

## PARISH/TOWN COUNCIL POWERS AND DUTIES – plus S137 EXPLAINED.

A wide range of Powers and Functions are provided by Statute

<b>FUNCTION</b>	<b>POWERS AND DUTIES</b>	<b>STATUTORY PROVISIONS</b>
Allotments	Powers to provide allotments. Duty to provide allotment gardens if demand unsatisfied	Small Holdings and Allotments Act 1908 ss 23, 26 & 42
Baths & Washhouses	Power to provide public baths and washhouses (i.e. laundrettes)	Public Health Act 1936 ss 221, 222, 223 & 227
Burial Grounds, Cemeteries and Crematoria	Power to acquire and maintain. Power to provide.  Power to agree to maintain monuments and memorials  Power to contribute towards expenses of cemeteries	Open Spaces Act 1906 ss 9&10; Local Government Act 1972 s214.  Parish Councils & Burials Authorities (Misc. Provisions) Act 1970 s 1  Local Government Act 1972 s 214 (6)
Bus Shelters	Power to provide and maintain shelters	Local Government Misc. Provisions Act 1953 s 4
Bus Services	Power to make grants of money (though not of a capital nature) for bus service appearing to be for the benefit of people living in the council's area or community bus service (mini buses run on non-profit basis & catering for social and welfare needs of one or more communities)	Local Government Rating Act 1997
Byelaws	Power to make Byelaws in regard to: Pleasure Grounds Baths and Wash houses Open Spaces & Burial Grounds Mortuaries & Post Mortem Rooms Cycle Parks	Public Health Act 1875 s 164 Public Health Act 1936 s 223 Open Spaces Act 1906 s 15 Public Health Act 1936 s 198 Road Traffic Regs. Act 1984 s 57(7)
Car Sharing Scheme	Power to establish and maintain, or to assist others, in car-sharing scheme for the benefit of persons in council's area. Schemes whereby private cars are made available for use on journeys where one or more passengers may be carried at separate fares	Local Government and Rating Act 1997
Chairman's Allowance	Power to pay the chairman reasonable allowance	Local Government Act 1972 s 15(5) and 35 (5)
Commons & Common Pastures	Powers in relation to Enclosure as to regulation and management and as to	Enclosure Act 1845; Local Gov Act 1894 s 8 (4); Smallholdings &

	providing common pasture	Allotments Act 1908 s 34
Conference facilities	Power to provide conference facilities & encourage the use of	Local Gov Act 1972 s 144
Community Centres	Power to provide and equip buildings for use of clubs having athletic, social or educational objectives	Local Gov (Misc. Provisions) Act 1976 s19
Compulsory Purchase	Power to ask district council to compulsory purchase on behalf of the parish council if it is unable to acquire land by agreement	Local Govt Act 1972 s 125
Councillors' Allowances	Power to pay allowances and travelling and subsistence to elected members	The Local Authorities (Members' Allowances)(England) Regulations 2003
Crime Prevention	Power to install and maintain equipment with view to preventing and detecting crime in own area; may make grants of money to police authorities.	Local Govt Rating Act 1997
Drainage	Power to deal with ponds and ditches	Public Health Act 1936 s 260
Entertainment & the Arts	Provision of entertainment and support of the arts	Local Government Act 1972 s 145
Gifts	Power to accept	Local Government Act 1972 s 139
Highways	Power to repair and maintain public footpaths and bridleways. Power to light roads and public places Provision of litter bins Power to provide parking places for vehicles, bicycles and motor cycles Power to enter into agreement as to dedication and widening. Power to provide roadside seats and shelters and omnibus shelters Power to complain to district council as to protection of rights of way and roadside waste. Consent of parish council required for ending maintenance of highway at public expense, or for stopping up or diversion of highway. Power to provide traffic signs and other notices Power to plant trees etc and to maintain roadside verges. Power to fund traffic calming measures	Highways Act 1980 ss 43 50  Parish Councils Act 1957 s3 Highways Act 1980 s 301 Litter Act 1983 ss 56 Road Traffic Regulations Act 1984 ss 57, 63  Highways Act 1980 ss 30, 72  Parish Councils Act 1957 s1  Highways Act 1980 s 130  Highways Act 1980 ss 47, 116 Road Traffic Regs Act 1984 s 72 Highways Act 1980 s 96 Local Government and Rating Act 1997, s 30
Land	Power to acquire land by agreement, to appropriate, to dispose and power	Local Govt Act 1972 ss 124, 126, 127



