

The complaint

Mr B complains that Scottish Friendly Assurance Society Limited (Scottish Friendly) delayed the payment of his pension benefits, paid a lower value than it should have and continued to take contributions from his bank account after his plan had matured. He would like compensation for the losses and the inconvenience caused.

What happened

Mr B had several personal pension plans with Scottish Friendly one of which had a selected retirement age of 55, in March 2022. It says it sent a retirement pack to Mr B in November 2021 giving details of the plan and the options available. It asked him to get in touch to confirm how he wished to proceed. As it didn't hear from Mr B it sent a reminder on 28 January 2022.

Mr B called Scottish Friendly on 1 March 2022 confirming he wished to take his benefits as an uncrystallised funds lump sum (UFPLS). It said it would issue the paperwork required, posting this on 22 March 2022. Mr B signed this on 9 June 2022, and it was received by Scottish Friendly on 21 June 2022. It then emailed Mr B on 27 June 2022 with further information and paperwork for completion, including a form about him seeking guidance from Pensionwise.

Mr B opted out of this and returned the form which Scottish Friendly received on 8 July 2022. It then issued further forms on 1 August 2022. Mr B signed these on 17 August and Scottish Friendly says it received them on 25 August 2022. But it says the bank statement Mr B had enclosed didn't contain full details, so it emailed him about this on 2 September 2022. Mr B sent a further bank statement on 7 November 2022.

Scottish Friendly then emailed Mr B a further form about opting out of the Pensionwise guidance on 22 November 2022. The next day Mr B called to query this and complained about the delays. The form was received by Scottish Friendly on 5 December 2022. It says it should have processed everything and made payment by 19 December 2022, but this wasn't done until 9 January 2023.

Scottish Friendly looked into Mr B's complaint and agreed it had caused delays. It said there had been a total of 22 working days delay caused by it compared to its expected service level agreements (SLA). It apologised and paid Mr B £200 in compensation for this.

Mr B said he'd noticed that the monthly contributions to the plan which should have stopped in March 2022 had continued to be taken from his bank account. Scottish Friendly looked into this and refunded these with interest at 8% per year simple and paid a further £75 in compensation.

Unhappy about the delay in looking into his complaint Mr B had referred it to our service, saying it had taken nearly a year to get his pension benefits paid to him. And he said the total value paid to him was around £23,000 but the plan had been worth more at around £26,000 when he requested benefits be paid.

Our investigator looked into the complaints, and she said they should be upheld in part.

Our investigator said there had been delays in processing the benefits, but some were caused by Mr B himself. But she said Scottish Friendly had caused delays and missed its SLA throughout the process. She said it had paid compensation for some, but not all of these delays. She said it should have issued the final form about Pensionwise guidance earlier than it did and this had caused a delay because it would have otherwise had all it required by 9 November 2022 rather than 5 December 2022. A further delay of 18 working days and Scottish Friendly should recalculate the compensation to reflect this and make a further payment to Mr B.

She said the refund of contributions with interest and the compensation payment made was fair for this part of the complaint.

She said there was no evidence that Mr B's fund had been worth around £26,000, its value when the first retirement pack was sent in November 2021 was around £25,000 and the value was around £24,600 when the information was sent to Mr B on 22 March 2022. And it was clear for the documents that the plan would remain invested and could fall and rise in value. But she said the value of the plan on 9 November 2022 should be considered, and if this was higher than the value from 5 December 2022 further compensation and interest was due to Mr B.

Scottish Friendly said it agreed there had been a further delay. It said it would pay another £150 compensation for this. But it said the value used for the plan was the maturity value from 11 March 2022 (the day before Mr B's birthday), but it had carried out a late payment interest calculation between 9 November 2022 and 5 December 2022, which was £104.89, giving a total additional amount payable to Mr B of £254.89 if our investigator agreed. It provided evidence that the plan value of 11 March 2022 had been used.

Our investigator asked Mr B whether he wished to accept Scottish Friendly's further offer of compensation and interest. He didn't agree with the valuation figure used and asked to see the evidence it had provided. Our investigator said this wasn't possible as it had been provided in confidence, but she had seen it. She said the main reason Mr B had actually received a lower sum in his bank account was because of the deduction of income tax under PAYE as confirmed on the P45 Scottish Friendly had sent to him. Mr B said he'd still like to see the evidence and was concerned about his loss of interest and time wasted spent chasing the matter up.

As Mr B doesn't agree it has come to me to decide.

My provisional decision

I issued my provision decision on 19 January 2024, I explained the reasons why I was planning to uphold the complaint. I said:

I think there were quite a lot of errors here which have caused Mr B inconvenience and losses. And there were delays, but not all were caused by Scottish Friendly. In terms of the further contributions paid by Mr B after March 2022, these shouldn't have been taken. These have been refunded with interest and I think fair compensation has been paid in respect of this part of Mr B's complaint.

When there have been errors in paying benefits, including the valuation of them, we think it is fair that compensation is based on what should have happened rather than what might have happened. That includes interest on any late payments, plus where appropriate, compensation for the distress and inconvenience caused. And so far, I don't think the

various proposals made do that, hence this decision being provisional so both Mr B and Scottish Friendly can comment on what I propose should be done.

In terms of the delays, I think Scottish Friendly should have been in a position to settle Mr B's benefits by 9 November 2022, an additional 18 working days delay over the 22 days it had initially acknowledged.

