

## **The complaint**

Mr D complains about Scottish Widows Limited (“Scottish Widows”). He’s unhappy with the service he received when he tried to access funds held in his personal pension plan (PPP). He doesn’t think it’s fair that Scottish Widows won’t allow him to withdraw funds from his PPP before age 55.

## **What happened**

In August 2023, Mr D decided to switch the proceeds of a PPP he held with another provider to Scottish Widows. The PPP was set up on 24 August 2023 and Scottish Widows sent Mr D his Policy Schedule, and the relevant Key Features and Policy Provisions. A 30-day cancellation notice was provided in the event Mr D changed his mind about switching.

On 29 August 2023, Mr D contacted Scottish Widows, explaining that he was looking to leave the country and needed to repay his debts before this could happen. He said he was hoping to use the proceeds of his PPP to achieve this and had been legally advised that he could access his PPP before age 55.

Scottish Widows said that as Mr D was under age 55, it didn’t believe he could access money from his plan. Nevertheless, it asked Mr D to provide documentary evidence of the legal advice he’d received. Mr D asked if that was all that was required, and Scottish Widows confirmed it was.

On 13 September 2023, Mr D called Scottish Widows, explaining that solicitors he’d spoken to weren’t aware of any legal documentation being required to claim a pension early. Scottish Widows advised that the PPP Mr D held was one which could only be accessed from age 55. Mr D expressed concern that he’d previously been told that he could access his pension early and couldn’t understand how, in a matter of days, the position had changed. He stated his intention to refer the matter to our Service.

Mr D called Scottish Widows two days later, saying that having discussed his concerns with our Service, he wanted to make a formal complaint. He outlined the circumstances of his complaint and the Scottish Widows’ representative he spoke with asked whether he wanted to access his pension or raise a complaint. Mr D said he’d withdraw his complaint if he could access his pension, so the representative took Mr D through first part of Scottish Widows’ pension claims process. During the call, Mr D expressed relief at finally having the means to start a new life with his family. Scottish Widows said it would send Mr D relevant claim documentation and invited him to call it back if, having read the paperwork, he still wanted to proceed with his claim.

Shortly thereafter, Scottish Widows identified that it had made a mistake. It contacted Mr D on the same day, apologising for not having noted that Mr D was only 29 years old. It confirmed that he couldn’t access his PPP funds until age 55.

Feeling misled by Scottish Widows, Mr D registered a formal complaint. Scottish Widows provided its final response on the matter on 29 September 2023. In summary, it said:

- It was sorry that Mr D had incorrectly been taken through the first part of its claim process. For the time Mr D was kept on the phone unnecessarily, it had sent him a cheque for £40.
- Although errors had been made in some of the calls Mr D had with it, Scottish Widows' representatives had repeatedly advised that it wasn't possible to claim a pension before age 55 unless there was evidence of early ill-health or serious ill-health.

Unhappy with Scottish Widows' response, Mr D referred his complaint to our Service. One of our investigators considered the matter. In summary, he said:

- When a pension fund could be accessed depended on the scheme rules, however this was usually after age 55.
- Scottish Widows should've been clearer about the grounds on which Mr D might be able to take his pension before age 55. And telling Mr D to provide a letter from a legal adviser, confirming he was entitled to access his PPP before age 55 had caused him avoidable inconvenience.
- By taking Mr D through the first part of its pension claim process, Scottish Widows had given Mr D the impression he'd be able to access his funds early. As this had caused further upset, Scottish Widows should pay Mr D a further £100 compensation.

Scottish Widows accepted our investigator's recommendation but Mr D disagreed. As no agreement could be reached, the matter was passed to me for a final decision.

### **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 reached the same conclusion as the investigator. Although I'm upholding the complaint, I understand Mr D will be disappointed that I'm not directing Scottish Widows to grant him access his pension before age 55. I'll explain my reasons.

His Majesty's Revenue and Customs (HMRC) sets down the rules for pensions and these apply to everyone holding funds in a pension in the UK. These rules provide that no pension may be paid before a policyholder reaches normal minimum pension age (currently 55 but due to increase to 57 in April 2028). There is an exception in the rules, which applies to those who are suffering from a medical condition which, in the opinion of a doctor, will permanently prevent them from returning to work. To satisfy this, written evidence must be provided by a registered medical practitioner. But even then, any decision is still subject to what the scheme rules allow.

