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Executive SC

29th April 2021

Llywodraeth Cymru
Welsh Government

OPEN CONSULTATION

Consultation on local authority power to trade

We are seeking your views on the draft General Power of Competence (Commercial Purpose) (Conditions) (Wales) Regulations and the proposal that community councils that meet certain criteria be provided a power to trade.

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Introduction: where are we now

This consultation relates to proposals in respect of the powers under which local authorities in Wales may do things for a commercial purpose (also referred to as a power to trade).

General power of competence

Section 24 of the Local Government and Elections (Wales) Act 2021 ("the 2021 Act") gives "qualifying local authorities" a general power of competence (the "general power"). The general power gives these authorities the power to do anything that an individual can do, thereby allowing these authorities to do things that are unlike anything they, or any other public body, have done before.

Qualifying local authorities are principal councils and eligible community

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councils.

An eligible community council is a community council which meets the criteria set out in section 30 of the 2021 Act, or in regulations made by the Welsh Ministers under section 35 of the 2021 Act, and passes a resolution that it meets the criteria and is an eligible community council. Section 34 of the 2021 Act makes provision in respect of common community councils established after the Act was passed.

The criteria a community council must satisfy in order to resolve themselves an 'eligible community council' are:

- at least two-thirds of the total number of members of the council have been declared to be elected, whether at an ordinary election or at a by-election
- the clerk to the council holds such qualification or description of qualification as may be specified by the Welsh Ministers by regulations. The draft regulations specifying the proposed qualifications will be subject to a separate consultation
- the council has received two unqualified auditor's opinions from the Auditor General for Wales, for two consecutive financial years. The latest unqualified auditor's opinion must have been received during the 12 months preceding the day on which the council's resolution is passed.

The exercise of the general power is constrained by certain limitations, restrictions and conditions as set out in the 2021 Act.

The general power cannot be used where there is any limitation or restriction in existing legislation, or any future legislation which sets out such a limitation. For example, legislation in relation to statutory services, fees and charging, financial prudence or, in respect of principal councils, the form of their executive constrains authorities in various ways and it will not be possible for the general power to be used to circumvent these constraints.

A qualifying local authority may use the general power to do something for a commercial purpose through a company, however they may only do so if they would also rely on the general power to do that thing for a non-commercial purpose. An authority's power to trade in their ordinary functions is provided for

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in section 95 of the Local Government Act 2003 ("the 2003 Act")

A qualifying local authority cannot carry out an activity in respect of someone for a commercial purpose, if it is required by legislation to carry out that activity.

Qualifying local authorities are also required to have regard to guidance issued by the Welsh Ministers about exercising the general power of competence to do anything for a commercial purpose.

The Welsh Ministers may make regulations under the 2021 Act to:

- remove or amend statutory provisions that they think prevent qualifying local authorities from using the general power, or obstruct them when using the general power
- remove overlaps between the general power and other powers (although they cannot achieve this by revising or cutting back the general power itself)
- restrict what a qualifying local authority may do under the general power
- make its use subject to conditions.

Power to trade in ordinary functions

Section 95 of the 2003 Act enables the Welsh Ministers to make an authorising certain authorities to trade in any of their ordinary functions through a company.

Section 96(1) of that Act allows the Welsh Ministers to impose conditions on the exercise of this trading power, whilst section 96(2) requires these authorities in Wales to have regard to guidance issued by the Welsh Ministers when exercising the power to trade.

Since sections 95 and 96 came into force there have been a number of changes to how the authorities to whom the provision relate are defined although the authorities captured by the definition have remained unchanged.

These sections originally referred to 'best value authority' as defined in the Local Government Act 1999 ("the 1999 Act"). In relation to Wales this meant county or county borough council, community council, FRA or NPA.

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The best value regime in the 1999 Act was amended by the Local Government and Public Involvement in Health Act 2007, and as a consequence references to best value authority in section 95 and 96 of the 2003 Act were replaced by 'relevant authority', defined in section 95(7). The definition of relevant authority included a best value authority as defined in the 1999 Act (in relation to Wales a county or county borough council, community council, fire and rescue authority or National Park authority) and a community council.

The Local Government Measure 2009 removed Welsh authorities from the definition of best value authority in the 1999 Act and further amended the definition of relevant authority in section 95 of the 2003 Act, adding 'Welsh Improvement Authority' as defined in the 2009 Measure (a county or county borough council, fire and rescue authority or National Park authority). The inclusion of community councils in the definition remain unchanged.

As of 1 April 2021 the definition of a relevant authority in section 95 is further amended by the Local Government and Elections (Wales) Act 2021 (Consequential Amendments) Regulations 2021 so as to remove 'Welsh Improvement Authority' and insert:

- a county council or county borough council in Wales
- a National Park authority for a National Park in Wales
- a fire and rescue authority in Wales, constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies.

