

Welcome to the Autumn 2018 edition of our Faith Bulletin newsletter



Welcome to the Autumn edition of the Faith Bulletin. In this edition, we look at immigration and the proposed scheme for EU nationals post-Brexit. [Alexandra Weatherdon](#) considers an ECJ ruling that religious groups undertaking door-to-door preaching activities must comply with the Data Protection Directive. There is also a round-up of other news items which may be of interest.

[Tim Rutherford](#)



EU Nationals - The Post Brexit plans

The UK Government has released information on the proposed scheme for EU nationals once the UK leaves the EU. This transitional scheme will run from 29 March 2019 until 31 December 2020.

[Read more](#)

ECJ rules that Jehovah's Witnesses must comply with data protection legislation

The European Court of Justice ("ECJ") has ruled that the Jehovah's Witness community must comply with data protection legislation as its members who conduct door-to-door preaching collect personal data through their taking of notes during their conversations with householders. The decision comes following the Attorney General's opinion earlier in the year.

[Read more](#)

Solicitors for the Elderly report reveals our misconceptions surrounding our wishes

Stone King's senior private client lawyers are members of Solicitors for the Elderly (SFE), a national organisation with over 1600 members across the UK specialising in support for older and vulnerable people.

A report published this summer by Solicitors for the Elderly 'The Incapacity Crisis – a nation unprepared' found that whilst more of us risk incapacity in the future, too few of us plan ahead by setting out formally who will manage our health and care decisions if we can't.

The report confirms that as a nation we are living longer, but as a consequence of this more of us will face conditions which limit and ultimately halt our ability to make our own decisions.

The number of strokes across the UK is likely to rise in the next 10 years, with many stroke survivors suffering disorders of language and communication as a result of the medical episode. In the UK, the number of people diagnosed with dementia has increased by 53% since 2005/06. Many more people will be living in the community with their condition undiagnosed. With increased life expectancy and a burgeoning population, this figure is expected to rise further to over one million people in 2025 and 2.7 million people in 2050 living with dementia.

Most of us don't like thinking about what we want for ourselves as we grow older, let alone talking about illness, disability and even death. Yet, if we had to take care of a family member or friend, wouldn't we want to know their wishes and preferences? Although these conversations are difficult, without making appropriate plans, decisions about our health and welfare may be taken out of our family's hands altogether.

- 63% of people incorrectly believe that their spouse can make medical and care decisions on their behalf.
- 65% think a next of kin has power to make medical and care decisions.

This is not the case. If you want to name your partner, family member, next of kin or trusted member of your community, to make medical and care decisions for you, should you lack capacity, then you must make and register a health and welfare lasting power of attorney.

For those who feel unable to nominate a health and welfare attorney, then it is still really important to have that conversation, consider the different health and welfare choices and set out these wishes in writing. This can be formalised through a living will where appropriate.

Planning ahead not only gives us peace of mind, but it also prevents further strain on our care sector, allowing decisions to be made more seamlessly to reflect our wishes and without delay. Whatever you do, do not leave decisions about your future to chance. For further advice, please contact [Sarah Clarke](#).

Inquiry report provides reminder regarding due diligence and financial controls on donations

The Commission has published a [report](#) on its inquiry into Global Welfare Project. The Commission found that the organisation's trustees failed to account for considerable donated funds, and transferred the funds of the organisation to a different charity with similar purposes.

As always, the report contains lessons which are relevant to the wider sector and in this instance, these include a reminder that trustees must carry out appropriate due diligence on those individuals and partner organisations that the charity receives donations from, gives money to or works with closely. Due diligence and financial controls or checks depend on various factors and must be proportionate to the level of risk. Factors for consideration include the amount of charitable funds and if the funds are being transferred to a high risk area.

Further information about the trustees' legal responsibility to carry out due diligence checks on donors, beneficiaries and local partners and how to monitor end use of funds can be found in Chapter 2 of the [Protecting charities from harm: compliance toolkit](#).

Bible Society fined

The British and Foreign Bible Society has been [fined](#) £100,000 by the ICO after its computer network was compromised as the result of a cyber-attack in 2016. Between November and December 2016, the intruders exploited a weakness in the Society's network to access the personal data of 417,000 of the Society's supporters. For a subset of these supporters some payment card and bank account details were placed at risk.

The penalty is for having inadequate security measures. The penalty related to the Society's negligence rather than any deliberate action. It is important to note the fact that the religion (sensitive personal data) of the data subjects could be inferred was taken into account in determining the harm to individuals. That makes perfect sense of course but it does mean that any charity/society with an obvious faith angle is automatically at a greater risk of a fine than a secular organisation committing the same breach.

Charity Tax Group – Commentary on VAT case

Graham Elliott, the Charity Tax Group's technical adviser has produced interesting [commentary](#) on the First-Tier Tribunal's judgment in the *Roman Catholic Diocese of Westminster* case which is relevant to churches and temples. HMRC denied VAT relief on the grounds that the new fabric did not create an 'annexe' for VAT purposes. The Diocese appealed and won the case.

ICO: Your Data Matters campaign

We know that our charity clients have been working hard over the past months (years?) to ensure compliance with GDPR and new data protection legislation!

The ICO has launched a [campaign](#) to help increase the public's trust and confidence in how their data is used and made available. It is inviting leaders from organisations who want to take part in the campaign to sign a 'Your Data Matters' pledge. By signing the pledge, an organisation is making a clear statement that it values personal information entrusted to it. It also sends out a clear signal to staff in the organisation about the importance of looking after people's personal information. It gives an organisation the opportunity to use 'off the shelf' communications materials, for example, the 'Your Data Matters' logo.

The ICO says it will not use this as an additional compliance tool. It will publish a list of organisations signed up to the pledge on its website. If a compliance issue arises, the ICO says that it will be up to the organisation to reflect and decide whether it is living up to its pledge.

GDPR Consent Form

As you will be aware, the new GDPR regulations mean we will need your consent to email you in the future. If you would like to be invited to events and informed of legal updates, you will need to let us know.

We have updated our privacy policy to reflect the changes to UK data privacy law, which you can find [here](#).

Please click the button below to complete a short GDPR consent form, or email data@stoneking.co.uk and let us know what you would like to receive.

[GDPR consent form](#)

Upcoming Events



Stone King runs a range of workshops and seminars on current legal issues. Click below to see all our upcoming events.

[View all upcoming events](#)

If you have any queries or for further information on Faith issues, please contact Tim Rutherford on TimRutherford@stoneking.co.uk



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