

Ombudsman's Determination

Applicant	Mr W
Scheme	Scottish Widows Personal Pension Plan (the Plan)
Respondent	Scottish Widows plc (Scottish Widows)

Outcome

1. Mr W's complaint against Scottish Widows is partly upheld. To put matters right, (for the part that is upheld), Scottish Widows should pay Mr W £500 compensation for the significant distress and inconvenience caused to him by their admitted failings in this case.
2. My reasons for reaching this decision are explained in more detail below.

Complaint summary

3. Mr W's complaint against Scottish Widows, the Plan provider, is that they incorrectly informed him on numerous occasions that a lump sum payment amounting to £29,112.08, in respect of a single contribution made by his previous employer, could be paid into the Plan. He was subsequently informed by Scottish Widows that this was not possible.
4. Mr W asserts that Scottish Widows should reimburse the subsequent costs amounting to £4,958, that he incurred in having to set up a SIPP in order to receive the £29,112.08 payment. He says that these costs would not have arisen, had Scottish Widows correctly informed him that the Plan was unable to accept the payment, when he made his initial enquiries.
5. Mr W says the costs in question, mainly comprised of travel expenses to the UK to establish the SIPP. He maintains that if Scottish Widows had made him aware earlier that the transfer was not possible, then he could have arranged the SIPP with a UK based financial adviser during one of his regular trips to the UK. Also, if he was given more time to sort out an alternative pension provider, the financial adviser's fees that he incurred could have been significantly reduced, as the fee charged doubled due to the urgency in arranging the SIPP. He also claims that he could have selected a financial adviser in the United Arab Emirates (**UAE**), where he resides, as they usually charge zero fees to the client.

6. Mr W says that fortunately he was able to negotiate a one month time extension with Mercer, (the administrators of his previous employer's scheme), to find a suitable alternative pension arrangement to accept the payment. However, he was constrained by the limited time given by Mercer to arrange this. He also lost the opportunity of selecting previous investment options organised by his trade union, during the administration period between 2012 and 2014.
7. Mr W contends that Scottish Widows should provide adequate compensation for the distress and inconvenience he has suffered because of their errors.

Background information, including submissions from the parties

8. Mr W moved to the UAE in 2008, and was no longer resident in the UK, or paying UK tax. He had notified Scottish Widows of this.
9. Due to changes in his previous employer's pension scheme, Mr W had to transfer the £29,112.08 , as a single company contribution, into an alternative pension plan and provide Mercer with details of the new pension arrangement.
10. Mr W says that options on transferring the payment were provided by his trade union in mid-2014, in order to assist individuals in establishing an appropriate pension scheme, or transfer to an existing scheme. He decided to pay the £29,112.08 into his existing Plan and contacted Scottish Widows in September 2014, to enquire about it.
11. Scottish Widows admit that they told Mr W, following his enquiry in September 2014, and on several occasions thereafter, that the payment in question could be transferred into the Plan.
12. Scottish Widows say that following receipt of a letter from Mercer instructing them to accept the payment into the Plan, they responded writing to them on 31 March 2015, accepting the payment.
13. Mr W was then informed by Scottish Widows in April 2015 that the payment could not be accepted by the Plan because since 2008 he was not resident in the UK and no longer a UK tax payer.
14. Scottish Widows have paid Mr W £300, for their admitted failing in providing him with incorrect information on several occasions and for raising his expectations that the payment in question would be accepted by Scottish Widows and paid into the Plan.

Adjudicator's Opinion

15. Mr W's complaint was considered by one of our Adjudicators who concluded that further action was required by Scottish Widows. The Adjudicator's findings are summarised briefly below.

