

**REPORT TO:** Cabinet

**DATE:** 15 April 2010

**SUBJECT:** Gardner Avenue Allotments

**WARDS AFFECTED:** Netherton & Orrell

**REPORT OF:** Interim Head of Corporate Legal Services / Leisure & Tourism Director

**CONTACT OFFICER:** Dave Mackey - Interim Head of Corporate Legal Services  
0151 934 2032

**EXEMPT / CONFIDENTIAL:** No

**PURPOSE / SUMMARY:**

To report to Members on the Further Report from the Local Government Ombudsman following her investigation into two complaints arising from incidents at the Gardener Avenue Allotment Site, Bootle in 2007.

**REASON WHY DECISION REQUIRED:**

Where a further report is issued the Authority has a duty to consider the report within a 3 month timescale and must advise the Ombudsman as to the action it proposes.

**RECOMMENDATION(S):**

Members have a duty to consider the Ombudsman's report and determine what action to take. Members views are sought.

**KEY DECISION:** No

**FORWARD PLAN:** Not applicable

**IMPLEMENTATION DATE:** Following the expiry of the "call-in" period for the minutes for this meeting.

**ALTERNATIVE OPTIONS:**

The Council must consider the Ombudsman's further report and recommendations.

**IMPLICATIONS:**

**Budget / Policy Framework:** N/A

**Financial:** N/A

<b><u>CAPITAL EXPENDITURE</u></b>	<b>2006/ 2007 £</b>	<b>2007/ 2008 £</b>	<b>2008/ 2009 £</b>	<b>2009/ 2010 £</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:** N/A

**Risk Assessment:** N/A

**Asset Management:** N/A

**CONSULTATION UNDERTAKEN / VIEWS**

Consult Leisure &amp; Tourism

**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**

Further report on an investigation into Complaint Nos 06/C/15879 and 06/C/16558 against Sefton Council.

## **BACKGROUND:**

1. Members will be aware that the Council has been involved in a longstanding dispute between two factions on the Gardner Avenue Allotment Site, Bootle. A number of complaints have been made to the Ombudsman. On the 15<sup>th</sup> May 2008 Cabinet considered two reports from the Ombudsman. The reports concluded that there had been maladministration by the Council and recommended that the Council should pay compensation to the two Claimants and formally apologise.
2. At the meeting Cabinet also considered a petition submitted by residents and also received copies of additional handwritten correspondence which was circulated at the meeting at the request of the Claimants. Members resolved:-

**That the report and petition be deferred for further consideration at the next Cabinet Meeting pending the submission of a detailed report by Officers on the two investigations into the Gardner Avenue Allotment Site, Bootle.**

3. The matter was subsequently reported to the Cabinet Meeting on the 12<sup>th</sup> June 2008 when it was resolved that:-
  - (i) **The action recommended by the Local Ombudsman in the two reports be not accepted.**
  - (ii) **The Legal Director be authorised to prepare a statement of the reasons why the Council did not take the action recommended in the two Local Ombudsman's reports.**
4. Following the meeting the Ombudsman was advised of the cabinet decision. Section 31(2a) of the Local Government Act 1974 states that if after issuing a report, the Local Government Ombudsman is not satisfied with the action that the Council has taken she may make a further report setting out those facts and making recommendations. The Council has now received the Ombudsman's further report (attached at Annex A).
5. The Ombudsman's powers are contained in the Local Government 1974. The Council is obliged to make copies of the report available for inspection by the public for a period of three weeks. The Authority must give public notice by way of advertisement in local newspapers publicising the fact that copies of the report are available for inspection.
6. The Authority has a duty to consider the report within a three months timescale and must advise the Ombudsman as to what action it proposes to take. If the Ombudsman is still not satisfied that the recommendations have been satisfactorily dealt with then she may require the Council to publish a

statement in local newspapers and at Council offices stating that she considers the Authority's response to be unsatisfactory, together with details of any action recommended by the Ombudsman in the further report. If the Authority wishes it may also include a statement of the reasons for not having taken the action recommended in the report. The statement must be published in two consecutive weeks in the local newspapers.

7. Members are asked to consider the Further Report.