

TRAFFORD COUNCIL

Report to: Overview and Scrutiny Committee
Date: 15 January 2020
Report for: Information
Report of: Executive Member for Public Safety, Governance and Reform

Report Title

Report on Complaints Determined by the Local Government & Social Care Ombudsman 2018/19

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 2018/19.

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.

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.

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 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 likelihood of findings of "Maladministration" being made increased significantly. 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.

This means that whilst there has been no substantive change in the complaints environment or the Council's performance, this change in the Ombudsman's terminology has meant that the requirement for reporting is now triggered by more cases and at a lower level than would previously have been the case .

4. Complaints 2018/19

For the purposes of this report, the complaints included are those recorded in the Ombudsman's Annual Letter for 2018/19 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 20 complaints categorised by the Ombudsman as having been upheld, a number, owing to the length of investigation process, relate to issues arising and primarily handled in the previous year. (The small population and timing issues make it difficult to draw any secure statistical conclusions from year to year.)

Of the 20 upheld complaints during the year, in four cases no further action was deemed necessary by the Ombudsman, because they had already been satisfactorily addressed. One case resulted in a finding of "Maladministration but No Injustice", again because adequate action had already been taken. Three further cases involved either simply an apology, or an apology with a non-financial action to be taken by the Council.

This leaves 12 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, or, in a very small number of cases, a more substantial payment intended to reflect the degree of hardship deemed to have occurred through the Council's actions.

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.

There is however no cause for complacency in such a reflection. In each case where such a finding is made the matter is reviewed to ensure that we learn from previous mistakes and that we look to improve our performance across the Council where the lessons learned would have implications for other service areas, not just the service(s) complained against.

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.

OMBUDSMAN DECISIONS 2018/19 – UPHELD COMPLAINTS**2018/19**

Upheld Date	Area	Description	Outcome
26.4.18	Adult Social Care (Care Home's arrangements)	Fault in the way Council handled complaint regarding the home's failure to take sufficient care of resident's belongings.	Apology and £200 payment for time and trouble; and the Council to seek to influence the home in implementing specific recommendations regarding the home's internal procedures.
18.5.18	Refuse Collection	Fault in provision of an assisted waste collection.	Payment of £150 in respect of time and trouble. Council had already implemented monitoring regime.
25.5.18	Refuse Collection	Fault in emptying green bin.	Finding of Maladministration but no injustice. No remedy required, as Council had already taken satisfactory action.
25.6.18	Adult Social Care (Top up fees)	Failures in arrangements for top-up fees and identifying affordable placement.	Waiver of outstanding fees and issuing of further guidance to staff.
9.7.18	Children's Social Care	Fault in investigation of a child protection intervention.	Payment of £1,000 in respect of distress, and supply to the Ombudsman of updated guidance and standards.
16.7.18	Education / S.E.N.	Failure to ensure receipt of provision set out in EHC Plan.	Payment of £500 in respect of time, trouble and distress; payment of £1,500 to assist in relation to educational development. Council to review to ensure no other similar cases.
23.7.18	Licensing (Private Hire)	Faults in dealing with a Private Hire licence application.	Refund of fees paid, readmission to system with backdated date and waiver of fees in respect of current requirements.
20.8.18	Adult Social Care (Transition)	Delay in completion of adult care assessment during transition to adult care.	Time and trouble payment of £200. (Noted that impact of delay ameliorated by ongoing support from Children's Services.)

6.9.18	Revenues / Benefits	Complaint regarding Council Tax error.	*Formal finding: "Closed after initial enquiries – no further action." (Fair response already provided.)
3.10.18	Children's Social Care	Delay in investigating in relation to safeguarding allegations.	Apology.
12.11.18	Highways / Planning	Requirement for payment for streetworks incorrectly issued as Planning notification had omitted standard notification of need for licence.	Costs waived and enhancement of notification procedures.
29.11.18	Environment / Fly-tipping	Delay in dealing with service request, poor communication and poor complaint handling.	Apology and review of complaint management system.
10.1.19	Discretionary Housing Payment	Complaint regarding handling of Discretionary Housing Payment application	*Formal finding: "Closed after initial enquiries – no further action." (Satisfactory remedy already provided.)
16.1.19	Adult Social Care / Disabled Adaptations	Delay in completion of a grant application process	Significant payments to take account of the impact on complainant and family during the period of delay as calculated by the Ombudsman.
6.3.19	Waste Collection (assisted)	Failure to return waste bins to designated point.	No further action – complaint already remedied.
7.3.19	Waste Collection	Inadequacies in waste collection service.	Apology.
7.3.19	Adult Care Charges / Recovery	Inadequate adherence to statutory guidance on deprivation of capital.	Reconsideration of decision and enhancement of decision communications.
8.3.19	Adult Social Care / Disabled Adaptations	Delay in processing a grant application and complaint handling	Apology, payment to acknowledge distress / uncertainty, amendment to process and review of progress on backlog.
19.3.19	Waste Collection	Inadequate handling of complaint arising from interaction with waste operatives.	Apology and token payment of £100.
28.3.19	Waste Collection	Failure to return waste bins to designated point.	No further action – complaint already remedied.