



TODMORDEN TOWN COUNCIL

# Todmorden Town Council

## Report to Full Council

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<b>Date</b>	17 <sup>th</sup> May 2023
<b>Subject</b>	General Power of Competence

### Purpose Of Report

1. To recommend that Todmorden Town Council passes a resolution to adopt the General Power of Competence.
2. To inform Members that to qualify for the use of such powers two criteria have to be satisfied.
  - a) At the time when the General Power of Competence is adopted, at least two-thirds of the total seats on the council must be held by members who stood at the last ordinary election or subsequent by-election, i.e. council members who have been elected (even if unopposed) rather than co-opted or appointed.
  - b) The Clerk must hold the Certificate in Local Council Administration or an equivalent qualification.
3. To advise Members that the Town Clerk has the Certificate in Local Council Administration. See Appendix 1

### Background

4. Local Councils in England were given a General Power of Competence in the Localism Act 2011, Sections 1-8. This means that Councils, once adopting the power, no longer need to ask whether they have a specific power to act.
5. The Localism Act 2011 s1 (1) gives local authorities including town councils “the power to do anything that individuals generally may do as long as they do not break any other laws”. **It is a power of first resort.**
6. Restrictions in law which apply to the use of the General Power of Competence include the duties on councils to act to prevent crime and disorder; to respect human rights; to consider biodiversity; and to protect personal data.
7. Sometimes a council can do things that an individual can't do such as creating byelaws, raising a precept or issuing fixed penalty notices but it must do so using the specific original legislation.

8. The General Power of Competence does not mean the Council can delegate decisions to individual councillors. This procedural matter remains enshrined in law.
9. This means that when searching for a power to act, the first question to ask is whether you can use the General Power of Competence. To find the answer, you ask whether an individual is normally permitted to act in the same way.
10. Use of the General Power of Competence must not override other legislation.
11. Reference to the next “relevant” meeting in the resolution means the next Full Council 4 yearly election annual meeting.
12. A general overview of the General Power of Competence is provided in Appendix 2

### **Financial Consideration**

13. By adopting the General Power of Competence the Council is no longer restricted to use of the “Free Resource” under LGA 1972 Sect 137 for the making of payments not covered by other legislation e.g. grants.

### **Recommendation**

14. That the Town Council **resolved from 17<sup>th</sup> May 2023**, until the next relevant Annual Meeting of the Council, that having met the conditions of eligibility as defined in the Localism Act 2011 and SI 965 The Parish Councils (General Power of Competence) (Prescribed Conditions) Order 2012, to adopt the which means that Councils, once adopting the power, no longer need to ask whether they have a specific power to act

### **Reasons For Recommendation**

15. Full Council approval is required to adopt the General Power of Competence

### **Policy Implications:**

16. The adoption of the General Power of Competence provides greater flexibility in the interpretation of its Grants Policy.

### **Details Of Consultation:**

17. None from this report.

### **Climate Change:**

18. None arising from this report.

### **Impact Equality Assessment**

19. None arising from this report.

### **Supporting Papers:**

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|------------|---|--|
| Appendix 1 | - | Proof of Town Clerk - CilCA award.       |
| Appendix 2 | - | LGA General Power of Competence Document |

**Further Information, Please Contact: Naomi Crewe**