- Mr W's claim for the reimbursement of costs associated with the setting up of the SIPP, amounting to £4,958, was not reasonable. This is because; Mr W says that he had negotiated a one month time extension with Mercer to find a suitable alternative pension arrangement to accept the payment. In the Adjudicator's view, although he was based in the UAE this was sufficient time for him to have gone through the process of choosing an appropriate pension provider. Further, Mr W was not tied to the SIPP provider he had chosen and could have selected another pension provider if he was not happy with the fees being charged. In any event, it is not the Ombudsman's normal practise to award reimbursement of costs of this nature. Particularly, as the costs in question were not expenses Mr W would not otherwise have incurred. It was Mr W's own choice to invest in the SIPP.
 - Mr W contends that because of Scottish Widows' failure to inform him of the correct position from the outset, he lost the opportunity of selecting from previous investment options stated by the trade union during the period 2012 - 2014. However, Mr W having been aware of those options decided to transfer the payment in question into his Plan, and contacted Scottish Widows in September 2014, to enquire about it. So Mr W had not made any enquiries to Scottish Widows about the payment prior to September 2014. Therefore, it is difficult to accept that he made that decision, solely based on the incorrect information he later received from Scottish Widows. Also, notwithstanding that there is no evidence that he had approached Mercer to ask if the options stated by the trade union could still be made available to him, a finding of financial loss could not be reasonably made in this instance, as there is no evidence or certainty that in the long term those options would be more financially beneficial.
 - The £300 compensation that Scottish Widows paid to Mr W is insufficient redress. The provision of incorrect information is unacceptable. Providers generally expect they will be relied on. There were several incidences of maladministration by Scottish Widows, and so the distress and inconvenience caused to Mr W was significant. Therefore, Scottish Widows should pay Mr W £500; in addition to the £300 they have already paid him to reflect this.
16. Mr W did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr W provided his further comments which do not change the outcome. I agree with the Adjudicator's Opinion, summarised above, and therefore, I will only respond to the key points made by Mr W for completeness.

Ombudsman's decision

17. Mr W maintains that the one month time extension negotiated with Mercer, to find a suitable alternative pension arrangement was insufficient. This is because; he is a long haul airline pilot and is not in the UAE the majority of the time. Therefore, Scottish Widows should reimburse the £4,958 that he incurred in having to set up the

SIPP in order to receive the transfer. I disagree with Mr W. I believe that there was sufficient time for Mr W to choose an appropriate pension provider. For example, it was feasible for Mr W to have used the internet to select a suitable provider, which is not uncommon. As explained by the Adjudicator, Mr W was not tied to the chosen SIPP provider, could have selected another one, if he was unhappy with the level of fees being charged. I do not uphold this part of Mr W's complaint.

18. Mr W says that the opportunity of selecting the options stated by the trade union during the period 2012 and 2014 was no longer available to him after September 2014. So he disagrees with the Adjudicator's comment that he could have subsequently considered those options. However, Mr W did not approach Scottish Widows in order to transfer the monies until September 2014. This was after the date he says the options stated by the trade union were no longer available. Therefore, I do not find that Scottish Widows can reasonably be held responsible for any lost investment opportunity. Further, for the reasons given by the Adjudicator, I do not find that there are justifiable grounds for me to make a finding of financial loss.
19. Mr W contends that if he had not sought and negotiated a one month time extension with Mercer, he would have lost the whole £29,112.08 and would have been claiming the entire amount from Scottish Widows. However, as this did not happen and Mr W was able to reinvest the monies, I do not find that he has suffered any injustice as a result.
20. Mr W claims that the additional £500 compensation for distress and inconvenience, suggested by the Adjudicator as reasonable redress, is insufficient. This is because, it does not cover his expenses associated with setting up the SIPP, such as air fare, taxis, phone calls, and the SIPP arrangement fee. However, as I have already stated, I do not find that Mr W has a reasonable claim for the reimbursement of costs associated with establishing his SIPP.
21. I consider that the Adjudicator's conclusion for Scottish Widows to pay Mr W £500, in addition to the £300 already paid to him for the significant distress and inconvenience that their maladministration has caused is adequate compensation in this case.
22. Therefore, I partly uphold Mr W's complaint to the extent of the payment of an additional £500.

Directions

23. I direct that within 28 days of this determination Scottish Widows will pay Mr W £500 for the distress and inconvenience caused by their maladministration.

Anthony Arter

Pensions Ombudsman
2 August 2016