

The complaint

Mrs H complained that SCOTTISH WIDOWS LIMITED (Scottish Widows) has not distributed a share of her late daughters pension benefits to her. She believed that she should be a beneficiary of the pension as her next of kin and should have been entitled to a share of the funds.

She would Like Scottish Widows to review its decision and include her as a beneficiary.

What happened

Mrs H's daughter passed away in June 2023, without leaving a will. At the time, she held a personal pension with Scottish Widows.

Mrs H wrote to Scottish Widows to inform it of her daughters passing and, in return, was sent details of the process it would apply when paying the benefits from the policy. It explained that it was at the stage of identifying potential beneficiaries and enclosed forms to be completed and returned to aid in this process. It explained that the form should be completed by the executor of the will, or if no will was in place, who it should be completed by

Mrs H returned the form on 19 July 2023, providing details of her daughter's boyfriend, who she lived with. She also listed other potential beneficiaries including herself and other surviving relatives, although her daughter had no children herself.

Scottish Widows subsequently contacted Mrs H asking for some more information relating to her daughter's boyfriend. She replied on 27 July 2023 to provide further information and to say that she did not believe that he was financially dependent upon Mrs H's daughter.

On 4 August 2023, Mrs H emailed Scottish Widows, again at its request, to provide a copy of a recent bank statement and to let it know that her boyfriend had recently received a significant payment from a life assurance policy her daughter had held.

On 12 August 2023 Scottish Widows emailed Mrs H. It said:

I am writing to advise you that Scottish Widows has now exercised its discretion decision and written directly to the nominated beneficiary(ies). The plan proceeds are payable to beneficiary at the discretion of Scottish Widows in accordance with the scheme rules.

Mrs H called Scottish Widows on 16 August 2023 to discuss its decision. During the conversation Scottish Widows confirmed that the decision had been based upon the information Mrs H and others had provided and that it could not provide any further information without permission from the beneficiary. During this call Mrs H came to believe that her daughter had left an expression of wishes regarding her policy, although this proved later not to be the case.

Mrs H called Scottish Widows again on 17 August 2023, to appeal its decision as she was her daughter's next of kin. She rang again later that same day asking to speak to a manager,

but no one was available to speak to her. Scottish Widows informed her of her right to complain and duly raised a complaint at her request.

Scottish Widows issued its final response to Mrs H's complaint on 27 September 2023. In this response it acknowledged and apologised for the poor service she received when she called it on 16 August. It sent her a cheque for £80 in respect of the distress and inconvenience it had caused her. It also apologised for the miscommunication that had caused her to believe that her daughter had left an expression of wish relating to her pension beneficiaries.

It did, however, state that:

In terms of your concerns about the decision we made regarding the beneficiary, based on what you've told me and my review, we don't believe we've acted inappropriately.

It went on to explain her daughter's policy was held under a discretionary trust, which means that Scottish Widows act as trustee and determines who receives the funds. It went on to say:

We take into account a number of factors when making our decision. We're limited in terms of what information we can disclose due to data protection laws but, although there isn't an appeals process, we've reviewed our decision and can confirm the person we've nominated met our criteria.

Unhappy with this response, Mrs H brought her complaint to this service.

Our investigator reviewed the information provided by both parties and formed the view that Mrs H's complaint should not be upheld. Mrs H was unhappy with this, so the complaint has been passed to me to make 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.

I'd like to extend my condolences to Mrs H at such a difficult time for her.

I've carefully reviewed all the evidence in this case, and I agree with our investigator and do not uphold this complaint.

I can appreciate how disappointing this will be to Mrs H, so I will explain how I have reached my decision.

Firstly, I think it's important to reflect upon the role of this service. Our role is to impartially review the circumstances of a complaint and make a decision on whether a business has made errors or treated a customer unfairly. This is an arbitration service, not a court of law, and as such there are clear limits on what we can and cannot compel a business to do. As our investigator explained in their view, we don't have powers to override a discretionary decision. We can tell Scottish Widows to look at its decision again, if we think that it has made any mistakes in how it has made the decision, but we cannot compel it to change the beneficiary(ies) to any other people.

In the circumstances of this complaint, it is also important to note that Scottish Widows has the legal responsibility for deciding how Mrs H's daughter's benefits should be distributed. This includes both deciding who these beneficiaries should be and the share of the assets that each should receive if there are more than one beneficiary identified.

This means that for me to ask Scottish Widows to reconsider its decision once again I would have to find it reasonable to believe that it has not correctly followed its process for identifying potential beneficiaries and deciding who should receive the benefits.

As the chosen beneficiary has not given permission for Scottish Widows to share the evidence they gave to it, Scottish Widows cannot provide those details to this service or any other person. It has, however, provided details of the process it undertook. It said that when it comes to exercising its discretion the scheme rules do not set an order of precedence for potential beneficiaries, but it does have an internal procedure in place and structures its decision-making process around this which it calls "the decision principles." This has been established to ensure both fairness and consistency in its decisions.

It went on to say:

Our approach places a high emphasis on those who were financially dependent on a policyholder prior to their passing and are therefore likely to be more acutely impacted or disadvantaged in the long term, due to the bereavement.

Where there are multiple potential beneficiaries considered to be financially dependent, we will offer all an equal opportunity to evidence this, consider the merits of each claim and, if appropriate, nominate the beneficiaries to receive a suitable share of the benefits. However, where there are multiple potential beneficiaries not of equal standing against our discretion principles then it is our discretion that precedence is given to those considered Financially Dependant.

I have carefully considered the information Scottish Widows used to make its decision to pay the benefits under your daughter's policy to her boyfriend. I've also considered if I think it's done enough to consider all the possible beneficiaries when exercising its discretion.

As Scottish Widows has explained, the reason it had discretion over choosing who the benefits were paid to after Mrs H's daughter's death is because the pension is held in trust. This means that the pension benefits can be passed on outside a person's estate and so won't be subject to inheritance tax. But for this to be the case, the pension scheme administrator would need to have discretion as to who the benefits are paid to. This is confirmed in the terms and conditions of the pension plan.

In this case I'm satisfied that Mrs H's Daughter had not completed an expression of wish or beneficiaries nomination form. This means that Scottish Widows had to consider all potential beneficiaries of the pension.

Although I can see that Mrs H believes that her daughter's boyfriend was not financially dependent upon her, from the information he provided to it, Scottish Widows was satisfied that he was. I can also see that Mrs H did not claim to be financially dependent upon her daughter at the time of her passing.

Unfortunately for Mrs H and the other potential beneficiaries, they were not chosen to be a beneficiary, so Scottish Widows has correctly declined to give Mrs H any information about who the beneficiaries were or the proportion in which the benefits have been distributed

Although I fully appreciate Mrs H's disappointment at such a difficult time for her, I find that Scottish Widows has followed its process correctly, considering all the information provided to it and acted in line with the scheme rules.

From the evidence provided, I can see no errors in the process that Scottish Widows has followed in determining how the assets should be distributed.

Given this, and disappointing as it will be to Mrs H, I can't see that Scottish Widows has done anything wrong in how it has managed the distribution of assets from her daughter's pension benefits, so won't be asking it to revisit its decision.

My final decision

For the reasons explained above, I do not uphold Mrs H's complaint.

Scottish Widows Limited does not need to take any more action than it has already offered to resolve this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 25 July 2024.

Bill Catchpole
Ombudsman