

DRAFT ANNUAL REPORT OF STANDARDS COMMITTEE

LEAD OFFICER: Tim Capper
REPORT AUTHOR: Tim Capper

Summary:

Reports a draft Annual Report of the Standards Committee

Recommendations:

That the draft Annual Report be agreed and reported on to full Council

1. INTRODUCTION

1.1 A draft Annual Report of the Standards Committee has been prepared in consultation with the Chairman

2. CONTENT

2.1 The draft Annual Report summarises the activities of the Standards Committee in 2010/11 in terms of workload and training activities, and touches on the significant changes to the role of the Standards Committee in the provisions of the Localism Bill. It should be noted that the Localism Bill will continue to place a duty on local authorities to promote high standards of conduct.

3. CONCLUSION

3.1 The Standards Committee is asked to agree the draft Annual Report, subject to any changes members wish to make, and to recommend it to Council on 13 October.

List of Appendices - Appendix A – Draft Annual Report

List of Background Documents: None

ANNUAL REPORT OF THE STANDARDS COMMITTEE

COPELAND BOROUGH COUNCIL



SECOND ANNUAL REPORT 2010 – 2011



1. FOREWORD BY THE CHAIRMAN OF STANDARDS COMMITTEE

Copeland Borough Council has a Standards Committee which has been operating for several years. The Committee has been set up within the best practice guidelines provided by Standards for England, and Members of the Council are familiar with the Code of Conduct. Indeed they have been trained at induction as Councillors and have signed up to its principles. In addition to promoting high standards of behaviour throughout the council, and in the interactions with staff and public, the Committee is also responsible for receiving complaints concerning possible breaches of the Code, to investigate them, and decide on remedial actions where these are required. It is important that people put themselves forward to represent their constituents but, in undertaking such public office, there are clear expectations of behaviours etc that are set out in the Code of Conduct.

In this Second Annual Report of the Standards Committee we have provided summary information on the number of, and range of, complaints that have been brought before the committee and have been investigated. The investigations by the Standards Committee have been rigorous and robust - I believe that the feedback and actions undertaken as a result of these have helped in the continual improvement in the behaviours of Members of the Council.

The Localism Bill currently before Parliament will introduce significant changes to the ethical framework originally introduced by the Local Government Act 2000. These changes include an end to the statutory requirement for local authorities to have a Standards Committee and a Code of Conduct based on a mandatory model. These requirements are to be replaced by a voluntary regime.

Until these changes become more clearly focussed and the Bill approaches Royal Assent, the Standards Committee will continue its work on a business as usual basis. We will be considering options for the future at the appropriate time and making recommendations to the Council on these in due course. See paragraph 10 below for more information on the Localism Bill.



**Dr Steve Bradley, Chairman, Standards Committee,
Copeland Borough Council**

2. MEMBERS OF THE STANDARDS COMMITTEE

There are 12 members of Copeland Borough Council's Standards Committee.

The Chairman of the Standards Committee is an Independent Member, Dr Steve Bradley. Independent chairmanship is intended to demonstrate that the Standards Committee really is independent of the Council.

In areas with Parish Councils it is a requirement that there should be both Independent Members and Parishes representation on a Borough Councils Standards Committee. In particular, where complaints are made against Parish or Town Councillors a Parishes representative must be present.

Members of the Standards Committee in 2010/11 were:-

INDEPENDENT MEMBERS

Dr Steve Bradley (Chairman)
Mr Anthony Payne
Mrs Patricia Routledge

PARISH MEMBERS

Mr Ranald Stewart - (Ponsonby Parish Council)
Mr Vic Chilton - (Ennerdale & Kinniside Parish Council) (A recommendation will be put to Council separately to this Annual Report that Mr Adrian Dalton formally replace Mr Chilton)

COPELAND BOROUGH COUNCIL MEMBERS

Councillor Norman Clarkson
Councillor Peter Watson
Councillor Margaret Docherty
Councillor Geoff Garrity
Councillor David Moore
Councillor Bob Salkeld
Councillor Margaret Woodburn

A new membership was agreed by the Council at its Annual Meeting on 17 May for 2011/12.