The Welsh Ministers exercised their powers in sections 95, 96(1) and 123 of the 2003 Act to make the Local Government (Best Value Authorities) (Power to Trade) (Wales) Order 2006 ("the trading order").

At the time the trading order was made section 95 still referred to best value authorities, as such the trading order also refers to the authorised authorities as best value authorities. As part of the implementation of the 2021 Act the trading order will be re-made to refer the authorities as defined in section 95 of the 2003 Act.

The trading order applies to county or county borough councils (primarily

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referred to as principal councils in this document), fire and rescue authorities and National Park authorities in Wales and authorises these authorities to do for a commercial purpose, anything which they are authorised (but not required) to do for the purpose of carrying on any of their ordinary functions. This in effect allows trading in all services other than those which the authority is obliged by law to provide.

The trading order does not make any provision in respect of community councils and as such these authorities are not currently authorities able to trade under the power in section 95 of the 2003 Act.

The trading order imposes the following conditions on the exercise of the power to trade:

- before exercising the power, an authority is required to prepare and approve a business case in support of the proposed exercise of the power.
- authorities must recover the costs of any accommodation, goods, services, staff or any other thing they supply to a company in pursuance of any agreement or arrangement to facilitate the exercise of the power.

What we propose to do

This consultation seeks views on two proposals:

- prescribing conditions qualifying local authorities must meet when exercising the general power of competence for a commercial purpose
- re-making the trading order and enabling "eligible community councils" to trade in their ordinary functions.

The consultation also seeks views on the proposal to extend the application of these draft Regulations to eligible community councils when the general power of competence is commenced for these authorities in May 2022.

Requiring authorities to meet certain conditions when exercising the general power of competence for a

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commercial purpose

Under section 28(4) of the 2021 Act, the Welsh Ministers may make regulations making the use of the general power subject to conditions, and it is intended this power be exercised to make regulations specifying conditions a qualifying local authority must satisfy before doing something for a commercial purpose in the exercise of the general power of competence.

Before making such regulations the Welsh Ministers are required to consult the persons set out in section 28(7) of the 2021 Act. This consultation is intended to seek your views on the draft General Power of Competence (Commercial Purpose) (Conditions) (Wales) Regulations 2021, ("the draft Regulations") in accordance with section 28(7) of the 2021 Act.

It is proposed the draft Regulations provide that:

- before exercising the power, an authority must prepare and approve a business case in support of the proposed exercise of the power. The draft regulations set out the requirements for the business case
- where an authority has supplied anything to the company through which the general power is being exercised, the authority must recover its costs from that company

The draft regulations make similar provision, with some minor modifications, to the provisions of the trading order.

The approach taken in developing the draft Regulations has been to ensure that the requirements are:

Proportionate

It is intended that in preparing the business case authorities will do so in a manner which is proportionate to the investment being considered.

In preparing these draft regulations we are not seeking to implement an overly onerous or prescriptive process.

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It is intended to issue guidance setting out expectations to support councils in implementing these requirements.

Consistent with other equivalent legislative provision

In developing the draft regulations consideration has been given to other legislative provisions etc. with which councils are required to comply.

The requirements set out in the draft regulations are harmonious and aligned with other requirements such as the Prudential Code etc.

In addition, principal councils, and other authorities, have been exercising their power to trade under the trading order for numerous year, the requirements set out in the draft regulations are based on the requirements principal councils must satisfy when trading in their ordinary functions.

As currently prepared the draft regulations define an authority as a principal council (county or county borough council in Wales). This is due to the staggered commencement of the general power of competence.

The Local Government and Elections (Wales) Act 2021 (Commencement No. 1 and Saving Provision) Order 2021, which was made on 3 March 2021, provides for the bringing into force of the general power for principal councils on 1 November 2021 and community and town councils on 5 May 2022.

Our intention is to analyse the responses to this consultation over the summer and consider whether any changes may be required before laying the draft regulations in the autumn. It is then intended that they be brought into force on 1 November 2021, in line with the commencement of the general power of principal councils.

It is intended to amend the draft regulations between November 2021 and May 2022 so as to extend their application to eligible community councils.

Whilst the trading operations undertaken by community councils are often of lower financial value than those undertaken by principal councils, and therefore could be considered to be of lower risk, the principle of protecting the authority

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and public funds from risk remains. Irrespective of the value of the proposal, it is essential any decision to proceed is based on a thorough understanding of the matters prescribed for inclusion in the business case.

The business case will support eligible community councils in considering these key matters, before and when, making a decision as to whether to progress with the proposal and any associated investment. As detailed earlier, the requirement to prepare a business case intended to be proportionate and it is intended to issue statutory guidance setting out how council may approach this requirement.

