

OVERVIEW OF DISCRETIONARY POWERS, in Lieu of General Power of Competence.

Northstowe Town Council – presented at Full Council meeting 27th September 2022, item 122(3)

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Northstowe Town Council, similar to all Local Councils in England, can exercise the following discretionary powers, if it so wishes:

Legislation	Subject area	Discretionary Powers, summary	Relevance to Northstowe TC
Local Government Act (LGA) 1972, s. 111	Ancillary power	Power to do anything that will facilitate, be conducive to or incidental to the discharge of its power and functions.	<p>The ancillary power means the power to do anything that facilitates, is conducive or incidental to the exercise of other discretionary powers or the council’s statutory functions.</p> <p>This power could be used, for instance, to:</p> <ul style="list-style-type: none"> - allow the Council to spend money on training; or - seek legal or other expert advice or input necessary to give effect to the exercise of its statutory powers and duties; or - apply to grant-awarding bodies and to spend the money awarded.
Local Government Finance Act 1992, s. 41	Precept	Power to raise a precept.	<i>Speaks for itself.</i>
LGA 1972, s. 139	Gifts	Power to accept gifts.	This includes financial gifts in the form of grants and sponsorship.
LGA 1972, s. 112	Staff	Power to appoint staff.	<i>Speaks for itself.</i>
LGA 1972, s. 111 and s.175	Training	Power to train staff and Councillors	<i>Speaks for itself.</i>
LGA 1972, s. 137 (1)	Grants	Power to provide assistance of grants to local or national organisations, for a wide range of activities that are considered in the interest of the area and its inhabitants.	<p>Note: this is also known as the “free resource”. This power is to be used as a power of <i>last</i> resort if there is no other power.</p> <p>Grants to e.g. charities are limited to £8.82 per beneficiary, and total that could be given by the Council is limited by the s137 grant budget allocated in the Council’s budget, but can be, per annum, a maximum of £8.82 x number of electors. (If the Council has the general power of competence the amount of any donation is unlimited. If the council does not have the GPC then any donation is restricted by the section 137 limit for the year).</p>

Legislation	Subject area	Discretionary Powers, summary	Relevance to Northstowe TC
LGA 1972, s. 137 (3)	Donations	Section 137 (3) permits the council to contribute to UK charities, public sector funds and public appeals.	Allows NTC to e.g., provide a donation to the Royal British Legion for Remembrance Day.
LGA 1972, s. 111	Contracts	Power to enter into contracts.	<i>Speaks for itself.</i>
LGA 1972, s. 102(3)	Non-councillors	Power to appoint non-councillors to council committees and sub-committees.	<i>Speaks for itself.</i>
Town and Country Planning Act 1990, Sch 1, para 8 and LGA 1972, Sch. 15 para 20.	Planning applications	Power to be notified of planning applications affecting the council's area and to comment.	<i>Speaks for itself.</i>
LGA 1972, s. 142	Website; newsletters etc.	Power to provide a website/ publish information to give information about the council, its services and the services of authorities, government departments, charities, or other voluntary organisations	<i>Speaks for itself.</i>
Food Act 1984, s. 50	Markets	Power to establish markets in the council's area and provide a market place and market buildings.	Relevant to Council's market development work.
Local Government Act 2003, s. 93	Charging for discretionary services	Power to charge on a cost recovery basis (i.e. not to make any profit) if the council has discretion to provide a service.	Relevant to market development work, e.g. proposals to charge for pitches.
LGA 1972, s. 145(1)(a)	Fetes and other events/entertainment	Power to provide entertainment and facilities for dancing in or outside the council's area.	Council's work leading on, or feeding into local events and arts; and for buying in services for entertainment, e.g. Connections Bus proposals being discussed.
Local Government (Miscellaneous Provisions) Act 1976, s. 19	Sports and recreational facilities	<p>Power to provide sports facilities in or outside the council's area or contribute towards the expenses of any voluntary organisation or local authority that provides sports facilities in or outside the council's area.</p> <p>Power to provide and contribute to a wide range of recreational facilities in or outside the council's area - Power to provide and equip premises for use of clubs having athletic, social or educational objectives.</p>	Council's discussions around ParkPlay, development of a Town football team, and potential future sports facilities assets transfers. NB: 'facilities' in the context of this legislation includes 'powers to provide buildings, equipment, supplies and assistance of any kind.'

Legislation	Subject area	Discretionary Powers, summary	Relevance to Northstowe TC
Open Spaces Act 1906, ss.9-10	Open Spaces	Power to provide and maintain open space or burial ground in or outside the council's area.	Council considering to, in future, take on open spaces asset management and maintenance.
LGA 1972, s. 144	Tourism	Power to contribute to the encouragement of tourism/ To encourage visitors.	Council being involved in promotion of the area, e.g. involvement in development of new heritage facility. Power to pay for a Christmas tree and associated costs such as electricity supply for Christmas lighting and light-switch-on event.
Localism Act 2011, ss. 81-86	Right to challenge services.	Right to submit an interest in running a service provided by a district, county or unitary authority.	Relevant once Council starts discussing future potential asset transfers with their associated services.
Local Government and Rating Act 1997, s. 31	Crime prevention	Power to spend money on various crime detection and prevention measures in the council's area. Power to (a) install equipment, (b) establish schemes and (c) assist others in so doing for the prevention of crime.	Council's work around road safety measures, and discussions with partners around actions to tackle ASB.
Highways Act 1980, s. 274A and Local Government and Rating Act 1997, s 30	Traffic calming	Power to contribute financially to a highway authority for traffic calming schemes for the benefit of the council's area.	Council's discussions around Traffic Regulation Orders and similar measures.
Highways Act 1980, s. 43	Maintenance footpaths etc	A Local Council may pay for the maintenance of a footpath, bridleway or restricted byway maintainable at public expense (NB: only footpaths, bridleways and byways created before 1835 are normally maintainable at public expense).	No current discussions around this subject - but potentially relevant in future.
Public Health Act 1936, s. 234	Life-saving appliances	Power to provide life-saving appliances (e.g. lifebelts, defibrillators)	Council's discussions around provision of defibrillators around town.
Power of Wellbeing, Local Government Act 2000 , s.2 (as amended by Part 4 of the Local Government and Public Involvement in Health Act 2007)	Wellbeing	Section 2(1) enables an eligible council to use the power to promote well-being where it considers this will achieve any one or more of the following three objectives: a) the promotion or improvement of the economic well-being of its area b) the promotion or improvement of the social well-being of its area c) the promotion or improvement of the environmental well-being of its area	No current discussions around this subject, although 'Warm Hub' investment could potentially fall under this.

Legislation	Subject area	Discretionary Powers, summary	Relevance to Northstowe TC
LGA 1972, ss. 111 and 137	Environment	Power to act for the benefit of the community by tackling and promoting awareness of environmental issues.	<i>Speaks for itself.</i>