

COUNTY DURHAM LOCAL COUNCILS CHARTER



Introduction

Parish and town councils, also known as local councils, are the first tier of local government in England. Within this document they will be referred to as local councils. They are statutory bodies, with Members elected for a term of four years and activities funded principally by an annual precept.

Local councils have a wide range of powers, and are involved in an extensive range of activities, which benefit the community, including input to planning decisions, promoting tourism, providing community halls, managing town and village centres and representing the views of residents.

This Charter has been developed to help local councils and Durham County Council work effectively in partnership to provide excellent services to local people. The Charter recognises and supports the enhancement of local councils' unique role within their communities and will facilitate capacity building so that the potential of the tier can be more fully realised.

Purpose

To support the development of a mutually beneficial working relationship between Durham County Council and local councils by setting out the respective rights, roles, responsibilities of each and the expectations that they may have of each other.

Context

Durham County Council recognises local councils as the first tier and 'grass roots' of local democracy and the benefits that joint working with local councils can bring. The Council is committed to full parishing of the County and to building the capacity of local councils who wish to play an even stronger role in their local communities. By working closely with the unitary councillors and other community and voluntary groups local councils will provide a powerful mechanism for engaging with local people and delivering service improvements. Through links to Area Action Partnerships local councils will be able to influence outcomes for the wider area, whilst influencing the overall strategic direction of the County through representation on the County Durham Partnership Forum and links between parish plans, area plans and the countywide Sustainable Community Strategy.

The Council will provide significant strategic financial support to the tier, assist those that aspire to 'Quality' status and devolve power and functions to those that have sufficient capacity and a good business case. Quality Councils are recognised as having demonstrated their efficiency and effectiveness in a number of key areas such as:

- Community representation and engagement
- High standards of conduct
- Leadership and partnership working
- Management of resources

Local councils recognise the strategic role of Durham County Council in ensuring that services are delivered fairly and equitably across County Durham as a whole.

The principles and undertakings set out in this Charter will underpin our relationship as partners and provide a framework to enhance our joint capacity to bring about improved service delivery and quality of life for the people of County Durham, improving social, economic and environmental wellbeing for our communities.

Performance monitoring and review

The Charter will form part of the induction and training process for staff and Members of Durham County Council expected to have dealings with Local Councils. It will also form part of the training process for Local Council Clerks and Councillors.

Performance against the undertakings within the Charter will be monitored and evaluated on a regular basis through a joint mechanism to be agreed between Durham County Council and the County Durham Association of Local Councils(CDALC). Issues of non compliance, which cannot be resolved by the parties directly concerned, will be referred to Durham County Council's Principal Local Councils Officer and/or the Executive Officer of CDALC.

The Charter will be reviewed annually through this same mechanism to ensure that it remains fit for purpose and is amended to reflect emerging developments locally and nationally.

Provisions of the Charter

1. The Sustainable Community Strategy and the Local Strategic Partnership

Durham County Council will

- 1.1 Seek to ensure appropriate and effective representation for the local councils tier to the County Durham Partnership through membership of the County Durham Partnership Forum. Minutes of meetings of the County Durham Partnership will be made available to meetings of the County Durham Association of Local Councils (CDALC) Executive on request. In addition regular meetings between representatives of the tier and senior Partnership officers will support effective liaison at the Countywide level.
- 1.2 Ensure that local councils are appropriately engaged in the development and review of the Sustainable Community Strategy (SCS) and Local Area Agreement (LAA).
- 1.3 Where appropriate, take account of priorities and proposals of local parish plans in developing area plans and the SCS.

Local councils will

- 1.4 In developing parish plans, have regard to the principles and priorities set out in the SCS and relevant area plans so as to support and add value to the themes and outcomes which have been identified. Further information on the role and status of parish plans is covered in the Planning protocols appended to this document.