The principal advisers to the Standards Committee during 2010/11 were Martin Jepson, Head of Legal and Democratic Services, Clinton Boyce, Legal Services Manager and Deputy Monitoring Officer, and Tim Capper, Democratic Services Manager. At the Council meeting on 22 March 2011 the Council agreed that Tim Capper be appointed Monitoring Officer on an interim basis following Martin Jepson's retirement from Council employment on 31 March 2011.

3. THE ROLE OF THE STANDARDS COMMITTEE

All Councils must demonstrate high standards of ethical conduct in the actions of their Members and Officers

The Standards Committee seeks to ensure that the Borough Council and Town & Parish Council members within the Borough of Copeland observe the Code of Conduct. This governs the ethical standards of conduct expected of Councillors.

Part of the role of the Committee is to promote good standards of conduct and help in advising and educating Councillors about the Code of Conduct. The Committee also reviews the work that is undertaken to oversee ethical standards. This also includes ethical issues relating to the wider work of the Council, such as the operation of the Confidential Reporting (Whistle-Blowing) Code and matters relating to corporate governance.

From May 2008 the Committee became responsible for receiving all complaints about alleged breaches of the Code of Conduct made against members of Copeland Borough Council and Town & Parish Councillors within the Copeland Area. There is an initial assessment stage when an Assessment Sub Committee of the Standards Committee will meet to consider whether the complaint relates to a local member, if it discloses a potential breach of the Code of Conduct and, if it does, whether it ought to be investigated or dealt with by other means such as mediation, member training or otherwise. Some decisions made by the Assessment Sub Committee can be appealed by the complainant and if an appeal is made this will be considered by a different panel, the Review Sub Committee.

If a complaint has been investigated and a breach of the Code is disclosed then the Standards Committee will be convened to hear evidence and representations and to determine if there has been a breach of the Code of Conduct and if so what penalty is appropriate. The penalties that the Committee can impose include:-

- censuring the member
- requiring a written apology for the member.
- requiring the member to undergo training
- requiring the member to participate in conciliation
- imposing restrictions from the members access to local authority premises or resources for up to 6 months
- suspending, or partially or conditionally suspending the member from being a member of the Council for a period not exceeding 6 months.

More serious cases can be referred to the First Tier Tribunal (Local Government Standards in England), formally the Adjudication Panel for England which has powers to disqualify a member for up to 5 years.

4. THE STANDARDS COMMITTEE'S TERMS OF REFERENCE

The Standards Committee's Terms of Reference as set out in Copeland's Constitution is:-

- a) Promoting and maintaining high standards of conduct by the Mayor and Councillors;
- b) Assisting the Mayor and Councillors to observe the Council's Code of Conduct;
- c) Advising the Council on the adoption or revision of the Council's Code of Conduct;
- d) Monitoring the operation of the Council's Code of Conduct;
- e) Advising, training or arranging to train the Mayor and Councillors on matters relating to the Council's Code of Conduct;
- f) Granting dispensations to the Mayor and Councillors from requirements relating to interests set out in the Members' Code of Conduct, in accordance with Regulations made by the Secretary of State;
- g) Dealing with any reports from a case tribunal, and any report from the Monitoring Officer on any matter which is referred by an Ethical Standards Officer to the Monitoring Officer, in accordance with Regulations made by the Secretary of State;

The exercise of (a) to (g) above in relation to parish councils wholly or partly in the Borough and the members of those parish Councils;

Review of parts of the Council's constitution where the Committee considers it appropriate to do so;

Overseeing the Council's Complaints Procedure and issues relating to investigations by the Local Government Ombudsman.

5. INFORMATION ABOUT THE CODE OF CONDUCT

The Copeland Borough Council Standards Committee is responsible for processing complaints of breaches of Member Codes of Conduct against all Copeland Borough and Town and Parish Councillors in the Copeland Borough area.

