

TRAFFORD COUNCIL

Report to: Standards Committee
Date: 7th March 2024
Report for: Information
Report of: Executive Member for Finance, Change and Governance

Report Title

Report on Complaints Determined by the Local Government & Social Care Ombudsman 2022/23

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 2022/2023.

Recommendation(s)

That the content of the report be noted.

Contact person for access to background papers and further information:

Name: N Owen
Extension: 4221
Background Papers: None

Implications:

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

Background

1. Complaints to the Local Government & Social Care Ombudsman

- 1.1 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.
- 1.2 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.
- 1.3 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

- 2.1 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, section 30(1) of the Local Government Act (LGA) 1974 provides that a report must be made to Members.
 - There is a broader requirement, under the Local Government and Housing Act (LGHA) 1989, 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

- 3.1 In the year 2022/23, no Public Interest report was issued which would have given rise to a report to Members under the LGA 1974 pursuant to section 30(1).
- 3.2 In respect of the LGHA 1989 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 1989 to report on "maladministration" findings to Members.
- 3.3 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 2022/23

- 4.1 For the purposes of this report, the complaints included are those recorded in the Ombudsman’s Annual Letter for 2022/23 as having been formally determined within that municipal year.
- 4.2 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 to the complaint, and the outcome following the Ombudsman’s investigation.
- 4.3 According to the Ombudsman’s analysis, there were 14 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.
- 4.4 In terms of the nature of findings/resolution, the following issues can be noted. 12 cases 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 or a review of a previous assessment decision.

Other Options

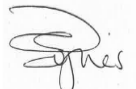
None: there is a duty for these findings to be reported to Members.

Reasons for Recommendation

To comply with the Council’s statutory duty in ensuring that Members are informed of the outcome of Ombudsman investigations.

Finance Officer Clearance:

Legal Officer Clearance: **EM**

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 2022/3 – UPHELD COMPLAINTS

Refs.	Decision Date	Area	Description	Outcome
UPHELD:				
200006074 20/21 014	2.8.22	Waste Management	Fault in bin collections	Apology, nominal payment to recognise injustice, share findings as part of contract review with refuse collection provider
21007404 21/22 006	9.6.22	Children's Services	Fault in responding to concerns and delay in arranging an educational placement	Apologies, nominal payment in recognition of the loss of provision, remind staff to consider whether to work with the health body to run a concurrent investigation and issue a joined-up response at all stages of the complaints procedure when someone complains under the children's statutory complaints procedure and consider whether to include the complaint about the other department in the investigation when the complaint is regarding the actions of children's social care and another Council department
21013578 21/22/009	19.4.22	Adult Social Care	Fault for delays in arranging funding for residential care	Nominal payment to recognise the time son-in-law spent dealing with father-in-law's complaint, investigate what happened in this case and brief staff on the findings, write to his son-in-law to explain the findings
21014860 22/23 001	8.7.22	Adult Social Care	Fault in communication regarding care finance	Nominal payment in respect of distress caused by delay in completing the financial assessment
21012692 22/23 002	25.7.22	Adult Social Care	Fault in invoicing/overcharging and communication regarding care finance	Apology; cancel outstanding invoice, contact to discuss whether wants care support to be re-instated, review of care provider's billing practices
21013439 22/23 003	18.7.22	Waste Management	Fault in bin collections	Apology, nominal payment, obtain evidence of costs incurred on private waste collection between January 2021 and January 2022 and reimburse complainant upon receipt.
21011882 22/23 004	26.8.22	Waste Management	Fault in bin collections	Apology, nominal payment.
20014096 22/23 005	12.8.22	Waste Management	Fault in bin collections	Apology; nominal payment and share findings as part of contract review with refuse collection provider
21000987 22/23 006	2.8.22	Waste Management	Fault in bin collections.	Apology; nominal payment.

21015093 22/23 008	21.6.22	Information Governance/ Children's Services	Fault in failing to secure records	Nominal payment to acknowledge impact of the fault and distress caused.
21013917 22/23 009	8.9.22	Adult Social Care	Fault in communication regarding changing agencies and responding to the complaint initially	Apologies; nominal payment.
22001186 22/23 011	8.12.22	Adult Social Care	Fault in communication regarding care finance	Apology; cancel all outstanding care charges owed and nominal payment to recognise injustice, reflect on issues raised in decision statement and identify any areas of service improvement.
21011600 22/23 015	29.3.23	Children's Services	Fault in not offering a financial remedy, delay in completing Stage 2 investigation	Limited payment as remedy for the distress caused within one month of decision if complainant accepts.