DRN-4652524

The complaint

Ms T complains that the value of her Stakeholder Personal Pension Plan (PPP) held with Scottish Widows Limited decreased in value significantly because of the lifestyling approach applied to her fund. Ms T also complains Scottish Widows delayed her request to transfer her PPP elsewhere so she could purchase an annuity, causing her a financial loss.

What happened

In 2008, Ms T started her pension with Scottish Widows. This was arranged through an Independent Financial Advisor (IFA). On the application form, signed by Ms T, Scottish Widows asked Ms T to either select the funds to invest in or to opt for one of its three investment approaches (these were called lifestyle switching options).

The application form said that if Ms T did not choose one of Scottish Widows' lifestyle switching options, her investments would be automatically switched to be held 75% in the Pension Protector Fund and 25% in the Cash Fund over the five years before her selected retirement age (unless she opted out). Ms T chose two funds to invest in rather than one of the investment options and she did not indicate that she wanted to opt out of the automatic lifestyle switching. Her PPP was set up on these terms.

In August 2022, Ms T contacted Scottish Widows to discuss her retirement options. Scottish Widows acknowledges she was passed between different departments, causing unnecessary delays in dealing with her request. Ms T says that during the two days it took for Scottish Widows to help her, the value of her pension pot decreased by £1,065.12.

On 14 September 2022, Scottish Widows confirmed to Ms T that she had received £11,464.79 in tax-free cash and that it had transferred £34,394.37 to another pension provider, that I'll refer to as Company X, so she could purchase an annuity.

Company X said it did not receive the required transfer declaration from Scottish Widows, which it chased on 6 and 21 October 2022 and 7 November 2022. By 18 November 2022, Company X said it had not received the transfer declaration.

In the meantime, Ms T complained to Scottish Widows that her PPP had decreased in value. On 1 and 27 September 2022, Scottish Widows issued final responses to her complaint. In summary, Scottish Widows said:

- The funds invested in her PPP are unit-linked, so the value is predicated on the unit prices, or prices of the funds in which she invests.

- The global economy, continuing impact of Covid-19 and the war in Ukraine all affected the prices of stock market investments – impacting the value of Ms T's PPP.

- Lifestyle switching aims to reduce investment risk as a customer approaches their selected retirement age, moving the funds into lower risk holdings. The investments and timing of the switches were determined at the outset of Ms T's plan. Ms T had the option to remove lifestyling from her PPP at any time.

- Ms T had called Scottish Widows several times to discuss her PPP and she experienced delay in speaking to someone due to extremely high call waiting times. To apologise for the stress and frustration, it offered her £150 compensation. It also offered her £38 to cover the cost of her calls.

- Scottish Widows apologised for the delays Ms T experienced on taking benefits, but said it wasn't responsible for them.

Unhappy with these responses, Ms T referred her complaint to our Service. She remained unhappy with what she considered was the advice she received to move her funds into Scottish Widow's lifestyle approach. Ms T said she wasn't made aware of the potential to lose money following Scottish Widow's lifestyling approach.

Ms T added that Company X received the transferred pension funds from Scottish Widows on 15 September 2022, but Scottish Widows did not provide Company X with the required transfer declaration form, causing additional delays in setting up her annuity. Ms T emphasised the stress and frustration this matter has caused her.

One of our Investigators reviewed Ms T's complaint and upheld it, in part. In summary, our Investigator did not uphold Ms T's complaint about the lifestyling approach applied to her PPP. Our Investigator noted Scottish Widows had provided Ms T with annual statements, including in the previous two years. The statements made it sufficiently clear the value of Ms T's pension could go down and, during the period Ms T complained about, there was instability in the markets and a general market downturn. Our Investigator was not persuaded that Scottish Widows had done anything wrong. However, our Investigator thought Scottish Widows had caused delay when it came to the funds being transferred to Company X to enable the annuity to be set up – she thought Scottish Widows should have transferred Ms T's funds to Company X on 7 September 2022. Our Investigator went on to set out what she thought Scottish Widows should do to put things right.

Scottish Widows accepted our Investigator's opinion, but Ms T did not. Ms T provided records to show she tried to get in touch with Scottish Widows on 2 August 2022, and she thought that was when Scottish Widows should have started setting up her annuity. Scottish Widows could not locate a call from Ms T before 26 August 2022. Ms T also provided records that she said showed she contacted Scottish Widows many times from 23 to 26 August 2022, and it was during this time the value of her pension dropped by over £1,000.

Ms T said Scottish Widows sent her a letter as she approached her retirement age, and she thought it had advised her it might be better to choose the lifestyling approach. So Ms T thought it was on Scottish Widow's advice that she chose the lifestyling approach, and she would not have chosen it if she had not received Scottish Widow's letter.

Scottish Widows provided a letter dated 26 July 2019, when it appears Ms T was looking into taking her benefits. This letter sets out that the PPP would be switched as part of the lifestyle investment approach to 75% of funds held within the Pension Protector fund and 25% in its cash fund over the five years leading up to the selected retirement date. It explained more about what this meant and that it was in line with what was set out on the 2008 application form.

