

## **THE POWERS OF A PARISH MEETING IN A PARISH WITHOUT A SEPARATE PARISH COUNCIL**

### **Purpose, name, style, constitution and governance**

1. Unless indicated otherwise, references in this note to sections are references to sections in the Local Government Act 1972 (“the 1972 Act”) and references to paragraphs are references to paragraphs in Part III of schedule 12 to the 1972 Act.
2. In every parish in England, there is a parish meeting for the purpose of discussing parish affairs and exercising any statutory functions conferred on them (s.9(1)). The local government electors in a parish are the parish meeting (s.13(1)). Neither legislation nor case law define the term “parish affairs” but a good example of a case which did decide whether a particular issue was a parish affair is R. (on the application of Letchworth Garden Heritage Foundation) v Returning Officer for the District of North Hertfordshire (2009). In NALC’s view, parish affairs are specific to the local government electors in a particular parish.
3. A parish meeting must assemble annually between 1 March and 1 June and on at least one other occasion during the year on a date to be fixed by the Chairman of the meeting (paragraphs 14(1) - 14(3)). At its annual assembly, the parish meeting must elect a chairman, who continues in office until his successor is elected at the next annual assembly (s.15(10)). The Chairman chosen for the year in question, if present, must preside at an assembly of the parish meeting (paragraph 17(2)). If the Chairman is absent from an assembly of a parish meeting, the parish meeting may appoint a person to take the chair and that person shall, for the purposes of that assembly, have the powers and authority of the Chairman (paragraph 17(3)). A casual vacancy in the office of the Chairman of a parish meeting, occasioned for example by his resignation, shall be filled by the election of his successor at an assembly of the parish meeting convened for such purpose (s.88(3)).
4. A parish meeting may not assemble in premises licensed for the supply of alcohol, unless no other room is available free or at a reasonable cost (paragraph 14(5)). A

parish meeting may assemble in school premises (s.134). An assembly of a parish meeting is subject to other statutory requirements (schedule 12 to the 1972 Act) such as giving advance public notice of any such assembly, attendance, voting and minute taking. Guidance about these statutory requirements is given in LTN 6 – Meetings of parish meetings.

5. If a parish has a parish council, the parish meeting is not a body corporate. If the parish has no parish council, the Chairman of the parish meeting and the proper officer of the district or unitary council (i.e. a person appointed by that council) are the body corporate of the parish meeting and are known as “the Parish Trustees” (s.13(3)). The proper officer of the district or unitary council may be the Monitoring Officer, but this is not always the case. In a parish without a parish council, contracts with a parish meeting are signed by the parish trustees and ownership of parish property is vested in the parish trustees. The parish trustees must act in accordance with the directions given by the parish meeting (s.13(4)). However, they are not obliged only to act as so directed. In *Taylor v Masefield* (1986), the Court of Appeal held that the parish trustees had an implied power to act in any way necessary or desirable in the execution of their trust which did not conflict with a direction of the parish meeting; it was not necessary to obtain a direction before acting. A parish meeting may appoint committees of local government electors for the parish to discharge any of its functions (s.108) but any arrangement will not prevent the meeting from exercising those functions. The parish meeting may, subject to the provisions of the 1972 Act, regulate their own proceedings and business (paragraph 20(2)).
6. Parish meetings are local government bodies or public authorities for a number of statutory purposes. They are, for example, subject to the Human Rights Act 1998 and the Freedom of Information Act 2000. They are also subject to the Equality Act 2010 and they must not discriminate against a person with a protected characteristic (meaning age, disability, gender reassignment, marriage and civil partnership, gender, pregnancy and maternity, race, religion or belief or sexual orientation) as employers or in the provision of services or in the exercise of their functions. Parish meetings are also capable of mounting legal claims (e.g. *Lasham Parish Meeting v Hampshire County Council* (1992) where the parish meeting applied to the High Court to quash an order of the county council which had classified a footpath as a byway open to all traffic).
7. At the request of a parish meeting, the district or unitary council (which includes a London Borough council) may change the name of the parish (s.75(1)). The district or unitary council must give notice of any change of name to the Secretary of State, the

Director General of the Ordnance Survey and to the Registrar General. The district or unitary council must also publish the change of name in the parish and elsewhere in such manner as it considers appropriate. (s.75(2)).