	to accept gifts of land.	Local Govt Act 1972 s 139
Litter	Provision of receptacles	Litter Act 1983 ss 5,6
Lotteries	Power to Promote	Lotteries and Amusements Act 1976 s 7
Mortuaries/ post mortem rooms	Power to provide mortuaries and post-mortem rooms	Public Health Act 1936 s 198
Newsletters	Provision of information relating to matters affecting local government. District Auditor now agrees that to develop the spirit of Best Value this power may be used for parish newsletters	Local Government Act 1972 s 142
Nuisances	Power to deal with offensive ditches	Public Health Act 1936 s 260
Open Spaces	Power to acquire land and maintain	Public Health Act 1987 s 164; Open Spaces Act 1906 ss 9&10
Parish Property and Documents	Power to direct as to their custody	Local Government Act 1972 s 226
Postal and telecommunication facilities	Power to pay the Post Office, BT or any other public telecom operator any loss sustained in providing post or telegraph office of telecom facilities	Telecom Act 1984 Public Buildings and village halls s 133 Local Government Act 1972
Prosecution/defending legal proceedings	Power to prosecute or defend or appear in any legal proceedings. May institute civil proceedings in parish council name. May represent the community at public enquiries.	Local Government Act 1972 s 222
Public Buildings and village halls	Power to provide buildings for offices and for public meetings and assemblies	Local Government Act 1972 s 133
Public conveniences	Power to provide	Public Health Act 1936 s 87
Public inspection of documents	Public have the right to inspect certain documents	Local Government Act 1972 s 228
Recreation	Power to acquire land for or to provide recreation grounds, public walks, pleasure grounds and open spaces and to manage and control them.  Power to provide gymnasiums, playing fields, holiday camps Provision of boating pools	Public Health Act 1875 s 164; Local Govt Act 1972 Schedule 14 para 27; Public Health Acts: Amendment Act 1890 s 44; Open Spaces Act 1906 s 9 & 10  Local Govt (Miscellaneous Provisions) Act 1976 s 19 Public Health Act 1961 s 54
School Governors in Local Primary Schools	No longer a straightforward right of appointment but parish council may nominate for a school in its area if asked by a local school	
Staff	Power to appoint staff under reasonable terms and conditions	Local Government Act 1972 s 112
Subscriptions to SALC,	Power to subscribe to local	Local Government Act 1972 s143

NALC and other associations	government associations	
Subsidiary Powers	The power to do anything which is coincidental to the discharge of the council's functions.	Local Government Act 1972 s 111
Taxi fare concessions	Power to make arrangements with licensed taxi or hire car operator whereby he/she is reimbursed for giving fare concessions to persons resident in council area eligible to receive travel concessions under scheme established by County or District under Transport Act 1985	Local Govt Rating Act 1997
Town/County Planning	Right to be notified of planning applications	Town and County Planning Act 1990 Schedule 1 para 8
Tourism	Power to contribute to organisation encouraging tourism	Local Gov Act 1972 s 144
Traffic calming works, speed cameras, CCTV cameras etc	Power to contribute to expenditure by highway authority (principally County Council) in constructing, removing or maintaining traffic calming works, if it will be of benefit to the area.	Local Govt Rating Act 1997
Village Signs	Power to make and erect ornamental village signs under the power to encourage visitors to the locality	Local Gov Act 1972 s 144
War memorials	Power to maintain, repair, protect and adapt war memorials	War memorials (Local Authorities' Powers) Act 1923 s 1 as extended by Local Government Act 1948 s 133
Water Supply	Power to utilise well, spring or stream and provide facilities for obtaining water there from	Public Health Act 1936 s 125.