The Codes of Conduct for all Councils are prescribed. Although there are minor differences between Borough and Parish Councils, the Codes of Conduct for all Councils in the Copeland area will provide for Councillors to:-

Treat others with respect;
Comply with the Equality laws;
Refrain from bullying any person including other councillors, council officers or members of the public;
Refrain from compromising the impartiality of officers of the Council;
Refrain from disclosing confidential information;
Refrain from preventing access to information;
Refrain from bringing the Councillors office or authority into disrepute;
Not use their position improperly;
Use the Council's resources in accordance with its requirements;
Use the Council's resources for proper purposes only;
Have regard to advice from the Monitoring Officer and Financial Monitoring Officer of the Council (for Borough Councils).

Under the Code of Conduct Councillors must complete and update a Register of Interests form which must be available for inspection by members of the public. The forms for both Copeland Borough Councillors and Town and Borough Councillors are held by the Copeland Borough Council Monitoring Officer at the Copeland Centre Whitehaven. All forms completed by Copeland Borough Councillors can be viewed on the Council's website at www.copelandbc.gov.uk.

At Council meetings Councillors must also declare such interests under the Code as described above together with other interests- namely where the well-being or financial position of the Councillor, members of their family, or people with whom they have a close association, is likely to be affected by the business of the authority more than it would affect the majority of inhabitants of the ward affected by the decision.

Under the Code of Conduct Councillors must also declare a Prejudicial Interest in addition to a Personal Interest where:-

1. The matter does not fall within a range of exempt matters;
2. The matter affects the Councillor's financial interests or relates to a licensing or regulatory matter; and
3. A member of the public, who knows the relevant facts, would reasonably think the Councillor's interest is so significant that it is likely to prejudice the Councillor's judgement of the public interest.

A complaint form can be found on the Copeland Borough Council web-site under “ Ethics and Conduct” or can be obtained otherwise by contacting the Council’s Monitoring Officer Tim Capper on 01946 5985 or writing to him at the Copeland Centre, Catherine Street, Whitehaven, Cumbria, CA28 7SJ.

6. INFORMATION ABOUT COMPLAINTS RECEIVED IN 2010-11

During 2010-11 there were 6 complaints to the Standards Committee. Judging from national statistics this figure is about average or slightly below average for a Borough of the size and composition of Copeland. Completion of consideration of two further complaints from 2009-10 took place in 2010-11.

Of the 6 complaints, all were against Copeland Borough Councillors.

3 complaints were by Borough Councillors, and 3 by members of the public.

On initial assessment of each complaint it was decided to take no further action in respect of 4 complaints, a formal investigation was requested in respect of 1 complaint and 1 complaint was referred to mediation (“some other action”).

Of the 4 decisions to take no further action, no complainant asked that the Assessment Sub-Committee’s decision be reconsidered.

Of the 1 case referred for further investigation the Investigator’s report has not yet been received, having only been requested in March 2011, and the case is on-going.

The type of complaints received can be categorised as follows:-

- Lack of respect/conduct bringing the Council into disrepute/
bullying - 4
-
- Mis-use of Council resources/conduct bringing the Council into
disrepute - 2

Of the two matters carried over from 2009-10:-

1. In one case, the Committee accepted the Investigator’s report that there was no breach;
2. In the other case, involving a failure to declare an interest, a penalty of suspension pending undergoing training was imposed by the Standards Committee.

7. INFORMATION ABOUT THE TIME TAKEN DEALING WITH COMPLAINTS

Standards for England (formerly the Standards Board for England) recommends that once a complaint is made to a Council’s Assessment Sub-Committee it should be considered by the Sub-Committee within 20 working days. During 2010-11 the average time taken for complaints to reach the Assessment Sub-Committee has been

15 working days. The role of the Assessment Sub-Committee has been referred to in Section 3 above. Where complainants are not satisfied with the decision of the Assessment Sub-Committee they are entitled to ask for the complaint to be re-considered by a Review Sub-Committee, made up of three members of the Standards Committee who have not previously had any involvement in the matter. Standards for England similarly recommend that requests for review should be considered by the Review Sub-Committee within 20 working days of a request. During 2009, however, no cases were referred to the Review Sub-committee in 2010-11.