But I also thought Mr B was right to query the valuation used for his benefits. Because from the evidence he was invested in a conventional with profit fund and the quoted value fluctuated considerably between January and March 2022. Which is unusual given the objective of with profit funds is to smooth out investment returns.

The retirement packs issued to Mr B also said that once the plans selected retirement date had been reached (12 March 2022) in the absence of further instructions from him the investment would be switched to a deposit fund. But if the value from 11 March 2022 had been used as Scottish Friendly had told our investigator it had been, it didn't appear that this switch had happened.

I asked Scottish Friendly about this and for the terms and conditions (T&Cs) applying to the plan. It said it didn't hold a policy schedule for Mr B's plan and it could only provide a basic policy document rather than full T&Cs. But it said it's actuarial department had now reviewed the value used from 11 March 2022, and that this was correct.

It said the value provided in January 2022 had used the previous year's final bonus rates that were then reduced for the year 2022. And this explained the lower with profit maturity value in March 2022. It was the case that with profit bonus rates were generally reducing across the pensions industry during 2022, in response to adverse investment market conditions. So, the timing was unfortunate for Mr B, but there is no evidence he was treated differently from other customers, which would be obviously unfair. And it is clear from the valuation information sent to him that the plan value wasn't guaranteed and would depend on the final bonus rates used.

These same documents also stated that the plan would be switched to a deposit fund once the selected retirement date was reached. This isn't an unusual condition for older plans like Mr B's. And as it was clearly set out in the retirement packs provided before Mr B reached retirement age, it isn't unfair. So, I think the with profit investment did mature on 11 March 2022 and any subsequent values given for it were provided in error. That means I think the correct valuation date for the with profit investment has been used.

However, Scottish Friendly accepted it had made a further error in not switching to the Deposit fund in March 2022. And had it done so, the investment return on this fund between then and 9 November 2022 (when I think it should have paid Mr B his benefits) would have been £184.49. So, he has received less in benefits that he should, and he hasn't had the use of the funds in the meantime.

Mr B also needs to be paid interest on the total 40-day delay in the initial payment of his benefits. And when compensation for late payment is calculated interest needs to be added to that sum until the date of settlement. It isn't clear that Scottish Friendly's calculations or payments made so far have done that.

So, I think it is fair that it recalculates all the compensation as I've set out below and now makes the appropriate payment to Mr B.

Putting things right

I said Mr B should be compensated to put him as closely back into the position he should have been in but for the errors made by Scottish Friendly.

In summary, I said he should be paid the underpaid pension benefit of £184.49, subject to a notional tax deduction to ensure the compensation was fair. And I set out how I thought interest at 8% per year simple should be fairly calculated to reflect the late payment of his benefits allowing for the interest it had already paid.

And I said it should pay him further compensation for the ongoing distress and inconvenience he'd been caused over the failure to settle his pension benefits correctly. I said it should increase this to £350.

I asked both parties to send me any further information or comments they would like me to consider before the date given at the top of this decision.

Response to provisional decision

Mr B didn't respond to my provisional decision.

Scottish Friendly accepted my provisional decision. It said it would calculate the interest owed to Mr B and pay him a further £150 in compensation.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Having done so, I've decided to uphold the complaint.

As set out in my provisional decision there were several errors and significant, avoidable delays in the processing of Mr B's benefits. It also failed to apply the policy terms correctly resulting in the benefits being underpaid, so he clearly wasn't treated fairly.

So, it's fair that Scottish Friendly now pays the underpaid benefit to Mr B. Along with interest for the various delays in settling his benefits to compensate him for being without the funds in question.

And I think further compensation of £150 for the distress and inconvenience caused should also be paid to Mr B.

Putting things right

My aim in awarding compensation is to put Mr B as closely back into the position he should have been in but for the errors made by Scottish Friendly, so it:

- Must pay Mr B the underpaid benefit of £184.49, subject to a notional tax deduction set out below.
- Mr B has confirmed he is a basic rate taxpayer, but 25% of the payment would have been tax free, so the effective tax rate due on the underpayment would be 15%.
- So, it is fair that this part of the compensation payment to Mr B be notionally reduced by 15%, so he receives the right amount of compensation. This is a notional deduction for tax, so he won't be able to reclaim anything from HMRC.

- Scottish Friendly must recalculate the interest owed to Mr B in respect of the late payment of his benefits at 8% per year simple until the date it makes settlement to him. This comprises interest on the late payment of £23,008.47 between 9 November 2022 and 9 January 2023 with further interest at 8% per year simple added to that sum arrived at from the first calculation until the date of settlement.
- It must also pay interest at 8% per year simple on the net under payment described above from 9 November 2022 until the date of settlement, again at 8% per year simple.
- It can allow for any relevant interest it has already paid in these calculations.
- If Scottish Friendly considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr B how much it's taken off. It should also give Mr B a certificate showing this if Mr B asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.
- It must pay Mr B a further £150 in compensation to give £350 in total for the distress and inconvenience caused by the errors and delays in settling his benefits.
- Scottish Friendly should provide Mr B with a simple calculation of how it arrived at the figures.

My final decision

For the reasons I've given above and in my provisional decision, my final decision is that I uphold this complaint against Scottish Friendly Assurance Society Limited.

I direct Scottish Friendly Assurance Society Limited to pay compensation as set out above to Mr B.

I further direct Scottish Friendly Assurance Society Limited to pay Mr B a further £150 compensation for the distress and inconvenience he has been caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 18 March 2024.

Nigel Bracken
Ombudsman