



**APSE**

**New Municipal Entrepreneurs**

Charging and trading

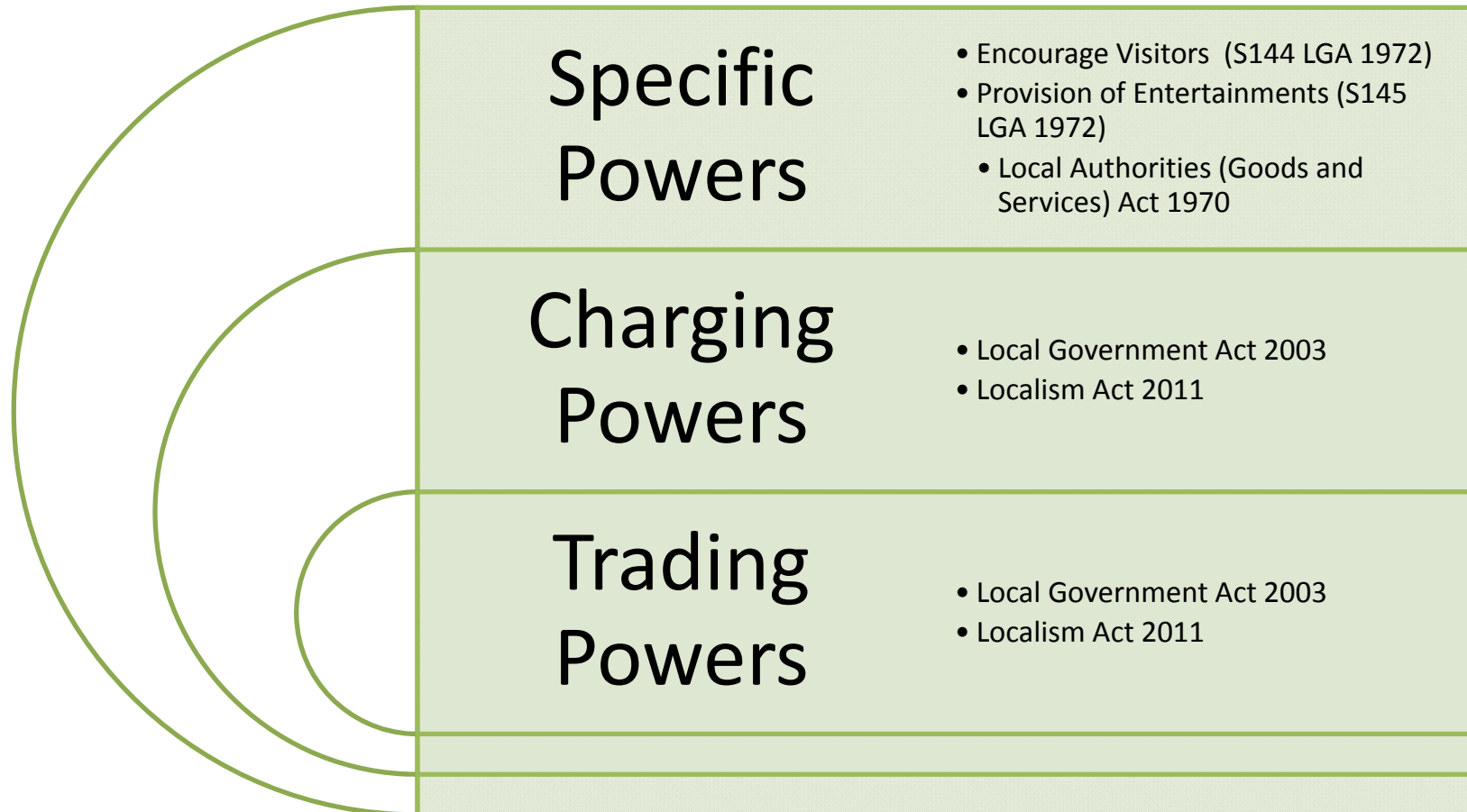
# **Your Power Toolbox**

**11 July 2014**

**Richard Auton  
Director  
Walker Morris LLP**



# Power Toolbox



# What's the difference?

## Charging

- Making money from delivering your services

## Trading

- Just making money

# General Charging powers

## Local Government Act

2003

May charge for a service if—

- Power but not duty to provide,
- Recipient has agreed to provision.
- No other power to charge
- No prohibition to charge
- income from charges does not exceed the costs of provision -taking one financial year with another

## General Power of

## Competence

Power to do anything that individuals may generally do

- power to charge for providing under general power
- Not for commercial purpose
  - no duty to provide to the person,
  - recipient has agreed to provision, and
- No other power to charge for providing the service.
- income from charges does not exceed the costs of provision - taking one financial year with another

# Powers to Trade

Local Government Act  
2003

Do for a commercial purpose anything authorised to do to carry on any ordinary function

