

LO 07: A CiLCA qualified officer understands the general power of competence (England) or the power of well-being (Wales).

Assessment criteria: The assessors check that you

7.1 explain

- a. the general power of competence providing legal references
- b. the criteria for eligibility
- c. the process for confirming and reaffirming eligibility.

7.2 explain activities that a council might undertake using the general power of competence

7.3 identify any relevant risks and restrictions.

Unlike s137¹ which is the “power of last resort”, General Power of Competence [GPoC], is the “power of first resort”. Councils in England were enabled in law² to grant themselves GPoC, provided that:

1. Clerk qualified with a relevant qualification³, and
2. 2/3 of councillors are elected (not co-opted) ⁴

The council must decide at a full council meeting they meet the eligibility requirements at that exact moment, and the resolution recorded in the minutes must reflect this. At each relevant meeting (the first meeting after an election) the council must confirm that it still meets the eligibility criteria.

With GPoC, the Council has “*the power to do anything that individuals generally may do*” as long as it acts lawfully. Examples include:

Activity	Risk	Restrictions
Running a Community Shop	Impact on local Businesses	Employment Law etc related running a business.
Set up a company to provide a service / commercial activity	Would need to close if GPoC was lost.	Company must be limited by shares or guarantee or industrial or provident societies.
Running a competition and awarding prize money	Disquiet in population at giving away precept monies.	Limited council budget.

GPoC does not allow the council to disregard statutory duties which the council **must** continue to abide by, such as

¹ Local Government Act 1972 s137

² Localism Act 2011 Sections 1-8

³ Certificate in Local Council Administration (CiLCA); Certificate of Higher Education (CertHE) in Local Council Administration; Certificate of Higher Education in Local Policy; The first level of the Foundation Degree in Community Engagement and Governance (the Level Four course); or Any equivalent successor qualification (now the CertHE: Community Governance: Local Council Management)

⁴ The number of councillors elected at the last ordinary election or at a subsequent election equals or exceeds 2/3 of its total number of councillors (For Goring-on-Thames this is 7 councillors).

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- Conserving biodiversity when exercising its functions.⁵
- Providing allotments if the council considers there is a demand for them.⁶

If the Council awards itself GPoC with a temporary Clerk, questions may be raised about the legality of the award were they on a short-term contract. A Council with GPoC must use the qualified Clerk for counsel when making decisions to ensure it is acting lawfully.

WORD COUNT: 274 Limit: 250

⁵ National Environment and Communities Act 2006 s40

⁶ Smallholdings and Allotments Act 1908 s23(1)