PO-12705

The Pensions Ombudsman

Ombudsman's Determination

Applicant	Mr D
Scheme	Scottish Widows (the **Policy**)
Respondents	Scottish Widows Limited (**Scottish Widows**)

Outcome

1. I do not uphold Mr D's complaint and no further action is required by Scottish Widows.

2. My reasons for reaching this decision are explained in more detail below.

Complaint summary

3. Mr D has complained that Scottish Widows failed to complete the transfer of his pension policies in an efficient and timely fashion. He also believes Scottish Widows has broken its own "Conflicts Policy" by referring him to one of its "Direct Sales team".

Background information, including submissions from the parties

4. On 21 March 2015, Mr D elected to transfer three of his pension policies to Scottish Widows. The administrators of these three policies were Equitable Life, Friends Life and the National Employment Savings Trust (**NEST**). Mr D's aim in consolidating his various policies in this way was to make it easier to purchase a future annuity. As part of this process Mr D approached each provider separately:

   - On 1 April 2015, he requested that Scottish Widows complete the necessary transfer paperwork provided to him by Equitable Life.

   - On 4 April 2015, he requested that Scottish Widows provide transfer information requested by NEST.

   - On 7 April 2015, he requested that Scottish Widows complete the transfer forms provided by Friends Life.

5. Not satisfied with the progress being made Mr D wrote to the Chief Executive of Scottish Widows on 9 May 2015, and again on 14 May 2015, to raise a complaint. He asked that the information he requested on 1 April 2015, 4 April 2015, and 7 April 2015, be provided within five working days.

6. On 12 May 2015, Mr D was sent a letter by a member of Scottish Widows Direct Sales Team asking him to contact them on a mobile number. As Mr D does not own a telephone he used a public phone box to make this call. However the member of staff was not available.

7. Mr D elected to bring a complaint against Scottish Widows to the Financial Ombudsman Service (**FOS**) on 24 June 2015. He was referred to The Pensions Advisory Service (**TPAS**) on 2 July 2015.

8. Scottish Widows issued two separate responses to Mr D on 17 July 2015. It was hoped that these letters combined would address all Mr D's outstanding issues, and specifically, those he raised in his letters of 9 May 2015 and 14 May 2015. Scottish Widows explained that as the total value of the policies he proposed to transfer in "exceeded £16,000", his case had been passed to its Direct Sales team.

9. In advance of receiving Mr D's various transfers Scottish Widows issued a full "execution only" transfer pack on 14 August 2015. This pack contained various documents necessary to carry out the proposed transfers. The covering letter to this pack also explained that "upon receipt of your application Scottish Widows will contact the transferring scheme as soon as possible. Please note it can take 6 or 8 weeks for the funds to be received, or 3 months where the funds are from an Occupational Pension Scheme."

10. Once the necessary documents were completed and returned, Scottish Widows were able to arrange the transfers from each individual provider. On 11 September 2015, Scottish Widows received a transfer payment of £85,692.31 from Equitable Life. It received a further transfer payment of £1,212.37 from Friends Life on 15 September 2015.

11. On 5 October 2015, Mr D wrote to TPAS confirming that he had received confirmation from Scottish Widows that transfer payments had been received from both Equitable Life and Friends Life. However, no confirmation had been received about the NEST transfer even though NEST had written to him directly on 24 September 2015, to confirm payment had been made. Mr D felt he could not proceed with the purchase of his annuity until he had received confirmation of the total value of his stakeholder arrangement once all his transfers had been completed.

12. It only became clear at a later date that NEST had originally made a transfer payment on 24 September 2015, however the reference number used (P150918Dc4402345) was not a Scottish Widows reference and as no other identifying information was included with the payment, Scottish Widows could not allocate this payment to Mr D's stakeholder account. The money was returned to NEST on 12 October 2015, using the same reference.

13. Scottish Widows wrote to Mr D on 15 January 2016, to inform him that the NEST transfer had been received on 30 December 2015, and that the necessary paperwork had been sent to his chosen annuity provider, Just Retirement, on 7 January 2016. Scottish Widows also explained that while it was willing to accept responsibility for the delays from May 2015 to September 2015, it could not take responsibility for the subsequent delay as the issue lay with NEST.