2. Local Governance

Durham County Council will

- 2.1 Work with CDALC to develop appropriate links between local councils, the local unitary councillors and emerging Area Action Partnership arrangements. Town and Parish council representation on Area Action Partnerships (AAPs) should be safeguarded by means of having a minimum of one of the Elected Member Board positions where they exist in an AAP area. (Where an AAP has more than six Unitary Councillors they would have one position, but where there are less, they would make up the remaining places.)
- 2.2 Ensure that AAP Co-ordinators will meet with the Local Councils Committee for the AAP area at a frequency to be agreed between the AAP Co-ordinator and the Chair of the Local Councils Committee. The County Council's Principal Local Councils Officer or a representative will also attend. The agenda will provide an opportunity to discuss matters of mutual interest. There will be a standing item, updating local councils on relevant Council, County Durham Partnership and AAP issues.
- 2.3 Maintain close working relationship, through appropriate liaison and support arrangements and through the Cabinet member with responsibility for local partnerships.
- 2.4 Ensure that unitary councillors maintain links to local councils and parish meetings within their area through regular contact and by providing regular information on the activities of Durham County Council, including a formal report to be given at least annually.
- 2.5 Involve CDALC in appropriate discussions and consultation relevant to the local councils tier.
- 2.6 Will provide local councils with access to any public report on request.

- 2.7 Will ensure its Members are aware of any significant issues raised by Local Councils.
- 2.8 Will ensure that there is a consistent approach to the administration of local elections.
- 2.9 Will arrange to support, train and advise local councils with regard to the ethical framework for their governance. Standards Committee arrangements are set out in the Council's Constitution and are reproduced in the Appendices to this Charter.
- 2.10 Will respond positively, where appropriate when unitary councillors, Cabinet Members or officers are invited to speak at meetings of CDALC, its committees or local councils/parish meetings on matters of mutual interest.
- 2.11 Will ensure that the County Council Remuneration Panel sits to reach recommendations on parish councillors' allowances.

Local councils will

- 2.12 Send copies of their agendas and papers to Durham County Council on request.
- 2.13 Will inform their local unitary councillors of any local views or information relating to their responsibilities.

Durham County Council and the County Durham Association of Local Councils will

- 2.14 Convene an annual Charter Review Meeting, each December to consider the effectiveness of the Charter and any areas for improvement. The meeting to be attended, for the County Council by the Head of Partnerships and Community Engagement, the Principal Local Councils Officer and the Portfolio Holder for Partnerships and Community Engagement (or their representatives) and for the local councils by the Chair and Executive Officer of CDALC (or their representatives) and one representative from the Town and Parish Councils Co-ordination Group. The meeting will produce a report of proposed outcomes and actions going forward to be agreed by the Council Cabinet and the CDALC Executive. The report may include recommendations for amendments to the Charter or for its fundamental review if this is felt to be appropriate.

3. Local Community Life

Durham County Council will

- 3.1 Encourage and support the development of new local councils, aspiring to full parishing of the County as soon as is practicable.
- 3.2 Encourage local councils to develop innovative local projects and support them to develop parish plans and pilot new ideas.

Durham County Council and local councils

- 3.3 Will work in partnership to support and develop appropriate local community projects.

4. Consultation and engagement

Durham County Council will

- 4.1 Consult local councils where appropriate on issues that affect their area.
- 4.2 Allow a minimum of six weeks for responses or explain if not able to do so and be prepared to negotiate appropriate timescales with local councils where there is the flexibility to do so.
(There are separate arrangements for consultation on planning applications detailed in the Planning protocol appended to this document).

- 4.3 Prepare a summary, where there is capacity to do so, for complex or lengthy documents.
- 4.4 Provide briefing sessions/workshops where practical for groups of local councils on complex issues.
- 4.5 Have regard to the views of local councils when making decisions.
- 4.6 Provide feedback to local councils on the results of consultation.
- 4.7 Provide access to any public report on request.
- 4.8 Facilitate consultation with other bodies that deliver services in a locality through local partnership meetings or specially arranged local liaison meetings.
- 4.9 Where policies and proposals are of a general nature, the Council will consult with CDALC and/or its committees as an effective means of securing the collective views of local councils.

