

## The complaint

Mrs W complains that Scottish Friendly Assurance Society Limited (Scottish Friendly) failed to advise her about processing deadlines and then caused delays in making a withdrawal from her pension plan. This resulted in the payment being made to her in the wrong tax year. She would like compensation for the additional tax paid and the inconvenience suffered.

## What happened

Mrs W wanted to arrange a withdrawal from her pension plan using Uncrystallised Funds Pension Lump Sum (UFPLS) where a combination of tax-free cash and taxable income is paid. She says she'd taken benefits in this way from one of her other pensions previously. Mrs W called Scottish Friendly on 16 February 2021, and says she told it she wanted to make the withdrawal in the current tax year. Scottish Friendly said it would issue the necessary paperwork. But didn't indicate any timeframes for the withdrawal to be processed. It says it posted the withdrawal form on 23 February 2021.

Mrs W didn't receive this and called again on 1 March 2021 for an update, telling Scottish Friendly she needed the withdrawal to be made in the current tax year. It sent the form by email, which Mrs W returned on 9 March 2021. Scottish Friendly said as it hadn't provided details of the retirement options available to Mrs W in the previous three months, it needed to issue these. It sent this information along with a risk questionnaire that was also required to her by post on 11 March 2021.

Mrs W called for an update on 15 March 2021, again saying she wanted the payment to be made in the current tax year. Scottish Friendly said this wouldn't be possible as the payroll cut-off date had already passed, and the payment would be made in the new tax year. This was confirmed by email the same day and Scottish Friendly apologised for any inconvenience this would cause. The documents posted on 11 March were attached to this email.

Mrs W called Scottish Friendly back that day and completed the risk questionnaire verbally. Because of the answers she'd provided it then emailed her a risk statement on 19 March 2021, asking for this to be signed and returned by post. Mrs W emailed back querying this and asked if *"there is any way this can be processed in time?"* for payment to be made in the current tax year. On 25 March 2021 Scottish Friendly emailed Mrs W advising the risk statement hadn't been received. And that it wouldn't be able to make a payment before 5 April 2021 as the payroll cut-off date had passed. Mrs W called on 26 March 2021 confirming she wished to go ahead and says she was advised the withdrawal would be processed on 30 March 2021 and she would be emailed to confirm the date of payment.

Scottish Friendly emailed Mrs W chasing the risk statement again on 27 March 2021 and Mrs W responded on 28 March 2021 saying this had been sent on 19 March 2021 and said:

*"the inconvenience caused is quite significant because, due to the payment rolling over into 2021/22, any further benefits I take in that tax year (excluding the 25% tax free cash will now be subject to 40% tax rather than 20%. Having started my claim on*

*16 Feb (and stating I required payment this tax year) and having not been told of any cut off dates until 15/3 during a phone call, I'm not happy about this."*

She asked if the information she'd been given about the payment on 26 March 2021 was correct. Scottish Friendly sold the necessary investment funds on 30 March 2021 and made the payment on the next available payroll run of 23 April 2021.

Scottish Friendly acknowledged the complaint made in Mrs W's email of 28 March 2021 and issued its final response on 4 May 2021 rejecting her complaint. It said it was sorry that the process had taken longer than Mrs W had expected. But that *"all steps to process your claim were completed in a timely manner"* with the payment being made on the next available payroll run once its requirements had been met.

Mrs W said she should have been told about the payroll cut off dates when she first contacted Scottish Friendly on 16 February 2021. It agreed that it should have done this. But said it still wouldn't have been possible to complete all stages of the process before the payroll cut-off date of 4 March 2021.

Mrs W said if she'd been told about the deadline on 16 February 2021, she would have made a withdrawal from another of her pension plans in order to utilise her remaining personal allowance. And, because the payment had been made in the following tax-year she'd paid an additional £840.37 in income tax and some of her other income would now be subject to 40% income tax rather than 20%. She said the tax implications had prevented her from taking a further withdrawal in the 2021/22 tax year. And as a consequence, she hadn't been able to make a deposit on a new home as her regular pension income was insufficient to obtain a mortgage instead.

Mrs W referred her complaint to our service and our investigator looked into it, but she didn't uphold it.

She said she'd considered whether it was possible for Scottish Friendly to have processed the withdrawal in time for the 4 March 2021 payroll cut-off date, had it met its normal service level. She said given the steps involved even if the initial forms hadn't been delayed in the post it was unlikely this deadline could have been met. So, she didn't think Scottish Friendly had caused Mrs W a financial loss.

