

## TRAFFORD COUNCIL

Report to: Executive  
Date: 20 February 2023  
Report for: Information  
Report of: Executive Member for Finance and Governance

### Report Title

**Report on Complaints Determined by the Local Government & Social Care Ombudsman 2021/22**

### Summary

**There is a statutory duty to report to Members on adverse outcomes of complaints formally investigated by the Local Government & Social Care Ombudsman. This report sets out the background to this duty, and provides Members with a summary of complaints determined in 2021/2022.**

### Recommendation(s)

**That the content of the report be noted.**

Contact person for access to background papers and further information:

Name: J.M.J. Maloney  
Extension: 4298  
Background Papers: None.

### *Implications:*

Relationship to Policy Framework/Corporate Priorities	<i>Complaint outcomes are potentially relevant across the range of Council policies.</i>
Relationship to GM Policy or Strategy Framework	<i>None directly arising from this information report.</i>
Financial	<i>None directly arising from this information report.</i>
Legal Implications:	<i>None directly arising from this information report.</i>
Equality/Diversity Implications	<i>None directly arising from this information report.</i>
Sustainability Implications	<i>None directly arising from this information report.</i>
Carbon reduction	<i>None directly arising from this information report.</i>
Resource Implications e.g. Staffing / ICT / Assets	<i>None directly arising from this information report.</i>
Risk Management Implications	<i>None directly arising from this information report.</i>
Health & Wellbeing Implications	<i>None directly arising from this information report.</i>
Health and Safety Implications	<i>None directly arising from this information report.</i>

## **Background**

### **1. Complaints to the Local Government & Social Care Ombudsman**

Services provided by the Council and agencies working on its behalf are subject to the jurisdiction of the Local Government & Social Care Ombudsman, who is empowered to investigate complaints of maladministration and / or injustice in relation to the delivery of those services.

Ordinarily the Ombudsman will only investigate complaints which have completed progress through all stages of the Council's Corporate or Statutory complaints procedures. The Ombudsman also operates, for the majority of complaints, a 2-stage assessment process, whereby complaints are only referred for investigation where it appears, on the face of it, that this could be warranted.

It follows from this that the population of complaints actually referred by the Ombudsman for detailed investigation is comparatively small, and will tend to involve the most long-running and intractable issues; there is thus a significant likelihood that any complaint subject to detailed investigation will be upheld.

### **2. The Requirement to Report to Members**

There are two distinct circumstances where reports on Ombudsman complaints are required to Members.

- In rare, particularly serious cases, or where a generic / multiple issue has been identified and where the Ombudsman has formally issued a "Public Interest" report, LGA '74 s. 30(1) provides that a report must be made to Members.
- There is a broader requirement, under LGHA '89, to advise Members of any findings of "maladministration", whether under a Public Interest report or a more usual Decision Statement.

### **3. Change in Ombudsman Complaint Classification / Need to Report**

In the year 2021/22, no Public Interest report was issued which would have given rise to a report to Members under LGA '74 s. 30(1).

In respect of the LGHA '89 duty, a number of years ago the Ombudsman amended its classification / definition system, to base it on a binary distinction of complaints as being "Upheld" or "Not Upheld". Crucially, *any complaint deemed to be upheld is classed as "Maladministration"*, however trivial the identified fault, and whether or not any injustice arose to the complainant as a result of that fault. As a result of this descriptive change, the Council now receives comparatively regular technical findings of "Maladministration". Another consequence of the use of this term to define the finding in these cases is that it also triggers the statutory requirement under LGHA '89 to report on "Maladministration" findings to Members.

Whilst there has been no substantive change in the complaints environment or the Council's performance, this additional reporting requirement has arisen essentially from a change in the Ombudsman's terminology.

#### **4. Complaints 2021/22**

For the purposes of this report, the complaints included are those recorded in the Ombudsman’s Annual Letter for 2021/22 as having been formally determined within that municipal year.

