

To: Members of the Cabinet

Date: 14 April 2010

Our Ref:

Your Ref:

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Dear Councillor

**CABINET - THURSDAY 15TH APRIL, 2010**

I refer to the agenda for the above meeting and now enclose the following report(s) which were unavailable when the agenda was printed.

<b>Agenda No.</b>	<b>Item</b>
<b>5.</b>	<b>Gardner Avenue Allotments</b> Correspondence from "Mrs B and Mr C" referred to in the report from the Local Government Ombudsman

Yours sincerely,

D MACKEY

Interim Head of Legal Services

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11 April 2010

Submission to Cabinet of 15 April 10 by "Mrs. B" & "Mr. C." in LGO reports.

Item No. 5.

## Gardner Ave. Allotments.

We write as those directly affected by Sefton's maladministration (Mrs. B and Mr. C in LGO reports) and also as spokespersons for a majority of allotment holders (a.hs.) on site.

We request that this submission be formally included in the Cabinet's proceedings and that it be fully minuted, including the full text of all documents provided. We wish to state that in our view, the report compiled by the Leisure Director / Interim head of Corporate Legal Services dated 15 April 2010 is likely to mislead the Cabinet in two main ways :-

- 1) It repeats the mistakes of the earlier report of 15 May 08 by highlighting the same "irrelevant considerations" criticised in the LGO's "further Report" (Page 2 Point 7). The latest report again highlights so called "factions" and also refers to a "Petition" - both of which are irrelevant to the primary cause of our complaints and the LGO's involvement i.e. the mismanagement of the allotments by Leisure Services (L.S.) The LGO has "no interest in relationships between a.hs."
- 2) The report seriously distorts the background to this affair, by focusing only on "factions" which were a secondary result of the Primary Cause. The LGO reports has identified this primary Cause as mismanagement and contravention of the law rather than "factions". See enclosed sheet entitled "Background" for more details on this (Appendix 1).

Also, despite the LGO pointing out case law stating: "reports by ombudsmen should be loyally accepted by the local authorities concerned", the report of 15 April 10 again fails to recommend acceptance.

By adopting a neutral position and giving no direction, it effectively changes nothing from the earlier recommendation in May 08 that the LGO reports be rejected.

This appears to us like disloyalty to

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by omission, a further challenge to the LGO's Authority by certain officers who "did not act lawfully", according to the LGO's public statement in 2008.

We expect members to protect the public from such unlawful officers.

We have had our assets taken from us, have been discriminated against and have suffered anti social behaviour at the hands of a.h.s. supported by L.S.

We therefore look to the Cabinet to abide by the intention of Parliament in the 1974 act and to accept the LGO's reports and act on them in good faith.

We trust the Cabinet will not repeat the injustice to us the Complainants that was represented by the decision of the 12 June 08 "Skeleton" Cabinet when irrelevant considerations were taken account of rather than the merits of the case. That Cabinet denied our case a fair hearing & it lacked "Proportionality".

We also look to the Cabinet to act on the public's behalf by correcting those officers who have acted unlawfully to stop them from treating another large group of innocent citizens in the appalling way they have treated 34 a.h.s., and make sure they never again abuse their authority.

The public should not have to endure the sort of Campaign of Theft, Bullying, intimidation, breaches of privacy and character assassination we have suffered in what should be a leisure activity, particularly for the many elderly a.h.s. in our group in their retirement years.

J. G. Adla

and on behalf of "Mrs. B" (LGO Report)

('Mr C' LGO reports)

The GAAT Group

Enclosed:

- 1) "Background" dated 11 April 10 (4 pages)
- 2) Cabinet Submission " 3 June 08 (2 pages)
- 3) " " " 14 May 08 (4 pages)

Submission to Cabinet of 15 April 2010 re: Gardner Ave. Allotments  
(by "Mrs. B" and "Mr. C." LGO reports)

### Background.

We wish to again refute the misleading statement in the report by the Leisure Director of 15 April 10 that "... the Council has been involved in a long standing dispute between two factions on Gardner Ave. allotments".

This seriously distorts the background to this affair and we believe Leisure Services (L.S.) have been doing this for the duration in order to avoid responsibility for their own PROVEN malpractices and contraventions of the law.

