

**General Power of Competence  
Town Council 14 May 2019**

- Recommended**
- (i) that Ilminster Town Council confirms, by resolution, that it meets the eligibility criteria to use the General Power of Competence**
  - (ii) that Ilminster Town Council resolves from 14 May 2019 until the next Annual Town Council Meeting after Ordinary Elections, to adopt the General Power of Competence having met the conditions of eligibility as defined in the Localism Act 2011**

**Introduction**

1. The General Power of Competence is a statutory power which was given to Town and Parish councils under the Localism Act 2011. It gives local authorities the power to do anything that individuals generally may do, as long as it does not break other laws.

**Contextual Information**

2. Parish and Town Councils are corporate bodies that have powers set out in statute. Without the General Power of Competence councils can only do those things which they are specifically empowered to do by statute. By adopting the General Power of Competence the Town Council can do anything except those things which the law forbids them from doing; it is intended as a power of first resort.
3. The type of activities covered by the general power of competence legislation are:
  - Running a community shop or post office
  - Lending or investing money
  - Establishing a company or co-operative society to trade and engage in commercial activity
4. Councils must continue to comply with relevant existing legislation e.g. health and safety, equalities, data protection.
5. Existing council duties remain in place such as the duty to act with regard to crime and disorder and the duty to consider conserving biodiversity
6. Existing financial procedural duties and regulations remain in place such as there can be no delegation to a single councillor.
7. The general Power of Competence cannot be used to circumvent an existing restriction in an existing specific power.
8. Councils cannot use the General Power of Competence primarily to raise money but they can receive income as a consequence of using the power for a different primary purpose.
9. The eligibility criteria are:
  - Resolution** the Town Council must resolve at a full council meeting and each subsequent relevant annual meeting (ie the first annual meeting of the council after an ordinary election) that it meets the criteria for eligibility relating to the electoral mandate and relevant training of the clerk and the
  - Electoral Mandate** at the time the resolution is passed at least two thirds of the council must hold office as a result of being declared elected (i.e. not co-opted)

**Qualified Clerk** at the time the resolution is passed the clerk must hold a recognised professional qualification e.g The Certificate in Local Council Administration

10. Ilminster Town Council satisfies the eligibility criteria as:
  - The 15 Town Councillors were elected in May 2015
  - The Town Clerk holds The Certificate in Local Council Administration (including the general power of competence module)

**Background Papers:**

Localism Act 2011 (s1-8)

SI 965 The Parish Councils (General Power of Competence) (Prescribed Conditions) Order 2012

National Association of Local Councils Legal Topic Note 31

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