

LOCAL AUTHORITY SUPPORT FOR CHURCHES IN ENGLAND

Recent cases of refusal to provide financial assistance on the grounds it is not legal

HRBA Note of Findings, with details of selected cases

1 Background

Over the years, many Parish Councils (PCs) and other Local Authorities (LAs) in England and Wales have given financial grants to local places of worship, to help these buildings continue to provide benefit to the community. But it is now widely suggested that on the basis of s.8(1)(i) of the Local Government Act 1894, LAs in England and Wales do not have the power to make such grants.

In order to better understand how this plays out on the ground, on 3 October 2022 the Historic Religious Buildings Alliance (HRBA) asked for cases within the last five years where

‘churches have been discouraged from considering making a grant application or a parish council has turned an application down, where the grounds in either case were that the parish council (or other local authority) does not have the legal right to make a grant to a place of worship’

This note explains what has been learnt from the responses, the aim being to understand what types of problem are arising, not to obtain a statistically valid sample.

2 What the cases tell us

The cases all relate to the presumed lack of power of LAs in England and Wales to make a grant, though the cases happen all to be from England. They show that:

1. Grants that were once available no longer are, as some LAs have quite recently changed policy following advice, from e.g. the National Association of Local Councils (NALC).
2. PCs are refusing to grant aid a wide range of expenditure, not just work on buildings.
3. There is muddle about the scope of this supposed prohibition, for example whether it does or does not apply to the maintenance of open graveyards. (Closed graveyards are outside the scope of our enquiry.)
4. One Town Council refuses to fund property ‘owned by the Church’ but does not have a corresponding restriction on other faith groups.
5. There is uncertainty about the law: we know of one PC which sought legal advice and in the light of that decided to continue grant support after first being told it was not legal.
6. LAs have sometimes found what they regarded as workarounds e.g. funding free-standing furniture on the basis it is not fixtures and fittings (CASE A, page 4). Even less satisfactorily, we know of a couple of cases where PCs actively colluded with applicants to keep a (smallish) grant beneath the audit radar (CASE B, page 4).

7. LAs seem usually *not* to find any way around the supposed prohibition. It is noticeable that they often express genuine regret that they are unable to help.

One might say that charities providing community benefit are being systematically discriminated against on the basis of their religious affiliation.

3 Why this matters

We do not know how many applications are being refused, or actively discouraged after initial enquiry. In fact, estimating this number would not be useful, as we are certain that many *potential* grant applications are not even being considered, as it is now well known within the sector that for example the NALC in England (and One Voice Wales in Wales) advise that the relevant local authorities have no powers to make a grant to a church.

Thus this interpretation of the law is actively suppressing a grassroots funding mechanism that – at no cost to central government – can give local people a hand in shaping the place in which they live, through Parish Councils helping the voluntary carers of what are often iconic buildings to continue to provide benefit of various kinds to the community.

This is a cause for concern, particularly as we believe that LAs, especially in their lower tiers such as PCs, are well placed to help sustain the community value of historic religious buildings: PCs have democratic legitimacy, continuity, access to people, financial resources, and love of place.

Clarification of the law was recommended nearly five years ago in the government-sponsored Taylor Review into the *Sustainability of English Churches and Cathedrals* (DCMS, 2017). We believe an appropriate amendment can and should be introduced into the Levelling Up Bill.

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The HRBA is an independently funded group within the Heritage Alliance

Annex: Cases on following pages

ANNEX: Cases where a grant was refused or an application actively discouraged

The following cases, all occurring in England within the last few years, show various situations in which grants are being refused, or applications actively discouraged, because the Parish Council (or in three cases, the Town Council) believes it does not have the power to make grants to a church.

The column headed ‘Stopped?’ shows whether that particular Local Authority has previously given routine financial support to the applicant for the purpose requested and has now stopped, or whether this is the first such application (in recent times). Note that all churchyards/graveyards mentioned in this table are open, not closed.

Table of cases where a grant was refused or application actively discouraged by a Parish Council on grounds of lack of power (details of selected cases on following pages)

| Population (approx.) | What was not funded on legal grounds | Stopped? or first such?* | Comment |
|----------------------|---|--------------------------|---|
| 300 | <u>CASE C</u> Churchyard maintenance | STOPPED | Routine support previously |
| 350 | Mowing/upkeep of graveyards | - | ‘Steadfast refusal’ on grounds of not having legal power |
| 500 | <u>CASE D</u> Disabled toilet in church hall | 1st | Hall is not a worship space and is used by secular groups |
| 550 | Maintenance of graveyard | STOPPED | NALC advice to stop support |
| 570 | Repair graveyard boundary wall | 1st | |
| 700 | Manage graveyard | STOPPED | Routine support previously |
| 700 | Clock refurbishment | 1st | |
| 800 | Grass cutting in graveyard | STOPPED | Routine support previously |
| 1,000 | Various building repairs, and churchyard repairs | 1st | PC <i>does</i> fund churchyard maintenance |
| 1,100 | <u>CASE E</u> Dealing with unsafe trees in churchyard | 1st | |
| 1,500 | Repairs to building | STOPPED | Support stopped on NALC advice |
| 1,500 | <u>CASE F</u> Stage and toilets in nonconformist hall | 1st | Hall (not worship space), history of village pantomimes etc |
| 1,500 | <u>CASE G</u> Kitchen and toilets in church for community use | 1st | Church holds weekly coffee morning, wants to expand. No village café/shop. |
| 17,000** | Make church hall suitable for Guides and Scouts | 1st | NALC advice that grant not legal |
| 20,000** | Annual clock servicing | STOPPED | Auditor stopped further payments |
| 30,000** | <u>CASE H</u> Policy | - | “cannot provide funding for maintenance or improvement of property owned by the Church” |