Every council needs to be aware of WHICH PARTICULAR power they are using when spending money. Councils are 'creatures of statute' and must justify each expenditure with legislation. It is good practice to include in the minute the statute relied upon when the council resolves to spend money; this provides the beginning of the audit trail for the account and audit process.

### 1.3. Section 137 Local Government Act 1972

If a council is considering expenditure for which there is no statutory power councillors may use Section 137 of the Local Government Act 1972. which states: *A local authority may, subject to the provisions of this section, incur expenditure which in their opinion is in the interests of their area or any part of it or all or some of their inhabitants, up to a total of £[redacted] per elector Register of Electors.*

\* set by ESBC each year.

The expenditure must bring some direct benefit to the area or part of it, or to some or all of the inhabitants; this means that it must be possible to point to some way in which, in the broadest sense, the area or its inhabitants will be better off as a result of the expenditure.

Direct benefit must be commensurate with the expenditure involved; it is for the council, acting reasonably, to judge whether this test is met, but they need to consider whether the expenditure is reasonable in relation to the degree of direct benefit that it will produce. Expenditure within the stated financial and legal parameters must be included within the budget of the council.

The important thing to remember is that s137 cannot be spent on an individual. E.g. a young scout may ask the council for financial help to enable a visit to an international jamboree in South America. Worthy as this may be the council cannot agree because the statute says s137 money must benefit 'some or all of the inhabitants.' However if the request came from the scout troop the parish council could consider a grant to the troop as a whole; it would then be benefiting 'some' inhabitants.



## The Local Government Act 1972 – A Summary

Section 1-16	Lays down the constitution of parish councils and parish meetings
Section 79-99	Covers qualification and disqualification, casual vacancies and resignation, interest admission
Section 100	Including/excluding the public and press (see Public Bodies (Admission to Meetings) Act 1960
Section 101	Allows a principal authority to ask any other authority to discharge a function on its behalf
Section 102 - 109	Provides for committees, standing orders and for parish meetings to have powers of parish council conferred by the district council
Section 111	Subsidiary powers for a local authority to do anything which helps it to discharge its functions
Section 112-119	The appointment of staff and insurance
Section 123-131	Governs land transactions including power to ask district council to execute a Compulsory Purchase Order on behalf of the parish council
Section 133	Provision of community buildings
Section 134	Parish council can use a school building
Section 135	Standing Orders for making contracts
Section 137	The power to provide things not otherwise authorised for the benefit of some or all of its parishioners
Section 139	Power for council to accept goods, property or money
Section 141	Power for councils to carry out research (village appraisals)
Section 142	Power to produce info: newsletters, citizens advice bureau
Section 143	Subscriptions to local government associations (i.e. NALC)
Section 144	Power to attract tourists and visitors (village signs/ Christmas lights)
Section 145	Power to promote entertainment and the arts, village celebrations
Section 214	Power to be a burial authority
Section 215	Closed churchyards
Section 222	Power to prosecute or defend in court in the interest of the public
Section 225 - 234	Custody and public inspection of documents
Section 235 - 238	Byelaws
Section 245	Power of parish councils which are not grouped with any other to become a town council and call its chairman 'Town Mayor'

**Schedule 12 Part 11** of the act covers procedures and meetings of P/T Councils

**Part 111** deals with Parish Meetings.

**Schedule 13** covers financial arrangements

**Schedule 26** covers crematoria and cemeteries

Definition of powers and duties: -

- *A power: something that the parish / town council can choose to do but it is not compulsory.*
- A duty: something that the parish/town council must provide*