The scheme rules underpinning Mr D's PPP allow a policyholder to access funds early on grounds of ill health. But Mr D isn't asking Scottish Widows to allow him to withdraw his pension on this basis. Initially, he wanted to do so as he'd received a job opportunity overseas and needed additional funds to secure this. Although that opportunity has now passed, Mr D's explained that he's currently in financial difficulty and potentially at risk of losing his home. He's said he needs to access his PPP funds to improve his situation. I'm very sorry to hear of the problems Mr D is having. I don't underestimate how challenging things must be for him right now, nor do I doubt the sincerity with which he brings his complaint. However, the terms of Mr D's PPP reflect legislation which applies to everyone and sets out that benefits cannot be accessed before the age of 55. And even where exceptional circumstances are considered, unfortunately, Mr D's aren't provided for.

Scottish Widows has no discretion over when to apply HMRC's rules. If it paid out Mr D's PPP early, it could be subject to penalties under government legislation. Mr D's money would also likely be of interest to HMRC and could be treated as an unauthorised payment – as it's not allowed under the government's tax rules – and a 55% penalty could be applied. I know Mr D will be deeply disappointed that he can't withdraw his PPP funds early, but based on the evidence I've seen, I don't find that Scottish Widows has done anything wrong by not allowing him to do this. So, I'm afraid I won't be asking Scottish Widows to do anything different in this respect.

Turning now to the level of service Scottish Widows provided Mr D with.

I've considered the call Mr D had with Scottish Widows about accessing his pension fund. In his first call with it he explained that having discussed the matter with a legal adviser, he wanted to access his pension to pay off debts before leaving the country. The Scottish Widows representative said they weren't sure how this would be possible since Mr D was under age 55. However, Mr D maintained that his reason for accessing his PPP was valid. And after consulting with a colleague, the representative said there'd be *"no problem"* if Mr D could provide legal documentation confirming he could access his policy. Although the representative mentioned ill health as one of the reasons which might be given, they also said *"whatever the reason is, that's absolutely fine"*.

Scottish Widows' representative referred to the minimum age a pension could normally be accessed from. But by doing so in general terms, it inadvertently gave Mr B the impression that this restriction could be relatively easily bypassed if a letter of support from a solicitor was provided. In doing so, Scottish Widows unfairly raised Mr D's expectations, making him believe that accessing his pension for the reasons he'd provided was a real possibility.

Based on unclear information he was given; Mr D went to the trouble of contacting various solicitors to get the documentation Scottish Widows said was needed to gain access to his PPP. However, the solicitors Mr D spoke with confirmed they'd never come across the documentation he was seeking. And having relayed this to Scottish Widows, he was then told that accessing his pension for the reasons he'd given simply wasn't possible.

Understandably, Mr D was disappointed, frustrated, and confused by what appeared to be Scottish Widows' change in position. There would've also been the realisation that the efforts Mr D had made to get legal documentation had been wasted.

When contacting Scottish Widows about accessing his PPP funds early, Mr D had a reasonable expectation that he'd be given correct information he could rely on, even if this wasn't the answer he was hoping for. Unfortunately, on this occasion, Scottish Widows let him down and I think it's fair he receives compensation for this.

Disappointingly, Scottish Widows went on to compound the errors it made by taking Mr D through the first part of its pension claim process when Mr D contacted it to raise a complaint about the conflicting information he'd been given. Again, Mr D's expectations were raised before Scottish Widows recognised that Mr D's age meant he couldn't take funds from his pension. Although, Scottish Widows recognised its mistake and provided Mr D with the correct information about his PPP relatively quickly, the fact remains that Mr D was once again given false hope.

Scottish Widows has acknowledged that Mr D shouldn't have been taken through its pension claim process and it's sent him a cheque for £40 to reflect the time Mr D unnecessarily spent on the phone. I think this is fair. However, like the investigator, I think further compensation is required given that Scottish Widows failed to provide Mr D with clear information on more than one occasion, caused him to make unnecessary enquiries with solicitors, and unfairly

raised his expectations at a difficult time. I'm satisfied that a further payment of £100 means that the overall compensation Mr D receives reflects the trouble and upset Scottish Widows' acts and omissions caused.

I know Mr D will find my decision disappointing, but unfortunately there's no basis on which he can take his PPP the way he'd like to. I appreciate that Mr D is in very difficult circumstances and understand that he's simply trying to improve his position, but I'm afraid there's nothing further we can require of Scottish Widows in this respect. I note that the investigator has provided Mr D with the contact details of several organisations who may be of assistance given some of the challenges he's facing.

### **Putting things right**

Scottish Widows should pay £100 compensation to Mr D, further to the £40 it has already paid.

### **My final decision**

For the reasons given above, I uphold Mr D's complaint and direct Scottish Widows Limited to pay Mr D a further £100 compensation for distress and inconvenience caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 4 April 2024.

Chillel Bailey  
**Ombudsman**