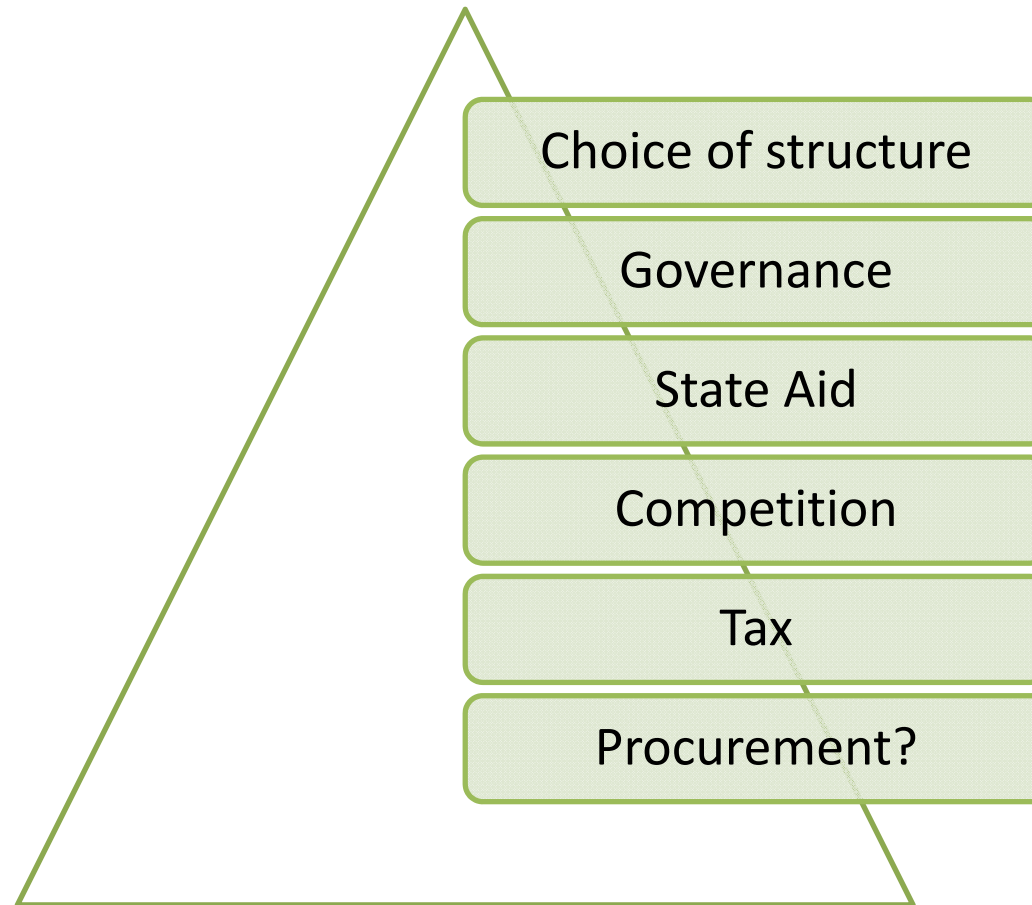
- Not where required or authorised under ordinary functions
- only through a company
- Prepare business case
- Recover costs

General Power of  
Competence

Power to do anything that individuals may generally do

- Anywhere in the UK or anywhere else
- For a commercial purpose or for a charge or without a charge
  - Only through Company
  - Not if activity is a duty
- pre- and post commencement limitations

# Trading Company



# Controlled Entities (Teckal)

Contract with legal person (public or private law) is outside scope where

Authority exercises control similar to that over its own departments

- decisive influence over both strategic objectives and significant decisions
- May be by other controlled entity

At least 80% of its activities are carried out for the authority

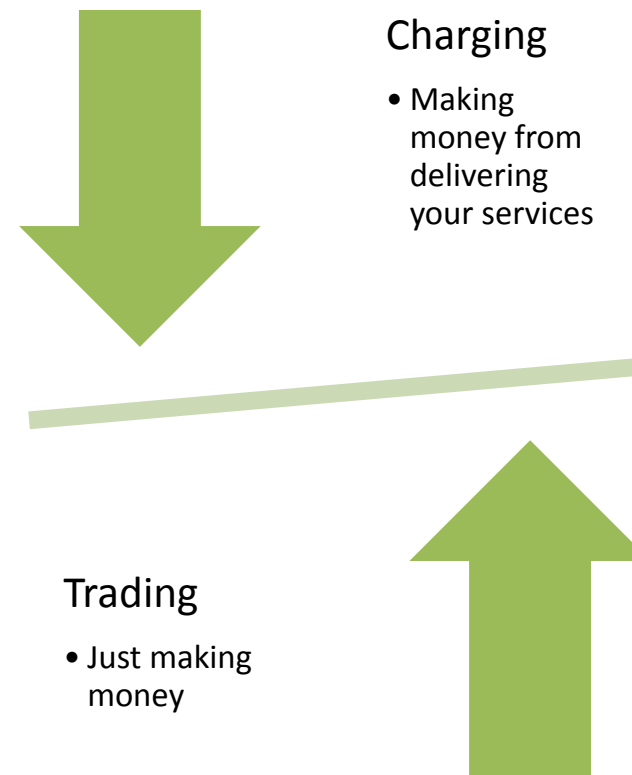
- or other legal entities controlled by that authority

No direct participation of private capital in the entity

- Except non controlling and non blocking required by national legislation in conformity with the Treaties
- which do not exert a decisive influence on the entity

# Equalities, Best Value and Consultation

- Equality Act 2010
  - decisions of a strategic nature about how to exercise its **functions**
- Best Value Duty
  - continuous improvement in the way in which its **functions** are exercised
    - Consult tax payers, service users etc





# Contact

Richard Auton

Director

**Walker Morris LLP**

**Kings Court**

**12 King Street**

**Leeds**

**LS1 2HL**

**0113 283 2500**

**07525 198953**

[www.walkermorris.co.uk](http://www.walkermorris.co.uk)

[richard.auton@walkermorris.co.uk](mailto:richard.auton@walkermorris.co.uk)

