

Briefing Note: Eligibility Criteria and Benefits of Parish Councils Adopting the General Power of Competence

Understanding the Framework and Advantages for Local Governance

Introduction

The general power of competence is a provision introduced under Section 1 of the Localism Act 2011 in England. It provides eligible local authorities, including parish councils, with the legal capacity to do anything that individuals generally may do, unless explicitly prohibited by law. This briefing note explores the eligibility criteria for parish councils to adopt this power and highlights the significant benefits it offers.

Eligibility Criteria

To adopt the general power of competence, a parish council must meet specific criteria set out under the Localism Act 2011. These criteria are designed to ensure that councils are equipped with the capability and governance structure required for the responsible exercise of this power. The eligibility criteria include the following:

1. Elected Council

At the precise moment the parish council resolves that it meets the criteria, the number of councillors elected at the last ordinary election, or at a subsequent by-election, must equal or exceed two-thirds of its total number of councillors. (Co-opted or appointed councillors do not count towards eligibility as they were not elected.) The total number of councillors means the number of seats on the council, including those that might be vacant. If two-thirds is not a whole number, it must be rounded up to the next whole number. For example, if the number of councillors is 7 and two-thirds is approximately 4.6, the number of councillors who must be elected is 5.

2. Qualified Clerk

The clerk to the council must hold one of the recognised professional qualifications. These typically include the Certificate in Local Council Administration (CiLCA) – attained after April 2012 - or equivalent credentials. The qualification ensures the clerk possesses the necessary knowledge and expertise to advise the council on legal and procedural matters related to the use of the general power of competence.

If a council subsequently loses its qualified clerk or has insufficient elected councillors, it must record its ineligibility at the next 'relevant' annual meeting of the council (after the ordinary election). If it has already started an activity under GPC for which there is no other specific power, it remains eligible for the purpose of completing that activity but cannot commence

anything new under the power until it is in a position to make the formal decision that it again meets the criteria.

3. Resolution of Eligibility

The council must pass a formal resolution confirming that it meets the criteria for eligibility. This resolution is typically adopted during a council meeting and recorded in the minutes to provide transparency and accountability.

Benefits of Adopting the General Power of Competence

The adoption of the general power of competence can significantly enhance the effectiveness and flexibility of parish councils in delivering services and fostering community initiatives.

Below are the key benefits:

1. Greater Flexibility

The general power of competence allows parish councils to act more freely and creatively in addressing local needs. It removes many of the restrictions imposed by previous governing legislation, enabling councils to undertake actions that were previously beyond their statutory remit.

2. S137 and How it related to GPC

The money that can be spent under the Local Government Act 1972 s137 is limited, while the power is restricted by regulations for use and scope. For example, councils must keep specific accounts for s137, they cannot use the power to give money to individuals and spending must be commensurate with the benefit gained. In addition, a council cannot use s137 if another specific power exists. A council that is eligible to use GPC can no longer use s137 as a power for taking action for the benefit of the area or its community but equally there is no need for it to do so.

3. Innovation and Enterprise

Parish councils can engage in innovative projects and establish partnerships with businesses, charities, or other organisations. For example, councils can set up community enterprises, run events, or provide social services without needing specific statutory authority.

4. Enhanced Community Engagement

By adopting the general power of competence, councils can respond more effectively to the aspirations and needs of their communities. They can fund or support initiatives that would be outside their traditional scope, thus fostering stronger relationships with residents.

5. Reduction in Bureaucracy

The general power of competence simplifies decision-making by reducing the need to navigate complex statutory provisions. This streamlining allows councils to act more swiftly and efficiently, particularly in urgent situations.

6. Economic Growth and Sustainability

With the freedom afforded by the general power of competence, parish councils can undertake activities that contribute to local economic growth. For instance, councils can create sustainable development plans, operate local markets, or invest in renewable energy projects.

7. Improved Resource Allocation

The flexibility provided by the general power of competence enables councils to allocate resources more effectively, ensuring that funds are directed towards projects that maximize community benefit.

Limitations and Considerations

While the general power of competence offers substantial advantages, parish councils must exercise it responsibly. Here are some considerations:

- Actions must not contravene existing laws or regulations.
- Projects undertaken should align with the council's strategic goals and community priorities.
- Councils must carefully monitor expenditure and ensure financial sustainability.
- Effective communication and consultation with residents remain crucial to maintain transparency and accountability.

Conclusion

The general power of competence represents a transformative opportunity for parish councils to expand their role in local governance. By meeting the eligibility criteria and adopting this power, councils can unlock greater flexibility, innovation, and community engagement, benefiting both residents and local economies. However, responsible and strategic use is essential to ensure that this power is utilised to its fullest potential.