

What are the latest and most impactful
Ombudsman decisions on scheme
administration and trustee decision-making —
and how do they alter client advice?

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Wendy Mathers – White Paper Conference – 11 March 2026

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What's new?



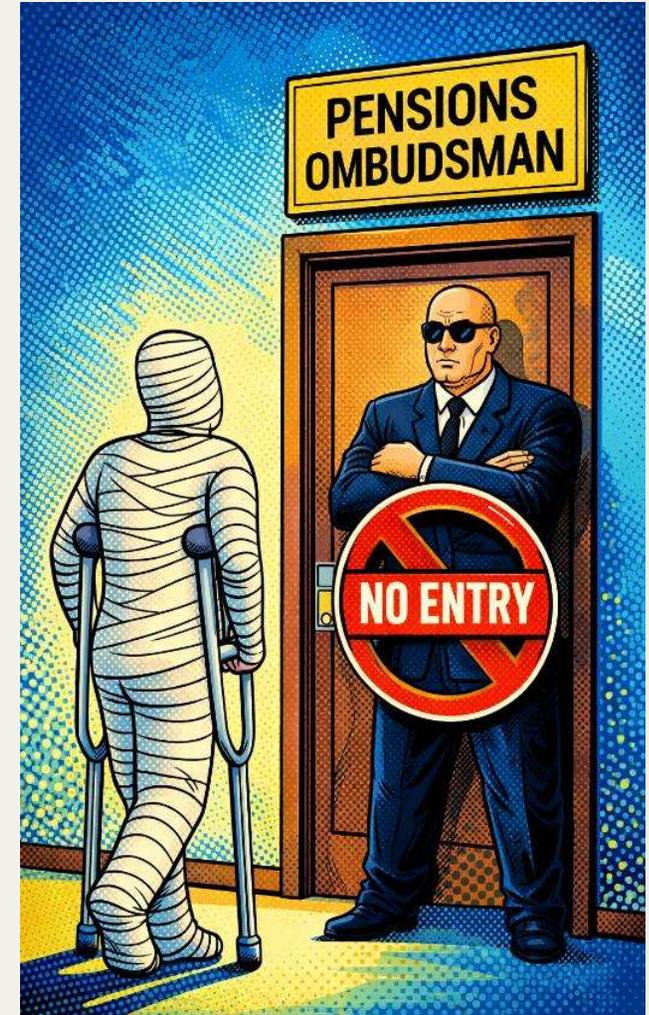
A sleeker Ombudsman emerges from the Operating Model Review

- Gatekeeping
- Expedited determinations
- Noteworthy cases
 - Mr E – CAS-55100-G3W9 - overpayments
 - Mr D - CAS-81940-Z2S8 – transfers
- Lead cases
 - Natwest Scheme (CAS-102084-N1D3)
 - Rowanmoor DD cases – (see PO-25984 for legal principles and cases PO-28733, CAS-45541-T0B3 and CAS-78433-Y1Y8 which are the lead cases for each specific investment complained of)
- PDU pilot ends



No more Injury Benefit Schemes?

- *Clark v The Chief Constable of Derbyshire and others* [2024] EWCA Civ 676
- Rule 16(1)(c) of the Personal and Occupational Pension Schemes (Pensions Ombudsman) (Procedure) Rules 1995
- FBU Circular 2025HOC0394MR – Judicial Review claim issued
- WATCH THIS SPACE ...



Transfer Regret – new noteworthy case
on pre-Nov 2021 transfers



Mr D v Open Trustees Ltd - CAS-81940-Z2S8

- British Steel scheme – Mr D - deferred member
- 21 Jan 2013 - TV request – not pursued
- 14 Aug 2013 - New TV request – different regulated firm
- 19 Aug 2013 - TV given with Scorpion Leaflet
- 26 Nov 2013 - New TV request – different regulated firm
- 20 Jun 2014 - New TV request – unregulated firm
- 25 Jun 2014 - TV given by administrator with 2013 Scorpion Leaflet
- 5 Aug 2014 - SSAS reg'd – t/fer request – Scorpion Leaflet signed
- “The purpose of this letter is to provide you with additional confirmation of the basis upon which I have made this request and to seek to provide a record of the fact that I am aware of the issues relating to pensions liberation. Indeed I have carefully considered my decision to request a transfer to [the SSAS] and have not made it lightly.”

