



Ecclesiastical  
Law  
Society

---

**NEWSLETTER**  
**of**  
**THE ECCLESIASTICAL LAW SOCIETY**

---

**No. 3/2020**

**25 March 2020**

Editor: Benjamin Harrison  
[bha@no5.com](mailto:bha@no5.com)

Administrator: Andrew Male  
[admin@ecclawsoc.org.uk](mailto:admin@ecclawsoc.org.uk)

Executive Secretary: John Ford  
[execsec@ecclawsoc.org.uk](mailto:execsec@ecclawsoc.org.uk)

**COVID-19: CANCELLATION OF FORTHCOMING  
EVENTS**

In response to Government advice on limiting social contact during the COVID-19 pandemic, the following forthcoming events have been cancelled:

- The Society's Day Conference and AGM scheduled for 28 March.
- The Chairman's London Lecture on 8 April.
- The Education Committee's forthcoming seminar in Winchester for PCCS on Good Governance.

*The remainder of the Society's events, including two Northern Province lectures, remain in the diary for the time being but the situation will be kept under review.*

## LETTER FROM THE CHAIRMAN

The Chairman has written to all members of the Society about the measures that the trustees have had to take in light of the COVID-19 pandemic. The text is on the Society's website, and can be found [here](#).

## DATES FOR THE DIARY

**Thursday 25 June: Northern Province Lecture, 5:30 till 7:00 pm:** The Rt. Rev'd Dr. Helen-Ann Hartley, Bishop of Ripon, on "*Law and life in the Anglican Communion*". [Book here](#).

**Tuesday 29 September: Northern Province Lecture at Sheffield Cathedral, 5:30pm till 7:00pm:** Dr. Eve Poole, Third Church Estates Commissioner and Chair of the Mission, Pastoral and Church Property Committee and the Bishoprics and Cathedrals Committees, on "*Regulation and governance under the new Cathedrals Measure: the start of a new Chapter?*" [Book here](#).

**Wednesday 7 October: London Lecture, 5.30 till 7:00pm:** William Nye, Secretary General of the General Synod and Archbishops' Council, on "*The Church of England: Some Personal Reflections on Structure and Mission*". [Book here](#).

**Wednesday 18 November: Northern Province Lecture, 5:30 till 7:00pm:** Kate Davey, barrister and trustee of The Victorian Society, on "*Victorian architecture, the amenity societies and the parish church—a compatibility guide*". [Book here](#).

**Wednesday 25 November: London Lecture, 5.30 till 7:00pm:** The Rev'd Dr. William Adam, Archbishop of Canterbury's Ecumenical Adviser and Director of Unity, Faith and Order for the Anglican Communion, on "*Communion and Jurisdiction*". [Book here](#).

*London Lectures are held at the offices of Winckworth Sherwood, Minerva House, 5, Montague Close, London SE1 9BB. Lectures start at 5:30pm and end at 7:00pm.*

*With the exception of the lecture on 29 September, Northern Province Lectures are held at the offices of the Diocese of Leeds, 17-19, York Place, Leeds LS1 2EX. Lectures start at 5.30pm and end at 7:00pm.*

*At both venues, you are invited to arrive from 5:00pm onwards and stay after the lecture for refreshments.*

## FROM THE EDITOR

It is with sadness that the third edition of the ELS Newsletter for 2020, and the first under my editorship, has been drafted with the backdrop of COVID-19 lingering over us. It has become necessary, following the advice of the Government and other public health bodies, to use the Newsletter as a tool to convey the cancellation of some of the Society's exciting programme of events—never an ideal headline.

However, just as many of us around the country are now being forced to perhaps work more creatively than before, the Chairman has signalled in his [letter to the Society](#) the beginnings of a plan to ensure that communication with you during this time will remain at the forefront of our work in promoting the study of ecclesiastical law. Readers are referred to the Society's [website](#) in particular, and invited to watch out for future information in the coming weeks arriving on that forum (as well as in their email inboxes). In the meantime, and in the usual way, links to articles which may be of interest can be found below.

Finally, it would be remiss of me not to thank Frank Cranmer who, whilst formally retiring from his role as editor of this Newsletter last month, has still provided invaluable assistance to me in the preparation of this edition as well.

B.H.

