

Grant payments FY22-23

Last month Cllr Walton requested the Clerk investigate if the grants for 22/23 had been paid as it was believed they had not been paid to date.

It is believed the following grants were subject to discussion when forming part of the budget for 22-23:

Tolpuddle Village Hall £315

Puddletown Village Hall £420

PRIDE £690 (minus £1 to cover rent due for 2022) Total to pay £689

Tolpuddle Church £680

Puddletown Church £680

Puddletown Library £570

It can be confirmed none of the above grants have been paid and therefore this will need rectifying, however I would like to point out that the two payments to the Puddletown & Tolpuddle Church are possibly contentious as to if they are within legal standing as far as donations from the Parish Council.

A Parish Council can award a grant / give a donation according to the Local Government Act (LGA) 1972 section 137: "A local authority may, subject to the provisions of this section (137), incur expenditure which in their opinion is in the interests of, and will bring direct benefit to, their area or any part of it or all or some of its inhabitants".

A full copy of the LGA 1972 S137 can be found below Annex 1 detailing provisions.

One of the LGA 1972 S137 provisions is that S137 cannot be used to override any specific prohibition within previous acts.

Local Government Act 1894 section 6, (Annex 2) states the Parish Council does not take on the powers, duty or liability as far as relates to the affairs of the church or to ecclesiastical charities or the Churchwarden, therefore prohibiting grants / donations from the Parish Council to the Church.

The Health and Safety at Work Act 1974 section 3 (Annex 3), states that every employer is to do as far as reasonably practical, to ensure that persons not in their employment may not be exposed to risks to their health and safety. Which means it is the duty of the person who owns / administers the land to ensure the area is kept safe, including cutting the grass.

NALC have issued a briefing on this subject and a full copy can be found below in Annex 4.

Recommendation: Using the report submitted agree away forward and consider if PAPC wish to make a financial donation to the Puddletown Church & Tolpuddle Church. If so resolve that the Parish Council in accordance with its powers under sections 137 and 139 of the Local Government Act 1972, should incur the following expenditure which, in the opinion of the Parish Council, is in the interest of the area or its inhabitants and will benefit them in a manner commensurate with the expenditure:

Tolpuddle Church £680

Puddletown Church £680

Recommendation: Resolve that the Parish Council in accordance with its powers under sections 137 and 139 of the Local Government Act 1972, should incur the following expenditure which, in the opinion of the Parish Council, is in the interest of the area or its inhabitants and will benefit them in a manner commensurate with the expenditure:

Tolpuddle Village Hall £315

Puddletown Village Hall £420

PRIDE £690

Puddletown Library £570

Annex 1 – Local Government Act 1972 Section 137.

[F1137Power of local authorities to incur expenditure for certain purposes not otherwise authorised.

(1)A local authority may, subject to the provisions of this section, incur expenditure which in their opinion is in the interests of, and will bring direct benefit to, their area or any part of it or all or some of its inhabitants, but a local authority shall not, by virtue of this subsection, incur any expenditure—

(a)for a purpose for which they are, either unconditionally or subject to any limitation or to the satisfaction of any condition, authorised or required to make any payment by or by virtue of any other enactment; nor

(b)unless the direct benefit accruing to their area or any part of it or to all or some of the inhabitants of their area will be commensurate with the expenditure to be incurred.

(1A)In any case where—

(a)by virtue of paragraph (a) of subsection (1) above, a local authority are prohibited from incurring expenditure for a particular purpose, and

(b)the power or duty of the authority to incur expenditure for that purpose is in any respect limited or conditional (whether by being restricted to a particular group of persons or in any other way), the prohibition in that paragraph shall extend to all expenditure to which that power or duty would apply if it were not subject to any limitation or condition.

(2)It is hereby declared that the power of a local authority to incur expenditure under subsection (1) above includes power to do so by contributing towards the defraying of expenditure by another local authority in or in connection with the exercise of that other authority's functions.

F2(2A)(2B).