Local councils will

- 4.10 Endeavour to take part in consultations and respond within the given period.
- 4.11 Recognise the strategic consultative role of CDALC and its committees.
- 4.12 Work with Durham County Council to seek the views of residents on matters of mutual interest.
- 4.13 Involve Durham County Council in the preparation of Town or Parish Plans or Village Design statements, or in the development of any relevant local initiatives where Durham County Council may have an interest.

5. Information, communication and customer feedback

Durham County Council will

- 5.1 Provide regularly updated contact information in respect of its key officers and Members and explore opportunities for local councils to access appropriate areas of the Intranet.
- 5.2 Provide copies of the council magazine and other newsletters and service guides to local councils on request.
- 5.3 Ensure that the Council's forward plan and all public reports and minutes of meetings are made available on its website.
- 5.4 Promote timely and clear information.
- 5.5 Investigate ways of assisting local councils to access IT and IT support services in order to improve and speed up communications.
- 5.6 Make every effort to attend meetings when invited.
- 5.7 Respond fully to complaints and enquiries in 10 working days. If the complaint is more serious it can take up to 20 working days to respond fully and if it is likely to take longer, for example in complex cases, Durham County Council will keep the complainant informed about progress.
- 5.8 Will respond fully to requests for information within 20 working days in compliance with the Freedom of Information Act 2000.
- 5.9 Adhere to the provisions of the Licensing Joint Protocol set out in the Appendices to this Charter.
- 5.10 Notify local councils about the disposal of assets and equipment.

Local councils will

- 5.11 Make every effort to attend events and meetings to which they are invited.
- 5.12 Be able to initiate the Council's complaints procedure if they are dissatisfied with the Council's actions, their response to a request for information or their failure to consult. This is in addition to being able to raise issues of non compliance with Charter commitments. Details of procedures to be followed are set out in the Appendices to the Charter.

- 5.13 Respond to requests for information within 20 working days (except for planning applications, which are subject to separate arrangements).
- 5.14 Provide contact and service information to Durham County Council.
- 5.15 Invite Durham County Council's Principal Local Councils Officer to attend meetings of the CDALC Executive.
- 5.16 Provide dates of meetings of CDALC and copies of agendas and minutes on request to a nominated officer within Durham County Council.
- 5.17 Invite the Chief Executive of Durham County Council to attend the AGM of CDALC.

6. Practical Support

Durham County Council will

- 6.1 Encourage the use of support mechanisms such as CDALC, its committees and national networks.
- 6.2 Will continue to provide the existing level of practical and financial support to assist the County Durham Association to fulfil its roles and responsibilities.
- 6.3 Will, on request and where practical, and where resources permit, offer Local Councils access to their support services, to enable them to take advantage of facilities, at a mutually agreed price.
- 6.4 Work to develop a handbook, setting out a short guide to the Charter, key contact details for relevant service groupings and details of advice and support available to local councils through Durham County Council.
- 6.5 Will work with CDALC and the County Training Partnership to support and encourage training and development of councillors and clerk and will send a representative to the County Training Partnership.
- 6.6 Will encourage local councils wishing to achieve the Quality Parish standards through its continued support for the Bursary Scheme, currently administered by Durham Rural Community Council.

Durham County Council and CDALC will

- 6.7 Work together to negotiate how best to develop and enhance the Association for mutual benefit.

7. Standards and Ethics

- 7.1 The County Council and local councils have adopted codes of conduct for councillors, based on the national model code of conduct. The local councils will work with Durham County Council's Standards Committee to promote and maintain high standards of conduct. Details of Standards Committee arrangements are set out in the County Council's Constitution and in the Appendices to this Charter.