8. A parish meeting may, by resolution, have an alternative style being a “community”, or a “neighbourhood” or a “village” (ss. 12A and 17A). As soon as practicable after passing a resolution changing its style, the parish meeting must give notice of the change of style to all of the following:
- the Secretary of State;
  - the Local Government Boundary Commission for England
  - the Office of National Statistics;
  - the Director General of the Ordnance Survey;
  - any district council, county council (or London borough council) within whose area the parish lies.
9. With reference to paragraph 8 above, if a parish has the style of a community, the parish trustees are known as “the Community Trustees” of the said community (s.13(5A)). If a parish has the style of a neighbourhood, the parish trustees are known as “the Neighbourhood Trustees” of the name of the neighbourhood (s.13(5B)). If a parish has the style of a village, the parish trustees are known as “the Village Trustees” of the name of the village (s.13 (5C)).

### **Establishment, alteration and abolition of (i) a parish and (ii) common parish council for two or more parishes**

10. Parish meetings do not exist in every part of England. They are generally absent in metropolitan areas, but can be created where they do not currently exist. A new parish may be created as a consequence of a community governance review undertaken by a district or unitary council under Part 4 of the Local Government and Public Involvement in Health Act 2007 (“the 2007 Act”). Pursuant to 87(2) of the 2007 Act, a new parish may be created in any one of the following ways—
- by establishing an unparished area as a parish;
  - by aggregating one or more unparished areas with one or more parished areas;
  - by aggregating parts of parishes;
  - by amalgamating two or more parishes;
  - by separating part of a parish.

11. If a new parish is created, the community governance review will decide the name of the new parish (s.87(5) of the 2007 Act), and whether it should have the style of a community, or a neighbourhood or a village (s.87(7) of the 2007 Act). A community governance review may also result in the abolition or alteration in the area of an existing parish (s.88(2) of the 2007 Act). A review may decide to make no changes to the governance arrangements for the area it is concerned with. The review will decide whether the name of an existing parish should be changed (s.88(3) of the 2007 Act).
12. A parish meeting may request the district or unitary council to make an order establishing a common parish council for a group of two or more neighbouring parishes (s.11(1)). Neighbouring parishes can only be grouped under a common parish council with the consent of each of the parish meetings (s.11(2)). The district council or unitary council may make an order to dissolve a common parish council or separate one or more of the parishes from the common parish council if requested by the common parish council or a parish meeting represented by the common parish council (s.11(4)). A community governance review may have the consequences of dissolving or separating a parish that is grouped under a common parish council. For guidance about community governance reviews, see LTN 73-Community Governance Reviews. Statutory guidance about community governance reviews, published in March 2010, is available via -  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/8312/1527635.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/8312/1527635.pdf)

## **Finance**

13. A parish meeting may precept the billing authority (i.e. a district or unitary council) for the expenditure incurred in the performance of its functions. The Chairman of a parish meeting is responsible for the issue of the precept to the billing authority (s.39 (2) Local Government Finance Act 1992).
14. The accounts of a parish meeting are subject to audit in the same way as those of a parish council (s.2 Audit Commission Act 1998 and schedule 2, para (1)(c)). The Chairman of the parish meeting is responsible for the accounts and financial management of the accounts of the parish meeting as prescribed (s.150(6) and the Accounts and Audit (England) Regulations 2011/817).

