

MAY 2019

## **LTN 21 | LOCAL COUNCIL HELP TO VILLAGE HALLS**

### **Introduction**

1. The relationship between village halls and local councils is, in many ways, a special one. Village halls or community centres provide a venue at low cost for a wide variety of local organisations and community activities in general. Local councils often provide financial support or give other assistance to help in the running of a village hall.
2. The provision of a village hall fulfils one of the powers conferred on a local council under section 133 Local Government Act 1972 ('the 1972 Act') (Provision of parish and community buildings).
3. Under section 139(1)(b) of the 1972 Act, a local council can act as the custodian trustee of a village hall, because it benefits all or some of the people living in its area. If a council is the custodian trustee of a village hall, used for charitable purposes, ownership of the hall is vested in the council. The council has no legal role in the management of a village hall but it must follow any lawful directions from the managing trustees for the hall.
4. A local council, whether it is a custodian trustee of a village hall charity or not, is often entitled under the charitable trust deed or other governing document which established the charity, to, along with other local organisations, nominate person(s) to the committee of trustees that manages the village hall. The persons nominated become charity trustees with a duty to the charity and not to the local council which nominated them (see LTN 28 - Basic Charity Law).

### **Grant Aid**

5. Section 19(3) of the Local Government (Miscellaneous Provisions) Act 1976 ('the 1976 Act'), gives a local council the power to make grants to voluntary organisations (i.e. whose activities are not for profit) such as a village hall charity so they can provide the sort of recreational facilities which the local council can provide.. For example a local council may make a grant to a voluntary organisation that wishes to provide equipment, food and drink, and car parking spaces for a club with social/recreational object(s) which meets in the village hall. There is no limit on the amount that may be given. Where a large amount of work is to be undertaken a grant from a council

may encourage another authority or organisation to contribute a further grant.

### Loans

6. Also under section 19(3) of the 1976 Act, a local council may make loans to voluntary organisations in relation to running village halls. This may be a direct loan during the current year, from accumulated revenue, or unspent capital receipts. A financial risk assessment will be necessary to justify the terms and any security for the loan. Such a loan is measured against the need for the prudent management of the council's resources. As a loan to another body is not capital expenditure (unlike a grant), a parish council cannot borrow for that purpose (see the Local Government Act 2003 and regulation 25(2) of the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 as amended or regulation 20(4) of Local Authorities (Capital Finance and Accounting) (Wales) Regulations 2003 as amended.

### Reclaiming VAT

7. A local council which purchases equipment or building materials or pays for building work for a village hall may reclaim VAT under section 33 of the Value Added Tax Act 1994, provided that all following conditions are met:-
  - a) The goods and services are ordered by and supplied to the council in its own name (with the VAT invoice made out in the name of the council);
  - b) The goods and services are paid for out of the council's own funds or those of another local authority or central government;
  - c) The council gives or loans the goods or services to the village hall and does not recover any of its costs from the village hall committee or from a private individual or another voluntary body that obtains any direct benefit from the use of those goods and services;
  - d) Where a project is part funded by the village hall, the council contracts to carry out a specified part of the work or to purchase specified materials *before* the project commences.

### Planning Permission

8. A local council pays only half the cost of fees for planning applications by virtue of the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012

Schedule 1 Part 1 Paragraph 2 of The Town and Country Planning (Fees for Applications, Deemed Applications and Site Visits) (Wales) Regulations 2015 Schedule 1 Part 1 whereas a village hall committee must pay the full fee. A council can therefore help a village hall needing planning permission by making an application in its own name instead. Planning permission is granted for the land or premises concerned and not the individual applying, so there is no need for the council to apply on behalf of the village hall.

The council may choose to bear the reduced cost of the fee or reclaim it from the village hall committee.

