

The complaint

Mrs C is unhappy that Scottish Widows Limited (Scottish Widows) did not act on instructions provided to them in 2004 and then again in 2012. She says this has caused her a loss. She also complains about the service she has received from Scottish Widows.

What happened

Mrs C held a group personal pension plan (GPP1) from 2000 with Scottish Widows. In 2004, her employer set up a new group personal pension plan (GPP2). At the time, Mrs C said she filled out forms to ask Scottish Widows to transfer GPP1 to GPP2. But that didn't happen – and Scottish Widows say they can't find any documentation to show this was requested. No annual statements were produced for GPP1 until 2014, although that statement was sent to an incorrect address and so it wasn't received by Mrs C.

In April 2012 Mrs C received financial advice and decided to transfer a number of pensions she held, including GPP 2, to Firm S. Firm S wrote to Scottish Widows to request information about GPP2, accompanying this request was authority from Mrs C for Scottish Widows to provide information about all pensions she held with them. Scottish Widows only provided information regarding GPP2. GPP2 was transferred to Firm S on 28 April 2012.

Scottish Widows say that post was generated in June 2012 on GPP1, which was returned to them and so they amended Mrs C's address to 'gone away'. In 2014 annual statements began to be produced for GPP1 again, but these were not sent anywhere due to Scottish Widows not holding an address for Mrs C.

In April 2022 Scottish Widows wrote to Mrs C about GPP1. It's not clear what prompted this correspondence, but Mrs C then got in touch with Scottish Widows as she was unaware that she still had a policy with them.

Mrs C raised a complaint with Scottish Widows in May 2022, they responded in July 2022 – they didn't uphold Mrs C's complaint. Mrs C provided some additional information and Scottish Widows changed their assessment, upholding her complaint. They agreed that GPP1 should have been transferred to Firm S in April 2012 and started obtaining information in order to complete a loss assessment, this included requesting information from Mrs C and Firm S.

A loss calculation was requested from Firm S by Scottish Widows via email on 24 October 2022. I've been provided with emails where Mrs C chased Scottish Widows for the loss calculation in late November 2022 and again in early February 2023. On 10 February 2023 Scottish Widows confirmed they'd received the loss calculation from Firm S.

On 22 February 2023 Scottish Widows let Mrs C know that compensation would be paid, but due to a system change they were working out how to apply the compensation to Mrs C's policy. Mrs C told Scottish Widows she wanted to transfer GPP1 to Firm S, but she was told that the loss payment might not be able to be paid to Firm S. And if she transferred away

from Scottish Widows there might be an issue with the compensation. On 1 March 2023 Scottish Widows said:

“In terms of transferring the funds to SJP - they would initiate the transfer from us. So as stated previously, the amendment of the losses is not complete and as it stands I cannot confirm a timescale or if we’re willing to simply send said losses directly to [Firm S]. I will confirm when I have an update on this.”

And on 9 March 2023:

“I cannot confirm our exact state of play in terms of the amendment of the losses to your policy nor the options that would remain if you were to transfer the policy away prior to the amendment being completed. I know that the systems change means there are some challenges in making sure the amendment can be applied accurately and that is what is being worked on.”

On 26 April 2023 Scottish Widows applied the compensation to GPP1, which had been calculated by Firm S’s loss assessment. They also let Mrs C know she could initiate the transfer of this plan to Firm S. The funds were transferred to Firm S on 26 May 2023.

On 19 May 2023 Scottish Widows issued a further final response upholding Mrs C’s complaint. They said:

- They’d calculated Mrs C’s losses due to GPP1 not being transferred to Firm S in 2012, by comparing the performance of the pension which was transferred (GPP2) to the performance of GPP1. They’d awarded the difference between these figures, amounting to just over £13,400.
- There was a delay in applying the loss to GPP1, after receipt of the calculation from Firm S on 10 February 2023.
- Had Scottish Widows acted promptly upon receipt of the loss calculation on 10 February 2023, the transfer would have gone ahead on 10 March 2023. So, they agreed to compensate Mrs C for the delay between 10 March 2023 and 26 May 2023. But they requested Firm S provide them with a loss calculation for this additional period.
- They offered £1,200 compensation in recognition of the poor service they provided to Mrs C.

The additional loss calculation (for the delay between 10 March 2023 and 26 May 2023) was received by Scottish Widows in July 2023. A loss of just over £386 was paid into Mrs C’s policy with Firm S on 8 September 2023.