## **Functions and Powers**

15. Subject to the circumstances explained in paragraph 16 below, parish meetings have a limited number of statutory functions, powers and rights of notification or consultation. These include:

*Allotments:* a parish meeting may hold and administer allotments for cultivation (s.33(3) Small Holdings and Allotments Act 1908);

*Burials:* a parish meeting is a burial authority. It may therefore provide burial grounds and may contribute towards the cost of burial facilities provided by others (Para 1(c) of schedule 26 to the 1972 Act);

*Cemeteries and crematoria:* a parish meeting may adopt byelaws made by a district or unitary council (Para 11(1) of schedule 26 to the 1972 Act);

*Charities:* a parish meeting may appoint trustees to parochial charities (s. 299 of the Charities Act 2011).

*Churchyards:* liability to maintain a closed Church of England churchyard may be transferred to a parish meeting by the same process by which such liability is transferred to parish council (s.215(2) of the 1972 Act). i.e. by serving written request on the chairman of the meeting. See also LTN 65 - Closed Churchyards and Disused Burial Grounds.

*Land:* A parish meeting may be registered as the owner of land (e.g. common land) if it has inherited ownership from the appropriate pre-1894 authority, often the Churchwardens and Overseers of the Poor (s.67 of the Local Government Act 1894). A parish meeting has no general power of acquisition but may acquire land to exercise its allotments or burial powers. It may appropriate land from one purpose to another with the approval of the Secretary of State (s.126 of the 1972 Act). See also LTN 45 - Disposal and Appropriation of Land by Local Councils;

*Lighting:* a parish meeting may light roads and other public places in the parish (s.3 of the Parish Councils Act 1957);

*Rights of Way:* a parish meeting is entitled to be notified of a proposal to declare unnecessary highway to be not maintainable at public expense(s. 47(4) of the Highways Act 1980), a public path creation order or extinguishment order (part 1 of Schedule 6 of the Highways Act 1980), a stop up or diversion order (s.116(3) of the Highways Act 1980). See also LTN 77 – Public Rights of Way. A parish meeting may apply to the highway authority to modify the definitive map (s. 53(5) of the Wildlife and Countryside Act 1981 and Schedule 14);

*Village Greens:* a parish meeting may prosecute a person who damages or encroaches upon a village green in the parish with the effect of interfering with the green as a place for recreation and thus commits an offence under s. 12 of the Inclosure Act 1857 (or s.29 of the Commons Act 1876) and s.189(3) of the 1972 Act ) . See also LTN 56 - The Provision of Play and Sports Equipment on Village Greens); and

*War Memorials:* a parish meeting may maintain, repair or protect any war memorial in the area (ss.1 and 4 of the War Memorials (Local Authorities’ Powers) Act 1923).

**Acquisition of Additional Functions**

- 16. On the application of the parish meeting, the district council may make an order which confers the function(s) of a parish council on the parish meeting, subject to the provisions of any grouping order if the parish is grouped with another parish (s.109). The district council must send two copies of any order made under s.109 to the Secretary of State.

**Value Added Tax**

- 17. Parish meetings are not local authorities for the purposes of the VAT legislation. They must therefore pay VAT on any purchases which attract it and cannot claim a refund. The acquisition of additional functions (see the preceding paragraph) makes no difference to this situation. See further LTN 32 - Local Councils and VAT.

**Other Legal Topic Notes (LTNs) relevant to this subject:**

LTN	Title	Relevance
6	Meetings of parish meetings	Explains the statutory requirements concerning the procedure for calling,

		attendance and voting and demanding a poll at an assembly of a parish meeting.
15	Legal Proceedings	Explains the grounds for bringing a judicial review claim and outlines the procedure for judicial review proceedings
32	Local Councils and VAT	Gives advice in respect of VAT issues.
37	Freedom of Information	Sets out obligations imposed by the Freedom of Information Act 2000.
45	Disposal and Appropriation of Land by Local Councils	Sets out the procedure for disposing of and appropriating land.
56	The Provision of Play and Sports Equipment on Village Greens	Sets out the provisions of the Inclosure Act 1857 and the Commons Act 1876.
65	Closed Churchyards and Disused Burial Grounds	Sets out the powers and obligations respect of closed churchyards and burial grounds.
73	Community Governance Reviews	Explains the relevant provisions of the Government and Public Involvement In Health Act 2007 in relation to community governance reviews.
77	Public Rights of Way	Explains the statutory process to extinguish or divert a public right of way.
78	Equality Act 2010	Explains statutory obligations imposed on parish meetings which are aimed at preventing discrimination and promoting equality.

