

CABINET ITEM COVERING SHEET PROFORMA

**AGENDA ITEM**

**REPORT TO CABINET**

**2 AUGUST 2007**

**REPORT OF  
CORPORATE  
MANAGEMENT TEAM**

**COUNCIL DECISION**

**CORPORATE AND SOCIAL INCLUSION - Lead Cabinet Member – Cllr Terry Laing**

**REPORT OF THE LOCAL GOVERNMENT OMBUDSMAN**

1. Summary

This report provides an update on the position with regard to a finding of maladministration by the Local Government Ombudsman.

2. Recommendation

It is recommended that:-

1. The Council's earlier offer of compensation to the Complainant is revised and replaced with an offer of £10,000 (ten thousand pounds) in full and final settlement of the complaint.

3. Reasons for the Recommendations/Decision(s)

To comply with Section 31(2) of the Local Government Act 1974 and to inform the Local government Ombudsman of the action the Council proposes to take in response to her findings.

4. Members Interests

Members (including co-opted Members with voting rights) should consider whether they have a personal interest in the item as defined in the Council's code of conduct (**paragraph 8**) and, if so, declare the existence and nature of that interest in accordance with paragraph 9 of the code.

Where a Member regards him/herself as having a personal interest in the item, he/she must then consider whether that interest is one which a member of the public, with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest (**paragraphs 10 and 11 of the code of conduct**).

A Member with a prejudicial interest in any matter must withdraw from the room where the meeting considering the business is being held -

- in a case where the Member is attending a meeting (including a meeting of a select committee) but only for the purpose of making representations, answering questions or giving evidence, provided the public are also allowed to attend the meeting for the same purpose whether under statutory right or otherwise, immediately after making representations, answering questions or giving evidence as the case may be;
- in any other case, whenever it becomes apparent that the business is being considered at the meeting;

and must not exercise executive functions in relation to the matter and not seek improperly to influence the decision about the matter (**paragraph 12 of the Code**).

**Further to the above, it should be noted that any Member attending a meeting of Cabinet, Select Committee etc; whether or not they are a Member of the Cabinet or Select Committee concerned, must declare any personal interest which they have in the business being considered at the meeting (unless the interest arises solely from the Member's membership of, or position of control or management on any other body to which the Member was appointed or nominated by the Council, or on any other body exercising functions of a public nature, when the interest only needs to be declared if and when the Member speaks on the matter), and if their interest is prejudicial, they must also leave the meeting room, subject to and in accordance with the provisions referred to above.**

**AGENDA ITEM**

**REPORT TO CABINET**

**2 AUGUST 2007**

**REPORT OF CORPORATE  
MANAGEMENT TEAM**

**COUNCIL DECISION**

**CORPORATE AND SOCIAL INCLUSION - Lead Cabinet Member - Cllr Terry Laing**

**REPORT OF THE LOCAL GOVERNMENT OMBUDSMAN**

**SUMMARY**

This report provides an update on the position with regard to a finding of maladministration by the Local Government Ombudsman.

**RECOMMENDATION**

It is recommended that:-

1. The Council's earlier offer of compensation to the Complainant is revised and replaced with an offer of £10,000 (ten thousand pounds) in full and final settlement of the complaint.

**DETAIL**

1. The Cabinet considered a report on the 1 February 2007 (Appendix 1) concerning a finding of maladministration for failing to handle nuisance caused by drifting car wash spray. A recommendation was then made to Council to offer a sum of £1,000 for the Council's failure to impose a planning condition to control spray drift from the car and jet wash, together with a sum of £250 for the time and trouble in pursuing the complaint. This recommendation was accepted at a special meeting of Council held on 28 March 2007.
2. As a result of the Council's decision the Local Government Ombudsman was minded to issue a further Report since the Council had not accepted her suggested remedy. However, before issuing a further Report she requested a meeting with the Chief Executive and relevant Officers. That meeting took place on 18 May 2007 and it was agreed that Officers would further recommend to Cabinet that a payment of £10,000 is made to the Complainant.
3. Whilst the earlier offer of compensation was considered appropriate, the Complainant and other neighbouring properties have continued to complain about spray drift from the car and jet washers on site. The Ombudsman maintains the view that there has been a significant loss of amenity to the Complainant, particularly since the Council has been unable to negotiate with the garage owner to provide a permanent physical solution to the problem. Accordingly, in order to bring the matter to a close and draw a line under this one long outstanding issue, Members are asked to support the increased offer of compensation.

4. If the Council is willing to increase its offer of compensation to £10,000 the Ombudsman has confirmed that she will not publish a further report and will not require the Council to instruct the District Valuer to advise on whether the Complainant's property has been devalued as a result of spray drift. Officers therefore consider this to be acceptable way forward.

#### **FINANCIAL AND LEGAL IMPLICATIONS**

5. The compensation payment will be met from existing budgets and will also bring the Ombudsman's procedures to a close.

#### **RISK ASSESSMENT**

6. The risk of further compensation resulting from an assessment by the District Valuer is removed.

#### **COMMUNITY STRATEGY IMPLICATIONS**

7. None arising directly from this report.

#### **CONSULTATION INCLUDING WARD COUNCILLORS**

8. A public notice was published in two local newspapers and the Ombudsman's report was on deposit and available for public inspection for three weeks beginning on 29 November 2006. Members considered the report at the Cabinet Meeting held on 1 February 2007 and at the Council meeting held on 28 March 2007.

#### **Head of Legal Services**

**Contact Officer:** Julie Grant  
**Telephone No:** 01642 527063  
**Email Address:** [julie.grant@stockton.gov.uk](mailto:julie.grant@stockton.gov.uk)

Background Papers:

Ward(s) and Ward Councillors:

Property Implications: