

Meeting: Council

Date of Meeting: 13 May 2010

Title of Report: Gardner Avenue Allotments, Bootle

Report of:

Mr Dave Mackey
Interim Head of Corporate Legal
Services

Contact Officer:
(Telephone No.) 0151 934 2032

This report contains	Yes	No
CONFIDENTIAL Information/		√
EXEMPT information by virtue of paragraph(s).....of Part 1 of Schedule 12A to the Local Government Act, 1972 (If information <u>is</u> marked exempt, the Public Interest Test must be applied and favour the exclusion of the information from the press and public).		√
Is the decision on this report DELEGATED?	√	

1.0 Purpose of Report

To report to Members on the Further Report from the Local Government Ombudsman following her investigation into two complaints arising from incidents at the Gardner Avenue Allotment Site, Bootle in 2007. On 15 April 2010 the Cabinet resolved not to accept the action recommended by the Ombudsman and in accordance with Section 31A of the Local Government Act 1974 where it is proposed that no action should be taken in respect of an Ombudsman's Further Report or that the action recommended in that Report should not be taken, consideration of the Further Report shall be referred to the Full Council.

2.0 Recommendation(s)

- (1) Members are requested to consider the Ombudsman's Further Report and
- (2) Members are requested to determine what action to take in respect of the Further Report.

Corporate Objective Monitoring

<u>Corporate Objective</u>		<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
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		√	

Financial Implications

<u>CAPITAL EXPENDITURE</u>	2009/ 2010 £	2010/ 2011 £	2011/ 2012 £	2012/ 2013 £
Gross Increase in Capital Expenditure				
Funded by:				
Sefton Capital Resources				
Specific Capital Resources				
<u>REVENUE IMPLICATIONS</u>				
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?				

Departments consulted in the preparation of this Report

None

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.

3.0 Background

3.1 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 15 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 Complainants and formally apologise.

3.2 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 Complainants. 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.

3.3 The matter was subsequently reported to the Cabinet Meeting on 12 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.**

3.4 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).

3.5 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.

3.6 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.

- 3.7 On 15 April 2010, the Cabinet considered the report of the Interim Head of Corporate Legal Services which incorporated the Further Report of the Local Government Ombudsman following her investigation into two complaints arising from incidents at the Gardner Avenue Allotment Site, Bootle.

The Cabinet also considered correspondence submitted by the complainants "Mrs B and Mr C" referred to in the report from the Local Government Ombudsman.

- 3.8 **On 15 April 2010**, the Cabinet resolved that:-

- (1) the report and correspondence be noted; and
- (2) having taken full account of the Further Report of the Local Government Ombudsman and in particular the remedies recommended by her, the previous decision taken by the Cabinet to not accept the action recommended by the Ombudsman on the two complaints be reaffirmed and Members remain of the view that it would be inappropriate to apologise or pay compensation to the Complainants.

- 3.9 In accordance with Section 31A of the Local Government Act 1974 where it is proposed that no action should be taken in respect of an Ombudsman's Further Report or that the action recommended in that Report should not be taken, consideration of the Further Report shall be referred to the Full Council.

- 3.10 **Any Members who require any further background information regarding this matter are advised that all relevant papers may be inspected at the office (at Southport Town Hall) of the Interim Head of Corporate Legal Services (Ext 2032) (Dave Mackey) and if necessary, a briefing can be arranged**

4.0 Recommendation

- (1) Members are requested to consider the Ombudsman's Further Report and
- (2) Members are requested to determine what action to take in respect of the Further Report.