## LOCAL COUNCIL POWERS AND DUTIES

FUNCTION	POWERS AND DUTIES	STATUTORY PROVISIONS
Allotments	Powers to provide allotments. Duty to provide allotment gardens if demand unsatisfied and if reasonable to do so	Small Holding & Allotments Act 1908, s.23
Borrowing money	Power for councils to borrow money for their statutory functions or for the prudent management of their financial affairs	Local Government Act 2003, Schedule 1, para.2
Baths (Public)	Power to provide public swimming baths	Public Health act 1936, s.221
Burial grounds, cemeteries and crematoria	Power to acquire and maintain  Power to Provide  Power to agree to maintain monuments and memorials  Power to contribute towards expenses of cemeteries	Open Spaces Act 1906, ss.9 and 10  Local Government Act 1972, s.214  Parish councils & Burial Authorities (Miscellaneous Provisions) Act 1970, s.1  Local Government Act 1972, s.214 (6)
Bus Shelters	Power to provide and maintain shelters	Local Government (Miscellaneous Provision) Act 1953, s.4
Byelaws	Power to make byelaws for: <ul style="list-style-type: none"> <li>• Places of public recreation</li> <li>• Cycle parks</li> <li>• Public swimming baths</li> <li>• Open spaces and burial grounds</li> <li>• Mortuaries and post-mortem rooms</li> </ul>	<ul style="list-style-type: none"> <li>• Public Health Act 1875, s.164</li> <li>• Road Traffic Regulations Act 1984, s.57 (7)</li> <li>• Public Health Act 1936, s.223</li> <li>• Open Spaces Act 1906, s.15</li> <li>• Public Health Act 1936, s.198</li> </ul>
Charities	Duties in respect of parochial charities  Power to act as charity trustees	Charities Act 2011, ss. 298-303  Local Government Act 1972, s.139 (1)
Clocks	Power to provide public clocks	Parish Councils Act 1957, s.2
Closed Churchyards	Powers to maintain	Local Government Act 1972, s.215
Commons and common pastures	Powers in relation to Inclosure, regulation, management and provision of common pasture	Inclosure Act 1845; Small Holdings and Allotments Act 1908, s.34
Community centres	Power to provide & equip buildings for use of clubs having athletic, social or educational objectives  Power to acquire, provide and furnish community buildings for public meetings and assemblies	Local Government (Miscellaneous Provisions) Act 1976 s.19  Local Government Act 1972, s.133
Conference facilities	Power to provide and encourage the use of facilities	Local Government Act 1972, s.144
Crime prevention	Power to spend money on crime detection & prevention measures	Local Government and Rating Act 1997, s.31
Ditches & Ponds	Power to drain & maintain ponds & ditches to prevent harm to public health	Public Health Act 1936, s.260
Entertainment & arts	Provision of entertainment and support of the arts	Local Government Act 1972, s.145
Environment	Power to issue fixed penalty notices for litter, graffiti & offences under dog control orders	Clean Neighbourhoods and Environment Act 2005, s.19, s.30, Part 6
General Power of Competence	Power for an eligible council to do anything subject to statutory prohibitions, restrictions and limitations including those in place before or after introduction of general power of competence	Localism Act 2011, ss.1-8
Gifts	Power to accept gifts	Local Government Act 1972, s.139
Highways	Power to repair and maintain public footpaths and bridleways  Power to light roads and public places  Power to provide parking places for vehicles, bicycles and motor-cycles  Power to enter into agreement as to dedication and widening  Power to provide roadside seats and shelters  Consent of parish council required for ending maintenance of highway at public expense, or for stopping up or diversion of highway	Highways Act 1980, sections. 43,50  Parish councils Act 1957, s.3; Highways Act 1980, s.301  Road Traffic Regulation Act 1984, ss.57,63  Highways Act 1980, ss.30,72  Parish Councils Act 1957, s.1  Highways Act 1980, ss.47,116