14. Mr D purchased an ongoing annuity from Just Retirement on 5 February 2016.

15. On 10 May 2016, having reviewed his complaint, Scottish Widows wrote to Mr D to make the following offer of compensation:

    - £1,607.20 in recognition of the four months missed annuity payments
    - £91.29 (net) in respect of interest on the above annuity payments. This interest was worked out at a rate of 8%.

    When making this offer Scottish Widows considered the fact that Mr D had also already received a total of £475 in compensation regarding the delays in conducting his transfer in a timely fashion and for the poor service he had received. This compensation was paid in the following instalments:

    - £75 on 17 July 2015
    - £100 on 17 August 2015
    - Offered £300 on 9 October 2015 (paid on 15 January 2016)

16. Mr D does not believe that this offer adequately compensates him for the time spent completing his transfer. He also felt the number of missed annuity payments should have been ten rather than four. He also stated that the offer of £300 was made in October 2015, and does not cover any further distress he suffered from that point onwards.

17. Scottish Widows have admitted that it should have been in a position to action Mr D's transfer by mid-May 2015. However, Scottish Widows states that the delays from mid-September 2015 onwards stemmed from an administration error elsewhere and that these delays were not caused by maladministration on its part.

Adjudicator's Opinion

18. Mr D's complaint was considered by one of our Adjudicators who concluded that no further action was required by Scottish Widows. The Adjudicator's findings are summarised briefly below:

- Scottish Widows has agreed that it caused an unreasonable delay from mid-May 2015 to September 2015, and has made a fair and reasonable offer of compensation by offering to pay four months' worth of annuity payments plus interest for late payment at 8%, which is well above the base rate.

- Also, Mr D has already received a total of £475 in compensation paid, in various instalments throughout his complaint.

- The delay from October 2015 to February 2016, was outside Scottish Widows' control and so it would be inequitable to direct Scottish Widows to compensate Mr D for this delay. Scottish Widows had no control over the transfer payment due from NEST and as such could only act once the transfer payment had been received.

- Scottish Widows received two of the three proposed transfers, from Equitable Life and Friends Life, on 11 September 2015 and 19 September 2015, respectively. The NEST payment had been made on 24 September 2015, but was returned on 12 October 2015, as it was not referenced correctly and could not be allocated to Mr D.

- Although Mr D was disadvantaged as a result of Scottish Widows' maladministration, the offer of compensation already made by Scottish Widows is fair and reasonable in the circumstances.

19. Mr D did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr D provided his further comments, many of which are not new. I agree with the Adjudicator's Opinion, summarised above, and I will therefore only respond to the key points made by Mr D for completeness.

Ombudsman's decision

20. Mr D did not accept the findings in the Opinion. His disagreement can be summarised as follows:

- the £475 compensation paid by Scottish Widows should not form any part of the redress offered by the Ombudsman.

- the missing annuity payments should be calculated for the two periods from 8 April 2015 to 22 July 2015 (106 days) and from 16 September 2015 to 1 December 2015 (77 days), and not simply just the four months of payments paid by Scottish Widows.

- had Scottish Widows replied to his letters regarding the NEST transfer in a more timely fashion, there would have been no problem with that particular transfer.

- Scottish Widows have breached its own conflicts policy.

- he now wants an additional £950 in compensation equal to the value asked for by Scottish Widows Direct Sales team.

21. The starting point for my decision is that Scottish Widows has agreed that it caused an unreasonable delay during the initial stages of this transfer, between May 2015 and September 2015, and that Mr D was disadvantaged as a result. It follows, that he should be compensated for this.

22. The remaining issue to consider, is the degree to which Scottish Widows is to blame for any subsequent delay, between October 2015 and February 2016; and what, if any, further compensation is warranted from Scottish Widows.

23. I accept that, but for the maladministration by Scottish Widows, Mr D could have been receiving an annuity far earlier than was in fact the case. I also accept that Scottish Widows must bear responsibility for ensuring that Mr D is no worse off for its shortcomings. However, I do not believe Scottish Widows should be required to make good any missed payments that arose as a consequence of errors elsewhere.

