

April 2011

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

### Constitution, legal status and proceedings

1. The main powers are set out in sections 9 and 13 and Part III of schedule 12 to the Local Government Act 1972 as amended (“the 1972 Act”). Unless indicated otherwise, references in this note to sections are references to sections in the 1972 Act and references to paragraphs are references to paragraphs in schedule 12 to the 1972 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)). The 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)).
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 (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. 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 paragraph 9 of LTN 5 - Parish

Town and Community Council Meetings). Meetings may not be held in premises licensed for the supply of alcohol, unless no other room is available free or at a reasonable cost (paragraph 14(5)).

5. 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. The parish meeting may, subject to the provisions of the 1972 Act, regulate their own proceedings and business (paragraph 20 (2)).
6. Whereas a parish council is a body corporate (s.14 (2)), a parish meeting may, or may not, be a body corporate - depending on if there is a parish council in the parish. If the 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 council are the body corporate of the parish meeting and are known as “the Parish Trustees” (s.13 (3)).
7. Any parish property is held by and vested in the ownership of the parish trustees, namely 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). 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 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.
8. Parish meetings are recognised as 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 must not as employers or in the provision of services or in the exercise of functions of a public nature, discriminate against a person for reasons including but not limited to his or her disability, sex and race, religion or belief. They 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).

9. At the request of the parish meeting, the district council may change the name of the parish (s.75(1)). The district council must give notice of any change of name to the Secretary of State, to the Director General of the Ordnance Survey and to the Registrar General. The district council must also publish the change of name in the parish and elsewhere in such manner as it considers appropriate. (s.75 (2)).
10. A parish meeting may, by resolution, have an alternative style being a “community”, or a “neighbourhood” or a “village” (ss. 12A and 17A). A single resolution may provide for a parish to cease to have such an alternative style, and resolve to have another of the alternative styles instead. 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—
- the Secretary of State;
  - the Local Government Boundary Commission for England
  - the Office of National Statistics;
  - the Director General of the Ordnance Survey;
  - any district council, county council (or London borough council) within whose area the parish lies.
11. With reference to paragraph 6 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)). Similarly, 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 of area and abolition**

12. A new parish may be created as a consequence of a community governance review undertaken by a principal council (i.e. a district council, unitary county council and a London borough council) under Part 4 of the Local Government and Public Involvement in Health Act 2007 (“the 2007 Act”). A new parish may be created in any one of the following ways—
- by establishing an unparished area as a parish;
  - by aggregating one or more unparished areas with one or more parished areas;
  - by aggregating parts of parishes;

- by amalgamating two or more parishes;
- by separating part of a parish.

The community governance review must decide the name of the new parish and whether it should have the style of a community, or a neighbourhood or a village. For further guidance, see LTN 73 - Community Governance Reviews and LTN 74 - Alternative Names and Styles for Parish Councils.

13. The district council (or London borough 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 (or London borough council) at the request of the common council or at the request of a parish meeting included in the group (s.11(4)).
14. Where the number of electors in a parish with a separate council does not exceed 150, the parish meeting may request the district council (or London borough council) to dissolve the parish council (s.10(1)). If the district council (or London borough council) rejects the request, a further request cannot be made for two years (s.10(2)).
15. A community governance review, pursuant to the 2007 Act, undertaken in relation to an existing parish may result in its abolition or in the area of the parish being altered. For further guidance see also LTN 73 - Community Governance Reviews.

## **Finance**

16. 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.
17. 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 and schedule 2, para (1) (c)) and the Chairman is the responsible officer (The Accounts and Audit Regulations 2003 no. 533).

## Functions and Powers

18. 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 include:

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

*Bus Shelters* - a parish meeting may provide and maintain a bus shelter (s. 4 of the Local Government (Miscellaneous Provisions) Act 1953 and s.179 of the 1972 Act);

*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);

*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 1972 Act);

*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) 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.

*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) pursuant to s.67 of the Local Government Act 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 of the 1972 Act). 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 (s.13(3) of the Licensing Act 2003);

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

*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 (ss.1 and 4 of the War Memorials (Local Authorities’ Powers) Act 1923).

### **Acquisition of Additional Functions**

19. 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 (s.109). The district council must send two copies of any order made under s.109 to the Secretary of State. In the absence of such an order, the parish meeting has only the powers specified in paragraph 18 above.

### **Value Added Tax**

20. 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:**

<b>LTN</b>	<b>Title</b>	<b>Relevance</b>
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.
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 of parish meetings in respect of closed churchyards and burial grounds.
73	Community Governance Reviews	Details the process whereby a new parishes may be created pursuant to the Local Government and Public Involvement In Health Act 2007.
74	Alternative names and styles of parish councils	Explains the different styles of parish meetings for newly created parishes pursuant to the Local Government and Public Involvement In Health Act 2007.
78	Equality Act 2010	Explains statutory obligations imposed on parish meetings which are aimed at preventing discrimination and promoting equality.