8. Planning issues

- 8.1 The role of local councils in the planning process is set out in a separate document, within the appendices to the Charter. This recognises that local councils are statutory consultees in all planning matters and sets out specific arrangements in respect of:
 - Consultation
 - Representation
 - Liaison
 - Parish and Town Plans and proposals
 - Training

- Statement of Community Involvement

9. Service devolution

- 9.1 Durham County Council will explore the benefits of devolved service delivery with local councils, working towards a jointly agreed process, to develop, consider and action where appropriate, proposals for a local council or group of local councils to take on aspects of the delivery, management or monitoring of local services where this represents best value for the taxpayer.
- 9.2 Where arrangements are made to devolve an aspect of service delivery, management or monitoring to a local council or group of local councils, this will be subject to a separate formal agreement between Durham County Council and the local council(s) involved.

10. Financial arrangements

- 10.1 Financial arrangements will be governed by the following principles:
- Equity in the provision of services (and access to them) by Durham County Council in different parts of the County.
 - Efficiency – to keep administrative operating costs to a minimum
 - Transparency through the identification of the services provided by Durham County Council and the Local Council and how the taxpayer contributes to these.
 - Democratic control and accountability, i.e. distinguishing between funding provided by Durham County Council for a service delivered by the Local Council and funding raised by the Local Council's precept.
 - Finance following function – where provision of a service is devolved or transferred to a local council from Durham County Council, then the financial provision is also transferred, with the amount agreed between Durham County Council and the Local Council concerned.
 - There will be a standardised calculation to determine local councils' contributions to election costs as follows: when there is a combined election i.e. when County Council elections and parish council elections are held on the same day then parish councils will be recharged only with costs specific to their elections ie nomination papers, ballot papers, count costs and similar specific costs. Parishes will also be recharged with specific additional costs incurred as a result of the combination of elections ie any additional fees for polling station staff. At by-elections parishes will be recharged the full cost of the election.
- 10.2 Durham County Council will keep local councils informed of changes to service provision and will consult annually with the local councils on budget proposals
- 10.3 Information requirements from local councils will be notified early and precept payments will be made promptly in line with mutually agreed arrangements.
- 10.4 The councils party to this Charter will commit to negotiate appropriate financial arrangements to mitigate against the occurrence of double taxation which may arise when services are delivered concurrently.

Appendix 1

Planning Protocol

Role of local councils in the Planning Process

Consultation

1. Local councils will function as statutory consultees in all planning matters.
2. The Council will consult local councils at all stages in the preparation of planning policy, both at a strategic and locality level, and positively encourage and engage such councils in helping to shape and guide development and environmental protection policies.
3. The Council will formally consult all local councils on all planning applications. The Development Management function of the new authority will notify all councils promptly upon receipt of all planning applications inviting comments within 21 days. Such notification will provide a link through to the Authorities Public Access Website providing details of the application. Paper copies will be provided upon request.
4. The Council will notify/re-consult if material modifications are made to planning applications, and of decisions made.

Representation

5. Local councils will have formal speaking rights at Planning Committee, designed to reflect the special status of such councils; and when considered appropriate will be granted additional speaking rights over and above the general public / applicants.
6. The scheme of delegation for the new Authority will be tailored to provide the local councils with the right to request applications are sent to Planning Committee for determination. The final decision to report applications to committee will rest with the Council.
7. The Council will, at the discretion of the Head of Planning / Development Management Manager, ensure Officers attend Town and Parish Council meetings upon request, to explain contentious applications (or enforcement issues).

Liaison

8. The Council through the Development Management service will provide annual liaison meetings with the local councils to provide updates on general planning issues; and to help inform service development.

