



Clerk Report General Powers of Competence

Introduction

Please see below my paper explaining GPC that was written for my CiLCA. I hope that this clarifies part of the impact of my qualification for NMPC but due to its brevity (wordcount limitations) I am happy to answer any subsequent questions.

On the face of it, the General Power of Competence is the power of a local authority to do anything that individuals generally may do (Localism Act 2011, s. 1).

The General Power of Competence is a power of 'first resort' meaning that the restrictions on spending the parish monies are not limited to only those areas of expenditure detailed in legislation that I have previously explained and researched for you.

Council do still need to be mindful of all consequences of any expenditure and the benefits and risks (perceived or otherwise) must be considered in direct relation to the local, precept paying electorate. There will still be services that the principal authorities are obliged to provide, and GPC powers will not override this (schools, local bus services etc.)

All current ongoing projects are lawful and approved expenditure has already been determined by resolution and reference to current rules. Any new projects will be assessed using the GPC parameters.

Conclusion

Whilst the opportunities for permitted expenditure have been expanded for NMPC with the attainment of GPC it will be the clerk who investigates and advises of potential risks or potential conflicts and these investigations will continue to take place when a project is first proposed.

Learning Objective 7

The **Localism Act 2011 section 1-8** decreed that “a local authority has the power to do anything that individuals generally can do”ⁱ once it had attained GPCⁱⁱ.

This power is a power of ‘first resort’ meaning that Parish Councils can have more freedom to act by becoming eligible. If they can use GPC, there is no need to first search for a relevant statutory power as long as the activity to be undertaken is not illegal.

A Parish Council is eligible to hold GPC if the following criteria in the **Parish Councils (General Power of Competence) (Prescribed Conditions) Order 2012 (s) 2012/965** is confirmed:ⁱⁱⁱ

- A resolution is passed and minuted at a full meeting of the council, that the conditions below are met:
 - 2/3 council members are elected
 - The Clerk is qualified in sector relevant qualifications^{iv}

The Parish Council must ensure that this eligibility is reaffirmed at every relevant annual meeting of the council following ordinary elections.^v

Restrictions:

- Statutory duties remain^{vi}
- Legal restrictions apply ^{vii}
- Limitations applying to existing powers that overlap the general power are applied to the general power.
- Statutory duties of other bodies remain.^{viii}

Risks:

- Inadequate community support^{ix}
- Insufficient funding^x
- Risk to reputation if project is not successful
- Risk of challenge if use of public funds or power is not “reasonable”^{xi}

Examples of use:

Use	Restriction	Risk
Running a community pub	Statutory duties of other bodies remain. ^{xii}	Competition with any other local licensed businesses. Lack of budget for ongoing costs.
Setting up a youth club	Restricted by all relevant legislation. ^{xiii}	Reputational risk of anti-social behaviour.
Supporting community project in neighbouring parish	Statutory duties of other bodies remain/is it legal?	Risk of challenge if benefit to parish not clear.

ⁱ Charles Arnold Baker 10th Edition 22.21

ⁱⁱ General Power of Competence.

ⁱⁱⁱ Charles Arnold Baker 10th Edition 22.22

^{iv} CILCA/University of Gloucester Governance Higher Education Qualifications/ the Certificate of Higher Education in Local Policy/ the Certificate of Higher Education in Local Council Administration

^v Provided the eligibility criteria is still met.

^{vi} A council must still abide by its duties even if eligible for GPC

^{vii} A council must still abide by relevant laws like Health and Safety legislation, data protection laws etc.

^{viii} E.g. Education- this remains under the remit of the higher authority; however the use of an appropriate delivery body (community trust) may facilitate this.

^{ix} Whilst GPC can even be used outside of the parish boundaries, councils must be mindful that accountability and transparency is still needed.

^x The GPC is a power and not a source of money, any plans under GPC must still be accounted for in the budget and precept limits.

^{xi} 1948, Wednesbury Court Case. <https://www.oxfordreference.com/view/10.1093/oi/authority.20110803121600718>

^{xii} Council would have to adhere to Licensing Legislation/Employment legislation etc

^{xiii} I.e. Health and Safety legislation, Employment law, Safeguarding legislation, Equality legislation.