

ANNUAL COUNCIL MEETING

Date:	Wednesday, 17 May 2023
Title:	General Power of Competence
Contact Officer:	Deputy Town Clerk, Adam Clapton

Purpose of Report

The purpose of this report is to provide the Council with information so it can consider a resolution to renew the General Power of Competence (GPC), held by the Witney Town Council since 2016.

Background

The GPC provides the Town Council with ‘the power to do anything that individuals generally may do’ as long as they do not break other laws. It is intended to be the power of first resort instead of any other powers the Council may be entitled to use in legislation.

Before the GPC was introduced via the Localism Act in 2011 parish/town council’s powers were constrained to specific and appropriate legislation.

Having met the criteria for eligibility full council must resolve to effect the General Power of Competence. *The council must revisit the decision and make a new resolution at every ‘relevant’ annual meeting of the council to confirm that it still meets the criteria to enable the power to continue. A ‘relevant’ annual meeting is the annual meeting of the council after the next ordinary election has taken place.*

Current Situation

There are three conditions for eligibility which are as follows:

- **Resolution:** the council must resolve at a meeting that it meets the criteria for eligibility relating to the electoral mandate and relevant training of the clerk.
- **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 that the resolution is passed, the clerk must hold a recognised professional qualification (e.g., Certificate in Local Council Administration, Certificate of Higher Education in Local Policy) that includes the CiLCA module relating to the general power of competence.

In consequence, eligibility remains in place until the ‘relevant’ annual meeting even if the conditions of the eligibility criteria have changed. If the council loses its qualified clerk or has insufficient elected councillors it must also record its ineligibility at the next ‘relevant’ meeting.

Environmental Impact

There are no environmental implications pertaining from this report.

Risk

In decision making Councillors should consider any risks to the Council and any action it can take to limit or negate its liability.

The only real limitation is that the general power of competence cannot be used to circumvent an existing restriction in an existing specific power; for example, it cannot be used to raise the precept.

Existing duties remain in place, such as having regard to the likely effect on crime/disorder and biodiversity. There are also many existing procedural and financial duties that remain in place for the regulation of governance (e.g., no delegation to a single councillor). Furthermore, councils must comply with relevant existing legislation (e.g., employment law, health and safety, equality legislation and duties relating to data protection and freedom of information).

If another council has a statutory duty to provide a service (e.g., a support service such as a Children's Service), it remains their duty to provide it. Nonetheless, under the General Power of Competence the Parish council may assist.

Financial Impact

- There is currently no fiscal impact relating to the Council invoking the General Power of Competence.

Recommendations

Members are invited to note the report; and

1. Resolve that Witney Town Council meets the criteria for eligibility, and therefore invokes the General Power of Competence, these being that:
 - a. At least two thirds of the council hold office as a result of being declared elected and;
 - b. The Clerk holds a recognised professional qualification.