The LGO has identified some of these contraventions in her "further report" which confirm what she publicly stated two years ago that "Officers did not act lawfully...".

The primary cause of the maladministration identified, and of our Complaints to the LGO, is not "factions" on site, it is the mismanagement of the site by L.S.

This is a proven fact which the two reports for the Cabinet compiled by officers (i.e. 15 May 08 and now 15 April 10) have tried to cover up by means of their 'man of straw' - warring factions.

That mismanagement has involved habitual contraventions of the law and blatant discrimination against a majority on site in favour of a few Council sponsored agitators. We have vast evidence to support this claim.

L.S. officers refuse to accept that the evidence proves their wrongdoings and the LGO having seen this evidence had no option but to conclude that "Officers did not act lawfully...". That is why Setton have received three public reports, not because of so called "factions".

The reality at site level is that any "factions" that formed only did so as a secondary consequence of the primary cause outlined above. It is dishonest to ignore this reality.

The total support L.S. gave to the agitators (mainly Mr. X and his Partner) and the

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disorder caused by their continual anti social behaviour, on top of L.S. habitually contravening the law in their management of the site, is what directly caused any polarisation to happen.

This situation is reflected in the four Petitions signed by a majority of allotment holders (a.hs.) over a four year period requesting, among other things, that L.S. restore good order by dealing with the troublemakers and returning our Money and the trading hut.

The last petition was signed by 40 ahs. - a large majority on the site.

L.S. ignored all the petitions and with them the views of the majority and instead allowed the disorder of anti social behaviour and the theft of our assets to continue, and they continued to support their favoured small 'faction' containing the agitators.

Another key part of L.S. mismanagement was their role in forming a new Association (G.A.A.A.) in Jan. 05 following the resignation of the Committee of the original Society (G.A.A.S.).

The Committee resigned following serious anti social behavior at a meeting, by the agitators, who L.S. supported, instead of evicting as their appalling behaviour warranted.

L.S. then directly forced the original Society to hand over all assets (ie. Tools, trading stock, money in bank, documentation, and a trading hut they used) to the new GAAA.

The approximate value of these assets was £4000 plus.

We have it in writing off the LGO that :-

"It was maladministration by the Council to allow the funds and assets of GAAS to be transferred to GAAA." and :-

"It was maladministration by the Council to deal with GAAA as the successor of GAAS."

"GAAA does not have a mandate from the majority of ahs."

L.S. refuse to accept these facts and for years have recognised the new GAAA (described by the LGO as an "illegitimate group") and allowed them to act as their agents on site whilst at the same time ignoring the majority view and everything we raised.

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L.S. then allowed the newly-formed group (G.A.A.A) to then hijack the name of the original Society. In Feb. 05 after 2 or 3 weeks in existence as a newly formed Association - Formed with L.S. help - complete<sup>with</sup> a new set of rules and Constitution, they illegally changed their name to the G.A.A. Society.

They have since been allowed by L.S. for 5 years to deceive the site by fraudulently masquerading as the Society (GAAS), when they voted themselves into existence as a new Association (GAAA), despite the Leisure Director agreeing a "local Settlement" with the LGO in Feb 06 part of which said "The new Association is NOT a continuation of the original Society!"

The LGO insisted on this at the time because it was such a pivotal issue. Had Setton refused to accept it, they would have been given a Public report regarding it.

Despite this, L.S. have done nothing to restore the assets they took, back to their rightful owners. They failed to even acknowledge an Invoice for the reimbursement of the assets that we were advised to send in Jan. 07, and instead they allowed a Councillor (See first LGO reports April 08) and latterly one of their favoured group, to act as Secretary of the "illegitimate group" (LGO's description) masquerading as the GAAS and controlling all the assets of a separate and distinct Society, without doing anything to stop them. L.S. have in practice continued to recognise this group as a continuation of the original Society despite what the Leisure Director agreed with the LGO FOUR YEARS ago.

The only reason this disorder and chaos has occurred is because of L.S. mismanagement and their support for the agitators and the new Association. It amounts to Council Sponsored disorder and blatant discrimination against the innocent majority.