(2C)A local authority may incur expenditure under subsection (1) above on publicity only by way of assistance to a public body or voluntary organisation where the publicity is incidental to the main purpose for which the assistance is given; but the following provisions of this section apply to expenditure incurred by a local authority under section 142 below on information as to the services provided by them under this section, or otherwise relating to their functions under this section, as they apply to expenditure incurred under this section.

F3(a).

(2D)In subsection (2C) above—

- “publicity” means any communication, in whatever form, addressed to the public at large or to a section of the public; and
- “voluntary organisation” means a body which is not a public body but whose activities are carried on otherwise than for profit.

(3)A local authority may, subject [F4, in the case of a parish or community council,] to the following provisions of this section, incur expenditure on contributions to any of the following funds, that is to say—

(a)the funds of any charitable body in furtherance of its work in the United Kingdom; or

(b)the funds of any body which provides any public service (whether to the public as a whole or to any section of it) in the United Kingdom otherwise than for the purposes of gain; or

(c)any fund which is raised in connection with a particular event directly affecting persons resident in the United Kingdom on behalf of whom a public appeal for contributions has been made by the Lord Mayor of London or the chairman of a principal council or by a committee of which the Lord Mayor of London or the chairman of a principal council is a member or by such a person or body as is referred to in section 83(3)(c) of the Local Government (Scotland) Act 1973.

(4)The expenditure of a local authority under this section in any financial year shall not exceed the amount produced by multiplying—

(a)such sum as is for the time being appropriate to the authority under [F5Schedule 12B to this Act], by

(b)the relevant population of the authority's area.

(4AA)F6.

(4AB)For the purposes of subsection (4)(b) above the relevant population of a local authority's area shall be determined in accordance with regulations made by the Secretary of State; and a statutory instrument containing such regulations shall be subject to annulment in pursuance of a resolution of the House of Commons.

(4A) For the purpose of determining whether a local authority have exceeded the limit set out in subsection (4) above, their expenditure in any financial year under this section shall be taken to be the difference between their gross expenditure under this section for that year and the aggregate of the amounts specified in subsection (4B) below.

(4B) The amounts mentioned in subsection (4A) above are—

- (a) the amount of any expenditure which forms part of the authority's gross expenditure for that year under this section and in respect of which any grant has been or is to be paid under any enactment by a Minister of the Crown, within the meaning of the Ministers of the Crown Act 1975 (whether or not the grant covers the whole of the expenditure);
- (b) the amount of any repayment in that year of the principal of a loan for the purpose of financing expenditure under this section in any year;
- (c) so much of any amount raised by public subscription as is spent in that year for a purpose for which the authority are authorised by this section to incur expenditure;
- (d) any grant received by the authority for that year out of the European Regional Development Fund or the Social Fund of the European Economic Community, in so far as the grant is in respect of an activity in relation to which the authority incurred expenditure in that year under this section;
- (e) the amount of any repayment in that year of a loan under this section made by the authority in any year; and
- (f) the amount of any expenditure—
 - (i) which is incurred by the authority in that year in circumstances specified in an order made by the Secretary of State; or
 - (ii) which is incurred by the authority in that year and is of a description so specified; or
 - (iii) which is defrayed by any grant or other payment to the authority which is made in or in respect of that year and is of a description so specified.

(4C) F7.

(5) A statutory instrument containing an order under this section may apply to all local authorities or may make different provision in relation to local authorities of different descriptions.

(6) Any such instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(7) The accounts of a local authority by whom expenditure is incurred under this section shall include a separate account of that expenditure F8. . . .

[F9(7A) In relation to England, [F10section 25 of the Local Audit and Accountability Act 2014 (inspection of statements of accounts etc)] applies in relation to a separate account included in a local authority's accounts by virtue of subsection (7) above as it applies in relation to a statement of accounts prepared by the authority pursuant to [F11section 3(3)] of that Act.

(7B) In relation to Wales, section 29 of the Public Audit (Wales) Act 2004 (rights of inspection) applies in relation to a separate account included in a local authority's accounts by virtue of subsection (7) above as it applies in relation to a statement of accounts prepared by the authority pursuant to regulations under section 39 of that Act.]

F12(8).

