Pensions Ombudsman Update – Autumn 2026

Welcome to the latest edition of our regular Pensions Ombudsman Update, designed to help you get to grips with the Ombudsman's thinking, keep track of decisions on individual topics and identify underlying trends. This edition focuses on the Ombudsman's recent Annual Report, as well as some key themes from Determinations over the last few months.

The Ombudsman's year in focus

Some key statistics

We kick off with this summer's Annual Report, which records "*a demanding year*" for the Ombudsman's office in which it saw 10,944 new applications (up 14% on 2024/25). The Ombudsman expects this demand to keep growing, not least given a sustained spike in complaints arising from the McCloud public service pensions remedy, and issues affecting the Civil Service Pension Scheme.

The good news is that the Ombudsman resolved 10,793 pension complaints in the same timeframe, also a 14% increase. His Operating Model Review (OMR) project seems to have had a palpable effect: in particular, there has been marked movement on case closures, which are up by 63% over the two years since the OMR was unveiled.

For our clients, a longstanding issue has been the need to address complaint turnaround times. The Report evidences a level of improvement, with 69% of cases closed in 3 months and 77% within 12 months. However, the Ombudsman concedes that closure timescales remain too high, especially as some 14% of cases were not resolved within 18 months.

Weeding out unmeritorious complaints

One innovation from the OMR was the use of Expedited Decisions, designed to close cases with a clear outcome earlier in the customer journey.

Last year, 227 complaints were closed in this way. The Report provides examples: a claim of an incorrect transfer value calculation which was unsupported on the evidence, and a complaint of financial loss from lifestyling even though the scheme's lifestyling approach was clearly explained to the member on several occasions.

The Report also shines a spotlight on the roll-out of 's146 letters', deployed 75 times. These set out a decision to exercise the Ombudsman's discretion, under section 146(1) of the Pension Schemes Act 1993, not to entertain a complaint in the first place. In one such case, a member had rejected a £150 compensation offer in relation to a loss of £27. In another, the member's complaint - never likely to succeed - was that the trustees would not allow him to access scheme benefits before his normal minimum pension age.

On the same theme, a new webpage lists other complaint types that the Ombudsman is unlikely to uphold, such as a mere reduction in pension pot or CETV value, or where there has been no material financial loss. He encourages schemes and providers to share this with members, alongside other recently updated information sheets on death benefit lump sums, ill-health pensions and incorrect information, at the appropriate point in their complaint journey.

Appeals: a "troubling" precedent

The Report is critical of a High Court decision in May which overturned one of his Determinations. In it, the judge accepted legal arguments made by the respondent employer which had not been tested before the Ombudsman.

The Ombudsman finds this "*disappointing*" and "*troubling*", as the complainant member could not realistically have challenged those new arguments without considerable costs risk. His concern is that unrepresented applicants may be able to put their case informally on equal terms to the Ombudsman and succeed, but then be unable to participate in any appeal proceedings.

As well as five appeals in the year, judicial review applications rose from zero to nine. Interestingly, the Ombudsman observes an increased and "*concerning*" use of AI in these challenges, some of which contained AI-induced errors such as incorrect case citations. Our experience as a firm is that the rise in AI use by complainants is leading to more complaints, increased challenges and higher costs across many areas of law.

Looking forward

Turning to the future, the Ombudsman's new Corporate Plan acclaims a three-year DWP funding settlement which gives his office a £15m budget for 2026/27. The extra investment will support a three-year initiative to materially decrease the historical caseload, expanding frontline casework teams by 20% this year and creating dedicated specialist teams for complex and longstanding cases.

One key priority for 2026/27 is to heighten awareness of the Ombudsman's drive to encourage scheme-level dispute resolution. The office is also investing in technology, launching an internal AI pilot to speed up case work and to front-load the online application journey.

In a blog in the spring, Ombudsman Chair Deborah Evans sounded a note of caution: that despite the new funding settlement, it would take time for the expanded workforce to bed in: *"we should be realistic about the pace of progress that will follow".*

Nevertheless, there is a confidence borne from the success of the OMR and related reforms so far. As the Chair concludes in the foreword to the Annual Report: "*The foundations are solid, the strategy is clear.*"

> *Comment*: The Report shows positive steps on case resolution and we welcome new moves to triage and neutralise complaints which are likely to fail. The Ombudsman has rightly identified turnaround times as a priority and we look forward to seeing inroads into the long tail of 'complex' cases still awaiting resolution.