Mrs C didn’t agree with the award and offer made by Scottish Widows, she felt that the compensation for the service she received ought to be higher and she was unhappy with the redress calculation in addition to further delays. She referred her complaint to this service for consideration.

An investigator provided an assessment, they said:

- Scottish Widows couldn’t be held responsible for GPP1 not being transferred in 2004 to GPP2.
- Scottish Widows delayed the transfer to Firm S from 10 January 2023, not 10 March 2023 and so they should increase the compensation offered.
- There was a further delay in Scottish Widows making the additional loss payment from 4 July 2023 to 8 September 2023. They should obtain information from Firm S and calculate any loss incurred due to this delay.

- It's fair for any fees charged from 2012 by Scottish Widows be offset against any loyalty bonus received due to length of time Mrs C held the pension.
- Scottish Widows should provide Mrs C with a clear breakdown of the fees she has been charged for GPP1 in a clear format.

Scottish Widows wasn't happy with the assessment and provided some additional comments about the fees charged. A second view was issued by the investigator which amended their opinion on refunding the fees.

Mrs C wasn't happy with the investigator's view and asked for an ombudsman to review the complaint. She said:

- She had been provided with poor service from Scottish Widows when they were dealing with her complaint. Among other items she has listed to illustrate this point Scottish Widows initially did not uphold her complaint and she then had to gather information for them to calculate her loss.
- Scottish Widows caused unnecessary delays throughout.
- All fees and charges ought to be redressed from 2004 to 2012 from GPP1. Had she been provided with annual statements for GPP1, she would have realised that it had not been transferred in 2004 and she would therefore have contacted Scottish Widows to complete the transfer.
- All fees and charges ought to be redressed from 2012 to 2023 for GPP1. As it would have been transferred out, had Scottish Widows acted as they should have. They shouldn't deduct loyalty bonus amounts when calculating these fees and charges.

I issued my provisional decision on 15 May 2024, both Mrs C and Scottish Widows are in agreement with the redress suggested. No further evidence has been presented to me for consideration.

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'm upholding Mrs C's complaint, the reasoning is as I set out within my Provisional Decision:

"2004 transfer

Mrs C has said that in 2004, when her employer set up a new GPP (GPP2) she filled out forms to ask Scottish Widows to transfer GPP1 into GPP2, but that didn't happen. Scottish Widows have said that this would not have happened automatically and that they would have needed Mrs C to instruct them by filling out a transfer form.

I appreciate Mrs C did not receive statements from GPP1 during this time period. But, she also didn't receive any confirmation from Scottish Widows that the transfer had completed. Which I think she should reasonably have expected to receive from them once GPP1 had been transferred into GPP2. She received annual statements for GPP2, which provided her with an opportunity to see that the transfer had not taken place.

It's hard for me to conclude that a request was made to Scottish Widows in 2004 in the absence of any evidence from either party. Scottish Widows say they have no record of a transfer request from Mrs C in 2004. Mrs C has not provided anything to show she made the request for GPP1 to be transferred into GPP2. As such, I'm not upholding this part of Mrs

C's complaint, and I'm not minded to suggest redress is paid for the period from 2004 to 2012.

2012 transfer

Scottish Widows have accepted they were at fault for GPP1 not being transferred to Firm S in April 2012, at the same time GPP2 was transferred. The issue, therefore, that I need to consider is the redress that has been offered.

Mrs C transferred a number of pensions to Firm S in 2012 following advice she had received. So, I am persuaded that, had she known about GPP1, and had Scottish Widows acted correctly, GPP1 would have been transferred to Firm S in April 2012.

I acknowledge that Scottish Widows has already calculated and paid redress for this loss but I think the delays in this being paid, may have led to Mrs C suffering a further loss. I accept that some of this delay was because Scottish Widows spent time waiting for a loss calculation to be provided to them by Firm S. However, they then delayed making the payment and paid piecemeal compensation. Based on this I think it is fair and reasonable to hold Scottish Widows liable for any loss Mrs C suffered between 28 April 2012 until the date of this decision.

For that reason, I am minded to direct Scottish Widows to carry out a redress calculation to compare what GPP1's fund value would now be worth, had it been transferred to Firm S in April 2012. I will set this out in detail in the redress section below.

By carrying out this comparison all of the arguments being made around the fees and charges, or bonus awards fall away. That is because Scottish Widows will act as if GPP1 was transferred away from them on 28 April 2012, anything which applied to the policy after that date (other than any withdrawals made by Mrs C) will be disregarded. The calculation will allow for any charges or fees that Mrs C would have incurred from Firm S during this time period.

