

Ombudsman's Determination

Applicant	Mr Y
Scheme	Scottish Widows Group Personal Pension Plan (the Plan)
Respondent	Scottish Widows

Outcome

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

Complaint summary

2. Mr Y has complained that Scottish Widows failed to recognise consistently late monthly pension contributions from his former employer (**the Employer**).

Background information, including submissions from the parties

3. In September 2016, Mr Y resigned from the Employer with effect from 31 July 2017.
4. In March 2017, Mr Y raised concerns with the Employer about delays in its payment of contributions, on his behalf, into the Plan.
5. In June 2017, Mr Y raised a formal complaint with Scottish Widows. In summary, Mr Y's complaint is:-
 - Scottish Widows did not notify Mr Y that the Employer had made several late payments of contributions.
 - Mr Y has identified 22 instances of late payment of contributions to the Plan.
 - Mr Y's pension fund has suffered a loss of investment growth because of these late contributions.
 - Scottish Widows failed to administer the Plan with due diligence.
 - Scottish Widows has not complied with The Pensions Regulator's (**TPR**) Codes of Practice.
 - Scottish Widows did not have Mr Y's authority to share his complaint with the Employer, and this was a breach of his data protection rights.

6. On 16 June 2017, Scottish Widows issued its response to Mr Y and, after further correspondence with Mr Y, it issued follow up responses on 23 November 2017 and 21 December 2017. A summary of Scottish Widows' overall findings is set out below:-
- Scottish Widows accepts that it was responsible for 5 of the late payments into the Plan.
 - To recognise these errors, it offered to pay Mr Y £250, later increasing this offer to £400.
 - It disagreed that it had a responsibility to report the late payments to TPR, as none of the payments had been late by 90 days or more.
 - Scottish Widows' standard process is to send reminder letters after 30 days, 60 days and 90 days of a late contribution payment.
 - No contribution payments were more than 30 days late so, where Scottish Widows issued initial late payment notifications, it was never necessary to send a second reminder letter to the Employer.
 - As the Plan is a group pension arrangement, Scottish Widows' responsibility is to the Employer and its appointed financial adviser, and so it was not obligated to communicate directly with the individual members.
 - Where late payments of contributions had been made, Scottish Widows secured the number of units that would have been purchased on the correct date, so Mr Y has not suffered a financial loss as a result of any delays.
7. Unhappy with the responses, Mr Y referred his complaint to us.

Adjudicator's Opinion

8. Mr Y'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 below:-
- Point 48 of the Codes of Practice Mr Y referred to in his complaint states that a pension scheme manager, Scottish Widows in this case, does not need to report a late contribution payment to TPR where the "contributions are paid late but in full within 90 days of the due date."
 - Scottish Widows has confirmed that none of the contributions were paid more than 30 days late by the Employer.
 - Mr Y's pension benefits have not suffered a loss of investment growth as the number of units that would have been purchased on the correct payment date were secured in each event.

- Scottish Widows has ensured Mr Y is in the same financial position in which he would have been but for the delays.
 - The Financial Conduct Authority Dispute Resolution rules set out that a respondent can forward a complaint to another respondent if it considers the second respondent to be jointly or solely responsible for the complaint.
 - As Mr Y's complaint to Scottish Widows concerned the Employer's late payment of contributions, it was acceptable for Scottish Widows to forward the complaint details to the Employer.
 - The Adjudicator felt the £400 award made by Scottish Widows was reasonable and did not propose to increase it.
9. Mr Y did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr Y provided his further comments which do not change the outcome. I agree with the Adjudicator's Opinion and I will therefore only respond to the key points made by Mr Y for completeness.

Summary of Mr Y's response

10. Mr Y had originally requested compensation of around £1,880, based on an hourly rate for his time taken to deal with the complaint, and his calculations of investment loss. However, Mr Y told Scottish Widows he would be prepared to settle the matter with an award of £600; this was not agreed by Scottish Widows.
11. Mr Y maintains that Scottish Widows ought to have liaised directly with him about the late payments as he had an individual policy number and was listed as a member on his policy schedule.
12. Scottish Widows' failure to contact Mr Y directly is a breach of its duty of care.
13. Mr Y has suffered 22 distinct 'payment failures' as he did not receive payment on the due date.
14. A 'reasonable company' would have consulted with TRP to see if this constituted 'material significance'.
15. The Employer subsequently went into liquidation, which could have been indicated by the late pension contribution payments.
16. Mr Y was not advised by Scottish Widows of any difficulties with the Employer or what steps it was taking to resolve matters.

Ombudsman's decision

17. Scottish Widows, as the administrator for the Plan, had the responsibility to ensure correct contributions were paid by the Employer. In cases where contributions were not paid by the due date, Scottish Widows wrote to the Employer.

18. While Mr Y was a member of the Plan, it was for Scottish Widows to chase the Employer for any late contributions. Given that the contributions were all paid within 30 days of the due date, there was no obligation for Scottish Widows to make a report to TPR.
19. Mr Y is aggrieved that Scottish Widows did not report the late payments to TPR. It seems that he believes he has been disadvantaged by the late payments. However, Scottish Widows has confirmed that, as standard practice, when a contribution is paid late, the unit price from the date the contribution ought to have been paid is used. Scottish Widows has confirmed this was the case for Mr Y. For this reason, Mr Y has not suffered a financial loss.
20. Whilst Mr Y may be frustrated that the Employer has not been held accountable for the late payment of contributions, he has not suffered a financial loss, so the actions of the Employer have not been of material detriment to him.
21. I note that Scottish Widows has acknowledged it caused a delay in payment of 5 of the contributions. Again, Mr Y has not suffered a financial loss as a result, however Scottish Widows has offered £400 to Mr Y in recognition of the distress and inconvenience its errors caused him.
22. Mr Y has expressed that these delays have caused him upset, however I consider the level of distress and inconvenience caused to be nominal and so make no award. If Mr Y wishes to accept the £400 offered by Scottish Widows he should contact it directly.
23. I do not uphold Mr Y's complaint.

Anthony Arter

Pensions Ombudsman
27 August 2019