

# General Power of Competence

For discussion and resolution at the Holcombe Parish Council meeting on 07/05/24

## 1. PURPOSE OF REPORT

1.1 To confirm that Holcombe Parish Council is eligible to use the General Power of Competence.

## 2. INTRODUCTION AND BACKGROUND INFORMATION

2.1 The General Power of Competence gives councils the power to do anything that individuals generally may do, as long as it does not break the law. The power is not restricted to use within the council administrative boundary, it can be used anywhere. Principal councils are awarded the General Power of Competence as of a right and do not have to satisfy any eligibility criteria.

2.2 Local Councils in the Parish and Town sector are not awarded the power as a right and certain eligibility criteria and conditions apply. The eligibility conditions are set out in the Statutory Instrument, The Parish Councils (General Power of Competence) (Prescribed Conditions) Order 2012.

2.3 To become eligible the council must satisfy three criteria;

- a) Resolution – resolve at a Full Council meeting that it meets the criteria for eligibility, a further resolution must be passed at every subsequent annual meeting.
- b) Electoral mandate – At the time that the resolution is passed, at least two thirds of the council must hold office as a result of being declared elected. (Including elected unopposed).
- c) Qualified Clerk – at the time of the resolution being passed the Clerk must hold a relevant qualification, such as the Certificate in Local Council Administration, CiLCA.

2.4 In the event that the council ceases to satisfy the criteria then it must record its ineligibility at the next relevant Annual Meeting, if a council has commenced an activity through the use of the General Power of Competence it may continue with it but not commence anything new that would require the use of the General Power of Competence.

## 3. GENERAL POWER OF COMPETENCE

The GPC (LA 2011 s1(1)) gives local authorities, including eligible local councils, “the power to do anything that individuals generally may do” as long as they don’t break other laws. It is a ‘power of first resort’; this means that when a council is attempting to identify a power to act, the first question should be; ‘can we use the GPC?’. The general test in this matter when determining whether the council can use the General Power of Competence is; ‘would an individual normally be permitted to act in the same manner’.

## 4. FINANCIAL IMPLICATIONS

4.1 There are no specific financial implications. However, any future expenditure arising through the use of the General Power of Competence would be subject to approval by either Full Council, a Standing Committee or be funds identified in relevant and approved council budgets.

## 5. LEGAL IMPLICATIONS

5.1 Compliance with The Localism Act 2011 order 2012 as of 28th March 2012

## 6. RECOMMENDATIONS

6.1 Note that the Clerk gained the Certificate in Local Council Administration, (CiLCA) on the 30th August 2017.

6.2 Note that the Council **DOESN’T** fulfil all of the criteria for the General Power of Competence.

6.3 That Holcombe Parish Council resolves that it **DOESN’T** meet the criteria for the General Power of Competence.