A draft Regulatory Impact Assessment has been prepared to accompany the draft regulations.

Re-making the trading order and enabling eligible community councils to trade in their ordinary functions

The trading order currently refers to Welsh best value authorities whilst section 95 of the 2003 Act, as amended by the 2021 Act, refers to county and county borough councils, National Park authorities and fire and rescue authorities.

It is necessary to amend the trading order so as to align the drafting of the order with the provisions of the 2003 Act and it is intended this revised trading order is made before the general power of competence is brought into force for all qualifying local authorities.

When making the revised trading order it is proposed the authorisation to trade be extended to community councils that have resolved themselves eligible to exercise the general power of competence.

This will mean the revised trading order will apply to:

- a county council or county borough council in Wales
- a National Park authority for a National Park in Wales
- a fire and rescue authority in Wales (constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies)

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- a community council which is an eligible community council for the purposes of Part 2 of the 2021 Act.

To ensure consistency it is also proposed the requirements in respect of the business case set out in the draft regulations be replicated in the revised trading order.

As the revised trading order will also apply to fire and rescue authorities and National Park authorities, these authorities will be subject to the updated requirements. The revisions to the business case requirements are minor and we do not consider that they represent an additional burden on these authorities.

Should a community council resolve they are no longer eligible to exercise the general power, either because they no longer satisfy the criteria or because they no longer wish to be an eligible community council they will no longer be authorised to trade in their ordinary functions.

The 2021 Act provides that a community council which ceases to be an eligible community council can continue to rely on the general power in relation to things it has done in the exercise of that power while it was an eligible community council. For example, a contract entered into in the exercise of the general power may continue, and is not necessarily frustrated, despite the fact that the community council otherwise no longer has the power to enter into that contract and may not start anything new. It is proposed that the revised trading order provide for similar provision.

Why we are making this change

Requirement to prepare a business case

The general power doesn't remove the need for qualifying local authorities to fully consider what they are seeking to achieve, why and how they are going to achieve this and the benefits to their communities. The need for transparent and robust decision making remains.

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It is also essential that authorities be prudent about exposing themselves to commercial risk.

The conditions prescribed by the draft regulations are not intended to place additional limits or controls on what an authority uses the general power for. The intended effect of these Regulations is ensuring authorities are taking appropriate and proportional steps to consider the implications of their proposed exercise of the powers rather than prevent them from exercising the power in the manner they wish.

Trading carries obvious and potentially serious risks. Whilst the Welsh Government believes that the advantages of authorities being able to do things for a commercial purpose under the general power are compelling, we recognise that subjecting public money and public services to commercial risk justifies placing careful limitations on whether and how the power to is exercised.

The proposed exercise of the general power could entail a major and lasting commitment for any authority, and could have significant financial, operational and structural consequences for the authority. The Welsh Government believes that such a decision should only be made in full recognition of those consequences and after their careful consideration.

We consider that the process of preparing and approving a business case will help ensure authorities take fully-informed decisions that are properly exposed to democratic scrutiny in advance.

There is no prescription in respect of how, or by whom, the business case is approved. This will be at the discretion of the authority. In respect of principal councils, the decision could, for example, be taken at a meeting of the full council or the council may make arrangements under section 101 of the 1972 Act.

There would be no need for the business case to be submitted to, or approved by, the Welsh Government. We consider that would amount to an unjustified intrusion into an authority's affairs and could also have the inadvertent effect of conferring a warranty from the Welsh Government on the future trading operations.

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The matters to be set out in the business case are:

1. the aims and objectives of the proposed exercise of the general power
2. the costs, investments and other resources required to achieve those aims and objectives
3. the financial outcomes that are expected to be achieved by the proposed exercise of the general power
4. any other relevant outcomes that are expected to be achieved by the proposed exercise of the general power
5. any risks associated with the proposed exercise of the general power including an assessment of the severity of those risks, and any actions that the authority proposes to take to mitigate those risks.

A critical aspect of preparing the required business case is the identification and consideration of the risks associated with the proposal.Therefore in addition to detailing the risks, the business case must also include an assessment of their severity and any actions that the authority proposes to take to mitigate those risks.

The conditions prescribed in the draft regulations are predominately based on the trading order with some modernisation and minor modifications as detailed earlier in this document.

Requiring authorities to satisfy the same conditions whether they are trading in the ordinary functions or in exercise of the general power will ensure consistency and clarity as to the steps authorities need to take before trading.

Replicating the requirements of the draft regulations in the revised trading order will help maintain this consistency and clarity.

Requirement to recover costs

Many potential authority trading operations would compete openly with other, mostly, private sector businesses.