It's important to note that Gardner Ave. was always a peaceful site prior to the arrival of a certain a.h. - as L.S. themselves admitted to the LGO and a majority would certainly confirm. The support that he and his partner received off Setton (both Officers and Councillors) is what destabilized the site, because they were allowed to do almost as they pleased.

As soon as he left the site approx. 18 months ago the former tranquility immediately began.

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to return, except for the ongoing issues of L.S. mismanagement and the remaining agitator holding the site to ransom regarding the assets he has no right to control, and L.S. failure to discipline or stop him.

This restored calm is proof positive that this is not primarily about "warring factions", it is about malpractice by L.S. officers who "did not act lawfully".

We also note that the report off the Leisure Director again refers to the "Petition" (Point 2). We made a submission to Cabinet on 12 June 08 (copy enclosed) regarding this to point out that 60% of those who signed it are not allotment holders, and we know many of them had not seen the LGO reports that "incensed" them so much. Yet that petition was minuted and published on Sefton's web site, allowing the media to quote it.

In Contrast, our submissions were not published or minuted. L.S. ignored FOUR petitions signed by a majority on site, yet they published and minuted a minority petition signed by only 12 ahs., nearly half of whom have now left the site.

We view this as the sort of blatant discrimination to silence the majority view in favour of a small council sponsored "illegitimate" group, that we've suffered for years.

In her earlier reports of April 08 the LGO stated "local settlements depend on councils demonstrating good faith and doing what has been agreed" (Page 3).

The Leisure Director agreed a "local settlement" FOUR YEARS ago, yet we have still not had our assets reimbursed, we do not have the Tenancy Agreement promised nor have they appointed an officer to the site who is impartial.

In short, he has not done what he agreed and has demonstrated BAD FAITH, as we have experienced non stop for 5 years.

A further example of this is the claim made in the Cabinet report of 15 May 08 that Mrs. B. and Mr. C. are a Cause of disorder. We again request that he either provides evidence for this claim or withdraw it from Sefton's web site. Acting as spokespersons for a majority on site or having our complaints upheld by the LGO does not equate to causing disorder!



3 June 08.

F.A.O. The Legal Director.

Copy letter

Addendum to submission to the Cabinet (dated 14 May 08)

re: Gardner Ave. Allotments - Ombudsman's reports.

We wish to bring to the Cabinet's attention certain concerns regarding the petition submitted by Ralph James to the Cabinet meeting of 15 May 08 (Item No. 6).

We are not contesting that 25+ signatures of Sefton residents should have allowed him to speak - that is not our complaint.

However we do wish to point out that of the 32 people who signed to say how they "strongly objected" to the LGO reports and how "incensed" they are at the LGO's conclusions, only 12 are active allotment holders (a.h.'s), meaning that 20 have little or nothing to do with the site, more than 60%. Also, two are not Sefton residents.

In fact, of the 32 names, Mr. X's small faction comprises a max. of 7 active a.h.'s, 5 others are on the fringes and the remaining 20 are wives, in-laws, friends and children of a.h.'s. who have virtually nothing to do with the allotments at Gardner Ave.

We are reliably informed that some of the signatures may have been obtained without full knowledge of what was being signed because they had not read or even seen the reports, so could not credibly sign a petition whose wording was specific. As such it needed an informed knowledge before strongly objecting or being incensed at the reports. Even the Councillor who sponsored it now denies that he supports their cause or that he ever read either the petition or the reports.

What can be the justice if over 60% of those who sign a petition specifically relating to two reports, have nothing to do with the site and have virtually no knowledge of what the reports say.

One LGO report specifically exonerated 'Mr. B' of slanderous allegations and MOST IMPORTANTLY restored his good name and character which Sefton had tried to denigrate (See point 18). The other report upheld Mr. C's complaint about Sefton's malpractice towards himself.

Why such conclusions should "incen Page 41 of 41 who are not a.h.'s and never

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attend the site leads us to one conclusion only - that someone is still trying to unjustly denigrate the character of 'Mr. B' not only by their bitter refusal to accept the LGO's conclusions which were based on irrefutable evidence, but also by language stating that 32 people were "incensed" - This is simply not true.

