

By Email only – Ian Dewar, CEO, CAPALC

01/11/2016

Our Reference: Cambs 16/271

Your Reference: 2016 10 13

Dear Ian

Client: CAPALC

Subject Matter: Providing funds to churches

Thank you for your instructions received on 13 October 2016 requesting advice in relation to the giving grants/funds to churches. The following advice is made on the information that was provided by that email, and I have not had sight of any other information nor documents with regards to this matter.

The funding guide is not quite correct, in that they have overlooked section 8 Local Government Act 1894, which states that the Council can:

“...execute any works (including works of maintenance or improvement) incidental to or consequential on the exercise of any of the foregoing powers, or in relation to any parish property, not being property relating to affairs of the church or held for an ecclesiastical charity;”

The Council cannot contribute towards the cost of any church buildings and property. This section applies to local councils only, not principal authorities. Local Councils also have the responsibility of maintaining closed churchyards under s215 Local Government Act 1972, if asked to by the parochial church council.

As they have correctly stated, section 137(1) of the Local Government Act 1972 enables a council to incur expenditure which in its opinion is in the interests of, and will bring direct benefit to, the area or any part of it or all or some of its inhabitants. The Council is reminded that expenditure is capped in accordance with the s.137 limit (£7.42 per elector for the financial year 2016-17) and the direct benefit must also be commensurate with the expenditure to be incurred. Section 137 could, for example, be used to gift funds for a new park bench in a churchyard. However, s137 cannot be used to give money for works relating to affairs of the church as expressly prohibited under s8 above.

Whilst the Council is able under s137 LGA 1972 to incur expenditure for certain purposes that are not otherwise authorised, this is not without certain restrictions, explained fully in

our Legal Topic Note 31. The Council needs to be certain of the purpose of their gift, as well as the nature of the group it intends to donate to. The Council is recommended to make use of our legal guidance on s137 LGA 1972, available from our website www.nalc.gov.uk/members-area/legal

I reiterate that s8 LGA 1894 prevents the Council from contributing towards the cost of any church buildings and/or property.

I hope this advice has been of assistance.

Yours sincerely

Gurvynda Paddan-White
Solicitor