of State for the Environment, in August last year. His letter stated:: "I can confirm that …. waste collections made from places of religious worship should be provided free of charge by the appropriate local authority." Mr Benn's letter promised that DEFRA would be re-issuing guidance to local authorities "to clarify their duties and responsibilities in this area."

The promised guidance was issued in October and wholly confirms both our previous understanding of the legislation, and the implications of Mr Benn's letter. The guidance is re-printed in full below:

<< WASTE FROM PLACES OF RELIGIOUS WORSHIP

24. DEFRA is aware of confusion in some waste authorities over the status of waste from premises used as places of religious worship.

25. Paragraph 1 of Schedule 1 of the CWR classifies as household waste from a hereditament or premises exempt from local non-domestic rating by virtue of, in England and Wales, paragraph 11 of Schedule 5 to the Local Government Finance Act 1988. In practice, this means waste from places of religious worship. Authorities with waste collection duties must collect this waste and may not charge for its collection or disposal.

26. Under paragraph 11(1)(b) of Schedule 5 of the Local Government Finance Act 1988, the provision in paragraph 25 above also applies to buildings used in connection with the conduct of public religious worship such as an office or church hall. However, if the church, mosque, synagogue, etc. hires out such buildings to other groups not connected with the conduct of

religious worship this would be a commercial activity and any waste arising from such use would be commercial waste for which a charge for both collection and disposal can be made.

27. Paragraph 15 of Schedule 2 of the CWR classifies waste from premises occupied by a charity as household waste for which an authority may charge for collection (but not disposal).

28. However, DEFRA is aware that some authorities are charging for collection of waste from charities located in places of worship. If the activities of the charity are in connection with the conduct of public religious worship the charity would be entitled to free waste collection as well as free disposal.

Issued by Municipal Waste Policy (MWP), Waste Strategy Division, DEFRA, Floor 6, Ergon House, Horseferry Road, LONDON SW1P 2AL on 12 October 2007 >>

However, in spite of the apparent clarity of this guidance, it has come to our notice that at least one local authority is still resisting the provision of a free service to a church, on the basis that the waste is not entirely generated by the services being held, but by other church activities on the premises. It is our view that the legislation provides for free collection of waste arising from all the legitimate activities of churches held in support of the aims and objects set out in their governing documents. This conclusion seems to be supported by the unequivocal nature both of Mr Benn's letter, and the latest DEFRA guidance, neither of which make any distinction regarding the nature and precise source of the waste being collected.

Churches still unable to obtain free collections are advised to make a fresh attempt to persuade their local authority to provide a free collection, in the light of the latest DEFRA guidance. Those who do this and still meet resistance are welcome to contact the FIEC office, which will be happy to pursue individual cases with the local authority concerned.

Water Charges in Scotland

Churches in Scotland may already be aware that charities north of the border are eligible to exemption from water charges if they fulfil the six criteria of an exemption scheme established by the Scottish Executive in 2002.

These six criteria are as follows:

- The premises must have been occupied by the charity and subject to water rates relief prior to 31 March 1996 and water charges relief from 1 April 1996 to 31 March 1999;
- The premises must be being used for the same purposes now as they were on 31 March 1999.
- The premises must not be retail outlets;
- The premises must not have a permanent liquor licence;
- The premises must not be owned nor occupied by a local authority;
- The net annual income of the organisation in respect of the use of any one building is less than £50,000.

The Scottish Executive has decided to continue the exemption scheme, which is administered by Scottish Water, at least until 31 March 2010. Charities which meet the criteria, but are not yet exempted, may apply to Scottish Water.

BLUE PAGES

is a publication of:
The Fellowship of Independent Evangelical Churches
39 The Point, Market Harborough, Leicestershire LE16 7QU
Tel. 01858 434540. Email: rod@fiec.org.uk

Readers of Blue Pages who have further questions arising from matters covered in this issue are welcome to contact Rod Badams at the FIEC office (direct line 01858 411554)