Agenda Item 6

The General Power of Competence (GPC)

The General Power of Competence (GPC) was introduced by the Localism Act 2011 and took effect in February 2012.

In simple terms, it gives councils the power to do anything an individual can do provided it is not prohibited by other legislation. The Council no longer need to ask whether they have a specific power to act. It applies to all principal councils (district, county and unitary councils etc). It also applies to eligible[1] parish and town councils.

The scope – and some limitations – of the General Power are set out in sections 1 to 6 of the Localism Act 2011.

In summary, the GPC enables councils to do things :

• an individual may generally do

• anywhere in the UK or elsewhere

• for a commercial purpose or otherwise, for a charge or without a charge

• without the need to demonstrate that it will benefit the authority, its area or persons resident or present in its area (although in practice councils will want to realise such benefits).

But there are some limitations on the General Power, either because they are not things which an individual can do or because they are excluded by the Act.

The GPC will not:

• provide councils with new powers to raise tax or precepts or to borrow

• enable councils to set charges for mandatory services, impose fines or create offences or byelaws, over and above existing powers to do so

• override existing legislation in place before the Localism act 2011, so-called 'pre-commencement limitations' (however powers enacted after commencement of the GPC will only limit the GPC if this explicitly stated in the legislation). Where using the GPC for charging or trading purposes, the recipient should agree to the service being provided, the income from charges should not exceed the cost of provision and, where things are done for commercial purposes, this must be done through a specified type of company.

Notwithstanding the limitations outlined above, the GPC remains a broad power.

[1] An eligible council is one which has resolved to adopt the GPC, with at least two thirds of its members being declared elected and the Clerk must hold an appropriate qualification (Parish Councils (General Power of Competence) (Prescribed Conditions) Order 2012).