[F13(9) Subject to subsection (10) below, in this section "local authority" [F14 means—

- (a) a parish council which is not an eligible parish council for the purposes of [F15Chapter 1 of Part 1 of the Localism Act 2011 (general power of competence)], or
- (b) a community council] [F16which is not an eligible community council for the purposes of Part 2 of the Local Government and Elections (Wales) Act 2021 (general power of competence)].

(10) In subsection (3) above "local authority" means—

- (a) in relation to England, a county council, a district council, a London borough council, the Common Council or a parish council,
- (b) in relation to Wales, a county council, a county borough council or a community council.]]

Textual Amendments

F1S. 137 amended by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1, 2\)](#), s. 36(2)-(8) and has effect as set out in Sch. 2 to that Act

F2S. 137(2A)(2B) (which were inserted by [Local Government \(Miscellaneous Provisions\) Act 1982 \(c. 30, SIF 81:1\)](#), s. 44(a)) repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 36(4)

F3S. 137(2C)(a) (which was inserted by [Local Government Act 1986](#) (c. 10, SIF 81:1), ss. 3, 6) repealed by [Local Government and Housing Act 1989](#) (c. 42, SIF 81:1), s. 36(4)

F4Words in s. 137(3) inserted (1.4.2004) by [Local Government Act 2003](#) (c. 26), ss. 127(1), 128, Sch. 7 para. 4; S.I. 2003/2938, art. 7(a) (subject to art. 8, Sch.); S.I. 2003/3034, art. 2(2), Sch. 1 Pt. II

F5Words in s. 137(4)(a) substituted (27.11.2003 for W. and 1.4.2004 for E.) by [Local Government Act 2003](#) (c. 26), ss. 118(1), 128; S.I. 2003/3034, art. 2(1), Sch. 1 Pt. I; S.I. 2003/2938, art. 7(a) (subject to art. 8, Sch.)

F6S. 137(4AA) repealed (27.11.2003 for W. and otherwise prosp.) by [Local Government Act 2003](#) (c. 26), ss. 127(2), 128, Sch. 8 Pt. 1; S.I. 2003/3034, art. 2(1), Sch. 1 Pt. I

F7S. 137(4C) repealed (27.11.2003) by [Local Government Act 2003](#) (c. 26), ss. 127(2), 128, Sch. 8 Pt. 1; S.I. 2003/3034, art. 2(1), Sch. 1 Pt. I

F8Words in s. 137(7) repealed (1.4.2005) by [Public Audit \(Wales\) Act 2004](#) (c. 23), ss. 66, 72, 73, Sch. 2 para. 1(1)(2), Sch. 4; S.I. 2005/558, art. 2(1) Sch. 1 (subject to Sch. 2)

F9S. 137(7A)(7B) inserted (1.4.2005) by [Public Audit \(Wales\) Act 2004](#) (c. 23), ss. 66, 73, Sch. 2 para. 1(1)(2)(3); S.I. 2005/558, art. 2(1), Sch. 1 (subject to Sch. 2)

F10Words in s. 137(7A) substituted (1.4.2015) by [Local Audit and Accountability Act 2014](#) (c. 2), s. 49(1), Sch. 12 para. 7(a); S.I. 2015/841, art. 3(x)

F11Words in s. 137(7A) substituted (1.4.2015) by [Local Audit and Accountability Act 2014](#) (c. 2), s. 49(1), Sch. 12 para. 7(b); S.I. 2015/841, art. 3(x)

F12S. 137(8) repealed by [Local Government and Housing Act 1989](#) (c. 42, SIF 81:1), s. 36(6)(b)

F13S. 137(9)(10) substituted for s. 137(9) (18.10.2000 (E.) and 9.4.2001 (W.)) by 2000 c. 22, s. 8; S.I. 2000/2836, art. 2(a); S.I. 2001/1471, art. 2

F14Words in s. 137(9) substituted (31.12.2008) by [Local Government and Public Involvement in Health Act 2007](#) (c. 28), ss. 101, 245, Sch. 5 para. 7(2); S.I. 2008/3110, {art. 3(c)}

F15Words in s. 137(9)(a) substituted (4.4.2012) by [Localism Act 2011](#) (c. 20), s. 240(2), Sch. 1 para. 1; S.I. 2012/1008, art. 2(b) (with arts. 7, 8)

