

REPORT TO A MEETING OF THE TOWN COUNCIL OF ROYAL LEAMINGTON SPA TO BE HELD ON 16TH JULY 2020

POWER OF GENERAL COMPETENCE

1. PURPOSE OF THE REPORT

To approve by resolution the use of the Power of General Competence

2. INTRODUCTION

- 2.1 The Localism Act 2011 replaced the power of well-being with the General Power of Competence.
- 2.2 The General Power of Competence (GPC) is intended to give local authorities (including parish and town councils) wider powers to deliver more for their communities. The GPC allows a council to do anything that individuals generally may do, except where other aspects of law may forbid them from doing so. For example, Councils using the power may engage in the provision of a service that is not specifically set out in other legislation, such as setting up a community shop. It is intended to relieve Councils of the need to find specific statutory powers to authorise their activities.
- 2.3 Councils not being eligible to make use of the GPC can only do those things which they are specifically empowered to do by statute. It is envisaged this power will provide parish and town councils with a greater freedom to act.
- 2.4 To be eligible to exercise the GPC a parish council must conform with the following:-
- at least two thirds of the total number of councillors have been elected (at ordinary or by election), not co-opted, at the meeting the resolution is passed to confirm that the Council is eligible
 - the Council's clerk holds either Certificate in Local Council Administration (CILCA). In the 2015 syllabus, Unit 2 covers the General Power of Competence OR or level 4 qualification awarded by the University of Gloucestershire, (eg the Certificate of Higher Education in Local Policy, or foundation degree in Community Engagement and Governance; and
 - having met the above conditions, the Council passes a resolution to confirm this and it is clearly recorded in the Minutes.

2.5 Duration

Once the Council has decided that it meets the conditions, it retains the ability to use the general power until the annual meeting of the Council in the next ordinary election year. At that point the Council must again decide that it meets the conditions, to be able to start any new activity relying on the general power.

If it does not meet the conditions, it can complete activity which it has begun in the exercise of the general power, but not start anything new.

3. **RECOMMENDATION**

- 3.1 All Councils are governed by the principle of “Ultra Vires” which ensures that no action or service can be undertaken without the statutory authority to do so. Traditionally Parish and Town Councils were able undertake services up to a specified level of expenditure under Section 137 of the Local Government Act, subject to that service not being proscribed by another limitation or enabled by some other specific legislation. The Town Council has relied upon Section 137 to undertake grants to community bodies and to do things not otherwise provided for in legislation, but this does require a check to be made on the relevant legislation in force at that time. There is also a spending limit attached to the Section 137 power.
- 3.2 Adoption of the Power of General Power of Competence under the Localism Act 2011, will simplify the process of determining statutory authority and ensure that some areas of service delivery, which may previously have been limited due to the absence of a specific power, may be undertaken.
- 3.3 The Council is therefore recommended to adopt the Power of General Competence, as outlined above.