The Assessment Sub-Committee or Review Sub-Committee can decide either that no further action be taken on a complaint, that the Monitoring Officer should arrange for a formal investigation of the complaint and report back to the Standard Committee or that “ some other action” be taken. This can include typically involve training or conciliation.

Following a decision by an Assessment Sub-Committee or a Review Sub-Committee to ask the Monitoring Officer to arrange for an Investigation to be made into the complaint national guidance is that consideration by the Standards Committee takes place within three months of receipt of the final report. In 2010-11 one matter was referred for investigation towards the end of the year and at the time of writing the Investigator’s report has not yet been received. The Standards Committee has maintained an overview of the progress of each investigation and has pressed for timely completion. There were particular reasons that resulted in extended times for completion of the 2 complaints in 2009/10 and Members of the Committee have put in additional controls in place to keep in line with Standards for England recommendations so far as possible.

8. TRAINING AND OTHER EVENTS DURING THE YEAR

In order to increase awareness of ethical standards for all Members the Standards Committee asked that a series of best practice Guidance Notes be issued to all Copeland Borough Councillors and Parish and Town Clerks during the year.

Induction training has been given to new Councillors in May 2011 to explain the Member Code of Conduct and other Ethical Governance provisions. Refresher training will be offered to other members together with an update of the progress of the Localism Bill and this will be extended to Parish Councillors.

9. THE WORK PLAN OF THE STANDARDS COMMITTEE

The Standards Committee identified the following as part of their work-plan for the year:-

1. Internal member awareness campaign followed by public awareness campaign-
 - a. Advising Copeland and Parish and Town Councillors;
 - b. Working with Communications Unit to increase public awareness.
2. Devise a series of single learning point broadsheets to distribute to all Councillors at Council meetings and to provide to parish and town clerks.
3. Look to acquire a specific budget for Standards Committee work from 2011/12.

4. Produce an Annual Report.
5. Continue with and firm up quarterly meetings between the Chairman of Standards Committee, the Leader of the Council and the Chief Executive.
6. Review and revise the Council's Ethics and Conduct web page.
7. Make Audit Commission assessments available to Standards Committee members and develop protocols with Audit Committee to ensure that they each complement their respective roles.
8. Devise a mechanism for measuring satisfaction levels of all involved in misconduct allegations.
9. Ensure there is a reference to Ethics in the Council's vision/objectives.
10. Develop a protocol for partnership working that outlines the standards of behaviour expected of all those working in partnership.
11. Consider a formal compact with CALC in relation to Standards.

The following progress was made in respect of the items shown in the Work Plan:-

Awareness Campaign

Two items appeared in Copeland Matters. An item appeared in Dispatches , a magazine to the Parishes,(appeared in August 2009). Advice notes have been sent to Members. Broadsheets referred to at 2 have been sent to Members. Parish and Town Councils have been sent copies of last year's Annual Report. Other correspondence has been sent to Parish and Town Councils.

2. Learning point broadsheets

Various broadsheets have been produced. Best practice broadsheets have been produced on 24 October and 22 March

3. Specific budget for Standards Committee

This action was designed to identify the specific role of the Standards Committee in promoting ethical standards within the Borough. While it has not been possible to obtain a specific budget the Standards Committee is supported appropriately through the general budget.

4. Annual Report

An Annual Report was produced and circulated last year.

5. Liaison meetings

A liaison meeting was held with the new CEO and further meetings will be arranged.

6. Ethics and Conduct Web Page

Following a meeting with representatives of Standards for England the web page was revised in line with their recommendations.

7. Audit Commission assessments

A copy of the Annual Audit Plan was sent to members of the Committee for their information.

