

## TRAFFORD COUNCIL

**Report to:** Executive  
**Date:** 14 December 2020  
**Report for:** Information  
**Report of:** Executive Member for Finance and Governance

### Report Title

**Report on Complaints Determined by the Local Government & Social Care Ombudsman 2019/20**

### 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 by the Ombudsman in 2019/20.**

### Recommendation(s)

**That the Executive notes the content of the report.**

### 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:	The Council's reporting obligations are detailed in the report.
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**

- 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, on the face of it, it appears that this could be warranted.

### **2. The Requirement to Report to Members**

- 2.1 There are two distinct circumstances where reports on Ombudsman complaints are required to be reported to Members:
  - In serious cases, or where a generic / multiple issue has been identified and where the Ombudsman has formally issued a "Public Interest" report, Local Government Act 1974 s. 30(1) provides that a report must be made to Members; and
  - In cases where there is a broader requirement, under Local Government and Housing Act 1989, to advise Members of any findings of "maladministration", whether under a Public Interest report or a more usual Decision Statement.

### **3. The Annual Review Letter Summary**

- 3.1 The Ombudsman's Annual Letter ("Annual Letter") was sent to the Council on 22 July 2020. The report provides an overview and summary of the contents of the Annual Letter.

### **4. Complaints Summary 2019/20**

- 4.1 For the purposes of this report, the complaints included are those recorded in the Ombudsman's Annual Letter for 2019/20 as having been formally determined within that municipal year.
- 4.2 The total number of interactions (preliminary enquiries, premature referrals, full investigations and "no further action" referrals) with the Ombudsman during the year was 125, significantly in excess of the 101 the previous year and 72 in the year before that. The number of full complaint investigations received was broadly stable when compared with last year. Significant numbers of these interactions derived from a single, multiple complainant, and from the difficult position regarding Waste Collection, which resulted in an unusual number of cases and a Public Interest Report (please see below).
- 4.3 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.

- 4.4 The Ombudsman’s figure for “upheld” decisions in 2019/20 is 19, compared to 20 in the previous year and 11 in the year before that
- 4.5 Alongside the “upheld” complaints, the total number of complaints should be noted as there are 74 in total. Those complaints were referred to, but not upheld by, the Ombudsman.
- 4.6 Of the 19 “upheld” decisions during 2019/20:
  - a number of these relating to ongoing complaints primarily handled in the previous year;
  - as mentioned above, a significant element of this year’s total derives from the Public Interest report into Waste Management, which resulted in 6 individual adverse findings;
  - In terms of service area, significant numbers arise in areas which can be by their nature contentious and / or involve significant financial aspects, such as Adult Care charges. Reference has already been made to Waste Collection, which generated 9 of the 19 cases listed.
- 4.7 In terms of the nature of findings / resolution, in each of the “upheld” decisions, the following should be noted:
  - 1 case resulted in an “Upheld” finding even though not formally investigated, since issues had already been satisfactorily addressed;
  - 4 cases resulted in a finding of “Maladministration but No Injustice”, again because adequate action had already been taken;
  - In 1 case, a finding of “Maladministration Causing Injustice” resulted in no further action or recommendations, on the grounds of the conduct of the complainant in issues directly relating to the case;
  - 1 case involved simply a minor process change;
  - The remaining 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, a review of a previous assessment decision, or a more substantial payment intended to reflect the degree of hardship deemed to have occurred through the Council’s failure.
    - In 3 of these 12 cases, the value of the remedy could be regarded as financially significant; though in one of these the payment of “compensation” in fact related to the actual payment of an already agreed payment specifically in respect of compensation for a CPO purchase by the Council.

## **5. Public Interest Report Summary**

- 5.1 In rare circumstances, such as where they identify systemic issues or multiple complaints in the same service area, the Ombudsman will issue a formal “Public Interest” report.

5.2 During the year, the Ombudsman investigated multiple complaints relating to waste collection issues, sometimes arising from multiple service failures at the same location. This concentration of issues was deemed by the Ombudsman to warrant a Public Interest report, covering 6 of the cases. This report was publicised in the local press, and required a formal report to Members. It was considered by the Executive on 20<sup>th</sup> July 2020, it being noted that the Council was proposing to abide by the terms of all of the Ombudsman's recommended actions.

