



Item No. 15

Council – 8 October 2020

Report of the Clerk

15. Grants, Donations & Payments (For Information)

The Annual Council of 9 September 2020 resolved that the Clerk investigate the Community Council powers to make grants, donations, and payments.

Appendix A sets out the National Association of Local Councils (NALC) Guidance on Local Council General Powers.

a) Section 137(4) (A) of the Local Government Act 1972

Section 137(1) of the 1972 Act permits each Community or Town Council to spend on activities for which it has no other specific powers if the Council considers that the expenditure is in the interests of, and will bring direct benefit to, the area or any part of it, or all or some of its inhabitants, providing that the benefit is commensurate with the expenditure. Community and Town Councils are also permitted under section 137(3) to incur expenditure for certain charitable and other purposes.

Section 137 payments are often referred to as the “Power of last resort”, when there are no other powers available to incur expenditure but where the Council can justify its use in benefitting all or some of the inhabitants or the area. There will be few reasons why this power would need to be used given that the power of well-being (Local Government Act 2000 ss 1-5) also provides Councils with a wide range of options of incurring expenditure to enhance the well-being of its community.

In November 2019, the Welsh Government advised that the appropriate sum for the purposes of the above act for Community and Town Councils in Wales for 2020-21 was £8.32 per elector.

On 1 April 2020, there were 1,921 electors in the Llangyfelach Community Council area. The Section 137 payments spend is therefore £15,982.72.

b) Power of Well-being (Local Government Act 2000)

The Power of Well-being gives all Community Councils in Wales the power to do anything they consider is likely to achieve any one or more of the following objectives:

- i) The promotion or improvement of the economic well-being of their area.
- ii) The promotion or improvement of the social well-being of their area.
- iii) The promotion or improvement of the environmental well-being of their area.

The power may be used in relation to or for the benefit of:

- i) The whole or any part of the Community Council's area. Or
- ii) All or any persons resident or present in its area.

Section 2(5) of the Local Government Act 2000 enables a Community Council to use the Power of Well-being to do anything in relation to, or for the benefit of, any person or area situated outside its area if it considers that it is likely to achieve any one or more of the above.

It is the view of the Welsh Government that expenditure under the Power of Well-being is subject to the same limit as for Section 137 of the Local Government Act 1972.

Appendix B sets out the "Statutory Guidance to Welsh Local Authorities on the Power to promote or improve Economic, Social or Environmental Well-Being under the Local Government Act 2000".

c) Making Grants or Donations to the Church

Appendix C sets out the National Association of Local Councils (NALC) Guidance on Financial Assistance to the Church.

d) Grants or Donations to Organisations that provide Recreational Facilities in or outside the Council's area

In addition to the discretionary powers, the Council has a specific power to make grants or donations to organisations that provide recreational facilities in or outside the Council's area (Local Government (Miscellaneous Provisions) Act 1976 s.19).

Summary

Should the Council determine to make a payment then it should always seek to state the specific power under legislation that it is relying on to make the payment. If the expenditure is under Section 137 of the Local Government Act 1972 or under the Power of Well-being (Local Government Act 2000) then its subject to a maximum spend of £8.32 per elector in 2020-2021.

Huw Evans
Clerk to Llangyfelach Community Council