F16Words in s. 137(9)(b) inserted (5.5.2022) by [Local Government and Elections \(Wales\) Act 2021](#) (asc 1), s. 175(7), Sch. 3 para. 9; S.I. 2021/231, art. 6(r)

Modifications etc. (not altering text)

C1S. 137 excluded by [Local Government Act 1985](#) (c. 51, SIF 81:1), ss. 1, 48(12)

C2S. 137 amended by [Local Authorities \(Expenditure Powers\) Act 1983](#) (c. 52, SIF 81:1, 2), s. 1 (which amending Act was repealed (1.7.1990) by [Local Government and Housing Act 1989](#) (c. 42, SIF 81:1), ss. 194(4), 195(2), Sch. 12 Pt. II; S.I. 1990/1274, art. 3)

C3S. 137(1)(a) restricted (retrospective to 1.4.1990) by 1985 c. 68, s. 11A (as inserted (retrospective to 1.4.1990) by 1993 c. 28, s. 126, 188(2)(b)).

C4S. 137(4B)(d) amended (28.11.1994) by S.I. 1994/2825, reg. 14(1)(a)

C5S. 137(4B)(f)(iii) amended (28.11.1994) by S.I. 1994/2825, reg. 14(1)(b)

C6S. 137(7) amended (28.11.1994) by S.I. 1994/2825, reg. 14(2)

Annex 2 Local Government Act 1894 section 6

6Transfer of certain powers of vestry and other authorities to parish council.

(1)Upon the parish council of a rural parish coming into office, there shall be transferred to that council:—

(a)The powers, duties, and liabilities of the vestry of the parish except—

(i)so far as relates to the affairs of the church or to ecclesiastical charities; and

(ii)any power, duty, or liability transferred by this Act from the vestry to any other authority:

(b)The powers, duties, and liabilities of the churchwardens of the parish, except so far as they relate to the affairs of the church or to charities, or are powers and duties of overseers . . . F4

(c)The powers, duties, and liabilities of the overseers or of the churchwardens and overseers of the parish with respect to—

(i). F5

(ii)The provision of parish books . . . F6 or matters relating thereto; and

(iii)The holding or management of parish property, not being property relating to affairs of the church or held for an ecclesiastical charity, and the holding or management of village greens, or of allotments, whether for recreation grounds or for gardens or otherwise for the benefit of the inhabitants or any of them;

Annex 3: Health and Safety at Work Act 1974 section3

General duties of employers and self-employed to persons other than their employees.

F1

(1) It shall be the duty of every employer to conduct his undertaking in such a way as to ensure, so far as is reasonably practicable, that persons not in his employment who may be affected thereby are not thereby exposed to risks to their health or safety.

(2) It shall be the duty of every self-employed person [F2who conducts an undertaking of a prescribed description] to conduct [F3the undertaking] in such a way as to ensure, so far as is reasonably practicable, that he and other persons (not being his employees) who may be affected thereby are not thereby exposed to risks to their health or safety.

[F4(2A) A description of undertaking included in regulations under subsection (2) may be framed by reference to—

(a) the type of activities carried out by the undertaking, where those activities are carried out or any other feature of the undertaking;

(b) whether persons who may be affected by the conduct of the undertaking, other than the self-employed person (or his employees), may thereby be exposed to risks to their health or safety.]

(3) In such cases as may be prescribed, it shall be the duty of every employer and every self-employed person, in the prescribed circumstances and in the prescribed manner, to give to persons (not being his employees) who may be affected by the way in which he conducts his undertaking the prescribed information about such aspects of the way in which he conducts his undertaking as might affect their health or safety.