The complaint

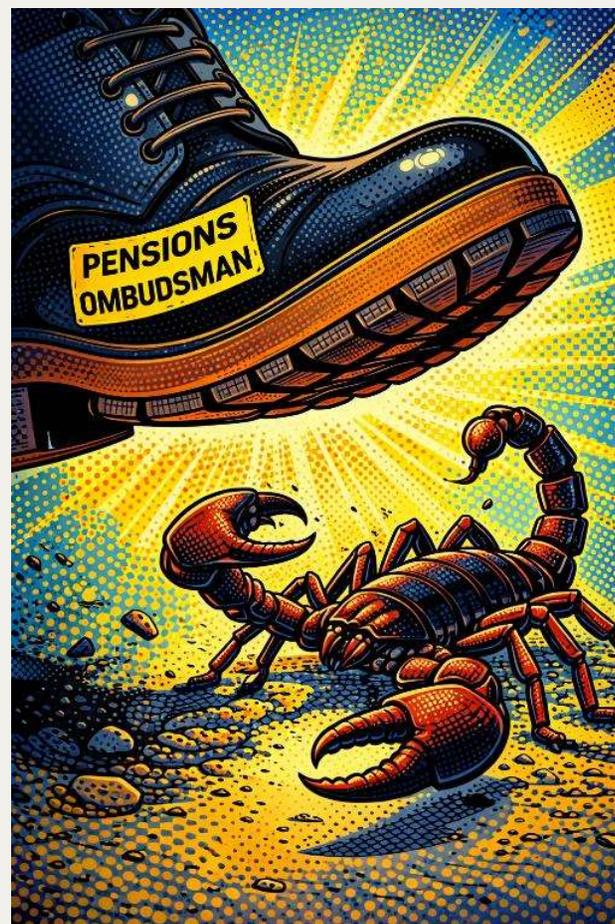
- Newly registered – sponsoring employer newly incorporated
- Unregulated firm – pursuing t/fer and SSAS administrator
- Sponsoring employer dormant and not genuine employer
- Mr D's initial contact was a cold call
- Mr D had been told to expect high returns in an unregulated high-risk and non-diversified investment
- Trustee did not provide Scorpion Leaflet to Mr D personally
- Trustee should have contacted Mr D to warn him and establish his understanding of the receiving scheme

The Adjudicator's decision

- No further action required by Trustee
- Statutory transfer
 - SSAS was registered with HMRC
 - TD&R provided
 - TD&R showed a DC OPS
 - S 95(1) PSA 1993 met
- Any duty of care was overridden by the statutory obligation to make the transfer
- Reasonable to assume Mr D had read and understood the Scorpion Leaflet – he would have transferred anyway
- PO not bound by own precedents – each case determined on merits

The Ombudsman's determination

- FOS and TPO are different
- Mr D would have transferred in any event
- No duty on the Trustee to carry out DD in a statutory transfer case:
 - Statutory obligations –PSA 1993 – transfer within 6 months if:
 - Able and willing receiving OPS
 - Transfer credits will be received
 - Prescribed requirements met – TV Regs
 - No legal or regulatory obligation to comply with Action Pack steps or to provide Scorpion Leaflet [130]-[131]
 - No general common law duty of care
 - Tort [138]-[149]
 - Equity [152]-[157]
- No assumption of responsibility [165]-[172]



Other circumstances

- A duty **may** arise where:
 - Trustee actually does voluntarily do the DD and does so badly – N.B. causation would still be necessary element to a successful claim
 - Transfer is from a **personal** pension and sits within the FCA framework – e.g. claim for statutory damages under s 138D of the Financial Services and Markets Act 2000
 - Non-statutory transfers – here the Scheme rules will have primacy
 - See e.g. Mr S (CAS-54901-V6R7) DPO – not upheld
- These scenarios may be the subject of future determinations

Putting the DD burden on members?

- Mrs N - CAS-83019-G2S0
 - Statutory transfer to a HMRC registered QROPS proposed by member
 - Trustee requested:
 - English opinion
 - Maltese opinion
 - Member instead transferred to the QROPS via a SIPP and then sought to recover:
 - Costs of SIPP exercise - £1,200
 - Financial advice costs - £6,000
 - Loss of investment growth - £???
- Deputy Ombudsman: Trustee had acted reasonably given its duty to ensure that s 95 PSA 1993 and Reg 12 of the TV Regs met

