

## TRAFFORD COUNCIL

**Report to:** Executive  
**Date:** 17 September 2018  
**Report for:** Information  
**Report of:** Executive Member for Constitutional Reform and Resident Engagement

### Report Title

**Report on Complaints Determined by the Local Government & Social Care Ombudsman 2017/18**

### 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 2017/18.**

### 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>
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, 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 therefore potentially an increased 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, 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 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 2017/18**

For the purposes of this report, the complaints included are those recorded in the Ombudsman's Annual Letter for 2017/18 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 14 complaints categorised by the Ombudsman as having been formally investigated, 7 (50%) were upheld. It should be noted that owing to the length of investigation a number of these related to ongoing complaints primarily handled in the previous year. (In the previous year 52% were upheld; though the small population and timing issues make it difficult to draw any secure conclusions from this data.)

Of the 7 upheld complaints during the year 1 involved no remedial action at all (Please see commentary at Annex A); and 2 more involved no direct financial penalty. In general, any more significant financial impacts resulted from restitution of services which had not been provided, or waiver of charges incurred. In no case has the Ombudsman sought to issue a Public Interest Report. (Historically, any finding of Maladministration Causing Injustice would probably have led to the issuing of such a report.) This suggests that in the Ombudsman's terms these are not amongst the most concerning complaints they encounter.

#### **Other Options**

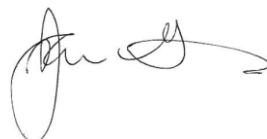
None: there is a duty for these findings to be reported to Members.

#### **Reasons for Recommendation**

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

**Finance Officer Clearance** NB

**Legal Officer Clearance** JL



**[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 2017/18 – UPHELD COMPLAINTS**

Refs.	Notes	Area	Description	Outcome
15000038	14.06.17	Adult Social Care	Failure to keep proper and suitable records, entailing uncertainty and potential risk.	Financial payment in respect of service user's best interests; amendment to Council procedures; and incorporation of Ombudsman's decision within care records.
16003341	26.7.17	Adult Social Care	Failure to complete re-assessment of care & support needs in good time.	Apology; completion of care plan; payment in respect of frustration and missed support; and requirement to ensure support officers have appropriate specialist training.
17009532	11.1.18	Waste Management	Failure to deal properly with reports of missed refuse and recycling collections.	Council acknowledged fault in relation to a proportion of the incidents cited; offered reimbursement of the appropriate proportion (£748) of costs claimed by the complainant; Ombudsman accepted this proposal.
17014905	25.1.18	School Appeals	* SEE BELOW: The complaint related to the handling of a School Appeal.	* SEE BELOW: The investigation was discontinued when a school place was awarded by the desired school.
17009001	15.2.18	Building Control / Enforcement	Unreasonable delay in taking enforcement action against breaches of planning and building control.	Council to seek Counsel's opinion on enforcement options and conclude enforcement investigations within 6 months, report formally and supply the report to the complainant and Ombudsman; provide complainants with monthly updates; re-provide a comprehensive list of issues.
17001861	26.3.18	Adult Social Care / Adaptations	Delay in completion of grant process.	Time and trouble payment of £500 recommended.
17013335	28.3.18	Waste Collection	Failure to ensure bins returned to proper place, and in complaint handling.	Apology for time and trouble, and for inadequate instructions to crews; monitor and share outcome with complainant; consider allocation of a specific collection point.

\* PLEASE NOTE: This complaint has been categorised in the Ombudsman's statistical summary as "Upheld", following a "Detailed Investigation". From an examination of its records, the Council has concerns regarding both of these classifications.

Whilst the investigation was in progress, the Ombudsman issued a Final Decision Letter indicating that the investigation had been discontinued, as a school place had been offered; and formally classifying the complaint as "Upheld – no further action".

It is assumed that the Ombudsman's inference was that, in offering a place, the Council was acknowledging fault and taking action to remedy it. In fact, the award of the place was because the school in question had independently decided to expand its capacity. This decision was entirely unrelated to any fault, and unrelated to the Ombudsman's Investigation. The school's decision was made prior to the Ombudsman's enquiries. No fault was admitted by the Council; as the investigation was discontinued, it is unclear that any fault was formally identified; and the Council was not in a position to query or challenge the finding prior to its publication.

In this light, the Council would take the view that it is not clear that a detailed investigation was completed, and that the finding of "Upheld" does not reflect the actual position.