Such competition could benefit service efficiency and quality generally, could

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build links between the two sectors and generate supply and sub-contracting opportunities for local businesses. However, it could operate so as to distort the market, many authorities may have greater capacity than some private sector suppliers and are also supported by public funds rather than by trading income alone.

The impact of qualifying local authority trading on the private sector, and in particular the risk of private sector suppliers losing significant amounts of business, is assessed as being relatively slight. However, there remains at least a theoretical risk that training operations could have unfair and anti-competitive consequences.

As noted earlier, qualifying local authorities would be required to any trading operations via a company. While an authority might reasonably support the start-up of such a company, it should recover the costs of doing so in due course. Continuing subsidy or funding could both distort the market unfairly and could also lead to public funds being placed at undue commercial risk.

We therefore propose to replicate the provisions of the trading order which require an authority to recover the full costs of any support or services it provides to the company through which the general power is being exercised for a commercial purpose.

Enabling eligible community councils to trade in their ordinary functions

Community councils are an integral part of local government.They are often closest to people and local communities, and therefore uniquely placed to see, and provide, those services which can have a significant impact on an individual's well-being. Making the general power of competence available to community councils who satisfy the eligibility criteria will provide these councils with more freedom to serve their communities.

The 2021 Act sets out criteria a community council must meet in order to be able to resolve itself an eligible community council and exercise the general power of competence. These criteria collectively provide objective and proportionate

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measures of a community council's suitability to exercise the general power, covering democratic, governance and professional aspects of a community council.

The Welsh Government considers that if a community council has satisfied the conditions to be able to exercise the general power of competence, which will include the ability to do things for a commercial purpose in the exercise of that power, those councils should also be able to trade in their ordinary functions.

If eligible community councils were not included in the revised trading order it would result in a situation whereby an eligible community council would have the power to trade where they were doing something under the general power of competence but not in relation to their ordinary functions.

This inconsistency could result in confusion and stifle innovation and service improvement.

Consultation questions

Question 1

Are the draft regulations clear?

Question 2

Do the requirements in the draft regulations, in respect of the business case, cover the right things? Are there any other matters the business case should be required to capture?

Question 3

Should the regulations specify who should approve the business case? If so, who should?

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Question 4

What are your views on the proposed application of the draft regulations to eligible community councils?

Question 5

Do you agree that community councils who are eligible to exercise the general power of competence should also be authorised to trade in their ordinary functions. If not, why not?

Question 6

Do you agree that principal councils and eligible community councils should be subject to the same conditions when trading in their ordinary functions and exercising the general power for a commercial purpose?

Question 7

Are there any consequences we've not considered of subjecting FRAs and NPAs to the updated conditions set out in the draft regulations when they're exercising their power to trade in their ordinary functions?

Question 8

In order to refine the Regulatory Impact Assessment, the Welsh Government would welcome views on the estimated costs to authorities of preparing a business case. An estimation of any costs which may result from the requirement to recover costs from the company would also be welcomed.

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Question 9

We would like to know your views on the effects that the draft regulations or the proposal in respect of the revised trading order would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Question 10

Please also explain how you believe the proposed draft regulations or the proposal in respect of the revised trading order could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Question 11

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

How to respond

Submit your comments by **11 June 2021**, in any of the following ways:

- complete our **online form**
- download, complete our **response form** and email **LGFPSettlement@gov.wales**
- download, complete our **response form** and post to:

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Local Government Finance and Workforce Partnerships Division
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

Your rights

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- to (in certain circumstances) data portability
- to lodge a complaint with the Information Commissioner's Office (ICO) who is our independent regulator for data protection.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please **tell us**.

For further details about the information the Welsh Government holds and its use, or if you want to exercise your rights under the GDPR, please see contact details below:

Data Protection Officer

Data Protection Officer
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

E-mail: **data.protectionofficer@gov.wales**

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Information Commissioner's Office

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Telephone: 01625 545 745 or 0303 123 1113

Website: **ico.org.uk**

UK General Data Protection Regulation (UK GDPR)

The Welsh Government will be data controller for any personal data you provide as part of your response to the consultation. Welsh Ministers have statutory powers they will rely on to process this personal data which will enable them to make informed decisions about how they exercise their public functions. Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about or planning future consultations. Where the Welsh Government undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g. a research organisation or a consultancy company). Any such work will only be undertaken under contract. Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data. In order to show that the consultation was carried out properly, the Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing.

You should also be aware of our responsibilities under Freedom of Information legislation. If your details are published as part of the consultation response then

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Further information and related documents

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Draft Regulations laid before Senedd Cymru under section 174(5)(b) of the Local Government and Elections (Wales) Act 2021, for approval by resolution of Senedd Cymru.