What concerns us most is that this petition with its implied refusal to accept that Mr. B's character has been exonerated, has now been made official in the Cabinet minutes published on Sefton's web site, yet the late written submission we provided (dated 14 May 08) has not been minuted and made official, even though it was the main reason the Cabinet deferred its decision.

We therefore request the Cabinet to review these issues and if necessary correct them because we feel the good name of 'Mr. B' is again being questioned.

J. G. Bola and on behalf of "Mrs. B." - LGO Report.

(Mr. C.) The Complainants. ('Mrs. B')

The GAAT Group  
(Gordner Avenue Allotments Tenants.)

From: Jim Dolan, # "Mrs. B" (4 pages)

To: Caroline Elwood. - Legal Director (934-2194)

14 May 08

Copy letter  
Submission for Cabinet's Attention.

Dear Mrs. Elwood,

We are writing to formally request that this letter be read out or submitted to the Cabinet at their meeting on Thursday 15 May 08 when considering item No 6 on the Agenda - Gardner Ave. Allotments - LGO Public Reports.

- 1) We consider the report compiled by Leisure Services/Legal Director for the above meeting to be grossly inaccurate and it also fails to reflect the main events as well as the huge quantity of evidence of malpractice by Sefton Council, particularly Leisure Services (L.S.), which has been submitted to the LGO.
- 2) The report wrongly diagnoses the situation as "a long standing dispute between two factions" when in fact the evidence shows that it has been an artificially contrived dispute - possibly linked to unofficial attempts to get access to the landfill site through the allotments - designed to destabilize the site and caused largely by L.S. failure to deal with a small disruptive "faction" who have continually been allowed by L.S. to provoke trouble by using threatening and intimidating behavior towards innocent allotment holders (a.h.s).
- 3) Not only did L.S. fail to deal with this "faction", they elevated them to the position as Sefton's unofficial agents on site, causing prolonged distress to a majority on site who'd never caused any trouble. The evidence supports this claim as does the fact that for a long time, Senior Officers in L.S. have been on 1st name terms with this small "faction", yet have totally ignored our group, which represented a Majority. L.S. also effectively removed assets worth more than £3250 off the original Society by forcing them into the hands of a newly formed Association - formed by L.S. They also took the trading hut off its legal owner, i.e. those 4 a.h.'s who's labour and materials built it, and later gave it to an a.h. with absolutely no claim or right to it. L.S. have refused repeated requests to ensure its return, denying a majority group on site access to a trading hut for 3½ years, which will result in a large compensation claim against L.S.
- 4) The evidence supports these claims and the LGO has ruled that the New Association is not a continuation of the original despite L.S. denials or those of their "faction".

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This LGO ruling makes L.S. deeply complicit in theft and also the fraudulent situation for 3½ years of the new Association masquerading as the original Society.

5) The group on whose behalf we speak, has consistently represented 34 a.h's, mainly pensioners and others in poor health, with a Combined 'Service' on site of nearly 500 years, representing a majority of the site (until the recent departures of at least five of them, as a direct result of Soffin's failure to restore good order) who have never caused any problems in the past.

Yet L.S. have continually discriminated against us by ignoring three petitions sent over a 3 year period expressing serious concerns and requesting L.S. to act to restore good order, as well as mountains of letters and complaints off a.h's distressed at L.S. actions. At the same time, L.S. have consistently supported and protected their "faction" on site. In our view, the evidence shows :-

6) L.S. unjustly threatened 34 a.h's with eviction in March 05 in contradiction to Allotment Law, they regained control of the site on 12 May 06 BEFORE regaining the lease, contrary to the Landlord & Tenants act, as was their failure to allow the trustee his legal entitlement to 3 months notice to quit, they exceeded their authority on 10 May 06 in taking control of property that was not theirs (The trading hut) with a heavy handed operation involving up to NINE Council Staff in an operation arranged overnight by Senior Council figures, and they then sent Four officers to site every Saturday for 12 weeks to ensure the trading hut was opened by their "FACTION" when there was little demand, they have habitually allowed the 1986 Public order act to be breached and have shielded those who have breached it, and they actually breached the act themselves on 10 May 06 and the following 12 weeks by their show of force and intimidating behaviour which caused huge distress to a majority of a.h's. Their actions have contravened the provisions of the human rights act and they have failed in their "Positive Obligations" to ensure the act is complied with. There has also been continual breaches of privacy regarding our private correspondence sent to Council Offices. In effect, our group has been subjected to a lengthy campaign of bullying, discrimination and intimidation by Soffin Council which has involved officers

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failing to "act lawfully" as the LGO herself recently admitted publicly (Southport Champion 23 April 08).