Annexe A provides for Members’ information an anonymised summary of cases where complaints have been upheld, and thus, under the current classification, deemed to involve “maladministration”. Details are included of service area, subject of the complaint, and outcome following the Ombudsman’s investigation.

According to the Ombudsman’s analysis, there were 10 upheld decisions during the year, a number of these relating to ongoing complaints primarily handled in the previous year. In terms of service area, the highest numbers tend to arise in areas which are either high volume services or which can be by their nature contentious and / or involve significant financial aspects, such as Waste Management, Revenues & Benefits and Adult Care charges. (These 3 areas account for 1 half of the 10 cases listed below.)

In terms of the nature of findings / resolution, the following issues can be noted. 1 case resulted in an “Upheld” finding, but with no remedy proposed as this had already been satisfactorily provided prior to the Ombudsman’s involvement. In 1 case, the remedy was solely an apology, as all other issues had been addressed. One case simply involved a reminder to staff about adherence to established procedures; and in a further case, the “remedy” was simply to continue what was already being done to support the complainant. This leaves 6 cases which involved some element of financial remedy, usually accompanied by an apology and / or proposals for amendment to / review of decision-making processes or systems. The financial remedy could take the form of an actual payment (sometimes nominal, in respect of time and trouble / inconvenience), waiver of liability for fees / charges, a review of a previous assessment decision, etc. The highest value settlement amongst those listed related to a multiple complainant who had lodged at least four complaints with the Ombudsman during the year. Such circumstances can of course significantly affect comparative statistics, especially where the base population is very small.

#### **Other Options**

None: there is a duty for these findings to be reported to Members.

#### **Reasons for Recommendation**

To satisfy a statutory duty in ensuring that Members are informed of the outcome of Ombudsman investigations.

**Finance Officer Clearance** (type in initials)

**Legal Officer Clearance** (type in initials)

**CORPORATE DIRECTOR’S SIGNATURE** (electronic).....

To confirm that the Financial and Legal Implications have been considered and the Executive Member has cleared the report.

**OMBUDSMAN DECISIONS 2021/2 – UPHELD COMPLAINTS**

Refs.	Decision Date	Area	Description	Outcome
<b>UPHELD:</b>				
19014201	17.5.21	Waste Collection	Missed collections; fault in complaint handling and delay in making of reasonable adjustments.	Apology; payments in respect of distress, time and trouble; review of aspects of service including in respect of procedures for identifying and implementing reasonable adjustments.
19020081	3.6.21	Revenues & Benefits / Recovery	Fault in approach and communications regarding recovery of debt	Apology; nominal payment in respect of distress; review of communications re longstanding debts.
19016930	8.6.21 (Revised)	Adult Social Care	Fault in support to access a personal assistant.	Council to continue to provide support in sourcing access to a personal assistant.
19020917	24.6.21	Highways / outdoor event management	Fault in complaint handling in aftermath of marathon event	Finding of fault but no remedy proposed, since actions already taken by Council left no significant unremedied injustice.
20002177	28.6.21	Home to school transport	Fault in communications following policy change	Apology; payment in respect of distress; and review of communications processes.
20009198	19.7.21	Environmental Health	Fault in handling of complaint regarding household noise.	Apology; nominal payment in respect of time and trouble; and review of certain technical aspects of noise monitoring processes.
21004594	10.12.21	Adult Social Care	Fault in communications regarding care charges.	Reminder to be issued to relevant staff regarding communications / record keeping.
20002414	19.11.21	Environmental Health / Noise	Fault in respect of enforcement action advice and investigation.	Apology; payment in respect of time and trouble; and invitation to complainant to submit further evidence.
20009037	7.2.22	Waste Management	Fault in bin collections.	Apology and nominal payment to recognise injustice.
20010065	8.2.22	Waste Management	Fault in assisted collections / bin return.	Apology only – all other issues resolved by service during course of service delivery / investigation.