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Other developments



Material for members

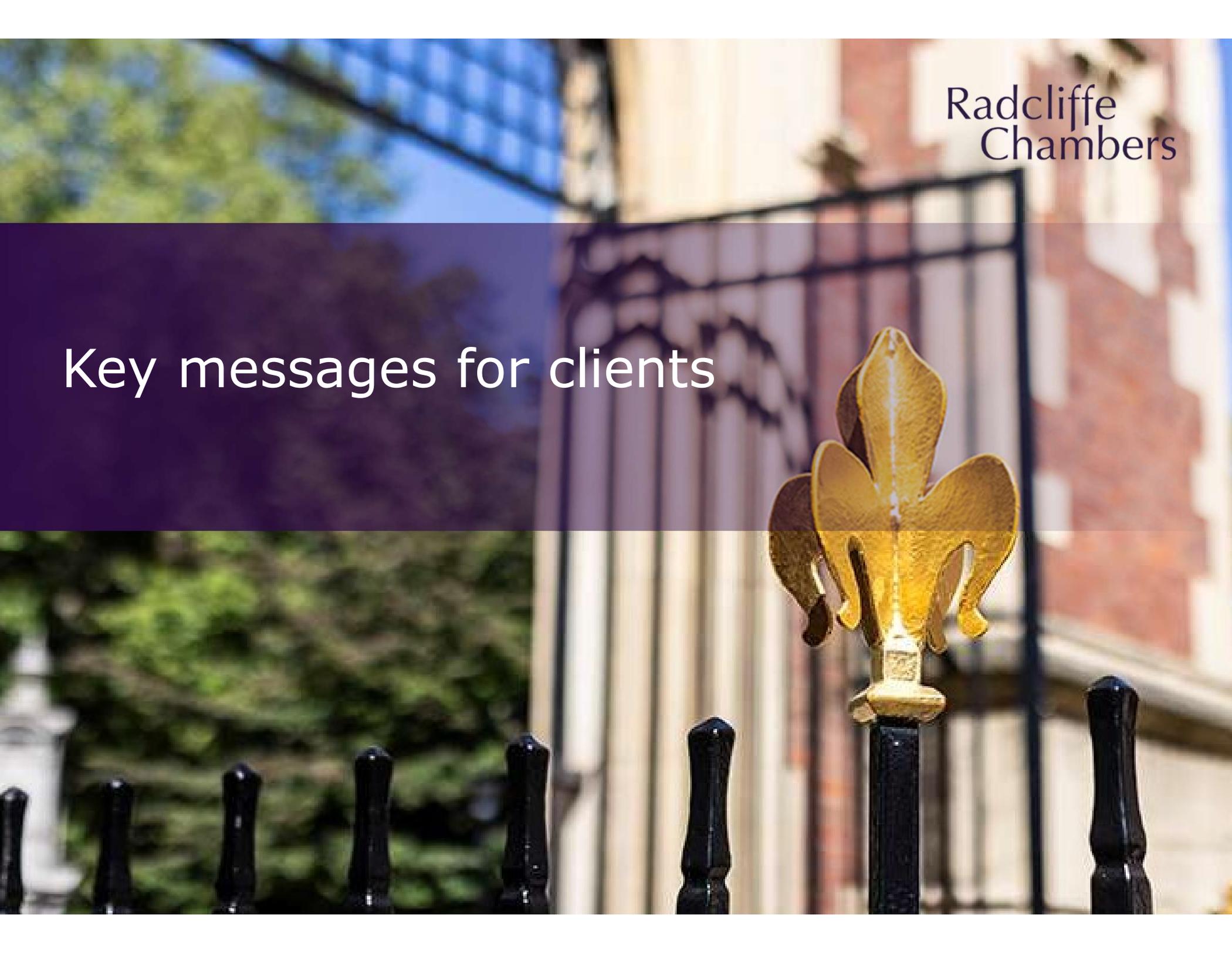
- New overpayments factsheet – Dec 2025
 - Defences to be explored at IDRP stage
 - Distress and Inconvenience awards:
 - Scope to offset D&I award from overpayments to reduce the amount to be recovered
 - Unlikely to get D&I if some overpayments have already been written off

Other themes from recent determinations

- No tolerance for failure to pay into schemes
 - D&I routinely £500-£1,000 even for low amounts
 - Smart Pension (CAS-76688-W3P5)
 - NEST (CAS-96234-M5S1)
 - The Smart Pension Master Trust (CAS-94367-H8S2)
 - NEST Pension Scheme (CAS-112556-G7J4)
- Delay
 - Ill health lump sums must be processed promptly
 - Miss G on behalf of Estate of Mrs G (CAS-82342-D5V2)
 - Misinformation and uplifts
 - Professor N (CAS-79089-Z5M8)

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Key messages for clients



Questions?

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