



General Power of Competence

Background

Parish councils are legal entities established by statute and as such have powers and duties also enshrined in statutes. Until the localism Act of 2011 parish councils were only permitted to do those things where they had the powers spelt out in statute. Most of the powers conferred by statute are specific, such as the power to provide allotments or burial grounds.

In addition to specific powers there is also a wider power under section 137 of the Local Government Act, to permit expenditure, up to certain limits, for purposes not otherwise authorised, provided it is to the benefit of the area or part of it, or all or some, of the inhabitants. S137 is a power of last resort and where other powers exist, they should be used.

Typically, the expenditure on grants usually falls within S137. Since S137 must be to the benefit of the whole of the parish or part of it, grant aid an individual is not permitted.

It follows from the above that Parish council activities are subject to legal challenge for stepping outside the powers or in excess of the limitations.

Recent Legislation – Localism Act 2011

Statutory instrument 965, "Parish Councils (General Power of Competence) (Prescribed Conditions) Order 2012, issued under the localism act introduced a "General Power of Competence" (GPoC). The intention being to allow "Eligible council" powers to undertake an activity or incur expenditure without the need to have to identify specific powers.

"The Government's intention in providing eligible parish councils with the general power of competency is to better enable them to take on their enhanced role and allow them to do things they have previously been unable to do under existing powers".

Eligible councils have "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, not last, resort.** The eligible council must ask itself if an individual is allowed to do it. If the answer is "yes", then a parish council is normally permitted to act in the same way.

Use of a GPoC is not restricted to the boundary of the parish it may be used anywhere.

The only real limitation is that the general power of competence cannot be used to circumvent an existing restriction in an existing specific power. Neither is a GPoC relevant where an individual cannot act e.g. issuing a precept relies on specific powers conferred elsewhere.

GPoC is a power and does not replace "Duties" imposed on councils, such as those concerned with Governance and Finance.

Typically, GPoC has been used to run community shops, establish a company to provide services, Grant aid to an individual.



Since it is the power of first resort it is incompatible with S137 LGA 1972 and if the parish adopts a GPoC, S137 will no longer be used.

Eligibility

There are 3 conditions which have to be met for a parish to adopt a GPoC.

- a. It must pass a resolution that it meets all the criteria and adopts a GPoC. The resolution can be passed at **any time** at an ordinary meeting of the council.
- b. At the time of passing the resolution at least two thirds of the council are there by virtue of being declared elected.
- c. At the time of passing the resolution, the parish clerk must hold arecognised professional qualification:-
 - The Certificate in Local Council Administration (CiLCA).

Once the resolution has been passed the parish council has the Freedom to Act with the same powers as individual persons (except where prohibited by law). The GPoC stays in existence until the next "relevant" meeting where the GPoC lapses unless a repeat resolution is passed, and all three criteria are still met. The next "relevant" meeting is the annual meeting following the four yearly elections.

Recommendation

Parish are recommended to pass the following resolution

"The Parish Council hereby confirms we meet the eligibility criteria for adoption of a General Power of Competence as defined in the Localism Act 2011 and SI 965 The Parish Councils (General Power of Competence) (Prescribed Conditions) Order 2012. We further resolve to adopt a General Power of Competence. "

If adopted, the GPoC will remain in force until the Annual Meeting immediately following the next elections for the parish council.

Full Council Meetings 2024-2025

Key

P= Present

A= Apologies given

X = Not present/ no apologies given

C = Meeting Cancelled

N/A= Not Applicable

Meeting	Date	D. Elwell	I. Kenlin	A.Marriott	P. White	J. O'Brien	K. O'Brien	D. Flack	S. Cooper	C.Agius	K. Charters	S. Walsh	S. Naish	J. Hampstead	ECCH Cllr M Hoy	RDC Councillors Hoy Wilson
APM	13/05/2024	P	P	P	P	P	P	P	P	P	P	P	P	N/A	X	X
AGM	13/05/2024	P	P	P	P	P	P	P	P	P	P	P	P	N/A	X	X
FULL	10/06/2024	P	P	P	A	P	P	P	P	P	P	A	P	N/A	P	P
FULL	08/07/2024	P	A	A	P	P	A	P	P	P	P	P	P	N/A	X	X
FULL	09/09/2024	P	P	P	A	P	P	P	P	P	P	P	P	N/A	X	X
FULL	14/10/2024	A	P	A	P	P	P	P	P	P	P	P	P	N/A	X	X
FULL	11/11/2024	P	P	P	A	P	P	P	P	P	P	P	P	N/A	X	X
FULL	09/12/2024	P	P	P	P	A	A	P	P	P	A	P	P	N/A	P	P
FULL	13/01/2025	P	P	P	P	P	P	P	P	P	P	P	P	N/A	X	X
FULL	17/02/2025	P	P	A	P	P	P	P	P	P	A	P	P	P	X	X
FULL	10/03/2025	P	P	P	A	P	P	P	P	P	P	P	P	P	X	X
FULL	14/04/2025	P	P	A	P	P	P	P	P	P	A	P	A	P	X	X
	Total	10	10	7	7	10	9	11	11	11	8	10	10	3	X	X
Percentage of attendance for all meetings		92%	92%	64%	64%	92%	82%	100%	100%	100%	73%	91%	91%	100%	18.10%	Hoy 18.1% Wilson 0% Knight 0%

Briefing Note: Devolution vs Local Government Reform

Purpose

To clarify the distinction between devolution and local government reform, and explain their relevance to parish councils in Essex.

1. What is Devolution?

Devolution refers to the transfer of powers and responsibilities from central government to local or regional bodies. In England, this often involves the creation of combined authorities or elected mayors who take control over areas such as transport, skills, and housing. Devolution is intended to give regions more control over decisions that affect their local area.

There is a white paper for Devolution, with feedback from the consultation which ended 13th April 2025 expected later this summer. A decision from central government on if Essex proceeds with devolution is not expected until February 2026.

- Impact on Parish Councils: While devolution agreements are made at county or regional levels, they may affect local priorities, funding streams, and how services are delivered in parished areas.

2. What is Local Government Reform?

Local government reform involves changes to the structure or functioning of existing councils. This can include:

- Merging or abolishing councils (e.g., replacing district and county councils with a single unitary authority)
- Changing electoral arrangements or governance structures, holding a community governance review.

These reforms are usually led by central government and aim to simplify local administration, reduce costs, or improve service delivery.

- Impact on Parish Councils: Reforms may change which principal authority a parish council reports to or interacts with, and may alter funding mechanisms or support services.

As part of ongoing local government reforms, it is anticipated that Parish Councils may be approached to take on responsibility for certain assets and services currently managed by the District Council. While the transfer of such assets is expected to be optional, it would be prudent for the Council to assess the potential implications—both of accepting and of declining such responsibilities—on the local community, service delivery, and parish resources. To this end, it is recommended that a Sub-Committee of the Finance Committee,

comprising four members, be established to steer the Parish Council's strategic response and to oversee relevant developments arising from these reforms.

Summary

Aspect	Devolution	Local Government Reform
Focus	Transferring powers down from Whitehall	Restructuring existing councils
Scale	Regional or sub-regional	County or district level
Driven by	Local ambition, central government policy	Central government
Effect on Parishes	Indirect but potentially significant	Can change parish relationships with higher tiers

Conclusion

Understanding these terms helps parish councils stay informed and responsive to changes in local governance. While neither process directly alters the role of parish councils, both can reshape the landscape in which we operate. Councillors are encouraged to stay engaged with consultation processes and updates from the Essex Association of Local Councils (EALC) or the National Association of Local Councils (NALC).