

The complaint

Mr T complained that Scottish Widows Limited (SW) wouldn't return money he paid into his employer's Group Personal Pension Plan (GPPP) in error.

What happened

Mr T said he didn't want to join his employer's GPPP but was enrolled under the Government's opt in requirements introduced in 2014. He received a benefit statement in January 2015 stating the policy value of £144.29. It showed he had paid in £54.32 and received tax relief of £13.58 and his employer had paid in £67.90 giving total contributions of £135.80. He had never received any letter from SW terminating the policy. He said his employer took £54.32 from his salary in July 2014. It then took a second payment of £34.44 in August 2014. He then completed an opt out form and the amount of £34.44 was refunded but not the £54.32. He didn't pursue a refund in 2015 due to the small amount but now wanted to receive payment.

SW said when it first set up a policy for Mr T's employment it had collected two premiums but both were subsequently refunded back to the employer. Mr T's policy had no value and it believed it was cancelled from outset. It suggested he contacted his employer.

My provisional decision

I issued a provisional decision in this case and said the following.

When the investigator looked at this complaint, he considered whether this service could consider it. There are rules governing how this service could operate and that included the dates when the events complained about took place.

The investigator concluded that this service could consider this complaint. SW did not dispute that finding so I had not considered it further.

In order to make an award for financial loss or distress and inconvenience I needed to conclude that SW had done something wrong.

Mr T said that SW had not repaid his pension contributions whereas SW said it refunded them to his employer.

It is unfortunate that there were three parties involved in this dispute but only two, SW and Mr T were party to this complaint. That meant we are unable to get a complete picture of all that happened at the time. I must however base my decision on the evidence available.

It was clear from Mr T's pay slips that two amounts are shown as having been deducted (£54.32 and then £34.44) for his pension and one amount repaid (£34.44). So based on that evidence it seemed that one repayment was outstanding. The pay slip did not say which pension scheme the deductions were paid to, nor how much any employer contribution was.

The screenshots I had seen from SW showed two amounts received, although I noted their amounts didn't match the amount deducted. There was also a pension benefit statement dated January 2015 showing Mr T had a transfer value of £144.29. The statement noted it received £135.80, of which £54.32 was paid by Mr T and £67.90 by his employer and basic tax relief of £13.58 was added. These amounts were invested in SW Pension Portfolio three and four.

The difference between the contribution of £135.80 and £144.29 must presumably be due to investment returns. Mr T said receiving this statement meant that he didn't chase his employer for the amount which had not been refunded to him. The £54.32 shown as an employee contributions matched the amount shown as deducted from Mr T's pay in July 2014 but not shown as refunded in subsequent months.

While Mr T says SW cannot prove it repaid his contributions, I did have copy screen shots showing the dates of the refunds from SW. So I did have some evidence to that effect. It was clear from Mr T's pay slips that when contributions were refunded, he only received his and not that of his employer, so it would seem appropriate that the refund was paid to the employer as SW said its terms suggested. But SW had no way of ensuring that his employer refunded his contributions, but I can't hold it responsible if it failed to do so.

I thought the explanation that the second refund wasn't made until 2015, which was after the January statement was issued, also explained why that statement was issued. It was unfortunate that this meant Mr T didn't chase his employer for that amount at that time.

I did think it would have been helpful if SW had confirmed to Mr T that his policy had been cancelled or closed and I didn't have any evidence that it did this. That would at least have prompted Mr T to follow up the refund he felt he was due.

So on balance I have evidence that the deduction was repaid but as I say I could not hold SW responsible if Mr T's employer did not then repay him nor that Mr T didn't chase them. So I could not make an award directing SW to pay the money Mr T believes was owed to him.

I did however think it would have been reasonable for SW to write to Mr T to confirm his policy was closed or cancelled. Had it done so during 2015 this would also have enabled Mr T to follow up his employer at that time. I think that was a mistake on the part of SW particularly having regard to its obligations under the principles in the FCA handbook to have regard to the information needs of its clients (principle 7) and under the Conduct of Business Rules to communicate in a manner that is *'fair, clear and not misleading'* (COBS rule 4.2.1). I think the failure to confirm the policy was closed or cancelled was misleading for Mr T.

As I have concluded that SW made a mistake, I can consider an award for financial loss and the distress and inconvenience caused.

I didn't think the failure to notify Mr T of closure of his policy caused him any financial loss. But I thought this matter had been time consuming and frustrating for Mr T and I thought the failure to tell him the policy was closed or cancelled meant he was left with a misleading impression about the policy. An award for distress and inconvenience is intended to reflect the impact on Mr T not to punish SW. In the light of what I have said I think an award of £300 would be fair and reasonable in the circumstances.

Mr T said he thought my summary was essentially accurate and he had nothing to add.

SW said it agreed there was a loss of expectation but there was a lack of evidence now

available to determine exactly what did happen. It noted Mr T asked for a refund of the missing approximately £54 and an apology so felt that the award of £300 was excessive especially as it was intended to reflect the impact on Mr T. However it said it would accept it and would be happy to make payment as directed subject to its comments above.

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 have not changed my mind. While I note the comments, I note also that SW agrees the payment.

Putting things right

To put things right SW should make the payment proposed for distress and inconvenience.

My final decision

I uphold this complaint in part and direct that Scottish Widows Limited should within 30 days of this service notifying Scottish Widows Limited that Mr T has accepted my decision, pay Mr T £300 for distress and inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 10 October 2022.

Colette Bewley
Ombudsman