

TRAFFORD COUNCIL

Report to: Executive
Date: 31st October 2016
Report for: Information
Report of: Executive Member For Transformation and Resources

Report Title

Report on Complaints Determined by the Local Government Ombudsman 2015/16

Summary

There is a statutory duty to report to Members on adverse outcomes of complaints formally investigated by the Local Government Ombudsman. This report sets out the background to this duty, and provides Members with a summary of complaints determined in 2015/16.

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
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Background Papers: None.

Implications:

Relationship to Policy Framework/Corporate Priorities	<i>Complaint outcomes are potentially relevant across the range of Council policies.</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>
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 Ombudsman

Members will be aware that services provided by the Council and agencies working on its behalf are subject to the jurisdiction of the Local Government Ombudsman, who is empowered to investigate complaints of maladministration and / or injustice in relation to the delivery of those services.

In ordinary circumstances 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 on the face of it it appears that this could be warranted.

It follows from this that the population of complaints actually referred by the Ombudsman for investigation is comparatively small, and will tend to involve the most long-running and intractable issues; there is thus a presumption that they are likely to 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, and generally particularly serious, cases 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 / Current Need to Report

It is many years since the Ombudsman issued a Public Interest report in relation to Trafford. Generally this would only be in the most serious cases of what was deemed to be “maladministration”, and in all likelihood where significant injustice to the complainant, arising from that maladministration, had also been identified.

In previous years, the Ombudsman operated a graded system of complaint classification, whereby in the process of investigation complaints could, and frequently would, be settled by the Council in a way satisfactory to the Ombudsman. This could result in a range of formal findings such as “Local Settlement”, “Investigation Terminated – Ombudsman Satisfied with Council’s Actions”, etc. In these cases, a finding of “Maladministration” would not result.

The Ombudsman has now changed the classification / definition system, to refer simply to complaints as being “Upheld” or “Not Upheld”. Crucially, however, *any complaint now 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 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 to report “Maladministration” cases to Members.

In summary, whilst there has been no substantive change in the complaints environment or the Council’s performance, an additional reporting requirement has arisen essentially from a change in terminology.

4. Complaints 2015/16

For the purposes of this report, the complaints included are those recorded in the Ombudsman’s Annual Letter for 2015/16 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. There were 17 upheld complaints during the year (though owing to the length of investigation several of these related to ongoing complaints primarily handled in the previous year). Of these 17, 4 were formally concluded with a finding of “Maladministration, No Injustice”. This in effect means that, whilst some administrative fault had been identified, it had negligible if any adverse impact on the complainant. It is also clear that, in a number of cases, where “Injustice” has been identified, this has been relatively trivial (minor service failure, delay, etc.), with correspondingly minor remedies proposed (or indeed no remedy, as any injustice had already been rectified). Only 4 cases involved the Council agreeing to a specific financial remedy.

In relation to the small number of complaints which could be considered to be more serious and involving significant financial remedies, in none of these cases has the Ombudsman sought to issue a Public Interest Report. This suggests that in the Ombudsman’s terms these are not amongst the most concerning complaints they encounter.

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).....NB.....

Legal Officer Clearance (type in initials).....JL.....



CORPORATE DIRECTOR'S SIGNATURE (electronic)

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

2015/16

Refs.	Dec. Date	Area	Description	Outcome
<u>UPHELD:</u>				
14009070	1.4.15	Environmental services	Delay in identifying and communicating responsibility for domestic damp problem	Apology
14011145	23.4.15	Housing Allocation	Failures in process for category banding	Review of banding; provision of clear information; Council to review standard advice and correspondence
14002965	14.5.15	Education / Children's	Delay in payment of personal budget	Financial payments in recognition of lost educational opportunities, and in respect of time and trouble pursuing the complaint.
14013376	20.5.15	Education / Children's	Failure to exercise discretionary powers in respect of provision of post-16 education services identified in care plan	Refund of tuition fees incurred; apology; and Council to review policy / processes.
14017620	22.5.15	Revenues / Benefits	Issue of summons re Council Tax arrears following misunderstanding arising from incorrect advice	Finding of maladministration but no injustice; no significant injustice arising from fault, and the Council remedied the error promptly on identification.
14008819	12.6.15	Free school meals	Incorrect information and delay in assessment of eligibility for free school meals	Finding of maladministration but no injustice, as complainant ineligible in any case; apology, and Council to review process
15003127	22.6.15	Revenues / Benefits	Use of bailiffs in enforcement action re Council Tax arrears.	Complaint upheld, but no further action taken – case withdrawn from bailiffs and payment arrangement agreed
15003271	7.9.15	Revenues / Benefits	Non-renewal of award of Discretionary Housing Payment	Previous claim extended; further review of decision; and Council to reconsider its procedures.

15008280	7.9.15	Waste Management	Uncertainty re bin replacement process	Complaint upheld, but no further action taken pending discussions with complainant and ongoing monitoring of new contractor.
15005395	4.1.16	Revenues / Benefits	Inclusion of partner's income in assessment of repayment liability deemed to be inappropriate.	Partly upheld; agreed that appropriate repayment arrangement will be based on complainant's proof of own income.
15009819	4.1.16	Planning / Enforcement	Delay in considering whether or not to take enforcement action	Finding of maladministration but no injustice, as no likelihood of successful enforcement and complainant not materially affected. No further action required.
15010200	11.1.16	Revenues / Benefits	Incorrect advice given, leading to unnecessary enforcement etc. action	Finding of maladministration but no further action required, as issues remedied by the Council.
13011545	18.1.16	Children's Social Care	Incorrect calculation of Direct Payments and related issues	Apology; reimbursement of underpayments with interest; compensation payment; and review of procedures / training.
14009428	21.1.16	Children's Social Care	Faults in Child Protection Procedures / Adoption	Apology and actions already taken by Council deemed to be satisfactory.
15008051	9.2.16	Adult Social Care	Fault in communicating details of client's assessment in respect of a respite care stay.	Minor compensation payment; & recommended enhanced communication of existing assessments in these circumstances.
15002565	2.3.16	Children's Social Care	Administrative faults with Child Protection investigation and conference	Apology and actions already taken by Council deemed to be satisfactory; with one additional, accepted, procedural recommendation.
15010192	29.3.16	Adult Social Care	Fault in procedures to ensure Council ensured provider delivered care services to meet assessed needs.	Finding of maladministration but no injustice; issues satisfactorily resolved, and no further action required.