

247.1 ii) Clavering Parish Churchyard Funding

**Back ground information on motion to provided financial assistance for the maintenance of the Churchyard.**

Our Churchyard is particularly large and requires many hours of effort, and considerable machinery costs to maintain it in an appropriate manner.

The Churchyard includes three much used public footpaths and of course is well used by people visiting and maintaining graves. Dog walkers and general walkers are often to be seen enjoying the churchyard and its facilities, the more so as people move into the new houses. And in the end it provides a burial site for all of us of whatever faith, or none at all, should we so wish,

For many years the Clavering Parish Council, like many others throughout the Country, made an annual contribution towards the maintenance of the Churchyard and the Church clock.

Around 2018 - someone – somewhere - spotted an anomaly based on an obscure 1894 Act of Parliament which, it was argued, prohibited parish councils making such contributions. The argument was set out in a NALC document available on various Council websites.

In 2018 our Council made a payment but elected not to continue with this payment after the publication of the NALC document, although provision was made for it in the budget the following year. Thereafter no provision was made in successive budgets.

Meanwhile many other Parish Councils, both nationally and locally, continued to make similar donations to assist in the maintenance of their Churchyards. Marstow Parish Council for example, gave serious consideration to the matter and published their position in October 2021, see their website.

Late last year the efforts of various concerned people bore fruit, when the Levelling up and Regeneration Act 2023 included in Section 82, an amendment to Section 19 of the 1894 Act. The Act received Royal Assent on 26<sup>th</sup> October 2023 and the relevant part came into effect on 26<sup>th</sup> December 2023. This effectively removed any legal barrier to the Parish Council providing financial assistance towards the maintenance of our Churchyard. The relevant legislation is Local Government Act 1894 (19A) (1)

The NALC revised their advice in line with legislation see NALC website

The position is perhaps more clearly put in an article in the Church Times copy attached  
It should be remembered that should our Churchyard be closed, perhaps due to lack of funds, then the Parish Council may find itself solely responsible for the maintenance of the Churchyard.

It has been suggested that Councillors who are members of the Church congregation might have an interest in this matter. Whilst I personally don't feel that I have an interest, should others have worries, we could apply to the District Council Monitoring Officer for a Dispensation. The relevant legislation is attached.

Advice from NALC on grants to a church.

<https://www.nalc.gov.uk/resource/power-to-fund-works-to-property-relating-to-affairs-of-the-church-or-held-for-an-ecclesiastical-charity-england.html>



[Power to fund works to property relating to affairs of the church or held for an ecclesiastical charity \(England\)](#)

The advice note is on the power to fund works to property relating to affairs of the church or held for an ecclesiastical charity in England.

[www.nalc.gov.uk](http://www.nalc.gov.uk)

**Power to fund works to property relating to affairs of the church or held for an ecclesiastical charity (England)** This advice note was written by our in-house solicitors and last updated on 20 December 2023. *The information and commentary in the note do not constitute legal advice for any individual case or matter. For specific advice on your circumstances, we strongly encourage you to seek tailored legal advice*

**Introduction** The Levelling-up and Regeneration Act (the 2023 Act) received Royal Assent on 26 October 2023. Section 82 of the 2023 Act amends the Local Government Act 1894 (the 1894 Act) by inserting a new Section 19A into it. Section 19A comes into force on 26 December 2023. The wording of Section 19A is in the Appendix at the end of this briefing.

The government's view is that its amendment in Section 19A clarifies that the 1894 Act does not affect the discretionary powers of parish councils in England to fund church repairs or improvements or property held for an ecclesiastical charity. NALC recommends that its members adopt the government's view when they receive funding requests. This means councils can use their discretionary powers to fund such property, including that of other Christian denominations and non-Christian faiths. It applies in the case of:

- Specific powers to fund works — For example, repairs to clocks fixed to church property (section 2 of the Parish Councils Act 1957) and the maintenance of open churchyards (Section 214 of the Local Government Act 1972 (the 1972 Act)).
- General powers to fund works where works are not covered by a specific power — Section 137 of the 1972 Act and the general power of competence can also be used by councils to fund requests for works not covered by specific powers.

## **What will parish and town councils need to consider when receiving funding requests?**

Councils need to consider requests for church property or property held for an ecclesiastical charity as they would any other funding request. Funding powers, further to section 19A of the 1894 Act coming into force, are discretionary. Parish and town councils are not under any additional duties due to the 2023 Act and the insertion of Section 19A into the 1894 Act.

Our [advice note](#) sets out the issues councils need to consider when relying on general power. These include the direct benefit of expenditure accruing to a council's area or residents being commensurate with the expenditure incurred in respect of Section 137.

## **Appendix**

19A — Powers under other enactments:

1. Nothing in this Part affects any powers, duties or liabilities conferred on a parish council by or under any other enactment (whenever passed or made).
2. This section does not apply in relation to community councils (see Section 179 of the Local Government Act 1972).