

LO7: A CiLCA qualified officer understands the general power of competence (England).

In 2011 the Localism Act provided local authorities with the general power of competence. It is the power of first resort and enables a council to do anything that an individual generally may do¹ as long as this does not break the law.

To be eligible² a council must have;

- A qualified Clerk³
- Two thirds of the council elected.

The council then take a resolution that it meets the criteria for eligibility. It remains eligible until the next relevant annual meeting (the annual meeting of the council after the ordinary election and normally takes place every four years) where a resolution is passed confirming that the Council still meet the criteria.

Some of the activities a council could undertake using this power;

- Lend or invest money.
- Run a community shop/post office.
- Spend money in other Parishes.

Some of the restrictions of using this power include;

- Existing duties remain in place both financial and procedural e.g. acting with regard to crime and disorder⁴ and the audit and accounting regulations.
- Councils must continue to comply with relevant existing legislation e.g. Health & Safety.
- If an action is already restricted by legislation it continues to be so e.g. taking on something which is a statutory responsibility of another authority i.e. schools.

Some of the risks to consider before using this power include;

- Being challenged due to lack of community support.
- Having sufficient sustainable funding.
- Whether trading activities damage other competing local enterprises.

¹ Localism Act 2011 s1(1)

² Parish Councils (General Power of Competence) (Prescribed Conditions) Order 2012 SI 965

³ Parish Councils (General Power of Competence) (Prescribed Conditions) Order 2012 order 2b set the qualifications needed at the time of passing the resolution to confirm eligibility.

⁴ Crime and Disorder Act 1998 s17