But she said it should have managed Mrs W's expectations better than it did. As she'd requested the payment be made in the current tax year on two occasions before being told on 15 March 2021 this wasn't possible. Had it done so, she said Mrs W may have been able to make other arrangements, so it had caused a loss of expectation. Our investigator said Scottish Friendly should pay Mrs W £300 for the distress and inconvenience this had caused.

Scottish Friendly accepted our investigators view, but Mrs W disagreed. She said, she carefully planned her finances and hadn't utilised all her personal allowance due to Scottish Friendly's actions. And the compensation should reflect the additional tax paid. She said its process *"seemed very muddled"*, including letters being written but then not posted for days. She said it took one of her other pension providers:

*"a maximum of 2 weeks, from start to finish, to take an UFPLS"*

And that there should be an industry standard for the pension freedoms to operate by.

Our investigator said there wasn't a set timescale for how long a business should take to process a withdrawal. And because Scottish Friendly wouldn't have been able to process the

request in time for the 4 March 2021 payroll cut-off in any case, it wasn't fair to ask it to pay compensation for the loss of the personal tax allowance.

As Mrs W doesn't agree it has come to me to decide.

### **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 am upholding the complaint in part but I won't be asking Scottish Friendly to compensate Mrs W for the loss of her personal allowance. I know this will disappoint Mrs W, so I'll explain why.

The role of our service is to resolve complaints impartially, we don't regulate financial businesses, which is the role of the Financial Conduct Authority. That means I can't tell Scottish Friendly or other financial services firms to change administrative procedures or impose sanctions on them if I think there have been failings. What I can consider is whether a business's mistakes caused someone a financial loss and/or distress and inconvenience and, if so, what the business needs to do to put things right.

I've taken note of everything Mrs W has said, and I understand her frustration over what has happened. There isn't any set timeframe for a pension provider to process a withdrawal request and a key factor is the frequency with which the provider will operate payroll runs. The "*Uncrystallised Funds Pension Lump Sum Information*" document provided to Mrs W with the forms she completed states that UFPLS payments can be made on the 7<sup>th</sup> and the 24<sup>th</sup> of the month and that Scottish Friendly:

*"will proceed with making the payment to you once you have fully met the requirements for making a UFPLS and will confirm the pay date at this point."*

So, Scottish Friendly hadn't undertaken to make a payment by a certain date or indicated a typical timeframe for processing one. But in the circumstances here I think it should have told Mrs W what deadlines applied at the earliest opportunity. Not doing so has caused her avoidable distress and inconvenience. She rushed to return documents and chase matters up before being made aware of the deadlines and suffered a loss of expectation as a result.

But I don't think it is fair to say Scottish Friendly is responsible for her tax loss. Because I think that it is unlikely that it would have completed its usual administration processes before the payroll cut-off date. Particularly given that not all steps could be completed electronically.

And I also think it is clear that by 15 March 2021, Mrs W had been told both verbally and by email it would not be possible for Scottish Friendly to process the withdrawal before the end of the tax year. This was consistently reconfirmed in subsequent emails and I haven't seen anything to suggest Mrs W was told that the payment would be made before the new tax year had started.

Mrs W says she wasn't advised early enough to make alternative arrangements with another of her pension providers. But she has also said that her other provider could have processed a UFPLS withdrawal in a maximum of two weeks. When Scottish Friendly did advise the payment couldn't be made in time there were around 16 working days before the end of the tax year. So, I think there was still time for her to stop or modify the withdrawal with Scottish Friendly. And then make the alternative arrangement to ensure her remaining personal allowance for the 2020/21 tax year was utilised and potentially mitigate any higher rate tax liabilities in the following year.

So, whilst I think Mrs W was inconvenienced by what has happened, I don't think Scottish Friendly was responsible for the tax loss incurred or that it is responsible for the other issues Mrs W says arose regarding a potential house move.

### **Putting things right**

I think Mrs W has suffered distress and inconvenience over the initial poor communication in respect of the deadlines applying to UFPLS withdrawal requests. I think it fair that Scottish Friendly pay her compensation of £300 in respect of this, which is in line with the awards our service would make in similar circumstances.

### **My final decision**

My final decision is that I uphold the complaint against Scottish Friendly Assurance Society Limited.

I direct Scottish Friendly Assurance Society Limited to pay Mrs W £300 in compensation for the distress and inconvenience caused to her.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W to accept or reject my decision before 14 November 2022.

Nigel Bracken  
**Ombudsman**