### Local Leadership

9. A local council can give practical help to the running of a village hall charity in many ways. For example:
  - The council nominee who is a trustee on the committee managing the village hall may use their role on both bodies to encourage the council (subject to declaring an interest), local people and organisations in the village hall area to use and support activities and events in the village hall – the trustee acts independently of the council when acting as trustee;
  - A council can help a village hall charity by calling a parish/community meeting, and asking local residents to support activities and events in the village hall or to help organise fund raising activities;
  - A council can help establish or support a new activity in the village hall and provide a grant to assist in some of the start up costs. The council's noticeboards and other facilities may be made available to village organisations, at no cost, to promote their activities.
  - A council may, under a licence agreement with the village hall charity, use the hall for its meetings. Any such payments will contribute to the village hall charity's income.

### Support in dealing with other organisations

10. Local councils can provide advice and information about who in other local authorities deal with matters concerning village halls and can support a village hall's case if it is, for example, applying for 100% rate relief for grant aid (village halls, as charities, receive a mandatory 80% rate relief but district councils have discretion to grant a further 20% relief).

## Conflicts of interest

11. In order for a council to decide whether to give financial assistance to a voluntary organisation (which may include a charity) that runs a village hall, a motion to do so must be included in the agenda for the council meeting. If a voluntary organisation or village hall charity asks a local council for financial help, a councillor who is involved in the management or control of the voluntary organisation or who is a trustee of a village hall charity may request such a motion to be included on the agenda for a council meeting. But such a councillor has a conflict of interest in a council decision to give financial assistance to the voluntary organisation or charity. Most charity trustees do not undertake their office for profit or gain but work unpaid. Even if their expenses are met from the funds of the charity, most charity trustee's work will not be carried out for profit or gain.
12. In England, a member has obligations contained in the Localism Act 2011 (the 2011 Act) concerning disclosable pecuniary interests as defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. The definitions of disclosable pecuniary interests are given in NALC's Legal Briefing L10-12. If a councillor is a village hall charity trustee for profit or gain (for more information see Legal Topic Note 28 Basic Charity Law) or a councillor is a director of a village hall charitable company and a council meeting is making a decision about a contract for goods and services between the parties or about a tenancy in which the council is the landlord and the charitable company is the tenant, the councillor cannot, without a dispensation from the parish council, participate or vote on the issue because they have a disclosable pecuniary interest. In England, the code of conduct adopted by a council under section 27(2) of the 2011 Act may restrict a councillor's right to participate and vote at a council meeting that is making a decision to give financial help to a charity of which they are a charity trustee without profit or gain or because they are a trustee of an unincorporated village hall charity. A council's code of conduct might impose similar restrictions because a councillor is also involved in the management or control of a voluntary body. If a council has adopted NALC's template code of conduct (set out in Legal Briefing L09-12), a councillor with the aforementioned interests would be able to speak on the issue only if the public have rights to speak at the council meeting. If a councillor wants to participate in the council's discussion and vote on the matter that they are prevented from doing because of an interest he/she holds, they would first need to obtain a dispensation to do so from the

council. More guidance about councillors' interests and obtaining dispensations in is Legal Topic Note 80 (Members' conduct and the registration and disclosure of their interests (England)).

13. In Wales, by virtue of section 50(2) of the Local Government Act 2000 and the provisions of the Local Authorities (Model Code of Conduct) (Wales) Order, a member cannot, without a dispensation from their principal authority's standards committee, participate or vote on a matter at a council meeting if they have a prejudicial interest in a matter arising from their management or control of a voluntary body or their appointment as a village hall charity trustee.

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

LTN	Title	Relevance
11	Celebrations and similar events	Details powers to hold events in village halls
28	Basic Charity Law	Sets out the powers of local councils to act as Custodian Trustees.
32	Local Councils and VAT	Sets out further powers of councils to reclaim VAT.
58	Planning	Sets out planning appeals process.
80	Members' conduct and the registration and disclosure of their interests (England)	Explains members' obligations under the Localism Act 2011.