Scottish Widows also provided a letter it sent to Ms T in the summer of 2019 that said her PPP was invested in the lifestyle investment strategy 'Balanced Investor targeting buying an annuity'. The letter asked Ms T to review her circumstances and recommended she speak to an IFA if she was unsure about her options. Scottish Widows said Ms T did not change her investment approach as a result of its letters.

Our Investigator told Ms T she thought it was clear Ms T had opted for automatic fund switching when she applied for her PPP in 2008 and that was what had happened. Scottish Widows said it could not trace any record of Ms T choosing a different approach. With that in mind, the Investigator's opinion about what Scottish Widows should do to put things right remained unchanged. As Ms T remained unhappy, her complaint was referred to me to decide.

Having reviewed the complaint, I was concerned Scottish Widows' delays may have impacted the annuity payments Ms T received. Our Investigator contacted Scottish Widows, who agreed to me considering this as part of this complaint and agreed to compensate Ms T for any loss on the annuity she had been able to purchase.

I issued a provisional decision about this complaint on 20 February 2023. I set out my provisional findings as follows:

"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 have upheld this complaint in part, for the same reasons as our Investigator. I'll explain my reasons.

Having reviewed Ms T's application for her PPP, submitted by her IFA, I am satisfied it was sufficiently clear Ms T had opted to invest her funds in such a way that they would be switched to be held 75% in is Pension Protector fund and 25% in its cash fund by the time she reached her selected retirement age. It might assist Ms T to know that stakeholder plans were required to include the lifestyling, where the investment risk is gradually reduced in the run-up to retirement, unless a consumer rejected that option.

Ms T applied for her PPP through an IFA and there is no evidence to show Scottish Widows provided her with any advice about how to invest her fund. So, if Ms T is unhappy with the advice about how to invest her funds at the time she opted for this investment approach, and she is unhappy that a lifestyling approach was selected for her, she should refer her complaint to the IFA who advised her at the time.

It is not Scottish Widows' role to advise on how Ms T's fund out to be invested here, it was merely the provider of her pension plan. I don't agree that any of the communications it sent were advising her on how her fund ought to be invested or whether lifestyling was appropriate for her.

Scottish Widows says it has no record of Ms T altering her investment approach since 2008 and Ms T has not provided details of any calls or emails she made to alter her investment approach. Ms T's 2021 annual statement and other communications showed her funds were invested in line with the approach selected when the PPP was set up. I think the crux of this issue stems from the performance of Ms T's fund as she complained Scottish Widows did not tell her she may lose money with the lifestyling approach.

As I said above, it was not Scottish Widows who advised Ms T to choose this approach. Ms T's 2020 statement shows the value of her PPP grew in the previous year, but it also includes the following statement:

> *"You should bear in mind that the value of your investment can go down as well as up and could fall below the amounts paid in.*
>
> *As you're getting closer to your retirement age you should review your investment strategy to make sure it's in line with your plans for retirement…"*

I cannot see Scottish Widows provided Ms T with any guarantees about how her funds would perform, and I think it was sufficiently clear it was possible for the value of her fund to decrease.

Pensions are long term investments, but they remain subject to investment and market performance related fluctuations. This is the reason why some people chose to use a lifestyling approach in the years before they come to take their pension benefits, to try to diminish the risk of such fluctuations on their pension fund. This can often have the impact of reducing the level of growth that might be achieved as funds are moved into lower risk options and cash.

Here, it was Scottish Widow's responsibility to administer Ms T's policy in accordance with her chosen investment strategy. Scottish Widows applied Ms T's chosen investment strategy as it was required to do. It sent Ms T annual statements which informed her about the performance of her PPP, made clear which funds she was invested into and reminded her to regularly review her fund choices to ensure they continued to meet her needs. So, I'm satisfied Scottish Widows did what it was required to do in administering Ms T's PPP and chosen investment strategy.

I understand Ms T was disappointed her PPP did not perform differently, in other words, why it was not worth more when she took benefits. Over the period of time Ms T has complained about, unforeseeable global events meant that the value of gilts fell and indeed there was significant fluctuation in the financial markets. Ms T's unhappiness with the performance of her investments is not, in itself, evidence of any wrongdoing by Scottish Widows. And overall, I have seen no evidence to show the fall in value of Ms T's investments was a result of any error by Scottish Widows. Given the nature of the volatility at the time, it wasn't unusual to see sudden changes in values during this period, as well as performance losses.

I will now turn to Ms T's complaint about the delays in taking her tax-free cash and being in a position to purchase her annuity with Company X.

I accept Ms T called Scottish Widows on 2 August 2022 and it is unfortunate that she did not get through to someone at the time. Ms T did not go back to Scottish Widows until 23 August 2022 and I don't think there's enough to say she demonstrated a persuasive decision to take benefits at this date or any earlier than this date. So, having balanced everything, I do not think it would be reasonable to require Scottish Widows to undertake any calculation on the basis that it ought to have begun the process of assisting Ms T with her annuity any sooner than 23 August 2022.