Service received

I have considered the service that Mrs C received from Scottish Widows in full. I appreciate what she has told us about the level of inconvenience and distress that she has been caused. She's explained that the distress was over an extended period of time, with her needing to spend a lot of time trying to unpick the error that Scottish Widows made in 2012. She spent time obtaining calculations and chasing Scottish Widows for updates. It is worth noting that following Scottish Widows initial final response letter Mrs C received referral rights to this service and so she had the option of contacting us in July 2022 for an investigation to take place.

Scottish Widows have awarded Mrs C £1,200 compensation for the service they provided to her. I think this is a fair and reasonable award taking into consideration everything that Mrs C has said, and what I understand from the file, which I can see has caused substantial distress over a sustained period of time. I appreciate Mrs C feels this award should be increased – as it was awarded prior to some of the additional time she has needed to spend obtaining information and chasing Scottish Widows for an outcome. However, I have considered Mrs C's experience in full, from when she discovered the error in April 2022 to date and feel it is a fair offer. I'm therefore not suggesting that Scottish Widows increase this award.

Summary

I have not seen any evidence that Mrs C requested a transfer of GPP1 in 2004 so I am not upholding this part of her complaint. Mrs C has suffered substantial distress due to the actions of Scottish Widows, I'm of the opinion that the compensation amount awarded is fair and reasonable, so I am not suggesting this is increased.

Had Scottish Widows acted correctly in 2012, GPP1 would have been transferred to Firm S on 28 April 2012. So, it's fair they compensate Mrs C for any loss she has suffered since then to date."

Following my provisional decision, Mrs C wanted to clarify her main complaint point was in relation to Scottish Widows not having processes in place to ensure an error can be investigated without unnecessary delays, and without their consumer's needing to spend time obtaining information for them.

I'd like to reassure Mrs C that this has been taken into account when considering both the distress and inconvenience she has suffered, and the redress calculation which covers the full period from when GPP1 ought to have been transferred to the date Scottish Widows settle any further redress as set out below.

Putting things right

My intention is to put Mrs C back into as close to the position she would be in, had Scottish Widows acted correctly in 2012. So, in order to compensate Mrs C I'm directing Scottish Widows Limited to:

- 1) Obtain the current notional value, as at the date of this decision, of GPP1, as if it had been transferred to Firm S on 28 April 2012.
- 2) Deduct the amount transferred to Firm S on 26 May 2023 and any other payments made by Scottish Widows Limited from the amount calculated in step 1).
- 3) Pay an amount into Mrs C's pension with Firm S, so that the value of the pension is increased by an amount equal to the loss calculated in step 2). This payment should take account of any available tax relief and the effect of charges. The payment should also take account of interest as set out below.

I've explained how Scottish Widows should carry out the calculation, set out in steps 1 - 3 above, in further detail below:

- 1) Obtain the current notional value, as at the date of this decision, of GPP1, as if it had been transferred to Firm S on 28 April 2012.

Scottish Widows should ask the operator of Mrs C's current pension plan (Firm S) to calculate the notional value of Mrs C's plan, as at the date of this decision, had she transferred into the plan on 28 April 2012.

- 2) Deduct the amount transferred to Firm S on 26 May 2023 and any other payments made by Scottish Widows Limited from the amount calculated in step 1).

Scottish Widows should deduct the transfer value of GPP1 as at 26 May 2023 and any other payments they made to Mrs C. This does not include the sum of £1,200 awarded distress and inconvenience.

- 3) Pay an amount into Mrs C's pension with Firm S, so that the value of the pension is increased by an amount equal to the loss calculated in step 2). This payment should take account of any available tax relief and the effect of charges. The payment should also take account of interest as set out below.

The amount paid should allow for the effect of charges and any available tax relief. Compensation shouldn't be paid into a pension plan if it would conflict with any existing protections or allowances.

If Scottish Widows is unable to pay the compensation into Mrs C's pension with Firm S, or if doing so would give rise to protection or allowance issues, it should instead pay that amount direct to her. But had it been possible to pay into the plan, it would have provided a taxable income. Therefore, the compensation should be reduced to notionally allow for any income tax that would otherwise have been paid.

Interest

Interest should be added to the compensation amount of Mrs C's loss at the rate of 8% per year simple from the date of this Final Decision to the date of settlement if the compensation isn't paid within 28 days.

My final decision

I am upholding Mrs C's complaint and direct Scottish Widows Limited to award compensation as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 17 June 2024.

Cassie Lauder
Ombudsman