

LOCAL GOVERNMENT AND ELECTIONS (WALES) ACT 2021

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: General Power Of Competence

Chapter 1: The General Power

Section 27 – Limits on doing things for commercial purpose in exercise of general power

175. This section provides that a qualifying local authority may use the general power to carry out an activity for a commercial purpose only if the activity is one the authority could also rely on the general power to carry out for a non-commercial purpose.
176. The effect of subsection (3) is that a qualifying local authority cannot carry out an activity in respect of someone for a commercial purpose, if the authority is required by legislation to carry out that activity.
177. Also, if a qualifying local authority wishes to use the general power to do something for a commercial purpose, it must do so through a company, as defined in section 1(1) of the Companies Act 2006, or a registered society as defined in the Co-operative and Community Benefit Societies Act 2014, or registered under the Co-operative and Community Benefit Societies Act (Northern Ireland) 1969.
178. Subsection (5) imposes a duty on principal councils and eligible community councils to have regard to guidance issued by the Welsh Ministers about exercising the general power of competence to do anything for a commercial purpose.
179. Section 95 of the Local Government Act 2003 deals with the powers of qualifying local authorities (and other bodies) to do things for a commercial purpose other than in the exercise of the general power.