## LOCAL COUNCIL POWERS AND DUTIES

	Power to complain to district council as to protection of rights of way and roadside wastes	Highways Act 1980, s.130
	Power to provide certain traffic signs and other notices	Road Traffic Regulation Act 1984, s.72
	Power to plant trees etc. and to maintain roadside verges	Highways Act 1980, s.96
Honorary titles	Power to admit to be honorary freemen/freewomen of council's area persons of distinction and persons who have, in the opinion of the authority, rendered eminent services to that place or area	Local Government Act 1972, s.249 (5), s.249 (9)
Investments	Power to participate in schemes of collective investment	Trustee Investments Act 1961, s.11
Land	Power to acquire by agreement, to appropriate, to dispose of	Local Government Act 1972, ss.124, 126, 127
	Power to accept gifts of land	Local Government Act 1972, s.139
Litter	Provision of bins	Litter Act 1983, ss.5,6
Lotteries	Powers to promote	Gambling Act 2005, s.252, 258
Markets	Power to establish or acquire by agreement markets within their area & provide a market place & market buildings	Food Act 1984, s.50
Mortuaries and post mortem rooms	Powers to provide mortuaries and post mortem rooms	Public Health Act 1936, s.198
Neighbourhood Planning	Powers to act as lead body for a neighbourhood development plan or a neighbourhood development order	Localism Act 2011, Sch. 9; Town & Country Planning Act 1990, ss.61E -61Q, Sch. 4B; Planning and Compulsory Purchase Act 2004, s.38A
Newsletters	Power to provide information relating to matters affecting local government	Local Government Act 1972, s.142
Nuisances	Power to deal with offensive ditches	Public Health Act 1936, s.260
Open spaces	Power to acquire & maintain land for public recreation	Public Health Act 1875, s.164
	Power to acquire and maintain land for open spaces	Open Spaces Act 1906, ss.9 and 10
Parish Property and documents	Powers to receive and retain	Local Government Act 1972, s.226
	Duty to deposit certain published works in specific deposit libraries	Legal Deposit Libraries Act 2003, s.1
Public buildings and village hall	Power to acquire and provide buildings for public meetings and assemblies	Local Government Act 1972, s.133
Public Conveniences	Power to provide	Public Health Act 1936, s.87
Recreation	Power to provide a wide range of recreational facilities	Local Government (Miscellaneous Provisions) Act 1976, s.19
	Provision of boating pools	Public Health Act 1961, s.54
Right to challenge services that are provided by a principal authority	The right to submit an interest in running a service provided by a district, county or unitary authority	Localism Act 2011, ss.81-86
Right to nominate and bid for assets of community value	The right to nominate assets to be added to a list of assets of community value and the right to bid to buy a listed asset when it comes up for sale	Localism Act 2011, ss.87-108
Town and County Planning	Right to be notified of planning applications if right has been requested	Town and Country Planning Act 1990, Sched.1, para.8
Tourism	Power to encourage tourism to the councils area	Local Government Act 1972, s.144
Traffic Calming	Powers to contribute financially to traffic calming schemes	Local Government and Rating Act 1997, s.30
Transport	Powers to spend money on community transport schemes	Local Government and Rating Act 1997, ss.26-29
War memorials	Power to maintain, repairs, protect and adapt war memorials	War Memorials (Local Authorities' Powers) Act 1923, s.1; as extended by Local Government Act 1948, s.133
Water Supply	Power to utilise wells, springs or streams for obtaining water	Public Health Act 1936, s.125
Websites	Power for councils to have their own websites	Local Government Act 1972, s.142

