

## TRAFFORD COUNCIL

**Report to:** Executive  
**Date:** 25 September 2017  
**Report for:** Information  
**Report of:** Executive Member for Corporate Resources

### Report Title

**Report on Complaints Determined by the Local Government Ombudsman 2016/17**

### 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 2016/17.**

### 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>
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**

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.

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, 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 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, 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 / 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.

More recently, the Ombudsman amended its classification / definition system, to refer primarily to a binary distinction of 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 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 2016/17**

For the purposes of this report, the complaints included are those recorded in the Ombudsman's Annual Letter for 2016/17 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.

Of the 27 complaints formally investigated, 14 (52%) were upheld. It should be noted that owing to the length of investigation several of these related to ongoing complaints primarily handled in the previous year. (In the previous year 60% were upheld; though the small population and timing issues make it difficult to draw any secure conclusions from this.) Of the 14 complaints upheld in 2016/17, 2 involved no remedial action at all; and 4 more involved no direct financial penalty. This suggests that, whilst some administrative fault had been identified, it had comparatively minor if any adverse impact on the complainant. In a number of cases, where "Injustice" has been identified, this has been relatively trivial (minor service failure, inadequate communication, etc.), with correspondingly minor remedies proposed (or indeed no remedy, as any injustice had already been rectified). In 2 cases the Ombudsman agreed that recommended payments could be netted off associated charges owed by the complainants. In general, any more significant impacts resulted not from direct payments recommended, but from complainants being accorded greater access to services and / or protected from recovery of charges which might otherwise have been due. In relation to the small number of complaints which could be considered to be more serious and involving more significant 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)* **JLF**

#### **CORPORATE DIRECTOR'S SIGNATURE**



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

**OMBUDSMAN DECISIONS 2016/17 – UPHELD COMPLAINTS**

Refs.	Notes	Directorate	Description	Outcome
<b><u>UPHELD:</u></b>				
14019826	13.4.16	CFWB	Failure to provide suitable education.	Small compensation payments to affected parents and child. (Recommendation to make apology withdrawn by LGO.)
15002412	19.4.16	CFWB	Failure clearly to identify a care home without a top-up fee.	Finding of maladministration but no injustice; no consequent actions to be taken.
14019553	25.4.16	CFWB	Delays / inadequacies in implementing SEN statement following Tribunal decision.	Payments recommended for educational benefit and distress / time / trouble; with review of other procedural issues to be undertaken.
15008807	26.4.16	CFWB	Failure properly to consider home to school transport application / appeal.	Apology; fresh appeal to be held; and Council's policy to be reviewed to ensure clarity.
15020323	4.7.16	EGEI	Failure to impose a planning condition, leading to overlooking.	Council to arrange appropriate tree planting in mitigation. (Alternative resolution then proposed by complainant and agreed by Council.)
15001482	6.7.16	CFWB	Delays in converting learning disability assessment into EHC Plan; & consequent impact on education.	Apology; & payments in support of education, and time and trouble in pursuing the complaint.
15015337	21.7.16	CFWB	Failure to send regular invoices in relation to top-up payments for care services.	Apology; & payment in respect of distress and anxiety (though this to be offset against complainant's existing care debt).

16006630	6.9.16	EGEI	Service failure in relation to assisted collection.	Upheld; but no further action taken since Council had already taken satisfactory steps to remedy the position.
15013600	29.9.16	CFWB / T&R	Accuracy of record-keeping / notifications in respect of social care charges.	Provision of updated records; apology; & time and trouble payment. (NOTE - Significant post-decision discussions with LGO, & agreement that payment be netted off outstanding debts.)
15018837	1.12.16	CFWB	Errors in the making of SEN provision.	Upheld. Alternative school placement agreed; modest payments agreed to complainant and child for time & trouble and for educational benefit.
15014352	16.1.17	CFWB	Failure to ensure appropriate IMCA support in contesting DOL case.	Apology, & time and trouble payment.
16003197	31.1.17	EGEI	Failure to respond properly to correspondence and fault in Committee report.	Apology and advice to service officers. (No financial settlement and no implications for Planning decision.)
16005922	27.2.17	CFWB / T&R	Failure properly to assess contributions to homecare, and consequent recovery implications.	Apology; waiver of outstanding disputed recovery sum and minor time & trouble payment.
16009165	16.3.17	CFWB	Failure to communicate adequately in respect of appropriate safeguarding action taken.	Apology in respect of failure in communication.