DRAFT WELSH STATUTORY INSTRUMENTS

2021 No. (W.)

LOCAL GOVERNMENT, WALES

The General Power of Competence (Commercial Purpose) (Conditions) (Wales) Regulations 2021

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 24 of the Local Government and Elections (Wales) Act 2021 ("the Act") confers a general power of competence on principal councils and eligible community councils. In particular, the general power of competence confers on those authorities a power to do certain things for a commercial purpose.

The power to do things for a commercial purpose is subject to conditions set out in section 27 of the Act. Under section 27(2), the exercise of the general power for a commercial purpose must be done through a company.

Section 28(4) of the Act provides a power for the Welsh Ministers to provide, by regulations, for the exercise of the general power to be subject to additional conditions.

Regulation 2 prescribes additional conditions that a principal council must meet before exercising the general power of competence to do things for a commercial purpose.

Regulation 3 requires a principal council to recover any costs incurred by it in anything it supplies to a company through which the general power is exercised for a commercial purpose, from that company.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to

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the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Local Government Democracy Division, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

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Draft Regulations laid before Senedd Cymru under section 174(5)(b) of the Local Government and Elections (Wales) Act 2021, for approval by resolution of Senedd Cymru.

DRAFT WELSH STATUTORY INSTRUMENTS

2021 No. (W.)

LOCAL GOVERNMENT, WALES

The General Power of Competence (Commercial Purpose) (Conditions) (Wales) Regulations 2021

Made	***
Coming into force	*1st November 2021*

The Welsh Ministers make the following Regulations in exercise of the powers conferred upon them by sections 28(4), 28(5)(b) and 28(6)(c) of the Local Government and Elections (Wales) Act 2021(**1**).

In accordance with section 174(5)(b) of that Act, a draft of this instrument has been laid before, and approved by a resolution of, Senedd Cymru.

In accordance with section 28(7) of that Act, the Welsh Ministers have consulted such persons as appear to the Welsh Ministers likely to be affected by these Regulations.

Title, commencement and interpretation

1.—(1) The title of these Regulations is the General Power of Competence (Commercial Purpose) (Conditions) (Wales) Regulations 2021 and they come into force on 1st November 2021.

(2) In these Regulations—

"the 2021 Act" (*"Deddf 2021"*) means the Local Government and Elections (Wales) Act 2021;

(1) 2021 asc1.

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"authority" (*"awdurdod"*) means a principal council within the meaning of section 171(1) of the 2021 Act;

"company" ("*cwmni*") means a company within the meaning of section 27(4) of the 2021 Act;

"the general power" (*"y pŵer cyffredinol"*) means the general power of competence conferred on an authority by section 24 of the 2021 Act.

Conditions to be met before exercising the general power to do things for a commercial purpose

2.—(1) Before exercising the general power to do things for a commercial purpose, an authority must—

(a) prepare a business case in support of the proposed exercise of the general power; and

(b) approve that business case.

(2) A "business case" under regulation 2(1) means a comprehensive statement as to—

(a) the aims and objectives of the proposed exercise of the general power;

(b) the costs, investments and other resources required to achieve those aims and objectives;

(c) the financial outcomes that are expected to be achieved by the proposed exercise of the general power;

(d) any other relevant outcomes that are expected to be achieved by the proposed exercise of the general power; and

(e) any risks associated with the proposed exercise of the general power including an assessment of the severity of those risks, and any actions that the authority proposes to take to mitigate those risks.

Requirement to recover costs etc

3. An authority must recover the costs of any accommodation, goods, services, staff or any other thing that it supplies to a company through which it is exercising the general power to do things for a commercial purpose, from that company.

Name
Minister for Housing and Local Government, one of the Welsh Ministers
Date

CF1P25

Draft Regulatory Impact Assessment

This draft regulatory impact assessment has been developed for the draft Regulations following consideration of two options:

- Option 1: Maintain the status quo.
- Option 2: Make the General Power of Competence (Commercial Purpose) (Conditions) (Wales) Regulations 2021 as presented in the draft Regulations

Option 1: Maintain the status quo

Under this option the authorities would not be subject to any additional conditions when doing a thing for commercial purpose in the exercise of the general power of competence.

Authorities would be required to comply with the limitations, restrictions and conditions prescribed on the face of the 2021 Act (or in any other regulations made by the Welsh Ministers under their powers in the 2021 Act) when using the general power to do something for a commercial purpose.

Costs

There are no additional costs associated with this option.

Benefits

This option would deliver no additional benefits.