## **SECTION 137 OF THE LOCAL GOVERNMENT ACT 1972**

### **Introduction**

1. Section 137 of the Local Government Act 1972 enables local councils to spend a limited amount of money for purposes for which they have no other specific statutory expenditure.
2. The texts of section 137 (as amended by the Local Government and Housing Act 1989 and the Public Audit (Wales) Act 1994 and the Local Government and Public Involvement in Health Act 2007) and section 137A (added by the 1989 Act) form an appendix to this Note.

### **Scope and nature of the section**

3. Apart from a council in England which has satisfied the prescribed statutory conditions and is eligible to exercise the power to promote well-being set out in s. 2 of the Local Government Act 2000 (see also paragraph 12 below) , a local council has the basic power to spend money (subject to the statutory limit – see paragraph 14 below) on purposes for the direct benefit of its area, or part of its area, or all or some of its inhabitants.
4. Where the council has an unrestricted specific statutory power to spend money, section 137 cannot be used. An example of such a power is section 19 of the Local Government (Miscellaneous Provisions) Act 1976 Act, which empowers a local council to contribute by way of grant or loan towards the expenses incurred or to be incurred by any voluntary organisation in providing any recreational facilities.
5. Where a council has a statutory power restricted by a limitation or condition, section 137 cannot be used to get round the limitation or condition. An example of a limitation

is contained in section 127 (2) of the Local Government Act 1972 Act in respect of a disposal of an interest in land for less than best consideration.

6. Where there is a statutory prohibition on a council carrying out a particular function, section 137 cannot be used to avoid the prohibition. An example is section 2 (1) of the Local Government Act 1986 (as amended by the Communications Act 2003), which prohibits a local authority from publishing or arranging for the publication of material which, in whole or in part, appears to be designed to effect support for a political party.
7. s.137 (1A) reinforces the prohibition on using section 137 to avoid a limitation or condition on some other power or for a function that they are prohibited from exercising.
8. Provided that there is no alternative power, whether limited or conditional or not, and no statutory prohibition, the council may incur expenditure under section 137. The council must first be satisfied that there is a direct benefit to the area or part of the area, or to some or all of the inhabitants. The council is the body to determine whether or not such benefit will accrue, and a decision by the council could only be challenged on the ground that it was wholly unreasonable. The use of “some” in relation to the inhabitants means that the council cannot use the power to benefit a single individual. It may be possible for the council to help an organisation to which the individual belongs, thus releasing funds for the organisation to help individuals. For example, a council could make a donation to a local organisation which provides grants to needy persons.
9. The council must secondly ensure that the direct benefit accruing to its area or residents is commensurate with the expenditure incurred. This means that a council should not spend a disproportionately large amount on something which has no or very little direct benefit. For example, spending the whole of the council’s allowance under the section 137 which amounted to £10,000 for the benefit of two people would be unlikely to be confer commensurate benefit to the expenditure incurred.
10. It will be open for expenditure to be challenged by the auditor, or by a local government elector objector at audit (pursuant to s.16 Audit Commission Act 1998), on the basis that the expenditure is larger than the direct benefit to the area or residents would justify. Councils must therefore exercise care when considering the

amounts of proposed expenditure under section 137 and, if in doubt, should seek advice before going ahead.

