

1 SEPTEMBER 2014

LTN 3 | 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, sex, 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:
 - a. the Secretary of State;
 - b. the Local Government Boundary Commission for England
 - c. the Office of National Statistics;
 - d. the Director General of the Ordnance Survey;
 - e. 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:
 - a. by establishing an unparished area as a parish;
 - b. by aggregating one or more unparished areas with one or more parished areas;
 - c. by aggregating parts of parishes;
 - d. by amalgamating two or more parishes;
 - e. 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 (see: 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:
 - a. Allotments: a parish meeting may hold and administer allotments for cultivation (s.33(3) Small Holdings and Allotments Act 1908);
 - b. 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);
- c. 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);
 - d. Charities: a parish meeting may appoint trustees to parochial charities (s. 299 of the Charities Act 2011).
 - e. 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.
 - f. 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;
 - g. Lighting: a parish meeting may light roads and other public places in the parish (s.3 of the Parish Councils Act 1957);
 - h. 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);
 - i. 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

- j. 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	Advises 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.