Option 2: Make the General Power of Competence (Commercial Purpose) (Conditions) (Wales) Regulations 2021 as presented in the draft Regulations

Under option 2 Regulations would be made to provide that:

- before exercising the power, an authority, namely a principal council, must prepare and approve a business case in support of the proposed exercise of the power.
- where an authority has supplied anything to the company through which the general power is being exercised, the authority must recover its costs from that company

The business case would be required to detail:

(a) the aims and objectives of the proposed exercise of the general power
(b) the costs, investments and other resources required to achieve those aims and objectives
(c) the financial outcomes that are expected to be achieved by the proposed exercise of the general power

CF1P26

(d) any other relevant outcomes that are expected to be achieved by the proposed exercise of the general power
(e) any risks associated with the proposed exercise of the general power including an assessment of the severity of those risks, and any actions that the authority proposes to take to mitigate those risks.

Costs

It is anticipated that the requirements of the draft Regulations may result in some additional opportunity and administrative costs for local authorities.

It is envisaged that the majority of business cases would be prepared 'in-house' by authorities and as such the costs would be in respect of staff time to complete this work. Where an authority was considering doing a particularly large or complex thing for a commercial purpose they may consider engaging external contractors which would involve additional costs.

A key factor in calculating the costs to authorities of complying with these requirements will be the frequency at which they seek to exercise the general power to do something for a commercial purpose and the complexity of what they were seeking to do.

The general power is an enabling power, giving authorities the discretion to use the power if they wish to do so. As such the frequency with which the power would be exercised in this manner is uncertain.

Currently principal councils are required, under the Local Government (Best Value Authorities) (Power to Trade) (Wales) Order 2006 ("the trading order"), to prepare and approve a business case before exercising the power to trade provided to them in that order.

Principal councils have been trading under the trading order since 2006 and will have the systems in place so as to provide for the preparation of a business case if they wish to exercise that power. As such it is not anticipated that these Regulations would give rise to any transitional costs (such as familiarisation or training costs) to authorities.

These regulations will require principal councils to comply with the same requirements whether they are undertaking a trading operation under the power to trade provided in the trading order or in exercise of the general power of competence. Where an authorities wishes to trade in relation any of their ordinary functions they would be subject to the requirements of the trading order.

The requirement to recover costs from the company through which the authority is doing something for a commercial purpose may result in some administrative costs to the authority. It is anticipated these costs would be nugatory as it is expected that authorities would already have the relevant systems in place to complete this task. This requirement will also result in a transfer from the

CF1P27

company to the local authority, with the value reflecting the costs incurred by the authority in support of the commercial activity.

The Welsh Government are seeking to develop the cost estimates and it is intended that this draft Regulatory Impact Assessment will be refined and informed by the responses to the consultation.

Benefits

The preparation and approval of a business case before authorities exercise the general power of competence for a commercial purpose would help ensure that authorities fully consider what they are seeking to achieve, why and how they are going to achieve this, the likely financial implications and the benefits to their communities. This will support transparent and robust decision making, enabling decisions to be made in recognition of the potential consequences or risks and after their careful consideration.

While an authority might reasonably support the start-up of such a company, continuing subsidy or funding could both distort the market unfairly to the detriment of any existing businesses or potential entrants to the market. The requirement that an authority recover the full costs of any support or services it provides to the company through which the general power is being exercised for a commercial purpose will help ensure this does not occur.

CF1P28

RE: Green Pledges

Sgwrsysir/CountyConversation <countyconversation@conwy.gov.uk>
Fri 05/03/2021 14:47
To: ATC Deputy Clerk <deputyclerk@abergele-towncouncil.co.uk>

1 attachments (634 KB)
Abergele Town Council - Bronze Certificate (05.03.2021).pdf;

Diolch i chi am wneud yr addewid i wneud gwahaniaeth!

Gweler yn ynghlwm eich Tystysgrif Addewidion Gwyrdd Cymunedol.

Gyda diolch,

Bwrdd Gwasanaethau Cyhoeddus Conwy a Sir Ddinbych

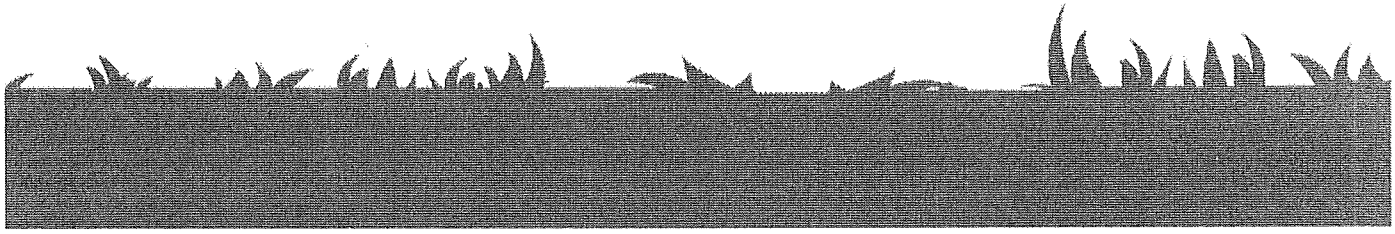
Thank you for making the pledge to make a difference!

