



Ministry of Housing,  
Communities &  
Local Government

**Ministry of Housing, Communities and Local  
Government**

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Mr Christopher Whitmey

Date: **2 November 2020**

Dear Mr Whitmey,

**Freedom of Information Act 2000 - 9343263**

Thank you for your request for information which was received on 5 October 2020.

You requested:

*"Q1. Has the MHCLG, or its predecessor, ever published any comment or review of parish council's powers under the Local Government Act 1972?"*

*If 'Yes' please may I have a copy?*

*The National Association of Local Councils publication 'NALC Legal briefing financial assistance to the church 2018 - LO1-18' states:*

*"S.214(6) of the 1972 Act which permits a [parish] council as a burial authority to contribute to the expenses of anyone else providing a cemetery, appears to overlap with the specific provision in 5.8 of the 1894 Act which prevents a council from contributing to the affairs of the church and, in NALC's view, the specific provision would prevail."*

*It also stated (emphasis (...) added):*

*"It would, of course, be possible for Parliament to clarify the point with a specific provision in new legislation [1972], however, \*\* as they believe the 1894 Act restrictions do not override the provisions in later [1972] Acts of Parliament."*

*Q2. Has the MHCLG, or its predecessor, ever:*

*(a) corresponded with the NALC on the subject of the powers of parish councils under the 1972 Act? or*

*(b) expressed a written view on the legal issues involved?*

*If 'Yes' please may I have copies?"*

This request has been considered under the Freedom of Information Act 2000.

We are writing to inform you that we have searched our records and some of the information you requested is not held by Ministry of Housing, Communities and Local Government. The response to your queries is below:

***Q1: Has the MHCLG, or its predecessor, ever published any comment or review of parish council's powers under the Local Government Act 1972?***

The Department, or its predecessors, has no record of publishing any comment or review of parish council powers under the 1972 Local Government Act.

***Q2. Has the MHCLG, or its predecessor, ever:***

***(a) corresponded with the NALC on the subject of the powers of parish councils under the 1972 Act? or***

***(b) expressed a written view on the legal issues involved?***

The Department as part of its stakeholder engagement has informally exchanged views on issues with NALC. However, the department does not provide authoritative interpretations of legislation as only the courts are empowered to do this. NALC have however provided legal advice to their members on legislative questions. For your information, we disclose correspondence between MHCLG and NALC on parish councils and funding repairs dated 19 April 2019, and between Minister Luke Hall MP and Andrea Jenkins MP on parish powers under the 1894 Act dated 26 September 2019. These pieces of correspondence are attached for your information.

Some information has been redacted. This information is exempt from disclosure under section 40(2) of the FOI Act as it is personal, about another individual and, as that person could not reasonably expect that his or her personal information would be disclosed, doing so would breach the Data Protection Act.

**Complaints procedure**

If you are unhappy with this response, we will review it and report back to you. (This is called an internal review.) If you want us to do this, let us know by return email within two months of receiving this response. You can also ask by letter addressed to:

Ministry of Housing, Communities and Local Government  
Knowledge and Information Access Team  
4th Floor SE, Fry Building  
2 Marsham Street  
London, SW1P 4DF

If you are unhappy with the outcome of this internal review, you can ask the independent Information Commissioner to investigate. The Information Commissioner can be contacted at email address [casewoxx@xxx.xxx.xx](mailto:casewoxx@xxx.xxx.xx) or use their online form at [ico.org.uk/concerns](https://ico.org.uk/concerns) or call them on 0303 123 1113.

Yours sincerely,

MHCLG FOI Team