8. Satisfaction levels of all involved in misconduct allegations

A questionnaire has been approved by the Committee and this will be used to gather comments and observations from people involved in misconduct investigations. The Standards Committee will review responses every six months to see what learning points can be gleaned from the reviews.

9. Reference to Ethics in Council's vision/ objectives

Copeland's new Council Plan was presented to Council on 22 February 2011 and approved. Of the 19 objectives in the Plan of particular relevance to the Standards Committee is the objective to "provide a transparent account of performance and use of resources". A number of other objectives also relate to Ethics and Values.

10. Protocol for partnership working

There is a Parish Charter for Copeland. The Council also has an agreed format for Partnering Arrangements and Locality Working Arrangements and these are now also in place. The Committee has decided to investigate a Partnership Behaviour Protocol recommended by Standards for England and may recommend its approval Council-wide.

11. Formal Compact with CALC

Preliminary contact has been made but, as yet, no substantive progress is reported.

10. LOCALISM BILL

The Localism Bill was published in December 2010 but is not expected to come into force until late 2011 or early 2012. As was anticipated the Standards Board (Standards for England) is to be abolished together with the current investigation and hearing regime.

However, there will be a provision for ensuring that current matters are concluded. The Bill contains a newly introduced duty to promote and maintain high standards of conduct by Members and co-opted Members of the Council.

There will be no requirement to have a Code of Conduct dealing with the conduct of Members and co-opted Members. However, there is a power to introduce such a Code.

A Council may:-

- a. revise its existing Code of Conduct;
- b. adopt a Code of Conduct which replaces the existing Code , or
- c. withdraw its existing Code of Conduct without replacing it.

The Standards Committee has expressed an interest in there being a Voluntary Code of Conduct to replace the current statutory Code and has asked officers to participate in County-wide discussions likely to take place shortly on such a Voluntary Code and report back.

There is also a provision that if a new Code is introduced and a written allegation is made to a Council that a Member or co-opted Member of the Authority has failed or may have failed to comply with a Code of Conduct, it must consider whether it is appropriate to investigate the allegation and if it decides to do so, it will be able to investigate the allegation in such a manner as it thinks fit. If a Council finds that a Member or co-opted Member of the Council has failed to comply with its Code of Conduct, it may have regard to the failure in deciding whether to take action in relation to the Member or co-opted Member and what action to take.

Therefore, if Members to decide to keep a Code of Conduct or revise or introduce a new one (a Council decision), then they will also have to decide a mechanism for a decision to be taken over whether to investigate and if so, what form this investigation should take. Although it is clear that Parish Councils will be able to adopt their own Codes of Conduct it is not yet clear at the time of compiling this Report whether they would also be able to undertake their own investigation processes.

There will be a provision for Regulations to be made for the Monitoring Officer to maintain a Register of Members' Interests. However, there will not be a provision for suspension or disqualification. It has been suggested there may be a power of censure. However, this is not currently clear. As anticipated, if a person commits an offence without reasonable excuse in relation to failing to register an interest, or failing to disclose an interest or taking part in business of the Council in which an interest is disclosed contrary to a prohibition or restriction imposed by Regulations, this will now be a criminal offence and a

person would be liable to a fine, not exceeding £5,000. Proceedings are only to be instituted by the DPP and must be brought within 12 months of sufficient evidence of an offence becoming available, with a three year limit after commission of the offence. When a person is convicted of this offence, a court may also disqualify a person for not exceeding five years.

The Head of Paid Service (Copeland CEO) will be able to grant exemptions to speak where Members would otherwise have been restricted from doing so, thus replacing the Standards Committee's current function. In carrying out this function the Head of Paid Service must consult the Monitoring Officer.

11. USEFUL CONTACTS

Further information relating to ethical governance and standards issues can be obtained from some of the following websites:-

Standards for England www.standardsforengland.gov.uk

The Audit Commission www.audit-commission.gov.uk

Department for Communities and Local Government www.communities.gov.uk

Copeland Borough Council www.copelandbc.gov.uk