11. Pursuant to s. 137 (2C) expenditure can only be incurred on publicity by way of assistance to a public body or voluntary body when it is incidental to the main purpose for which the council is giving financial assistance. Expenditure by a council on publishing information regarding the services it provides, pursuant to section 142 of the Local Government Act 1972, is also subject to the statutory limit (see paragraph 14 below)
12. Under s.137 (3) a local council, including a council in England which has satisfied the prescribed statutory conditions and is eligible to exercise the power to promote well-being set out in s. 2 of the Local Government Act 2000 Act, may make contributions to charities and bodies providing a public service on a non-profit making basis, but only in furtherance of their work in the United Kingdom. It is unlawful for a council to contribute to a charity or a public service body operating overseas, or to a fund established to help persons outside the UK. Importantly, under s.137(3), expenditure incurred in making contributions to UK charities and bodies providing a public service does not require there to be a direct benefit to the council's area or to its inhabitants. A council in England which is eligible to exercise the power to promote well-being may use the power to promote well-being to make donations or grants to bodies which include charities and not for profit making public bodies and this expenditure is not subject to a statutory limit as is the case with expenditure incurred under s. 137(3) (see paragraph 14 below). However expenditure incurred in exercise of the power to promote well-being may only be incurred if it is likely to promote or improve the economic and or social and or environmental well-being of the whole or part of their area or all or any persons resident or present in their area. Further information relating to the power to promote well-being which applies only to "eligible" local councils in England is available from NALC legal briefings issued in 2008 and 2009.
13. s.137 (3) may also be used to contribute to public appeals for funds in connection with particular events affecting the UK residents only where the appeal is made by the Lord Mayor of London or the Chairman of a principal council or by a similar person in Scotland or by a committee of which such a person is a member.

### **Limit of expenditure**

14. The maximum amount which a council may spend under section 137 in any one year (e.g. from 1 April to the following 31 March) is an index-linked amount per head of the “relevant population”, calculated as set out in paragraph 15 below.
15. The relevant Government department (CLG) usually notifies NALC of the agreed value for parish councils according to the indexation formula in the January preceding the relevant financial year. The National Assembly for Wales (the Social Justice and Local Government Department) notifies community councils direct of the agreed value. The value for local councils in both countries for the financial year 2009/2010 is £6.15.
16. The relevant population is the number of persons on the electoral roll for the town, parish or community as at 1 April. The electoral register is published and updated regularly. The electoral registration officer will be able to give details of numbers.
17. In calculating the expenditure incurred under this section, a council is entitled to deduct from its gross expenditure any amount in respect of which there has been a grant payable by a Minister of the Crown (defined as “the holder of an office in Her Majesty's Government in the United Kingdom, and includes the Treasury, the Board of Trade and the Defence Council”), or out of the European Regional Development Fund or the European Social Fund. In addition, so much of any amount that has been funded by public subscription and any loan repayments can also be ignored.

### **Authorisation of expenditure and accounts**

18. As Councillors are collectively expressing an opinion as to the commensurate local benefit, the expenditure under section 137 must be properly authorised by resolution.
19. Pursuant to s.137 (7), a separate account must be kept of expenditure under the section. For many councils, all that is necessary is to have a separate column in the cash book. Steps need to be taken with computerised book-keeping to see that a total of the spend to date under this section is available on request.

### **Contributions to voluntary bodies, charities etc.**

20. Pursuant to Section 137A a council which provides financial assistance equal to or exceeding the “relevant minimum” to a body providing a public service, a charity or funds where the appeal is made by the Lord Mayor of London or the Chairman of a

principal council within section 137 (3), must require the body or charity recipient to furnish a written statement of how the money has been spent, within 12 months after the assistance has been given. The “relevant minimum” is £2,000 but a council should normally require some account from the recipient body of how the contribution is to be (and in the case of successive contributions has been) spent, whatever the amount. It is usually prudent to require sight of a financial statement or account before a grant is given. In many cases the Grant is given in a form that will have to be treated as “Restricted Funds” by the receiving charity.

### **Other relevant legislation**

21. Expenditure incurred under section 20 of the Climate Change and Sustainable Energy Act 2006 is also subject to the statutory limit permitted by s.137.