* Has there been routine support from this LA to this applicant in the past for this purpose, with refusal now stopped on the ground of lack of powers? Or is this the first such application in recent times? **Town Council, not Parish Council

DETAILS OF SELECTED CASES (ANONYMISED)

Quoting the email sent to HRBA in response to a request for examples
Headings and emboldening are HRBA's

A. An example of deliberate workaround

Baptist Church. Town in Shropshire, population 11,000

Dear Trevor and Becky

Just responding to your email sent via the HRBA office.

We recently had a 250K extension put on our church.

20K came from one local town council - no problems

a further 20K came from ----- parish council.

Their understanding was that they were not permitted to contribute to the building itself, but they could provide funding for anything which was not fixtures and fittings. So they provided funding for free-standing kitchen and other furniture.

B. An example of keeping under the audit radar

Village in Somerset, population 1200

----- Churchyard is open. For many years ----- Church have received a grant from the Parish Council towards the maintenance of the Churchyard, however in March of this year we received an email from the Parish clerk saying that the Parish Council auditor had advised that this was not legal. We have since met with the Parish Council Clerk and **as long as we word it correctly** - we should be able to receive a donation for grass cutting and strimming of the Graveyard. **(I must not mention grant/maintenance/Churchyard in my letter)**

C. Cessation of routine grant for churchyard maintenance

Village in Bedfordshire, population 300.

Hello

I am churchwarden at ----- . Our Parish Council normally donate £500 towards churchyard maintenance. **They are not giving us anything this year based on the Act of 1894.**

D. Refusal to fund disabled toilet in hall

Village in Somerset, population 500

Becky

Briefly, ----- Parish Council have some funds generated from planning permissions (Community Infrastructure Levy) burning a hole in their pocket!

St Michael's PCC has applied for £10k funding towards £17.5k cost of installing disabled toilet facilities into The Old School. This building was erected by the Rector in 1843 (he had 12 children to educate!), serving as a school until 1950s. It abuts the churchyard and is owned by the diocese.

Our application has been declined because the Parish Council believe they are precluded from making a grant to a place of worship.

The Old School, which is maintained by the PCC, is used for social activities / meetings / Tai Chi for groups as well as PCC but not as a place of worship.

Is this the type of case which might be of interest?

E. Dealing with unsafe trees in churchyard – PC sympathetic, against law to help

Village in Cambridgeshire, population 1,100

Dear Becky

We had a situation arise earlier this year when a group of villagers expressed concern about the safety of a number of lime trees in our churchyard. The tree specialists recommended substantial reductions or felling. The PCC did not have the funds to carry out this work and asked the Parish Council for financial support.

The Parish Council were sympathetic to our cause but said they were unable to help as they were concerned it could be regarded as against the law.

No funding was received and the situation with the trees remains unresolved.

F. Methodist Hall used by wider community – new stage and toilets – illegal to support

Methodist Hall. Village in Yorkshire, population 1,500

Hi HRBA

I applied for a grant towards a new stage and toilets for ----- Methodist Sunday School from --
----- parish Council in 2021. **We were refused on the grounds that the council could not legally support us** The building has always been used by the wider community for pantomimes etc.

G. Refusal to consider grant towards installation of facilities for community use on grounds illegal

Village in Somerset, population 1,500

Dear Becky

Application to parish council Feb 22 for a grant towards the installation of kitchen and toilets in the Church building for community use. (No cafe/coffee shop in the village, coffee morning runs one morning a week from the Church for the community, very well supported and we wanted to improve the facility) **Clerk replied saying that legally the Parish Council could not support - I don't believe that the application ever got to the Parish Councillors.**

H. Explicit refusal to fund 'property owned by the Church'

Town in Worcestershire, population 30,000

Hi,

In our area, ----- Town Council won't provide any grants for any work that involves a church building as they say they are precluded from doing so. The exact line in the grant applications form states:

“-----**Town Council cannot provide funding for maintenance or improvement of property owned by the Church.**” They cite the following legislation - <http://www.legislation.gov.uk/ukpga/Vict/56-57/73> - even though I've argued against it, and pointed out the inconsistencies of their approach. In our area, its used as direct discrimination against churches.