

**REPORT TO:** Standards  
Cabinet

**DATE:** 18 November 2010  
25 November 2010

**SUBJECT:** Local Government Ombudsman's Annual Letter  
And Report 2009/10

**WARDS  
AFFECTED:** All

**REPORT OF:** Acting Head of Corporate Legal Services

**CONTACT  
OFFICER:** David McCullough  
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**EXEMPT /  
CONFIDENTIAL:** NO

**PURPOSE / SUMMARY:**

To present the Local Government Ombudsman's Annual Letter and Report for 2009/10.

**REASON WHY DECISION REQUIRED:**

The Annual Letter and Report are presented for Member information, consideration and review.

**RECOMMENDATION(S):**

That Standard Committee notes the Annual Letter and Report and indicates any specific comments for consideration at the next Cabinet meeting on 25 November 2010.

That Cabinet considers whether it wishes to make any comments to the Ombudsman in response to the report.

**KEY DECISION:** No

**FORWARD PLAN:** No

**IMPLEMENTATION DATE:** Following the expiry of the "call-in" period for the Minutes of the Cabinet meeting

**ALTERNATIVE OPTIONS:**

None arising on this occasion

**IMPLICATIONS:****Budget / Policy Framework:** None arising on this occasion**Financial:** None arising on this occasion

<b><u>CAPITAL EXPENDITURE</u></b>	<b>2009/ 2010 £</b>	<b>2010/ 2011 £</b>	<b>2011/ 2012 £</b>	<b>2012/ 2013 £</b>
Gross Increase in Capital Expenditure				
Funded by:				
Sefton Capital Resources				
Specific Capital Resources				
<b><u>REVENUE IMPLICATIONS</u></b>				
Gross Increase in Revenue Expenditure				
Funded by:				
Sefton funded Resources				
Funded from External Resources				
Does the External Funding have an expiry date? Y/N	When?			
How will the service be funded post expiry?				

**Legal:** None arising on this occasion**Risk Assessment:** None arising on this occasion**Asset Management:** None arising on this occasion

**CONSULTATION UNDERTAKEN / VIEWS**

Mike Fogg, Director of Corporate Services  
Andrea Grant, Assistant Director, Democratic Services  
John Farrell, Interim Head of Corporate Finance and ICT

**CORPORATE OBJECTIVE MONITORING:**

<b><u>Corporate Objective</u></b>		<b><u>Positive Impact</u></b>	<b><u>Neutral Impact</u></b>	<b><u>Negative Impact</u></b>
1	Creating a Learning Community		√	
2	Creating Safe Communities		√	
3	Jobs and Prosperity		√	
4	Improving Health and Well-Being		√	
5	Environmental Sustainability		√	
6	Creating Inclusive Communities		√	
7	Improving the Quality of Council Services and Strengthening local Democracy	√		
8	Children and Young People		√	

**LIST OF BACKGROUND PAPERS RELIED UPON IN THE PREPARATION OF THIS REPORT:**

## **BACKGROUND:**

### **The Annual Letter**

1. A copy of the Ombudsman's Annual Letter is appended to the report (**Appendix A**). In addition the Ombudsman attached two further Appendices to the Annual Letter which are attached as **Appendices 1 & 2**. The Letter details statistical information about the complaints that have been received during the last financial year by the Ombudsman's office about this Council.
2. The Annual Letter is now a standard issue from the Ombudsman's office and is a helpful opportunity to reflect on this important area of work, to see what the Council can learn.
3. Overall the Annual Letter denotes that the total number of complaints about the Council to the Ombudsman was 53 (compared to 52 in 2008/9). 13 complaints were presented to the Ombudsman prematurely. This is where the Council has not usually had the opportunity to deal with the complaint through its own complaints procedures.
4. A total of 20 cases were sent to the Ombudsman's investigative team during 2009/10. The complaints were spread fairly evenly across the various Council functions as clearly shown in Appendix 2 to the Letter.
5. Cases referred to the Ombudsman this year, may not be determined in one financial year. However in the year 2009/10 25 cases were concluded. Of the 25 cases, 10 were settled through Local Settlement. This is where the Council has offered to take action about a complaint which satisfies both the complainant and the Ombudsman's office. There were no findings of maladministration by the Ombudsman against the Council.
6. The Ombudsman requests a turnaround time of complaint handling of 28 days or less. This Council has achieved a pleasing turnaround of 23.1 days in average.

### **The Annual Report**

7. More recently the powers of the Ombudsman have been extended to the following two areas and as such may result in an increase in the number of complaints referred to the Ombudsman in the future:
  - a. The Apprenticeship, Skills, Children and Learning Act 2009 created a new role for the Ombudsman's office to deal with complaints from parents and pupils about state schools. This has commenced with a pilot programme in April 2010 in four local authority areas. It is

intended that by September 2011, all state maintained schools will be covered by the Ombudsman's jurisdiction.

- b. The Health Act 2009 extended the Ombudsman's powers to deal with complaints about privately arranged and funded adult social care. These new powers will take effect on 1 October 2010. It would seem from the Annual Report that the Ombudsman's office expects that many complaints will be from people who have arranged and funded their care and this could involve the actions of both the local authority and the care provider.
8. There are a couple of cases worthy of mention following a brief overview of the cases that have been considered nationally by the Ombudsman's office during 2009/10.
9. The first case involved a London Borough Council that failed to consult with a resident about a planning application. The planning application had been registered using the incorrect address. On realising the failure to consult with an individual resident, the Council reviewed the planning application. The Council did not suggest that the planning applicant make any amendments to their proposed scheme. This meant that the resident's property (living room) was overlooked by the installation of a riverside balcony which was proposed in the planning application.
10. The Council concluded that the balcony did not result in an unacceptable level of overlooking in "planning terms" and that a neighbour had no right to privacy. The Ombudsman did not accept that a neighbour has no right to privacy. The Ombudsman also noted other planning applications that had been refused in the immediate locality as they had contravened Council's policy, namely causing a loss of privacy to the neighbouring property. The Ombudsman therefore concluded the case by issuing a formal report finding of maladministration causing injustice against the Council.
11. In the above circumstances the Council was ordered to pay some costs to the complainant directly re failure to consider the amenity properly and for the complainant's time and trouble, amounting to £1300. However what is particularly worthy of note is that the Council was ordered to pay a sum equivalent to the loss of the value of the complainant's property. This was to be determined by comparing the value of the property now with that if planning consent had been granted for a balcony that did not allow overlooking into the complainant's property.
12. Another case cited in the Annual Report by the Ombudsman involved three public authorities, namely the Environment Agency, a County Council and a District Council. For a period of 5 years, tonnes of rubbish were illegally dumped, burned and processed on farmland a few meters away from the complainant's house. It was estimated that the quantity of rubbish was sufficient to fill three Olympic sized swimming pools. The area was a beauty

spot in the green belt noted for its biological and architectural heritage. The Ombudsman made a finding of maladministration with injustice against the three public bodies.

13. As a consequence the bodies were ordered to apologise to the complainant and to pay £95K to reflect years of extreme distress, aggravation and financial loss.
14. The above cases show that the Ombudsman's office is adopting new approaches with respect to their powers that can have potentially significant costs impacts in cases where the Council does have a finding of maladministration causing injustice.