Textual Amendments

F1S. 3(2) amendment to earlier affecting provision S.I. 2002/2677, reg. 20 (1.10.2015) by [The Deregulation Act 2015 \(Health and Safety at Work\) \(General Duties of Self-Employed Persons\) \(Consequential Amendments\) Order 2015 \(S.I. 2015/1637\)](#), [art. 1](#), [Sch. para. 7\(3\)](#)

F2Words in s. 3(2) inserted (26.3.2015 for specified purposes, 1.10.2015 in so far as not already in force) by [Deregulation Act 2015 \(c. 20\)](#), [ss. 1\(2\)\(a\)](#), [115\(2\)\(a\)](#) (with [s. 1\(6\)](#)); [S.I. 2015/1732](#), [art. 2\(a\)](#)

F3Words in s. 3(2) substituted (26.3.2015 for specified purposes, 1.10.2015 in so far as not already in force) by [Deregulation Act 2015 \(c. 20\)](#), [ss. 1\(2\)\(b\)](#), [115\(2\)\(a\)](#) (with [s. 1\(6\)](#)); [S.I. 2015/1732](#), [art. 2\(a\)](#)

F4S. 3(2A) inserted (26.3.2015 for specified purposes, 1.10.2015 in so far as not already in force) by [Deregulation Act 2015 \(c. 20\)](#), [ss. 1\(3\)](#), [115\(2\)\(a\)](#) (with [s. 1\(6\)](#)); [S.I. 2015/1732](#), [art. 2\(a\)](#)

Modifications etc. (not altering text)

C1Pt. 1 modified (1.1.2018) by [The Ionising Radiations Regulations 2017 \(S.I. 2017/1075\)](#), [regs. 1\(2\)](#), [2\(3\)](#) (with [regs. 2\(5\)](#), [3](#), [Sch. 8](#))

C2Ss. 1–25, 26, 27, 28, 30, 33, 34–59, 80, 81 and 82 applied by [S.I. 1989/840](#), [arts. 2–10](#)

C3Ss. 1–59, 80–82 applied (11.7.2001) by [S.I. 2001/2127](#), [arts. 4\(1\)](#), [5\(1\)\(2\)](#), [6\(1\)](#), [7\(1\)](#), [8\(1\)](#), [10](#) (with [art. 11](#)) (as amended by [S.I. 2009/1750](#), [art. 2\(2\)\(4\)](#))

C4Ss. 1–59, 80–82 applied (temp.) (5.8.2009) by The Health and Safety at [Work etc. Act 1974 \(Application outside Great Britain\) Order 2001 \(S.I. 2001/2127\)](#), [arts. 8A](#), [8B](#) (as inserted by [S.I. 2009/1750](#), [art. 2\(3\)](#))

C5Ss. 1–59 applied by S.I. 2001/2127 [art. 8A 8B](#) (as inserted (E.W.S.) (6.4.2011) by [The Health and Safety at Work etc. Act 1974 \(Application outside Great Britain\) \(Variation\) Order 2011 \(S.I. 2011/745\)](#), [arts. 1\(1\)](#), [3\(2\)](#))

C6S. 3(2) modified by [S.I. 1978/752](#), [reg. 4](#)

S. 3(2) modified (16.1.1995) by [S.I. 1994/3246](#), [reg. 20](#)

C7S. 3(2) modified by [S.I. 1981/1011](#), [reg. 10](#)

C8S. 3(2) modified by [S.I. 1989/1810](#), [reg. 4](#) (which S.I. was revoked (1.2.1993) by [S.I. 1992/3217](#), [reg. 25](#)).

C9S. 3(2) modified (E.W.S.) (1.2.1993) by [S.I. 1992/3217](#), [reg. 5](#)

S. 3(2) modified (25.3.1999) by [S.I. 1999/437](#), [reg. 20](#)

S. 3(2) modified (15.11.2000) by [S.I. 2000/2831](#), [reg. 5\(2\)](#)

S. 3(2) modified (21.11.2002) by [S.I. 2002/2677](#), [reg. 20](#)

C10S. 3(2) modified (E.W.S.) (1.10.2014) by [The Genetically Modified Organisms \(Contained Use\) Regulations 2014 \(S.I. 2014/1663\)](#), [regs. 1](#), [4\(3\)](#) (with [reg. 3\(1\)\(2\)](#))

Annex 4: NALC BRIEFINGS

LOI-18 1 FINANCIAL ASSISTANCE TO THE CHURCH

Introduction

The purpose of this briefing is to consider whether a parish council or, in Wales, a community council may provide financial assistance to the church (or other religious bodies).

