

Request for Grant funding from Wickhambrook All Saints Church for repairs to Memorial Clock

Each year Wickhambrook Parish Council sets aside some funds from its budget to give financial support to local organisations. The power under which a Parish Council may normally do this is s.137 of the Local Government Act 1972.

A request has been received from Wickhambrook All Saints Church asking the Parish Council to pay for repairs to the Memorial Clock sited on the Wickhambrook All Saints Church Tower, together with a subsequent e-mail enclosing a copy of their invoice from Hawards Horological (**Appendix 1 refers**).

The installation of the Memorial Clock was funded mainly through subscription and grants raised by villagers (organised by the church) between 1944 and 1946, to commemorate the fallen of both world wars (<https://www.bansfieldbenefice.org.uk/wickhambrook/history/clock.html>).

In 2007, the All Saints Church decided that due to the frequency of the winding required to keep the clock working and chiming, and the physical effort involved in doing so, a long term solution would be to raise funds to undertake works to electrify the winding mechanism. Part of the funding to complete this work was raised from money for the restoration of All Saints Church, and a donation of £1000 towards the work was made by the Parish Council (Min. **7.2.4 May 2007** refers).

Five payments were subsequently made by the parish council to Hawards Horological, the company which has been retained by the PCC to undertake servicing of the clock (see **Appendix 2 refers**)

A parish council is generally able to make payments for services and supplies under the powers conferred upon it by relevant legislation. Where no such power exists, (e.g. Charitable donations) then a parish council may incur expenditure either under

- the General Power of Competence in s.1 of the Localism Act 2011 (which does not apply to Wickhambrook Parish Council, it not being eligible), or
- s.137 of the Local Government Act 1972 (LGA1972), *for any purpose, except one which is subject to a statutory prohibition, restriction or limitation*¹.

In this instance, however, the use of s.137 of LGA1972 is constrained, because the memorial clock is on Church property. When parish councils were established under s6 of the Local Government Act 1894, there was a specific provision which restricted Parish Councils from funding church property (the Memorial Clock is on Church property).

¹ Appendix 3: NALC LO1-18 Financial Assistance to the Church

The Parish Councils Act 1957, gives a parish council powers to install and maintain clocks (and other works) for the public benefit, but there is still a risk that using this power to fund the maintenance of a clock on church property could be challenged in law.

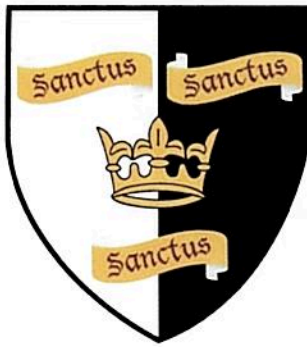
The Clerk has taken advice from the Suffolk Association of Local Councils and Society of Local Council Clerks, and the best way to resolve this (until such time as any legal challenge provides a definitive answer one way or the other) is that the Wickhambrook All Saints Church applies to the Parish Council for a grant each time it needs support towards the cost of maintaining the clock (much as it did for the electrification of the clock). The Parish Council may then consider the application on its merits, and if approved, a payment can be authorised.

Funds remaining in the budget line for grant/local support are £366.22 against a budget of £1000.

Action:

- 1) Councillors are asked to consider whether to award a grant (and if so, the value of such a grant) towards the cost of maintenance of the Memorial Clock as requested by Wickhambrook All Saints Church.**

Wickhambrook All Saints Church



www.bansfieldbenefice.org.uk
 contact@bansfieldbenefice.org.uk

Rector
 Revd Eve Bell

Churchwardens
 Paul Bevan
 Sam Sykes

15 February 2020

RE: GRANT REQUEST

Dear Hilary

I am writing to you on behalf of the Parochial Church Council of Wickhambrook (PCC) in regard to the Wickhambrook memorial clock that resides in the tower of All Saints' church Wickhambrook.

Firstly the PCC would like to thank the Parish Council for the annual support it has given the PCC to help in its role as custodians of this war memorial to those who gave their lives in the two World Wars. (The clock was purchased and installed following fund raising after the Second World War by the village and as such it is a village war memorial in its own right - <https://www.bansfieldbenefice.org.uk/wickhambrook/history/clock.html>)

Unfortunately in early-February 2020 a problem has reoccurred with the clock. It would appear that the bell chiming mechanism has again failed causing the clock to chime incorrectly requiring the clock to be stopped as a precautionary measure. As the church does not have a horologist expert in its midst and as the clock is an historic War Memorial, expert advice and craftsmanship is required to restore the clock back to full working order.

Thus the purpose of this missive is twofold. The PCC as custodians, not owners, of this clock are looking to the Parish Council for a grant of financial assistance to cover in full: -

- 1) Repair to the clock - it is believed to be a similar fault as has been seen two years ago. (It is hoped this will not be costly, as last time this was paid for as part of the annual service. **The annual service including the repair was £250.** It is estimated the cost this time will be very similar.)
- 2) Annual maintenance of this war memorial in a similar fashion to the annual maintenance carried out on the war memorial in the cemetery. The regular maintenance keeps the clock in good working order and negates the need for unexpected costly repairs that happen when a component fails in the clock's mechanism or leading off work. (This maintenance, which usually falls in February, has been met by the Parish Council in previous years.)

In days gone by the PCC has been able and willing to undertake all maintenance, upkeep and operation of the clock but with both a dwindling congregation and greatly reduced church income the PCC finds itself no longer in a position where it can fund these kinds of repairs. The PCC is happy to continue to ensure the running of the clock and payment for its electricity consumption but now looks to the village to keep this war memorial in a working state honouring the people to whose memories it was installed.

Wickhambrook All Saints Church

As this type of repair is very specialized there are very few people qualified to undertake such repairs. The only company in Suffolk known to the PCC that is appropriate to undertake these repairs is Haward Horological - <http://www.hhlimited.co.uk>. Haward Horological has repaired and serviced the clock regularly since June 2011.

At this juncture the PCC has approached Ian Haward for quotes for the repair work and annual maintenance contract and to make these figures available to you as soon as possible. The last annual service, which included a similar repair, cost £250.

The PCC is naturally happy to speak with the Parish Council to discuss this matter further but in the first instance wished to make the Parish Council aware of the situation and to apply for a Grant to cover the full costs as directed by the Parish Clerk.

Yours sincerely

Paul Bevan
Churchwarden

On behalf of the Parochial Church Council of Wickhambrook

Appendix 2

Date:	Minute Ref:	Description:	Amount:
21 March 2013	10259/8.11	Haward Horological – repair of church clock	£210.00
27 March 2014	10293/8.1.1	Haward Horological Ltd - Maint. of church clock	£210.00
26 March 2015	10328/8.1.9	Haward Horological Ltd. Maint. of church clock	£210.00
11/02/2016	EC234/7	Church Warden Paul Bevan had reported that the clock had stopped. He instigated an early service and the repair, an additional £40, which was approved by the Estates Committee, a total of £250. This to be passed for payment at the next Parish Council meeting.	
25/02/2016	10362/8.1.3	Howard Horological - Church clock repair	£250.00
22/02/2018	10436/9.1.7	Haward Horological – Church clock service	£250.00

31 JANUARY 2018

L01-18 | 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.