Parish and Town Plans and Proposals

9. The Council will support, when resources are available, local councils in the preparation and production of parish plans. These documents can then be used as informal planning guidance and will be a material consideration in the determination of planning applications. See also Section 1 of the Charter on the Sustainable Community Strategy and the Local Strategic Partnership. It is unlikely that Parish Plans will be adopted as Supplementary Planning Documents given the Government's approach outlined in PPS12 Local Spatial Planning para 6.2, June 2008), which states

“communities should not expect to prepare plans independently from the Local Planning Authority and then have them adopted as Supplementary Planning Documents. Parishes and urban communities should not however regard the statutory planning approach as the only option open to them: other forms of community planning may be more appropriate. Local planning authorities should play close attention to the contents of non statutory parish and community plans as part of their community involvement”.

Training

10. The Development Management service will facilitate training sessions for Town and Parish Council members to provide them with general knowledge in regard to how the planning system operates and how planning decisions are made.

Statement of Community Involvement

11. The role of local councils will be embodied in the Council's Statement of Community Involvement(SCI). This will set out how local councils will be consulted on planning documents and planning applications, and how they can become actively involved in plan-making. The first development plan document to be prepared for the county-wide Local Development Framework will be the Core Strategy which needs to deal with locally distinctive issues and include a vision, strategic objectives and a delivery strategy which should set out how much development is intended, where, when and how. The timetable for the production of this and other planning documents are set out in the Local Development Scheme. The SCI will also reflect the need for developers undertaking pre-application community consultation to ensure local councils are fully involved as key stakeholders.

Appendix 2

LICENSING ACT 2003

JOINT PROTOCOL FOR THE PROVISION OF INFORMATION TO PARISH AND TOWN COUNCILS

The Licensing Act 2003 (the Act) transferred the responsibility for the issuing of licenses and other permissions in respect of the sale of alcohol, provision of regulated entertainment and late night refreshment to Local Authorities. The County Council is the Licensing Authority for the purposes of the Act and is therefore responsible for the administration and enforcement of its provisions. The Council's Statement of Licensing Policy should be referred to by applicants and those intending to make representations relating to applications made under the Licensing Act 2003.

The Licensing Act 2003 enables responsible authorities and interested parties to make representations relating to applications for premises licences and club premises certificates. Parish Councils are identified in Guidance made under section 189 of the Act as an example of an interested party. i.e. body representing persons living in the vicinity of the premises relating to the application.

This joint protocol exists between Durham County Council and all local councils within the County Durham area. It identifies the terms under which information relating to applications to grant, vary and review Premises Licences and Club Premises Certificates will be supplied by the Council's Licensing Section to local council Clerks.

1. The Council will provide details of all licensing applications, variations and reviews on its website, which can be accessed by the general public including parish councils.
2. Requests by Clerks for any additional information relating to applications to grant, vary, or review licences will be forwarded for consideration to the Council's Licensing Manager. The Licensing Manager will ensure that requests for information are responded to no later than three working days after receipt.
3. Local council Clerks wishing to examine documentation relating to a licence application can do so at the Durham County Council offices by appointment with the Licensing Manager.
4. Copies of the application excluding any plans can be supplied on request however a charge will be made to cover the costs of supplying this service. Copies of plans will be also supplied on request at a charge.
5. Representations relating to applications to grant, vary or review Premises Licences and Club Premises Certificates received from local councils will be accepted by the Licensing Authority as long as they are submitted in writing within the statutory 28 day period following receipt of the application by the Licensing Authority. Representation forms and guidance notes will be supplied on request by the Licensing Authority.

6. Representations received by local councils will only be considered to be relevant if:

They are consistent with one or more of the four licensing objectives namely:

- i) Public safety
- Prevention of public nuisance
- Prevention of crime and disorder
- The protection of children from harm

And either the premises named in the licence application are considered to be within the vicinity of the local council's offices or the representations are made on behalf of named persons who are considered to live or work within the vicinity of the premises named in the application.