## NEWS

### SUSPENSION OF PUBLIC WORSHIP

On 17 March, the Church of England, the Church in Wales and the Scottish Episcopal Church announced the suspension of public worship until further notice as a result of the ongoing COVID-19 public health crisis. The Church of England's announcement is [here](#); the Church in Wales's announcement is [here](#); and the Scottish Episcopal Church's announcement is [here](#).

On 23 March, following the announcement by the Prime Minister of sweeping restrictions aimed at slowing the spread of the virus, it was announced that all Church of England churches will close with immediate effect in line with the Government's instructions. There will also be no Church weddings or baptisms. Funerals at the graveside or in crematoriums can still take place, but only in line with the Prime Minister's Statement. The Church of England's guidance is [here](#).

## CHURCH OF ENGLAND (MISCELLANEOUS PROVISIONS) MEASURE 2020

The [Church of England \(Miscellaneous Provisions\) Measure 2020](#) has received Royal Assent. The Measure makes provision for a range of matters concerning the Church of England that do not merit freestanding legislation. It includes provisions relating to:

- (a) the admission into Holy Orders of those who are members of a religious community;
- (b) the establishment of a national register of authorised ministers (this was one of the recommendations made in *An Abuse of Faith*, the report of the Independent Peter Ball Review led by Dame Moira Gibb, June 2017);
- (c) approval for building on disused burial grounds belonging to cathedrals;
- (d) the inspection of churches;
- (e) leases granted by a Diocesan Board of Finance to a Parochial Church Council (these are now to be treated for all purposes as valid, with the result that they can be registered by the Land Registry);
- (f) the power of Ecclesiastical Courts, when dealing with the care of churches, to grant waivers of court fees for those who are of limited means;
- (g) clergy pensions; and
- (h) other miscellaneous matters (including minor drafting amendments to the [Mission and Pastoral Measure 2011](#) and updating terms used in the Constitution of General Synod).

Sections 12 to 15 (validity of lease; minor amendments on pensions; and updating and minor corrections) came into force on the day on which the Measure was passed. The remaining provisions come into force on such day or days as the Archbishops may by order jointly appoint.

The explanatory notes provided by the Legislative Committee of General Synod, which accompanied the draft form of this legislation through Parliament, can be found [here](#).

### “DUE REGARD” TO SAFEGUARDING ADVICE

In *Anglican Church Case Studies: Chichester/Peter Ball Investigation Report*, IICSA observed that the legal term “*have due regard*” was not well understood and that there was a need for greater clarity on the nature of the obligation imposed by the [Safeguarding and Clergy Discipline Measure 2016](#) on clergy, readers, lay workers, churchwardens and parochial church councils to have due regard to House of Bishops safeguarding guidance.

The Legal Office of the Church of England NCIs has now issued advice on this matter, which can be accessed [here](#). In addition to setting out possible sanctions for failing to have due regard to House of Bishops guidance on safeguarding, the advice published by the Legal Office notes that:

*‘The legal duty to have due regard means that the person to whom the guidance is directed is not free to follow the guidance or not as he or she chooses. As a matter of law, the guidance should be given great weight and must be followed unless there are “cogent reasons” for not doing so...*

*...It will be very rare indeed for there to be cogent reasons for not following House of Bishops guidance on safeguarding. Cogent reasons are likely to arise only where the guidance does not contemplate a particular, unusual situation arising so that it becomes necessary to take a different approach from that set out in the guidance in order to meet the particular circumstances of the case.’*

## **CLOSED CHURCHYARDS**

The Privy Council held on **12 February 2020** made an order allowing two people, on their decease, to be buried in a churchyard that has been closed since 1900 [NB: for the relevant text, scroll down to the end of the document contained in the hyperlink].

## **IMMIGRATION STATUS FOR MINISTERS OF RELIGION**

On 9 March 2020 the Lord Bishop of Southwark asked Her Majesty’s Government the following written question:

*‘[F]urther to the UK’s points-based immigration system: policy statement, published on 19 February, what changes, if any, [do] they plan to make to the existing Tier 2 Minister of Religion Category?’*

On 23 March 2020 the Baroness Williams of Trafford answered on behalf of the Home Office:

*‘Under the current Immigration Rules, there are a range of routes for specialist occupations, including Ministers of Religion and temporary religious workers. There are no current plans to change these routes, though from January 2021, these routes will be opened to EEA citizens.’*

[HL2370]

\*\*\*\*\*