



URGENT INTERIM ADVICE TO MEMBERS IN ENGLAND

Members may be aware of an incident that occurred on the 21st of January when a member provided services at a funeral in Welwyn Garden City.

In all respects the member adhered to Covid 19 guidance approved by the Cabinet Office and issued by us to members.

Approximately 150 mourners arrived at the funeral. The Hertfordshire Police were present and allowed the gathering to continue until its natural conclusion.

It is of great concern that the Hertfordshire Police have publicly stated their view that the funeral director had absolute responsibility for what occurred at the funeral, including the number of mourners in attendance. The Police have erroneously stated that a £10,000.00 fixed penalty has been issued. We understand the actual position is that whilst a £10,000 penalty has not yet been issued, the intention is that it will be.

We are in correspondence with the Chief Constable on this matter and expect further discussions soon. We are however obviously aware that this turn of events will be of great concern to members and clarity is needed on the precise extent of members' responsibility under the relevant Covid 19 Regulations. We have been trying to obtain that clarity from the Hertfordshire Police, to date it has not been forthcoming.

Whilst we will be updating our Guidance when this matter is resolved. We are conscious that members require some immediate assurance. We have taken advice from Leading Counsel (Andrew Fisher QC). Whilst pending resolution of our discussions with the police we cannot inform you of any firm agreed position, we can tell you our understanding of your obligations, and the legal basis upon which we reach that understanding.

We apologise that we must stress this is the advice we have received and we are passing it on for members guidance only. It cannot be viewed as legal advice from us to members, or from Mr Fisher to members. If members want the assurance of their own advice they should consult their own lawyers.

The Health Protection (Coronavirus, Restrictions) (All Tiers) (England) Regulations 2020 (the Regulations) give rise to potential fixed penalties of £10 000.00 for those involved in organising or being involved in the organisation of 'relevant gatherings'. A relevant gathering is one involving more than 30 people.

Our position, as reflected in actions recommended in our Guidance, is that a member is not in breach of the Regulations or other obligations, unless the member organises or is involved in organising a gathering at which it is anticipated that more than the permitted number of people (up to 30, dependant on the capacity of the venue) may attend.

Organising 'a gathering' and the funeral director's role of organising discreet elements of what could be termed the funeral as a whole are, in our view, quite separate matters .

Our position can be best illustrated as we have already done to the Chief Constable:



'There is no proper foundation or logic in the proposition that a person who organises a party for 10 people in fact organised a party for 20 people because 10 gate crashers appeared'

To put our guidance as simply as we can it is based on the understanding that members are responsible only for what members organise or are involved in organising.

It follows that involvement or assistance to families with **posting notices in newspapers or online** that may be construed as a general invitation to a funeral **would potentially place a member in breach of Regulations**, if more than 30 people consequently attend, and we are sure members understand from guidance they must not do that.

In areas where provision of limousines is still permissible a member will clearly have organised for the presence of the number of passengers properly present in any limousines provided. That number must clearly not be over 30 (or the maximum number the venue can safely accommodate).

The Regulations do not require members to take further positive action to educate families on the obligations imposed on them, but our guidance advises that members do so, both in the interests of protecting public health, and in the interests of protecting members by demonstrating what parts of the funeral arrangement are the responsibility of the member, and what parts are the responsibility of the family.

In summary, despite the current position of Hertfordshire Police, we do not agree that a Funeral Director bears the responsibility for everything that occurs following the organisation of a funeral. The Funeral Director organises discreet elements, particularly during the pandemic, and the scope of those discreet elements is set out and limited by and in our guidance already published. Apart from the possible arrangement of transport for numbers of attendees (that number clearly must be fewer than 30) members should give long consideration before playing any part in any activity that could be construed as organising, or assisting in organising, a gathering, whether it be for more or fewer than 30 people, and our best advice is that members absolutely should not do so.

In any instances where members liaise with police before, during, or after any funeral, they should make the limit on their involvement quite clear.