

## **MARSTOW PARISH COUNCIL**

### **POLICY TOWARDS CHURCHYARD MAINTENANCE FINANCIAL ASSISTANCE**

#### **Background**

Over the past years there has been regular debate as to whether a Town or Parish Council can under its powers of the Local Government Acts contribute towards the maintenance of its Church of England graveyards.

However during 2019 NALC (National Association of Local Councils) issued an advice note that in their opinion the free resource section of the LGA 1972 (Section 137) could not be used towards this use. Their reason for this is that section 8 of the LGA 1894 prohibits expenditure by local Councils on property relating to the affairs of church.

#### **The present situation and alternative legal advice**

This view expressed by NALC is not supported by Central Government as they say that section 137 of the LGA 1972 is not overridden by the 1894 Act and the fact that Councils have for many years contributed towards the cost of churchyard maintenance without any apparent challenge or questions by the appointed external auditors to these Councils.

Central Government stand that this legislation is valid and further new legislation is not necessary.

Further independent legal advice on this matter is given by Paul Clayden consultant and author of many reference books relating to law and procedures for Town and Parish Councils.

It is his opinion that section 137 of the LGA 1972 gives a very wide power to spend money on matters of general benefit to the inhabitants and it would be strange if that power did not extend to benefiting a church / churchyard maintenance of local importance.

He further supports the view that this has not been challenged by the appointed external auditors.

Paul Clayden also gives the view that a Council can contribute to the cost of churchyard maintenance under section 214(6) of the LGA 1972. This provision overrides the provision of section 8 of the LGA 1894.

Furthermore it should be considered that if the Parish church be closed then the Parish Council will be required to take over the maintenance of the churchyard LGA 1972 section 215 (2).

#### **The opinion of Marstow Parish Council**

Marstow Parish Council members have debated this issue and support the opinions of Central Government and that of the independent legal advisor Paul Clayden.

They have made a resolution that support towards the maintenance of Marstow churchyard continues as a budget and payment item in the accounts.

Should Central Government issue further advice / guidance on the matter then this would be considered by Marstow Parish Council and a further resolution made accordingly.

**October 2021**