

The complaint

Miss M complains that she has suffered stress and anxiety as a result of her dealings with Scottish Widows Limited (Scottish Widows) in relation to her request to withdraw a tax-free lump sum.

What happened

In February 2023, Miss M contacted Scottish Widows by telephone to arrange for the withdrawal of 25% of her pension as tax-free cash and was told that she would receive a call back. Miss M said she didn't receive one and called once more on 16 February and was again told she would receive a call back which she didn't get. I understand Miss M was also told at some point that she should expect a consultation call on 17 February but this didn't take place. Miss M called Scottish Widows again on 21 February and made a complaint about the failure to receive any call backs and Miss M says she was told she would be telephoned about the complaint within 5 working days. Instead of a telephone call, Miss M received a text message with details of her complaint on 27 February. On the same day, Miss M received her consultation call to discuss taking the 25% tax-free cash at which point Miss M says she was told she could not take this until the complaint she had lodged had been resolved, which could take up to 8 weeks. During this call Miss M was also given a valuation of her pension which, as at 27 February 2023, was £49,740.99.

A few days later, Miss M called Scottish Widows again and spoke with a member of their complaints department. Miss M told Scottish Widows that she did not wish to proceed with her withdrawal since the value had fallen since her original enquiry on 13 February. The complaints handler advised Miss M that he would listen to the calls and make a new consultation appointment for 8 March 2023.

Miss M said that, in the days leading up to 8 March, she made the decision to transfer all of her pension to another company. Miss M contacted Scottish Widows prior to her scheduled consultation call to advise them of this. At this point, Scottish Widows say they told Miss M that, in order to avoid any financial detriment, they would use the valuation of Miss M's pension from either 17 February or 27 February to calculate her 25% tax-free lump sum, whichever was higher, provided she made a decision that day.

Miss M elected to proceed with the transfer and Scottish Widows say they received a request from the third party to whom Miss M's pension was to be transferred on 10 March and the amount of £49,094.26 was transferred the same day. Miss M contacted Scottish Widows having seen that the amount transferred was £646.73 less than the pension valuation she was given on 27 February. Scottish Widows advised Miss M that they would look into this and sent their final response to Miss M's complaint on 15 March in which they said that they upheld her complaint and offered a payment of £150 for distress and inconvenience. Scottish Widows also told Miss M that they had used the valuation as at the transfer date of 10 March which was the date on which they received the transfer request from the third-party Miss M had elected to make the transfer to.

Miss M was unhappy with this and brought her complaint to us saying that her experience with Scottish Widows had caused her extreme stress and anxiety and that she had to wait over an hour on each occasion on which she contacted Scottish Widows by telephone. Miss M also said that the situation was made worse by the fact that she was registered disabled and suffered from both physical and mental ill health and that the tax-free cash she was seeking to withdraw was because of the increase in the cost of living which had caused her financial struggles. Miss M said that, whilst she was awaiting a call back, she was worried about the decline in the value of her pension pot and this increased anxiety affected her physical health.

In relation to the value of Miss M's pension, Miss M said that Scottish Widows used the lower valuation for her transfer and has therefore suffered a shortfall of £646.73 – being the difference between the valuation on 27 February 2023 and the amount actually transferred. Miss M asked for this amount to be paid to her in addition to the sum of £1000 for the mental and physical distress and the time she had lost.

Our Investigator's view was that:

- Scottish Widows should have called Miss M back as it had promised.
- Miss M should have been able to take her tax-free cash without her complaint being resolved.
- The service provided to Miss M wasn't to the standard one would expect and £150.00 did not adequately represent the failed call backs and incorrect information on the complaint being resolved.
- Scottish Widows should pay Miss M a further £150.00 for the poor service received.
- It was Miss M's decision to transfer away before receiving the outcome of the complaint and Scottish Widows did not have to pay the difference of £646.73.

