

18 May 2021

Rebecca Walker  
Deveon Association of Local Councils

Our Reference: Dev 21/247  
Your Reference:

By email only: [rebecca@devonalc.org.uk](mailto:rebecca@devonalc.org.uk)

Dear Rebecca,

Re: Client: Sampford Courtenay Parish Council  
Subject Matter: Contribution to local church.

I have been allocated this request to advise upon and I have seen your emails dated 11 and 13 May 2021 together with a copy of a Management Letter from Internal Auditor with his judgement on the matter but recommending DALC/NALC determination on Church Donation Complaint; an Auditor Chronology of Fund Raising and Payments; copies of emails from Chair Cllr Wilson to the Auditor - highlighting the possibility of a challenge to this payment for his consideration during his auditing process; a copy of an email thread from Cllr Coleman to the Accountant independent of Sampford Courtenay Parish Council and Accountant's response to Cllr Coleman; a copy of a letter dated 13 May 2021 from the Parochial Church Council (PCC) to the Parish Council and a copy of the 2020 Annual Report of Sampford Courtenay Parochial Church Council.

The issue in this request is the legality of a payment from the Parish Council to the PCC which was then withdrawn as illegal and subsequently paid to the local village hall with an instruction to pass it on to the PCC.

Important in this issue is the purpose for the original payment to the PCC. The Parish Council did not specifically identify the purpose for which the payment was made, but the chairman states that it was because the charity had not been able to maintain its income over the previous year. However, the letter from the PCC to the Parish Council states that the money was added to its general fund for "i) maintaining the parish church of St Andrew's and the village burial ground and the Church House and Rooms, ii) the cost of the incumbent vicar, and iii) in providing services of worship, weddings and funerals" rather than for charitable activity.

The reason for the payment is important as section 8 of the Local Government Act 1894 prohibits the Parish Council from contributing to the cost of works on property related to the affairs of the church. Clearly “maintaining the parish church of St Andrew’s and the village burial ground and the Church House and Rooms” falls within this ban. The other specified costs and the work of the PCC as a charity do not fall within the ban. The problem in this case is that the Parish Council did not identify the purpose of the payment. Had the payment been made to the PCC charity (under section 137(3) of the Local Government Act 1972) or for other specified purposes it would have been perfectly valid. As it is the position is unclear and has been further muddled by the subsequent action. In the current position I would suggest that the Parish Council seek the payment back from the village hall and re donate it to the PCC indicating what the money is to be used for. At its widest the use could be for general church expenditure not being works on property relating to the affairs of the church.

However, the position is clear in relation to the subsequent withdrawal of the payment already made and its redirection via the village hall as that was unlawful. It was, as has been alleged, a clear attempt to avoid the law and constitutes a breach of duty by the Parish Councillors concerned. I would expect the matter to be referred to the principal authority monitoring officer for consideration under the Parish Council code of conduct.

I hope that this clarifies the position but if the council requires any further information or advice please contact NALC again.

Yours sincerely,

Gary Barker  
Solicitor  
NALC