Please find attached your Green Community Pledge Certificate.

With thanks,

Conwy & Denbighshire Public Services Board

GWNEUD ADDEWID I WNEUD GWAHANIAETH
MAKE THE PLEDGE TO MAKE A DIFFERENCE



From: ATC Deputy Clerk <deputyclerk@abergele-towncouncil.co.uk>
Sent: 02 March 2021 15:28
To: Sgwrsysir/CountyConversation <countyconversation@conwy.gov.uk>
Subject: Green Pledges

Good afternoon

Please find attached the Grenn Pledge Assessment form for Abergele Town Council.

I hope I have interpreted it correctly; the Council is keen to achieve its Bronze Certificate.

Please let me know if you require further detail.

Kind regards
Lorraine

Lorraine Whalley
Deputy Clerk/Dirprwy Clerc
Cyngor Tref Abergele Town Council
Llandulas Road
Abergele LL22 7BT
01745 833242

Mae'r neges e-bost hon ac unrhyw ymgysylltiadau yn gyfrinachol, ac wedi eu bwriadu ar gyfer yr un sy'n cael ei h/enwi yn unig. Gallent gynnwys gwybodaeth freintiedig. Ar gyfer yr amodau llawn ynglŷn â chynnwys a defnyddio'r neges e-bost hon ac unrhyw atodiadau, gweler www.conwy.gov.uk/ebost_ymwadiad

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CF1P29

Addewidion Gwyrdd Cymunedol
Community Green Pledges:
Statws Efydd / Bronze Status

Rydyn ni'n falch o wobrwyo statws efydd i / We proudly award bronze status to

Abergele Town Council

am wneud hyd at 4 Newid Gwyrdd a helpu i wneud gwahaniaeth cadarnhaol i'n hamgylchedd / for achieving up to 4 Green Changes and helping to make a positive difference to our environment.

CF LP30

S&R Williams

Sian Williams
Cadeirydd Bwrdd Gwasanaethau Cyhoeddus Conwy a Sir Ddinbych / Chair of Conwy and Denbighshire Public Services Board

Judith Greenhalgh
Is-gadeirydd Bwrdd Gwasanaethau Cyhoeddus Conwy a Sir Ddinbych / Vice Chair of Conwy and Denbighshire Public Services Board

GWNEUD ADDEWID I WNEUD GWAHANIAETH
MAKE THE PLEDGE TO MAKE A DIFFERENCE

Community Green Pledges: Self-Assessment Pledge Form

Thank you for signing up to the Conwy and Denbighshire Public Services Board (PSB) Community Green Pledges initiative and taking the time to let us know what you've been up to.

Please keep in contact with us at countyconversation@conwy.gov.uk and let us know how you're doing so we can share your good work!

1. Name of Community Group	**ABERGELE TOWN COUNCIL**
2. Contact details of person completing this form	**Mrs Lorraine Whalley**
3. Date	**01/03/21**

CP1231

	4. What Green Change(s) has your community group made? Remember you can add your own green changes! Here's a reminder of the all the green changes	**5. Please tell us what you've been up to?**
	For example – Green Change 1: improve the energy efficiency of community buildings	*For example* – We've upgraded our lighting by switching to LED bulbs and invested in motion sensors in some of our spaces (e.g. toilets).
Bronze Status = for 1 to 4 Green Changes	Reduce and recycle plastic	Stopped using single use plastics e.g polystyrene cups, plastic teaspoons. Refreshments are served in china cups, with metal teaspoons. A plastic recycling bin has been installed in the office to dispose of all plastic packaging generated by deliveries and convenience foods. Staff almost always bring their own lunches in re-usable plastic containers.
	Reduce and recycle paper	Each Councillor has their own iPad and receives Meetings 'paperwork' digitally. Making the most of technology for meetings and communications saves 29 reams of paper per year on just one monthly meeting of the Full Council. Any other paper waste is shredded and collected for recycling.

MAKE THE PLEDGE TO MAKE A DIFFERENCE

visit www.conwyanddenbighshirepsb.org.uk to find out more about the Community Green Pledges and for ideas on what other communities are doing!