Decision-makers and discretions

Determination CAS-82907 Mrs T saw a member complain about the scheme manager's refusal to consider her request to review the level of her ill-health early retirement benefits.

Mrs T had requested re-assessment outside the normal three-year limit for ill-health reviews specified in the Regulations governing the scheme. However, elsewhere there was a general discretion to extend *"any time limit mentioned in these Regulations*". The manager admitted that although it was aware of the general power it did not consider it here, as its policy was only to do so where a member made contact within the three-year period to advise of ongoing treatment or delays that might take an application beyond it.

The Ombudsman said that while it was reasonable to have a general policy for exercising a discretion, it was wrong that in Mrs T's case the exercise of the discretion was not considered at all. Even where a general policy existed, "*it is still incumbent on decision makers to consider that discretion in light of the facts of each case and/or an individual's specific circumstances*". Alongside the member's individual circumstances, there were unusual factors that could potentially be taken into account - such as the impact of the COVID-19 pandemic on the member's ability to meet the application deadline.

In a subsequent stakeholder Update, the Ombudsman picked out this Determination as highlighting the importance of contemplating when to consider discretions.

> *Comment:* The Ombudsman warns that inflexible adherence to a scheme policy may amount to a fettering of discretion. Decision-makers must be cognisant of the discretions they have, and when to exercise them.

Early retirement and TUPE

In CAS-81525 Miss S the member was a prison officer who, as a pre-1987 joiner, had a right under the Civil Service scheme to retire at age 55 so long as she remained in active service. However, in 2011, she became a deferred member of the scheme when her employment transferred to a private contractor under the Transfer of Undertakings (Protection of Employment) Regulations 2006 ("**TUPE**").

In 2019, Miss S was TUPE-transferred back to her original employer and re-joined a different section of her original scheme. On retirement later that year, having reached age 55, she claimed that she remained entitled to her full Civil Service pension from age 55.

The Deputy Pensions Ombudsman found that Miss S's original right to draw unreduced pension at age 55 was an early retirement benefit (ERB) protected by TUPE. This ERB transferred to the private contractor with the TUPE transfer in 2011 and then transferred back to the member's employer, undischarged, on the TUPE transfer in 2019. The employer was directed to fund the shortfall between the member's age-55 and age-60 entitlements under the scheme.

> *Comment:* We are starting to see a trickle of cases on how TUPE interacts with occupational pension scheme rights. The Deputy Ombudsman's detailed analysis of the law here will therefore be of broader interest.

Getting it right

We are used to hearing about maladministration, but the Ombudsman is equally keen to hail good administration when evidence of it crosses his desk. In CAS-96095 Ms W he rejected a member's complaint about the scheme administrator's handling of a refund of contribution request, saying that the administrator had followed up unanswered questions promptly; queried data that appeared to be incorrect; and "most importantly" kept the member informed of the progress of their enquiries. This was "*good administration… to be commended*".

> *Comment:* It is refreshing to see an example for schemes and providers of "*how to get it right*" when it comes to dealing with member complaints - and warding off possible maladministration claims.

Making recoupment easier

Section 121 of the Pension Schemes Act 2026 came into force on 29 June. It amends the law so that where trustees wish to recoup past overpayments from future instalments of pension, but the member has objected, they can still do so:

- where the parties have resolved the dispute;
- where the Ombudsman has determined the dispute; or
- by order of a competent court.

The first two limbs are new and reverse the effect of the unhelpful pre-Act case law under which the Ombudsman could not definitively determine such disputes, meaning that trustees potentially had to obtain an order from a County Court before being able to enforce.

> *Comment:* It has taken a little while to get there, but trustees who obtain an Ombudsman determination in their favour finally have comfort that they can recoup without instituting further proceedings.

Public service pensions remedy update

The Ombudsman has issued slides providing an update on his approach to 'McCloud' complaints, building on the existing information sheet.

The Ombudsman now expects schemes to have an organised approach to dealing with remedy implementation (not just prioritising "immediate detriment" cases) and plans to begin producing significant Determinations on key issues around McCloud complaints. His office is currently identifying, and will accelerate, appropriate cases.

> *Comment:* This firm shift in approach should be noted by those involved in administering the McCloud remedy.

CMS and the Pensions Ombudsman

CMS has had a market-leading Pensions Ombudsman Unit for many years, regularly advising clients on how to manage and respond to complaints brought before the Ombudsman.