

**APPENDIX C****Note to Elected Members with regard to the position of Parish Councils and the management of Public Libraries.****Background**

1. This note has been prepared in response to a number of queries relating to the role that Parish Councils can play in supporting the development of public libraries that may be managed by local communities. The note has been prepared with advice from Legal Services.
2. On April 7<sup>th</sup> the County Council began a three month public consultation period with residents and stakeholders to consider proposals to enable local communities to play a greater role in the management of the network of 36 local community libraries, with support from the County Council.
3. In the lead up to the consultation, the County has been engaged in informal discussions with interested Parish Councils who have wished to explore the role that they might play in managing the libraries.
4. This note seeks to clarify the role that Parish Councils can play in supporting the County Council proposals outlined in the consultation.

**Summary**

5. Although there is no explicit legal power to do so, Parish Councils can play a role in supporting library provision through the General Power of Competence under Section 1 of the Localism Act 2011.
6. In all cases, Parish Councils should satisfy themselves that they have the power to do so and are advised to take appropriate legal advice before any decisions are taken in relation to their involvement in library provision..

**General Powers of Competence**

7. In order to gain the General Power of Competence, the Parish Council must resolve annually at a meeting that it meets the criteria for eligibility. The criteria are:
  - That two thirds of the Parish Council must have been elected (as opposed to being co-opted or appointed)
  - The clerk should hold one of a list of specified qualifications.

8. However, for those parish councils which do not meet the requirements to be an “eligible council “ under the Localism Act in relation to the general power of competence, there must be some doubt concerning their powers in relation to library services..

### **Other options which may be available to a Parish Council**

9. Parish councils also have a number of specific powers which could be of assistance depending on the detail of proposals in each case. For example:
- under section 133 of the Local Government Act 1972, parish councils have the power to provide, or “contribute towards the expenses of” the provision of “buildings to be used for public meetings and assemblies”. If this use is part of a multi-purpose building including a library, then this power could be used to support a community organisation which could then run the library service and other services from the facility;
  - Parish Councils could consider relying on the residual power in section 137 of the Local Government Act 1972 to incur expenditure “in the interests of their area ... or any part of it”, but this power is subject to strictly defined financial limits
  - under section 144 of the Local Government Act 1972, parish councils may provide facilities for conferences, trade fairs, and exhibitions, or may encourage any other person to do so;
  - under section 19 of the Local Government (Miscellaneous Provisions) Act 1976, a parish council may provide “such recreational facilities as it thinks fit” including the power to charge (or not) for such provision, and to supply “assistance of any kind”. Provision of a Reading Room would appear to fall to be considered “a recreational facility”.

### **Conclusion**

10. There are a number of ways in which a Parish Council may be able to play an active role in supporting and enabling communities to manage their local libraries through either the General Powers of Competence (which is more targeted at the Parish Council themselves running the library) or through one of the other powers mentioned in paragraph 9 above where they might play an enabling and supporting role. In either case, it cannot be stressed enough that they should take their own legal advice before any decisions are made in respect of library provision.

**Officer to Contact**

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**N.B.**

1. This note is provided for the benefits of Members in their capacity as County Councilors. The views expressed are not to be taken by any Parish Council as a statement of the law as it applies to them. Separate legal advice should be obtained by any Parish Council as to its powers to act.
2. One option not discussed above as far as the County Council is concerned may be for the authority to delegate its functions in relation to the provision of Library Services to the Parish council which it could do in accordance with arrangements made under section 9EA of the Local Government Act 2003. The issue would remain however for the Parish Council as to under what power it would incur any expenditure above and beyond any funding provided by the County Council. The only possibilities would appear to be those considered above.

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