7. This protocol will be reviewed at the same time as the Council's Statement of Licensing Policy (every three years) or whenever changes in legislation or Government guidance, which directly affect the protocol, occur.

Appendix 3

Standards Committee (extract from Constitution)

Article 9 – The Standards Committee

9.01 Standards Committee

The Council meeting will establish a Standards Committee.

9.02 Composition

The Standards Committee will be composed of 12 councillors (who may not include the Leader or more than one Cabinet member) 6 persons who are not councillors or officers of the Council or any other body having a Standards Committee (the independent members) and 6 members of parish or town councils within the County. The independent members and parish and town council members will be entitled to vote at meetings. An independent member will chair the Committee.

9.03 Role and Function

The Standards Committee will have the following roles and functions:

- (a) promoting and maintaining high standards of conduct by councillors, independent members and co-opted members;
- (b) assisting the councillors, independent members, co-opted members and parish and town council members to observe the Members' Code of Conduct and where appropriate the Planning Code of Practice;
- (c) advising the Council on the adoption or revision of the Members' Code of Conduct and the Planning Code;
- (d) monitoring the operation of the Members' Code of Conduct and Planning Code;
- (e) advising, training or arranging to train councillors, independent members, co-opted members and parish and town council members on matters relating to the Members' Code of Conduct and Planning Code;
- (f) granting dispensations to councillors, independent members, co-opted members and parish and town council members from requirements relating to interests set out in the Members' Code of Conduct and Planning Code;
- (g) the exercise of any functions under regulations made under section 54(4) of the Local Government Act 2000;
- (h) the assessment, investigation and determination of allegations of misconduct on the part of Members;
- (i) dealing with any alleged breach by a Member of a council protocol, in accordance with procedures approved by the Committee;
- (j) overview of probity aspects of internal and external audit;
- (k) overview of the Officers' Code of Conduct;
- (l) overview of the Protocol on Member/Officer Relations;
- (m) overview of the Council's Confidential Reporting Code;
- (n) overview of complaints handling and Ombudsman investigations;
- (o) power to make payments or provide other benefits in cases of maladministration etc.;
- (p) power to grant exemptions on the political restriction of officer posts;
- (q) the exercise of (a) – (h) in relation to parish and town council members.

9.04 Parish and Town Council Sub-Committee

The Standards Committee will appoint a sub-committee comprising three councillors, three parish/town council members and three independent members. The remit of the sub-committee will be to support parish and town councillors and their clerks in maintaining high standards of conduct, whether through training or otherwise, and for this purpose to maintain close links with the County Durham Association of Local Councils.

Glossary of Terms

Area Action Partnerships

The County Council supports 14 local partnerships which work with local communities and partners, including town and parish councils to identify and address issues of concern to local residents.

County Durham Partnership and County Durham Partnership Forum

The Partnership is the Local Strategic Partnership for County Durham. Its role is to develop and deliver partnership approaches to improving the long term social, economic and environmental wellbeing of County Durham residents. Its structure includes a Board of 15 members and a wider Partnership Forum which comprises the Board members, representatives from each Area Action Partnership and a representative from the County Durham Association of Local Councils.

Sustainable Community Strategy

This is a long term plan setting out how the County Durham Partnership aims to improve social, economic and environmental wellbeing in County Durham.

Local Area Agreement

This is a three year agreement between the County Durham Partnership and national Government which sets out targets for improving the priority issues for County Durham, which partners and the community have identified.

County Durham Association of Local Councils

The umbrella organisation for local councils and parish meetings in County Durham.

Parish plans

Plans for local improvements, which some local councils have developed in consultation with the local community.

Town and Parish Councils Co-ordinating Group

A group of clerks from a range of both small and large local councils, which has been mandated by CDALC to act as a sounding board and liaison and consultative forum on strategic level issues.

Bursary Scheme

A scheme supported by the County Council and administered by Durham Rural Community Council, to assist smaller local councils, who wish to work towards achieving Quality Status.