Relevant legislation

s.6(1) (a) of the Local Government Act 1894 ("1894 Act") transferred powers from the Vestry and Churchwardens to the newly formed parish councils "except so far as relates to the affairs of the church or to ecclesiastical charities." s.6(1) (c) of the 1894 Act confirms the powers, duties and liabilities conferred on parish councils include "the holding and management of parish property "not being property relating to affairs of the church or held for an ecclesiastical charity".

S.8 of the 1894 Act gives parish councils further powers including the power "to execute any works (including works of maintenance or improvement) incidental to or consequential on the exercise of the powers in s.6 , "not being property relating to affairs of the church or held for an ecclesiastical charity" and further 'to contribute towards the expense of doing any of the things above mentioned, or to agree or combine with any other parish council to do or contribute towards the expense of doing any of the things above mentioned". It should be noted that the prohibition relates to the nature of the property concerned not to the use to which that any funding will be put. Thus funding to make a church hall suitable for meetings of the guides and scouts is still prohibited because the building is church property. Despite references in the above provisions to parish councils, the 1894 Act applies to both England and Wales.

The powers in the 1894 Act prohibit councils' involvement in property relating to the affairs of the church e.g. the maintenance or improvement of buildings or land or contributing to the costs. The question often asked is whether that prohibition still applies or is it overridden by legislation made after the 1894 Act. Examples of such legislation are:

- s.214(6) of the Local Government Act 1972 ("the 1972 Act") which provides that councils which are burial authorities may contribute to another person's expenses (e.g. the PCC or synagogue) in providing a cemetery in which residents in the council's area may be buried.
- s.215 of the 1972 Act permits a council to maintain a closed churchyard.
- s.137 of the 1972 Act which allows a council to incur expenditure for any purpose except one which is subject to a statutory prohibition, restriction or limitation.
- s.138B of the 1972 Act empowers a parish council to support or facilitate a religious event.
- The General Power of Competence in s.1 of the Localism Act 2011 ("the 2011 Act") is available to eligible parish councils that satisfy the conditions in Parish Councils (General Power of Competence) (Prescribed Conditions) Order 2012/965.

NALC's views

There is an accepted legal principle, applied by the courts, which is that in interpreting what an Act of Parliament means, a specific provision overrides one of a general nature. In other words, if two statutory provisions are in conflict or overlap, the detailed provision will prevail over the more general one. In applying this principle, NALC's views are as summarised below.

Ss.137 and 138B of the 1972 Act and s.1 of the 2011 Act constitute general provisions and do not override the specific prohibitions in s.8 of the 1894 Act. S.137 expressly provides that expenditure cannot be incurred purposes which are subject to a statutory prohibition, restriction or limitation.

S.2 of the 2011 Act confirms that the general power of competence does not allow an eligible parish council to get round any statutory prohibition, restriction and limitation which existed before the general power was introduced.

S. 214(6) of the 1972 Act which permits a council as a burial authority to contribute to the expenses of anyone else providing a cemetery, appears to overlap with the specific provision in s.8 of the 1894 Act which prevents a council from contributing to the affairs of the church and, in NALC's view, the specific provision would prevail.

S.215 of the 1972 Act is a specific provision in respect of the responsibilities of a council (whether or not a burial authority) to maintain a closed churchyard which, in NALC's opinion, thus overrides the prohibitions in ss. 6 and 8 of the 1894 Act.

Summary

There is no current case law to resolve the question of whether or not the 1894 Act restrictions override the provisions in later Acts of Parliament and ultimately it would be for the courts to determine the extent of any prohibition from the 1894 Act. Any court action started so as to resolve this point is likely to be expensive and time consuming.

It would, of course, be possible for Parliament to clarify the point with a specific provision in new legislation, however, the Government's current view on the legal issues is that there is no need for any further legislation as they believe the 1894 Act restrictions do not override the provisions in later Acts of Parliament.

Whilst there is no consensus on this issue, a council that considers making a payment in these circumstances needs to consider whether it is prudent to take a course of action that it cannot be certain is legally valid.