	Increase biodiversity	Installed planters at the gateways to the town. Primarily for enhancing the welcome to the town, the planters also add value to bio-diversity. They contain a variety of shrubs and flower attractive to bees, butterflies and birds. The Butterfly Garden was installed by KWT and volunteers from Abergele District Action Group and Incredible Edible. Plants shrubs and flowers attractive to butterflies, bees and other insects have been planted in a small area of the park to increase biodiversity in the area.
	Engage the Community in litter picking and recycling	The Council have purchased 2 'litterpick' boards from the #2minutebeachclean Foundation for Pensarn Promenade and Pentre Mawr Park. The boards provide information and storage of litterpicking equipment for members of the public who would willingly pick up litter if they had the equipment to hand. They can also take part in the Social Media campaign that comes with board scheme about looking after our environment.
		Click here to enter text.
Silver Status = for 5 to 8 Green Changes	Click here to enter text.	Click here to enter text.
	Click here to enter text.	Click here to enter text.
	Click here to enter text.	Click here to enter text.
Gold Status = for 9 to 12	Click here to enter text.	Click here to enter text.
	Click here to enter text.	Click here to enter text.

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	Click here to enter text.	Click here to enter text.
	Click here to enter text.	Click here to enter text.
Platinum Status = for 13 or more Green Changes	Click here to enter text.	Click here to enter text.
	Click here to enter text.	Click here to enter text.
	Click here to enter text.	Click here to enter text.

6. What Green Changes do you plan to tackle next?

Staff and Councillor travel to the Town Hall e.g Councillors walk or cycle to meetings given that active travel routes are soon to be installed in Abergele and providing secure bike storage to accommodate/encourage the staff to cycle to work.

Once we have looked at your evidence, we will send you a signed pledge certificate for you to display and let others know your community group has made changes to reduce your environmental impact.

CF1933

Conwy and Denbighshire Public Service Board

5 Green Pledges Scheme

Abergele Town Council has declared a Climate Emergency and will be seeking to lead by example on the many ways it can reduce its impact on Climate Change. By setting an example in everything that it does the Council wishes to encourage businesses, charities, community groups and individuals to examine what changes they too can make to help improve the world we live in.

> *"By reducing our impact on the environment, we can ensure that future generations have the same opportunities we have today. Lifestyles and behaviours must change in order to achieve this goal. By signing up, you will be joining a community united in making a positive difference for everyone".*
>
> *Conwy & Denbs PSB*

The system is simple; choose one of the 5 themes for making change, choose your goals and put the plan into action. Keep the PSB informed and they will assess the activities with a view to awarding a bronze, silver or gold status certificate. There is no pressure to achieve as many goals as possible in the shortest time, the objective is to change behaviours and mindsets for future generations. Every new project the Council or any organisation embarks on is encouraged to consider the Green Pledges.

https://conwyanddenbighshirelsb.org.uk/wp-content/uploads/2020/01/Community-Green-Pledges-English-final.pdf

I have reviewed ATC's green activities over the last few years and pplied them to the Pledges as follows:

1. **Community Buildings and Facilities Pledge**

   No activities directly connected to this pledge but this category covers heat light water in community buildings. Prior to COVID North Wales Police were incorporating 'green' elements into their upgrade of the Police and Town Hall building

2. **The Transport Pledge**

   No activities directly connected to this pledge but this category covers carshare, cycle to work scheme, e-bikes scheme, active travel schemes, electric vehicles and electric vehicle charging

   Work in Progress:

   i. A grant application has been made for funding for two EV chargers in Water St carpark. (Progress currently stalled due to COVID)

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Future considerations:

Staff cycle/e-bike to work scheme

Councillors walking/cycling to meetings (when face to face meetings re-commence)

3. Reduce, Reuse, Recycle Pledge

Achieved to date:

i. Discontinued use of single use plastic for refreshments at meetings.

ii. Installation of a plastic recycling bin for collection of plastic waste for recycling

iii. Reduced paper consumption considerably by introducing iPads for use by Councillors at their meetings.

iv. Any other kind of waste paper is shredded for recycling

v. No longer distribute paper copies of the Newsletter to 5000 households by making it available on the town's website.

vi. Installed a number of picnic tables and benches made from recycled materials for the enjoyment of the public in the town.

vii. Funded a 4 way recycling bin on Pensarn Prom

4. Local and Ethical Produce Pledge

Achieved:

i. Committed to purchasing Fairtrade tea, coffee and sugar for refreshments

5. The Environment and Nature Pledge

Achieved:

i. Increase in biodiversity by installing 8 planters at various locations in the town

ii. Increased biodiversity by installing 26 hanging baskets every year for 16 weeks

iii. Increased biodiversity by installing a butterfly and bee garden in Pentre Mawr Park

iv. Extended bio-diversity by installing a further 8 flower planters made from recycled materials in the town centre

v. Purchased 'A' boards for the Promenade and Pentre Mawr Park which provide equipment to encourage passers-by to do a quick 2 minute litter pick on the beach or in the park (National Scheme #2minutebeachclean)

Mrs L Whalley

Deputy Clerk, Jan 2021

CA1P35.