



## **Council – 23 April 2020**

### **Agenda Item CC2096/20**

## **General Power of Competence**

### **Introduction**

This paper is for Council to confirm that it meets the eligibility criteria for the General Power of Competence and subsequently resolves to adopt the power.

### **Discussion**

Town Councils are corporate bodies and traditionally have only been able to carry out their roles, duties and functions through legislative powers accumulated since 1894. These powers were always constrained to specific and appropriate legislation. Recognising the potential limiting effect this might have on local Councils, the Localism Act 2011 provided local councils with a general power of competence, a new power with wide ranging possibilities. The general power of competence was brought into force by SI (1) 961, The Localism Act 2011 (Consequential Amendments) Order 2012.

### **What does the Power allow Councils to do?**

The General Power of Competence enables eligible local council to take an enhanced role and allows them to do things they had previously been unable to do. It is designed to give local authorities greater freedom to carry out the functions that are required locally. It gives eligible local councils, “the power to do anything that 2 individuals generally may do” as long as they do not break other laws. It is intended to be a power of first, not last, resort.

The Council has to ask itself if an individual is allowed to do it, if the answer is yes then a council is normally permitted to act in the same way.

### **Risks and restrictions limiting the General Power of Competence**

Existing duties, as well as existing financial and procedural duties, remain in place.

Councils must continue to comply with relevant existing legislation - employment law, Health and Safety legislation, equality legislation and duties related to data protection and freedom of information.

If another authority has a statutory duty to provide a service (e.g. education) it remains their duty to provide it but the Parish Council may assist. If the action the Council wishes to take is also covered by a specific power then any restrictions that apply to the overlapping power remain in place. So, if existing legislation requires the Council to seek permission before acting, then it must do so. For example, the council asks permission of the Highways Authority before doing work on roadside verges.

## **How does the General Power of Competence relate to Sec 137 expenditure?**

Monies that can be spent under Sec 137, Local Government Act 1972 are limited and have to be budgeted for separately, they are restricted in that they cannot be used to give money to individuals and expenditure must be commensurate with the benefit to the community. A council that is eligible to use the General Power of Competence can no longer use Sec 137 as a power for taking action for the benefit of the area or its community except Sec 137 (3) which permits the council to contribute to UK charities, public sector funds and public appeals remains in place. This does not mean that the council can no longer issue grants to local organisations just that it does not have to use s137 to do so.

## **How to become eligible to use the Power of General Competence**

The conditions for eligibility are set out in the Statutory Instrument, Parish Councils (General Power of Competence) (Prescribed Conditions) Order 2012.

For a local council to become eligible it must confirm at a full council meeting that:

- The Clerk is qualified to one of the two sector-specific qualifications and has upgraded those qualifications to cover the General Power of Competence (CiLCA)
- Two thirds of councillors were elected

Croxley Green Parish Council meets both of these criteria.

The Council must at its Annual Meeting resolve that it continues to meet the criteria for eligibility.

## **Recommendations**

- That Croxley Green Parish Council resolves that it meets the eligibility criteria to exercise the General Power of Competence as defined in the Parish Council (General Power of Competence) (Prescribed Conditions) Order 2012 and therefore adopts the power.

Ryan Bennett  
Clerk to the Council  
April 2020