- 7) We have been forced to spend a huge amount of time for 3½ years defending ourselves from unjust attacks off L.S. and trying to reclaim the assets of the original Society and the trading hut, as well as trying to correct a continual stream of disinformation containing untruths, fabrications and attempts to denigrate those a.h.'s. who originally complained to the LGO, ie. Mrs B, Mr C, and Mr. Jones R.I.P. This report off L.S./legal Director is a further example of this in that it distorts the truth and attempts to switch the focus from L.S. multiple malpractices onto innocent a.h.'s.

The blame for excessive Senior Officer hours being spent lies squarely with those officers who've acted unlawfully & have stubbornly refused to act on evidence or the LGO's recommendations, rather than false information.

- 8) With regard to point 17.1 in the Summary "The Council has managed to bring a sense of order to the majority of tenants with the notable exception of Mr.C & Mrs.B." We feel L.S. should be forced to support such a derogatory statement with any hard evidence they have that Mr.C & Mrs.B are in some way a source of disorder on site, or withdraw their claim. We find it unjustified and an attack on our reputation. Remember Mr. C., Mrs. B., (and Mr. Jones R.I.P.) as the original complainants to the LGO have acted on behalf of our group of 34 a.h.'s. for 3½ years, and our complaints have in no way been resolved.

- 9) With regard to point 17.4 we would ask, how did L.S. arrive at such a conclusion? They have not asked our views regarding this. We feel their conclusion reflects only the feelings of their tiny "faction" on site and is not credible.

Our group will be happy if Seton act to restore order by acting on the LGO's reports, and particularly if they fully implement the settlement they verbally agreed with the LGO more than 2 years ago, 80% of which has not been implemented. We also seek the immediate return of the assets and most importantly, the Trading hut. The LGO told us in Jan. 07 that "it has fallen to those whose complaints have been upheld (Mr.C., Mrs B, Mr. J. R.I.P.) to seek the return of the assets".

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The LGO has been no friend of ours and has displayed bias in favour of Sefton. We are not happy with the conduct of the LGO enquiry and will be taking the matter further. However, any statements made by the LGO have been forced on them not by us, but by the weight of hard evidence to support our Complaints, so they should not be dismissed lightly.

- 10) The L.S./Legal Director report takes sides by speaking on behalf of a so called "faction" - their own "faction" - which is obviously not the role of such a report. It is not unexpected that L.S. should defend their 'faction'
- 11) L.S. have consistently stated they will abide by the LGO's recommendations. We have consistently stated that L.S. have shown nothing but bad faith. Their refusal to implement the settlements or to now accept the LGO's reports is in our view further confirmation of their RANK BAD FAITH.
- 12) In our view, the report produced by L.S./Legal Director is so inaccurate as to be grounds for a fresh complaint to the LGO of maladministration, and we have the hard evidence to substantiate claims made in this letter
- 13) In our view, L.S. have seriously misled their unofficial agents (or faction) on site into believing that intimidating behaviour, fraud and the theft of assets is legitimate and acceptable to Sefton. L.S. have allowed it and have failed to correct them and ensure that such malpractice ceases. As a result officers have failed in their constitutional and legal responsibilities to protect a majority of a.h.'s from malpractice on a public amenity, and it continues to this day.
- 14) A L.S. officer was forced (under Contempt of Court powers used by the LGO) to attend the LGO's offices in York in Nov. 06. We are led to believe that at that time Sefton had intentions of excluding, if possible, two innocent a.h.'s from site, Mr. B & Mr. C. The officer was told such action was inadvisable and to back off. Within weeks both a.h.'s were under attack and Mr. C was excluded from site, resulting in two public reports. The LGO's advice was ignored and Sefton now reap the reward.

compiled by: J.G. Rola § "Mrs. R" on behalf of the GAAT Group.