Section 20 states:

1. A parish council or community council may encourage or promote any of the following—
  - (a) microgeneration within their area;
  - (b) the use within their area of electricity generated, or heat produced, by microgeneration;
  - (c) efficiency in the use, by persons in their area, of electricity, heat, gas, fuel and other descriptions or sources of energy;
  - (d) reductions in the amounts of such energy, or sources of energy, used by persons in their area;
  - (e) production in their area of—
    - (i) biomass, or
    - (ii) any fuel derived from biomass;
  - (f) use in their area of, or of electricity generated, or heat produced, from biomass or any such fuel.
  
2. The power conferred by subsection (1) includes, in particular, power—
  - (a) on application, to provide information about goods or services available within their area (whether offered or provided by public authorities or by any other persons), or
  - (b) to provide advice or assistance,
  - (c) for the purpose of encouraging or facilitating any of the matters mentioned in that subsection.

3. Assistance provided under subsection (1) may, if the council giving the assistance think appropriate–
  - (a) be made subject to conditions, or
  - (b) otherwise be provided on such terms as the council think appropriate.
  
4. For the purposes of subsections (4) to (7B) of section 137 of the Local Government Act 1972 (c. 70) (power of local authorities to incur expenditure for certain purposes not otherwise authorised)–
  - (a) any expenditure incurred by a parish council or community council under this section is to be treated as having been incurred under that section, and
  - (b) any purpose for which expenditure may be incurred under this section is to be treated as a purpose for which such a council are authorised by that section to incur expenditure.
  
5. Subsection (4) applies to expenditure incurred by a parish council or community council under section 142 of the Local Government Act 1972 on information as to the services provided by them under this section, or otherwise relating to their functions under this section, as it applies to expenditure incurred under this section.

**Other Legal Topic Notes (LTNs) relevant to this subject:**

<b>LTN</b>	<b>Title</b>	<b>Relevance</b>
5	Parish, Town and Community Council meetings	Details procedures for decision making and resolutions.

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**APPENDIX** (referred to in paragraph 2 above) - Full text of sections 137 and 137(A) Local Government Act 1972

**137.— Power of local authorities to incur expenditure for certain purposes not otherwise.**

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.

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.

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 [, 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 at large 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 [\[Schedule 12B](#) to this Act] , by
  - (b) the relevant population of the authority's area.
- 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 [Minister 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.
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
  - 7A. In relation to England, [section 14](#) of the [Audit Commission Act 1998](#) (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 27](#) 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.
  9. Subject to subsection (10) below, in this section [“ local authority” means—
    - (a) a parish council which is not an eligible parish council for the purposes of [Part 1](#) of the [Local Government Act 2000](#), or
    - (b) a community council.
  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.

**137A.— Financial assistance to be conditional on provision of information.**

1. If in any financial year a local authority provides financial assistance—
  - (a) to a voluntary organisation, as defined in subsection (2D) of section 137 above, or
  - (b) to a body or fund falling within subsection (3) of that section, and the total amount so provided to that organisation, body or fund in that year equals or exceeds the relevant minimum, then, as a condition of the assistance, the authority shall require the organisation, body or fund, within the period of twelve months beginning on the date when the assistance is provided, to furnish to the authority a statement in writing of the use to which that amount has been put.
  
2. In this section “financial assistance” means assistance by way of grant or loan or by entering into a guarantee to secure any money borrowed and, in relation to any financial assistance,—
  - (a) any reference to the amount of the assistance is a reference to the amount of money granted or lent by the local authority or borrowed in reliance on the local authority's guarantee; and
  - (b) any reference to the date when the assistance is provided is a reference to the date on which the grant or loan is made or, as the case maybe, on which the guarantee is entered into.
  
3. The relevant minimum referred to in subsection (1) above is £2,000 or such higher sum as the Secretary of State may by order specify.
  
4. It shall be a sufficient compliance with a requirement imposed by virtue of subsection (1) above that there is furnished to the local authority concerned an annual report or accounts which contain the information required to be in the statement.
  
5. A statement (or any report or accounts) provided to a local authority in pursuance of such a requirement shall be deposited with the proper officer of the authority.
  
6. In this section “local authority” includes the Common Council.