In response to the view, Scottish Widows said that they thought there may have been some misunderstanding with taking the tax-free cash before the complaint was resolved. They said that Miss M was aware on the call that the tax-free cash could be taken whilst the complaint was continuing but said she would await the review of the complaint to see if it could be back-dated first. Scottish Widows said that Miss M was aware she could transfer out at any time.

Scottish Widows also said that £150 given the failed call backs was in line with our guidance for distress and inconvenience payments.

Miss M also disagreed with the view and said that she chose to move her pension after a very stressful time and that Scottish Widows should therefore pay the difference between the valuations of 27 February and 10 March 2023. Miss M also said that a further £150 for the effect on her mental health was not acceptable but that she would accept a further £500.

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 reached the same conclusion as our Investigator and will be upholding Miss M's complaint.

There are two elements to this complaint. The first concerns the appropriate level of compensation for the service failures experienced by Miss M. Scottish Widows have acknowledged that the service provided fell short of what was expected and so there is no dispute over whether some compensation is payable. The second element relates to whether or not Scottish Widows should pay Miss M the amount of £646.73 being the difference between the valuation of 27 February 2023 and the amount actually transferred. I will seek to deal with each of these in turn.

On the issue of the amount of compensation, my view is that any reasonable person in Miss M's position would likely suffer anxiety and stress with the failed call backs in relation to her pension. Added to this are the physical and ill health issues Miss M was facing and the fact that the value of her pension was declining during the period that Scottish Widows failed to contact her. Considering this, I think a total amount of £300 by way of compensation is fair. I understand the point made by Scottish Widows that the £150 originally paid for distress and inconvenience caused by a few failed call backs appears to be in line with our own guidance. However each case must be judged on its own merits and Miss M's situation as regards her health and the importance of receiving these call backs, however few, indicate to me that £150 is not enough to reflect the impact the situation has had on her.

I would also make the point that Miss M says that the situation led her to make the decision to transfer her entire pension away from Scottish Widows and this was because she said she had lost faith in their ability to look after her money. This highlights to me the importance of those failed call backs and further supports why the £150 initially offered to Miss M is not sufficient.

I would like to add that I acknowledge Scottish Widows submission that there was a misunderstanding about whether Miss M could withdraw her tax-free lump sum before the complaint she had made was resolved. Indeed, Scottish Widows' own notes on the call indicate that Miss M decided to wait until a decision on the complaint before proceeding with the withdrawal. However, irrespective of this, I think there are sufficient grounds for Scottish Widows to offer more than the £150 originally offered for the customer service failings detailed above.

As regards the matter of the £646.73 shortfall, I can't see that Scottish Widows should be liable for this. I would expect a pension provider to value a transfer as at the date on which it receives the transfer request from the third party to whom the transfer is to be made. Scottish Widows records reflect that this request was received on 10 March and this is the valuation date that has been used. Miss M has made the point that the value of the pension as at 27 February was higher than the transfer value used and, whilst she may consider this unfair, I consider Scottish Widows approach to the transfer to be reasonable. Scottish Widows could not have used any other date than the date on which the transfer request was received as this would be likely to unfairly prejudice either Miss M or Scottish Widows. My view therefore is that 10 March is the only correct date on which the transfer valuation should be made.

I recognise that Scottish Widows did offer Miss M an earlier valuation date if she wanted to take her tax-free cash. But I don't see why it should honour that offer given Miss M considered her options and elected to take a very different decision with her pension, which was to stay invested and then transfer it elsewhere. With that in mind, it's only fair that her pension was subject to investment fluctuations ahead of transfer.

Putting things right

Scottish Widows has already paid Miss M £150.00 which it originally thought was enough for the distress and inconvenience Miss M experienced. Scottish Widows must now pay Miss M a further £150.00 to better reflect the distress and inconvenience she has suffered.

My final decision

For the reasons explained above, I uphold Miss M's complaint. If it hasn't already done so, Scottish Widows Limited must now pay Miss M the amount of £150.00 in order to bring its total distress and inconvenience payment up to £300. It doesn't have to do anything else in order to settle this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 5 September 2023.

Rana Chatterjee
Ombudsman