# The legalities of new revenue streams

2011

Nathan Holden, Partner, Head of Local Government

MILLS & REEVE

# INTRODUCTION

- Where are we now?
- Where are we likely to be in the future?

# WHERE ARE WE NOW?

- Creatures of statue
- Mix of express and general powers

# POWERS ARE NOT NEW

- Civic Restaurants Act 1947 (restaurant)
- s145 Local Government Act 1972 (entertainment)
- s19 Local Government (Miscellaneous Provisions) Act 1972 – spare computer capacity
- s150 Local Government and Housing Act 1989 – recovery of costs for making orders

# WELL-BEING POWER

- s2 Local Government Act 2000
  - Power to promote the,
    "*economic, social and environmental well-being*……"
  - Very broad in scope
  - Effect of the LAML case

# SPECIFIC POWERS TO CHARGE

- s93 Local Government Act 2003
  - Power to charge for the provision of discretionary services
  - At cost
  - With consent

# LOCAL AUTHORITY TO LOCAL AUTHORITY

- Local Authorities (Goods and Services) Act 1970
  - Power to provide other local authorities or defined public bodies with:
    - good or materials;
    - administrative, professional or technical services

# SPECIFIC POWER TO TRADE

- s95 Local Government Act 2003
  - regulated by Secretary of State's order
  - through a company (not a partnership)
  - business case
  - competition law issues (abuse of dominant position)
  - State aid

# WHERE ARE WE GOING?

- Power of general competence
- Tax Increment Financing (TIF)
- New Homes Bonus and Community Infrastructure Levy (CIL)

# GENERAL OBLIGATIONS

- Duty to act properly
- Don’t use powers to circumvent other restrictions
- Duty to act in the best interests of your local taxpayers

# POWER OF GENERAL COMPETENCE

- the power to "... ***do anything that individuals may generally do***"
- purpose "…***to give every council a general power of competence on behalf of the residents who elect it***…"

# TIF etc

- TIF
- Community Infrastructure Levy
- New Homes Bonus

# thank you

T +44 (0)844 561 0011 www.mills-reeve.com
Offices: o Birmingham o Cambridge o Leeds o London o Manchester o Norwich

Mills & Reeve LLP is a limited liability partnership regulated by the Solicitors Regulation Authority and registered in England and Wales with registered number OC326165. Its registered office is at Fountain House, 130 Fenchurch Street, London, EC3M 5DJ, which is the London office of Mills & Reeve LLP. A list of members may be inspected at any of the LLP's offices.
The term "partner" is used to refer to a member of Mills & Reeve LLP.

MILLS & REEVE