

## **The complaint**

Mr S has complained about the information provided by Scottish Widows Limited trading as Clerical Medical (Scottish Widows) when setting up the annuity on his pension.

Mr S has stated that incorrect information was provided about the Guaranteed Annuity Rate (GAR) which applied to his policy, which has resulted in an incorrect annuity being set up.

Mr S believes Scottish Widows should provide him with the income payable from his GAR, monthly in arrears, rather than annually in arrears.

## **What happened**

I would like to note that not all points of contact between Mr S and Scottish Widows have been included in the summary below, with only those considered key to making the decision included. I would however like to reassure both parties that all the information and evidence provided has been fully considered.

Mr S commenced the process of accessing his Scottish Widows pension in January 2024 with the intention of taking his tax-free cash and establishing an annuity with the remainder of the fund.

Scottish Widows provided Mr S with his retirement quotation on 17 January 2024. This provided two annual income figures, £9,085.56 and £9,612.96, with the higher of these figures resulting from the GAR which applied to Mr S's policy.

Mr S completed the application form and returned this to Scottish Widows.

Having received an income payment from the annuity Mr S contacted Scottish Widows on 1 March 2024 to state that the income was too low.

Scottish Widows wrote to Mr S on 6 March 2024. This letter explained that the income of £9,612.96 was only available if the income was payable annually in arrears. The letter also offered to provide an updated quotation.

On 15 April 2024 Scottish Widows wrote to Mr S again. This letter accepted that some of the wording in the 17 January 2024 quotation was not as it should have been, but also stated that they had referred the issue to their legal department who believed the wording of the 17 January 2024 letter did not entitle Mr S to the higher annuity income provided by the GAR paid monthly in arrears. As a gesture of goodwill, Scottish Widows did offer to cancel the annuity which had been set up and allow Mr S to change to the income level provided by the GAR – this however would need to be paid annually in arrears.

Mr S did not agree with Scottish Widows and remained of the opinion that his acceptance of the 17 January 2024 quotation based on the wording included constituted a legally binding contract. Mr S stated he wanted the higher income provided by the GAR, but for this to be paid monthly rather than annually.

A further response was provided by Scottish Widows on 23 April 2024. This again accepted

that the quote was not correct and that it had been produced in error. Scottish Widows remained of the opinion that the quote was not legally binding but did offer Mr S £300 to apologise for the incorrect information provided.

Mr S did not accept Scottish Widows' complaint outcome and referred his complaint to this service.

Our investigator looked into things and concluded that whilst Scottish Widows had made an error, their response was reasonable. Our investigator did not believe it was fair to require Scottish Widows to provide Mr S with the GAR income payable monthly.

Mr S did not agree and stated that he remained of the opinion that his acceptance of the quotation as per the 17 January 2024 letter represented a legally binding contract.

As our investigator was not minded to change their opinion, the case has been 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.

There are several points upon which all parties agree in this case:

- The GAR applicable to the Mr S's policy originally only provided income annually in arrears. This is confirmed in the original policy documentation on file.
- The tax-free cash and income figures provided in Scottish Widows' 17 January 2024 letter are correct.
- The explanation of the opinions provided in Scottish Widows 17 January 2024 letter was incomplete. Regarding the GAR, this should have stated, *"You are entitled to a guaranteed annuity rate from 17/01/2024 paying an estimated annual income of £9,612.96. This is only available if you choose to have your annuity paid on the basis set out in your policy provisions. This is different from the basis set out in the annuity features above. You will lose this entitlement if you accept our quote."*

The area of disagreement relates to whether the content of the 17 January 2024 letter represents a legally binding offer which, once accepted by Mr S, requires Scottish Widows to honour the higher income amount provided by the GAR but on a monthly in arrears basis which not originally provided as part of the policy.

Having considered all the evidence and commentary provided by both parties in this case, I have reached the same conclusion as our investigator, and for broadly the same reasons.

Mr S has stated that the 17 January 2024 letter, and his acceptance of the annuity based on its content, forms a legally binding contract which Scottish Widows must honour. For their part, Scottish Widows - having referred to their own legal department - are of the opinion that the 17 January 2024 quote is not legally binding.

Whilst both parties have differing views on whether the January 2024 quotation represents a legally binding contract, this service is an informal complaint resolution service and, as already explained by our investigator, whilst we have regard to the law, our role is to consider a complaint on a fair and reasonable basis. As such, this decision will not focus on whether Mr S's acceptance of 17 January 2024 quotation represents a legally binding contract.

Further, in cases where I conclude a business has made an error, the redress instructions I give are intended to place the affected consumer into the position they would most likely be in were it not for that error.

In this case, Scottish Widows clearly made an error. They have already accepted this. Their error was not correctly describing Mr S's options in their 17 January 2024 letter.

To rectify this error, I would ordinarily have to consider which of his options Mr S would most likely have chosen had they been correctly described to him in January 2024. However, in this case, Scottish Widows have offered to cancel the £9,085.56 payable monthly in arrears annuity and set up the £9,612.96 payable annually in arrears annuity should Mr S choose. As such, Mr S has already been given the choice between either of the options he should always have had.

Whilst I can appreciate Mr S would like the higher income amount provided by the GAR, but payable on his preferred monthly in arrears basis, that was never an option provided by his policy. As such, it is not an option I can reasonably require Scottish Widows to provide now.

I also appreciate that the incorrect information and potential change to Mr S's annuity will have caused Mr S distress and inconvenience. However, Scottish Widows have already apologised and paid Mr S £300 to compensate for this. This offer is in line with what I would have expected to see in similar circumstances and as such I do not believe any further action is required in this regard either.

As such, overall, in line with what our investigator has already said, whilst fully accepting that Scottish Widows did make an error in their 17 January 2024 letter, I have concluded their offer to Mr S in respect of this mistake is fair and reasonable. I am therefore not asking Scottish Widows to do anything further in relation to Mr S's complaint.

### **My final decision**

Whilst Scottish Widows Limited trading as Clerical Medical did make an error in the January 2024 quotation letter to Mr S, their offer in respect of this is considered fair and reasonable, as such I do not require any further action from them in this case.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 28 March 2025.

John Rogowski  
**Ombudsman**