

## **Local councils' powers to address or reduce climate change: existing powers and future opportunities**

As a contribution to NALC's work on climate change, the following is a brief commentary on the powers which local councils possess to tackle climate change. Its purpose is encourage thinking within our sector: both about what local councils may do to make effective use of existing powers, and also to recommend changes to current laws and policies, for consideration and adoption as NALC policy.

From the list of powers that are available to local councils, in NALC's publication 'The Good Councillors Guide'

- 1) Allotments and markets:** [Small Holdings and Allotments Act 1908, ss 23, 26 and 42] (Food Act 1984, s. 50)
  - This allows the promotion of local produce and healthy eating
  - This can help to reduce food-miles
  - Allotments powers also enable the provision of communal food-growing sites and initiatives, run by associations and co-operatives.
- 2) Burials etc:** [Open Spaces Act 1906, ss 9 &10; Local Government Act 197, s.214; Parish Councils & Burial Authorities (Miscellaneous Provisions) Act 1970 s.1]
  - This can allow practices such as green burials, eco-friendly management etc
- 3) Commons, ponds, open spaces, recreation etc** (Open Spaces Act 1906, s.15; Highways Act 1980, ss 47]
  - Scope to practise good environmental management, accommodate recycling facilities etc on the council's land
  - Scope to plant trees on, and maintain, highway verges
- 4) Community centres and other public buildings** (Local Government (Miscellaneous Provisions) Act 1970, s.19. (Local Government Act 1972, s. 133)
  - Scope to embrace/include on-site green energy, energy-conservation, electric car charging-points etc
- 5) Community energy** (s20 of the Climate Change and Sustainable Energy Act 2006)):
  - Councils can encourage or promote the local production and use of renewable energy, and also energy conservation, subject to the section 137 of the LG Act 1972 annual spending limit
  - However, restrictions currently on the ability to 'sell' the energy directly to local consumers.
  - Also, the 's 137 expenditure limit' is a severe constraint on making capital investments in energy schemes

:

- 6) Highways and sustainable transport** (Highways Act, ss 43, 50, Parish Councils Act 1957, s.1; Local Government Rating Act, 1997, s.25, 28 & 29; Transport Act, 1985, s.106A)
  - Scope to promote rights of way routes, walking and cycling
  - Scope to use 'car park' powers, to provide useful facilities such as on-site electric vehicle-charging points
  - Scope to make more use of powers to support community bus services, and to run or support car-sharing
- 7) Litter and environmental crime** ([Litter Act 1983, ss 5.6, Cleaner Neighbourhoods and Environment Act, 2005])
  - Scope to provide refuse and waste receptacles and publicity, including recycling
  - Scope to discourage and prosecute littering and dumping
  - Currently there is no specific power to promote or run waste-recycling or resource re-use activities
- 8) Neighbourhood planning** [Localism Act, 2011; Neighbourhood Planning Act, 2017 and National Planning Policy Framework,)
  - Scope to include environmentally-friendly planning policies re design, routes, landscaping etc
  - There is a continuing need to ensure that Neighbourhood Plans have 'teeth', and that they can be more than just land-use allocation policies.
- 9) Newsletters and websites:** (Local Government Act 1972, s.142)
  - Scope to use to promote good environmental practices, resource-sharing etc
- 10) Community support and engagement** (Local Government Act 1972 ss. 111, 140 etc)
  - Scope to encourage and support volunteers and the wider community with grants, loans, insurance protection, publicity, surveys, good-practice advice etc
- 11) Tourism** Local Government Act, 1972, s.144
  - Scope to encourage and promote eco-tourism
- 12) General powers** (Local Government Act 1972, s 137; Localism Act 2011, ss 1–8; )
  - Scope to spend money and/or undertake work on a wide range of beneficial activities which are not prescribed in other legislation
  - However, s 137 annual spending level is limited, and the General Power of Competence is exercisable by relatively few councils.
- 13) Subsidiary powers** (LG Act 1972 s111):
  - A very useful enabling power, for a council to do anything (that are not constrained by other legislation).which is calculated to facilitate or is conducive or incidental to the discharge of any of its functions.
- 14) Permitted development rights** (Town and Country Planning (General Permitted Development) (England) Order 2015, part 12):

- Councils may erect and operate, without the need to seek planning permission, a wide variety of small buildings, equipment and other structures on their land, for the purposes of any of their functions or public services. This can include a range of small 'green' developments

Recommendations for NALC policies and services:

- a) As part of its range of 'good-practice' publications, NALC is recommended to produce one or a number of Climate Change related material, which includes 'legal advice' on the creative use of the powers already available to local councils, as summarised in this document
- b) Local councils should be given a direct power to undertake tree planting and other eco-friendly activities on a much wider range of land, beyond just their own recreational spaces and highway verges.
- c) The 'section 137' expenditure limit on community energy facilities and activities should be removed
- d) Local councils should be given the power to promote and operate facilities and services to recycle waste and re-use resources.
- e) The role and effectiveness of neighbourhood plans in relation to Climate Change should be protected and given more weight in decision-making.
- f) Local councils should be given a power to promote and run facilities for their local community which make effective use of ICT (Information and Communications Technology), such as community broadband systems.

**NALC Sept 2020**

