

AGENDA 15, Enc vii) The General Power of Competence

Legal Background

The General Power of Competence (GPC) was introduced by the Localism Act 2011, which took effect in February 2012. Previously, Local Councils had to identify a specific statutory power before carrying out a function, we still do this now, each month every payment has the authority under which it is legally permitted to be paid.

Section 1 of The Localism Act 2011 provides that a local council has the power to do anything that an individual may do as long as it is not prohibited by other legislation; this is the General Power of Competence (GPC).

Eligibility

There are eligibility criteria set out in the Parish Council (General Power of Competence) (Prescribed Conditions) Order 2012 (SI 2012/965). They are:

1. At least two thirds of the members have been elected ✓

All members have been elected.

2. The Clerk is suitably qualified¹ ✓

The Clerk has a Certificate in Local Council Administration and is a 'Fellow' of the Society of Local Council Clerks.

3. The Council is eligible and has resolved to adopt the GPC at the Annual Meeting of the Council following the election year.

The Council may confirm eligibility and resolve to adopt the GPC at this Annual Meeting of the Council.

If during the course of 4-year term members leave and the Council is no longer eligible (as members have been co-opted or a qualified Clerk leaves and an unqualified Clerk fills the post), the Council does not lose the GPC during this period, but they would have to have fulfilled the criteria to confirm eligibility following the election year.

Ashington Town Council is eligible to resolve to adopt the GPC as it did in 2022, but it does not have to.

Opportunities

The GPC allows Councils to extend services and support into new areas. Examples include:

- ✓ Running a community shop/post office
- ✓ Lending/investing money
- ✓ Establishing a company/co-operative society to trade and engage in commercial activity

¹ The Clerk holds one of the following qualifications: **Certificate in Local Council Administration**, Certificate of Higher Education in Local Policy, Certificate of Higher Education in Local Council Administration; or the first level of the foundation degree in Community Engagement and Governance awarded by the University of Gloucestershire.

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The GPC cannot be used to avoid an existing restriction in a specific power; it cannot be used to raise the precept. The GPC cannot be used to thwart existing laws, i.e. Health & Safety, Employment and Equality and neither can it contravene existing Financial Regulations.

Obstacles

There are also risks that could arise when a council becomes more innovative and uses the GPC. Examples include.

- being challenged as to whether activities meet the Council's main aims
- being competitive could damage other local enterprises
- project failure could damage the Council's reputation
- projects may be seen as a risk to public money

Adopting the GPC does not mean that it has to be used. However, not adopting GPC does restrict the Council in terms of its aspirations and spending powers.