

November 2007

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

Constitution and Chairman

1. The main powers are set out in sections 9 and 13 of, and Part III of, schedule 12 to the Local Government Act 1972. References in this note to sections are references to sections in that Act and references to paragraphs are references to paragraphs in schedule 12 to the Act.
2. The parish meeting of a parish consists of the local government electors for the parish (s.13(1)). Their purpose is to discuss parish affairs and exercise any statutory functions conferred on them (s.9(1)). It must assemble annually between 1 March and 1 June and on at least one other occasion during the year (paragraph s.14(1) and 14(3)) on a date to be fixed by the chairman the meeting.
3. At its annual assembly the meeting must elect a chairman, who continues in office until his successor is elected. This means that if an annual meeting is not held as required by law, the chairman may serve without re-election for more than one year. He may resign at any time by delivering a written notice to that effect to the meeting (which might have to be called specially for this purpose and also to elect a successor).
4. A parish meeting may appoint committees of electors of the parish to discharge any of its functions (s.108) but any arrangement will not prevent the meeting from exercising those functions.
5. Pursuant to s.134, a parish meeting is entitled to use a schoolroom, or a room maintained out of any rate, free of charge but subject to the payment of expenses (i.e. on the same terms as a parish council – see paragraphs 6 to 9 of LTN 5 (Parish Town and Community Council Meetings)). Meetings may not be held in licensed

premises which may be used for the supply of alcohol, unless no other room is available free or at a reasonable cost (paragraph 14(5)).

6. At the request of the parish meeting the district council may change the name of the parish (s.75(1)).

Parish Meetings as Bodies Corporate

7. A parish **council** is a body corporate (s.14(2)). A parish **meeting** may, or may not, be a body corporate; depending on whether there is a parish council in the area. If there is a parish council in the area the parish meeting is **not** a body corporate but if there is no parish council in the parish the parish meeting **is** a body corporate. In the latter case (i.e. where there is no parish council in the area) the chairman of the parish meeting and the proper officer of the district council are the body corporate; and known as “the Parish Trustees” (s.13(3)).
8. Even though a parish meeting is not a body corporate, it is, nevertheless, recognised as local government body or a public authority for a number of statutory purposes (e.g. Freedom of Information Act 2000). They are capable of mounting legal claims in their own name (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.

Parish Trustees

9. Any parish property is held ex-officio by the chairman for the time being of the Meeting and the proper officer of the district council (i.e. a person appointed by that council) in their capacity as ‘Parish Trustees’ (see para. 7 above). The 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 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.

Establishment and Dissolution

10. Where a parish contains more than 150 but fewer than 200 local government electors, the district council must establish a parish council if the parish meeting so resolves (s.16(2)(b) Local Government and Rating Act 1997). Where a parish contains fewer than 150 electors the district council may establish a parish council if the parish meeting so resolves (s.16(4) Local Government and Rating Act 1997).
11. The district council may establish a common council for a group of two or more parishes but only with the consent of the parish meetings (s.11(2)). A common council may be dissolved by the district council at the request of the common council or at the request of a parish meeting included in the group (s.11(4)).
12. Where the number of electors in a parish with a separate council does not exceed 150 the parish meeting may request the district council to dissolve the parish council. If the district rejects the request a further request cannot be made for two years (s.10).

Finance

13. A parish meeting may precept the district council for the funds necessary to cover its expenses (s.39 Local Government Finance Act 1992). The chairman signs the precept.
14. The accounts of a parish meeting are subject to audit in the same way as those of parish councils (s.2 Audit Commission Act 1998, Sched 2(1)(c)) and the chairman is the responsible officer (The Accounts and Audit Regulations 2003 no. 533).

Functions and Powers

15. Parish meetings have a number of functions, powers and rights of notification or consultation conferred directly by statute or acquired by inheritance from pre-1894 authorities. These are as follows:

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

Alteration of Boundaries: a parish meeting must be consulted by the district council on a review of boundaries (s.15(4)(b) Local Government Act 1992);

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 LGA 1972);

Cemeteries and crematoria: power to adopt byelaws made by a district or London borough council or the City of London (Para 11(1) of schedule 26 to the LGA 1972);

Charities: a parish meeting has the same powers as a parish council to appoint trustees to parochial charities. The audited accounts of all parochial charities (except those for the relief of poverty) must be sent to the chairman of the parish meeting who must lay them before the next meeting (s.79(2) of the Charities Act 1993);

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) LGA 1972). (See further LTN 65 Closed Churchyards and Disused Burial Grounds) i.e. by serving written request on the chairman of the meeting;

Commons: a parish meeting may be registered as the owner of common land if it has inherited ownership from the appropriate pre-1894 authority (often the Churchwardens and Overseers of the Poor) (s.67 LGA 1894);

Land: 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. A parish meeting may dispose of land on the same conditions applicable to parish councils (s.126 LGA 1972). (See also LTN 45 Disposal and Appropriation of Land by Local Councils);

Licensing: a parish meeting may be an “interested party” and may be consulted in respect of applications for premises licenses pursuant to Part 3 of the Licensing Act 2003 (s.13(3) LA 2003);

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

Open Spaces: the county council may contribute to expenses incurred by a parish meeting in providing a public open space (16 Open Spaces Act 1906).

Rights of Way: a parish meeting is entitled to be notified of a public path creation order; an extinguishment order, a diversion order or a definitive map modification order. In relation to the last named, the meeting is also entitled to be consulted by the county council before the order is made (Part III Wildlife and Countryside Act 1981 and Schedule 15);

Village Greens: a parish meeting may prosecute a person who damages or encroaches upon a village green in the parish and thus commits an offence under section 12 of the Inclosure Act 1857 or section 29 of the Commons Act 1876. 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 parish (s.1 War Memorials (Local Authorities' Powers) Act 1923).

Acquisition of Additional Functions

16. On the application of the parish meeting the district council may confer any function of the parish council by order on the parish meeting, subject to the provisions of any grouping order if the parish is grouped with another parish. In the absence of such an order, the parish meeting has only the powers specified in paragraph 15 of this LTN above.

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
5	Parish Town and Community Council Meetings	Sets out the (identical) terms on which local councils may use premises for meetings.

15	Legal Proceedings	Sets out the procedure for judicial review
32	Local Councils and VAT	Gives advice in respect of VAT issues.
45	Disposal and Appropriation of Land by Local Councils	Sets out the procedure for disposing of an 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 of parish meetings in respect of closed churchyards and burial grounds.

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