24. In his reply to the Adjudicator's Opinion Mr D has stated that he believes the time taken to complete his annuity purchase can be broken down into four separate periods:

    i. 8 April 2015 to 22 July 2015

    ii. 23 July 2015 to 15 September 2015

    iii. 16 September 2015 to 1 December 2015

    iv. 2 December 2015 to 5 February 2016

    Mr D states that ii) and iv) represent "productive days" and feels compensation is not warranted for this time. However, he states compensation is warranted for i) which can be apportioned to Scottish Widows and iii) which can be apportioned to NEST.

25. Mr D has not brought a complaint against NEST and consequently it has not had an opportunity to respond to any concerns Mr D has regarding its service. I will therefore only comment on i) which Mr D states was as a delay caused by Scottish Widows' maladministration. Mr D claims that this period, equal to 106 days, warrants £1,400.25 in compensation. As this amount is less than the £1,607.20 actually paid to Mr D, it is not clear whether he is proposing to return the difference of £206.95 to Scottish Widows. Whatever his intentions in submitting this revised amount, I find that the original amount of £1,607.20 is sufficient and represents adequate redress.

26. Further, the figure of £1,607.20 paid by Scottish Widows was actually supplied by Mr D as a suggested potential minimum payment, in his letter dated 20 April 2016.

27. Scottish Widows maintain that the delays from October 2015 onwards were outside of its control and do not believe it should be held accountable for any further loss. From the information available, I agree with this assertion. NEST made a transfer payment to Scottish Widows on 24 September 2015. This payment was not adequately referenced and therefore could not be assigned to Mr D's Scottish Widows policy.

28. As the transfer value could not be correctly assigned it was returned to NEST on 12 October 2015, using the same reference number. There then followed a protracted exchange between NEST and Scottish Widows while the issue was investigated. NEST appears to have had significant issues in tracing the returned payment. Then following a number of exchanges with Scottish Widows NEST eventually arranged a correctly referenced payment to be made which was received on 30 December 2015. Scottish Widows wrote to Mr D to confirm receipt of the payment on 15 January 2016. It was therefore not possible for Scottish Widows to finalise the transfer earlier than this date. As the delay was outside of its control, I will not make a finding that Scottish Widows should pay any compensation for missed annuity income that Mr D may have received during this period.

29. Regarding the other period of delay, Scottish Widows accepts this was as a consequence of its maladministration, I consider the offer in respect of the missed annuity payments to be sufficient in the circumstances. The interest offered on this payment is also more generous than the statutory basis I would direct. The total offer put forward by Scottish Widows also ensures Mr D is in the position he would have been in had there been no maladministration by Scottish Widows. I do however acknowledge that there have been other delays that appear to have been caused by another body not party to Mr D's complaint.

30. Mr D has also received £475 in respect of the poor service he experienced at various points throughout his complaint. Compensation is not designed to be penal and I am not persuaded that a higher amount is warranted in the circumstances.

31. The final point raised by Mr D in his reply to the Adjudicators Opinion, is the perceived breach of Scottish Widows "Conflicts Policy". This Conflicts Policy was put in place in accordance with Financial Services regulations and is designed to protect members from any harmful business dealings by the various arms of Scottish Widows.

32. Scottish Widows acknowledge that it incorrectly directed Mr D to one of its Direct Sales team. This team is made up of financial advisers that offer an in-house advice service to members, making it easier for them to access and receive advice regarding transfers. This service, however, is not free and it is not unreasonable that Scottish Widows charge for it. I agree with Mr D that Scottish Widows should not have forwarded Mr D's case to the Direct Sales team as he had already signed the relevant "execution only" paperwork. However, I do not agree that Scottish Widows should

compensate Mr D for this as he was not charged and did not suffer a loss in this regard. The apology by Scottish Widows for this error is, in my opinion, sufficient.

33. I do not agree with Mr D that this error was a breach of the Conflicts Policy as the offer of financial advice from the Direct Sales team was given in good faith and was not a situation where Scottish Widows would have “gained” at the expense of Mr D, save for a legitimate fee chargeable for advice approved by the Financial Conduct Authority.

34. Scottish Widows have offered compensation which ensures Mr D is no worse off as a consequence of its errors. That further errors and delays occurred is not in dispute however it cannot be said that these were of Scottish Widows making.

35. Therefore, I do not uphold Mr D’s complaint.

Anthony Arter

Pensions Ombudsman
27 October 2016