

CONGLETON TOWN COUNCIL

COMMITTEE REPORTS AND UPDATES

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| COMMITTEE: | Annual Council Meeting | | |
| MEETING DATE AND TIME | 25 th May 2023 7.00pm | LOCATION | Congleton Town Hall |
| REPORT FROM | Chief Officer | | |
| AGENDA ITEM REPORT TITLE | Item 9 General Power of Competence (GPC) | | |
| Background | <p>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.</p> <p>Currently Local Councils are restricted to the activities they may become financially involved in by the Local Government Act 1972 (Powers and Duties of Parish Councils). To support Council's, an additional section S.137 was added, which allows Local Councils to spend £9.93 (2023/24) per elector on activities that are not included in the Powers and Duties Schedule.</p> <p>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 (GPC) is a statutory power arising from the Localism Act 2011 (S.1-8) which took effect in February 2012.</p> <p>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 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.</p> <p>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.</p> | | |
| Risks and Restrictions limiting the GPC | <p>Existing duties remain in place, such as having regard to the likely effect on crime and disorder, biodiversity and the duty to provide allotments.</p> <p>Restrictions on using the power include:</p> <ul style="list-style-type: none">• The law (a Council cannot break the law);• It must comply with procedural and financial duties and obligations;• It must obtain relevant statutory permissions.• It may not have the power to take on the statutory duties of principal authorities. <p>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.</p> | | |

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| | <p>If another authority has a statutory duty to provide a service (e.g. education) it remains their duty to provide it but the Town Council may assist. The Council needs to ask itself whether an individual, private company or community trust could help, if the answer is yes, then the Council can assist. An appropriate delivery body may need to be set up to do so.</p> <p>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.</p> |
| <p>Eligibility</p> | <p>The conditions for eligibility are set out in the Statutory Instrument, Parish Councils (General Power of Competence) (Prescribed Conditions) Order 2012.</p> <p>The Council must decide its eligibility at a Full Council Meeting through the recording of a proper minute; eligibility must then be confirmed at the annual meeting following ordinary elections for as long as the Council wishes to continue using the power.</p> <p>Eligibility Criteria:</p> <ul style="list-style-type: none"> i. the Chief Officer is qualified to one of the two sector-specific qualifications and has upgraded those qualifications to cover the General Power of Competence and ii. two-thirds of the Council has stood for election. <p>The Council meets both of these criteria. In the recent 4th May 2023 Elections all 22 Councillors stood for election.</p> |
| <p>Recommendation</p> | <p>It is recommended that the Town Council:</p> <ul style="list-style-type: none"> 1. Agree eligibility to adopt the Power 2. Adopt the General Power of Competence with immediate effect for the coming term of office of the Council. |