If Scottish Widows had begun the process on 23 August 2022, I think it is reasonable to expect Company X would have received Ms T's application to transfer her PPP by 30 August 2022. It is not unreasonable here to conclude Company X might reasonably have contacted Scottish Widows by 1 September 2022 as required. So overall I don't think it is unreasonable for the date of 7 September 2022 to be used as the date to be used for calculating any loss experienced by Ms T when it comes to her tax-free cash and the value of the funds transferred to Company X to buy the annuity. Whilst this might be considered a comparatively quick process, Scottish Widows has accepted the Investigator's recommendation, and I see no reason to depart from it.

Putting things right

Ms T may have received a lower annuity than she ought to have had because of the above delays. So, Scottish Widows should:

- *Assess what the value of Ms T's pension would have been had it been contact Company X to assess the annuity Ms T could have purchased had her funds been transferred on 7 September 2022.*

  A. Calculate what Ms T's annuity would have been had Scottish Widows transferred her funds to Company X on 7 September 2022, based on their rates applying at that time (assuming the annuity was set up on the same basis as Ms T's current annuity).

  B. Work out Ms T's past losses –the difference between the net annuity payments she has received and what she would have received since the annuity was set up, to date, if paid on the basis of A above. If Ms T has lost out, Scottish Widows should pay Ms T the difference. It should pay this directly to Ms T as a lump sum after making a notional reduction to allow for income tax that would otherwise have been paid– presumed to be 20%. Scottish Widows should also pay simple interest at 8% per annum on the difference between each monthly payment from the date it was due to the date it is paid.

  C. Work out Ms T's future losses - calculate the cost of setting up an annuity (on the same basis of Ms T's current annuity) for the difference in annuity which she's lost out on. The purchase price of the annuity being Ms T's gross future loss. This should be paid directly to Ms T as a lump sum after making a notional reduction to allow for income tax that would otherwise have been paid– presumed to be 20%.

  D. To acknowledge the trouble and upset caused to Ms T by the delays and incorrect information provided, Scottish Widows should also pay Ms T a total of £300 compensation. I note Scottish Widows has already offered Ms T £150 compensation – if this has already been paid, it should pay Ms T an additional £150 compensation.

  E. Scottish Widows should pay Ms T the £38 promised for her call costs if it has not already done so.

† HM Revenue & Customs requires Scottish Widows to take off tax from this interest. Scottish Widows must give Ms T a certificate showing how much tax it's taken off if she asks for one."

Scottish Widows accepted my decision but Ms T did not respond.

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.

I have reconsidered Ms T's complaint and, having done so, I see no reason to depart from my provisional findings, which are set out in the background to this decision. I therefore remain of the view Scottish Widows needs to take steps to put things right. I'll set these out again.

Putting things right

Ms T may have received a lower annuity than she ought to have had because of the above delays. So, Scottish Widows should:

- Assess what the value of Ms T's pension would have been had it been contact Company X to assess the annuity Ms T could have purchased had her funds been transferred on 7 September 2022.

- Calculate what Ms T's annuity would have been had Scottish Widows transferred her funds to Company X on 7 September 2022, based on their rates applying at that time (assuming the annuity was set up on the same basis as Ms T's current annuity).

- Work out Ms T's past losses –the difference between the net annuity payments she has received and what she would have received since the annuity was set up, to date, if paid on the basis of A above. If Ms T has lost out, Scottish Widows should pay Ms T the difference. It should pay this directly to Ms T as a lump sum after making a notional reduction to allow for income tax that would otherwise have been paid– presumed to be 20%. Scottish Widows should also pay simple interest at 8% per annum on the difference between each monthly payment from the date it was due to the date it is paid.

- Work out Ms T's future losses - calculate the cost of setting up an annuity (on the same basis of Ms T's current annuity) for the difference in annuity which she's lost out on. The purchase price of the annuity being Ms T's gross future loss. This should be paid directly to Ms T as a lump sum after making a notional reduction to allow for income tax that would otherwise have been paid– presumed to be 20%.

- To acknowledge the trouble and upset caused to Ms T by the delays and incorrect information provided, Scottish Widows should also pay Ms T a total of £300 compensation. I note Scottish Widows has already offered Ms T £150 compensation – if this has already been paid, it should pay Ms T an additional £150 compensation.

- Scottish Widows should pay Ms T the £38 promised for her call costs if it has not already done so.

† HM Revenue & Customs requires Scottish Widows to take off tax from this interest. Scottish Widows must give Ms T a certificate showing how much tax it's taken off if she asks for one

My final decision

For the reasons explained above, I uphold this complaint and require Scottish Widows Limited to put things right by doing what I have set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms T to accept or reject my decision before 9 April 2024.
Victoria Blackwood
Ombudsman