5.3 On 14/9/20 the Council received correspondence from the Ombudsman welcoming the action taken by the Council and confirming that the Ombudsman was satisfied that the issues in relation to corporate processes and individual complaint remedies had been satisfactorily completed.

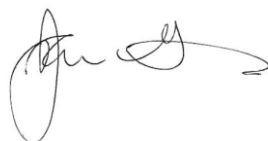
### **Other Options**

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** GB  
**Legal Officer Clearance** DS



**[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 2018/19 – UPHELD COMPLAINTS****2019/20**

Cases Upheld.	Notes	Area	Description	Outcome
1	10.4.19	Revenues & Benefits	Error in calculation of Council Tax reduction.	Nominal payment; review of policy; and consideration of whether to grant discretionary relief.
2	23.4.19	Education / SEN	Failure to provide correct information re responsibilities for delivery of EHC Plan	Finding of maladministration but no injustice; remedy limited to provision of updated advice to staff.
3	24.4.19	Adult Social Care - Homecare	Failures in care planning and effective communication of safeguarding concern.	Apology and nominal payments in respect of the two issues; review of arrangements for investigating safeguarding concerns.
4	1.7.19	Asset Management / CPO Compensation	Failure to make agreed compensation payment following CPO	Apology and payment of agreed compensation sum.
5	17.7.19	Adult Social Care – Charging / Recovery / Complaints	Failure to ensure receipt of care and in complaint handling	Finding of Maladministration causing Injustice; but no recommendations and no additional remedy, as injustice already remedied.
6	1.8.19	Adult Social Care	Fault in preparation for hospital discharge / communications; faults in care visiting and associated invoicing.	Apology; review of costs and Council effectively to reimburse 50% of finalised costs.
7	11.9.19	Waste Management	Failure to ensure green bin regularly collected.	Finding of maladministration but no further action to be taken as fault already remedied.
8	30.9.19	Development Control	Failure to update website following discretionary decision to allow extra time for comment on amended plans.	Finding of maladministration but no injustice; no further action to be taken as fault already remedied by issuing of an apology.
9	12.11.19	Waste Management	Failure to keep to agreed terms of	Finding of maladministration but no injustice;

			assisted waste collection.	no further action to be taken as fault already remedied.
10	3.12.19	Adult Social Care	Fault in the Council's response regarding safeguarding investigation in relation to a care home.	Apology; review of safeguarding process; payments in relation to stress / anxiety and time / trouble in pursuing complaint.
11	17.01.20	Highways / Streetscene	Failure to take agreed action in respect of overgrown trees / shrubs.	Procedural changes to ensure monitoring of works; evidence of specific inclusion of a range of identified works; and notification to complainant.
12	24.2.20	Development Control	Fault in determination of a planning application and delay in taking enforcement action.	Modest time and trouble payment in respect of need to bring a complaint.
13	12.3.20	Waste Collection	Miscellaneous faults with Waste Collection Service.	Public Interest Report: A range of corporate measures relating to processes; apology, monitoring of collections, plus, specifically: minor payment to acknowledge injustice.
14	12.3.20	Waste Collection	Miscellaneous faults with Waste Collection Service.	Public Interest Report: A range of corporate measures relating to processes; apology, monitoring of collections.
15	12.3.20	Waste Collection	Miscellaneous faults with Waste Collection Service.	Public Interest Report: A range of corporate measures relating to processes; apology, monitoring of collections, plus, specifically: minor payment to acknowledge time & trouble.
16	12.3.20	Waste Collection	Miscellaneous faults with Waste Collection Service.	Public Interest Report: A range of corporate measures relating to processes; apology, monitoring of collections, plus, specifically: minor payment to acknowledge time & trouble.
17	12.3.20	Waste Collection	Miscellaneous faults with Waste Collection Service.	Public Interest Report: A range of corporate measures relating to processes; apology, monitoring of collections, plus, specifically: minor payment to acknowledge time & trouble.
18	12.3.20	Waste Collection	Miscellaneous faults with Waste Collection Service.	Public Interest Report: A range of corporate measures relating to processes; apology, monitoring of collections, plus, specifically: clarification with crew of bins' return location,

				minor payment to acknowledge time & trouble.
19	13.3.20	Waste Collection	Complaint re failure to collect neighbour's rubbish. See next column.	Formal finding: Upheld: not investigated – injustice remedied.