

## **The complaint**

Mr N complains about problems that occurred when he made a partial withdrawal from his Scottish Widows Limited (SW) personal pension.

## **What happened**

On 23 March 2023, Mr N completed a form for a partial withdrawal from a personal pension plan held with SW. SW then asked Mr N to submit identification documents for the withdrawal.

Mr N was entitled to receive 25% of the withdrawal tax-free, and the tax-free portion of the withdrawal was paid to Mr N on 17 April 2023. SW applied an emergency tax code to the taxable portion and the remaining taxable amount was paid on 21 April 2023.

Mr N called SW to question the amount which had been paid to him. Mr N says he was told by SW that it should have used a basic rate tax code rather than the emergency tax code and that it would call him back. SW didn't call Mr N back, so he complained.

In summary, Mr N complained that:

- The delay of his withdrawal meant he'd had to withdraw funds from elsewhere.
- SW failed to call him back as promised.
- SW had asked for identification, and he doesn't think it should have.
- SW had used an emergency tax code, despite having been provided with the correct tax code previously.

SW explained that as it hadn't received a tax code from HMRC for the current tax year, it was right to use an emergency tax code and Mr N would need to reclaim the excess tax from HMRC directly. It agreed it hadn't called back when it said it would and offered Mr N £55 in compensation for this.

Mr N didn't accept this and referred his complaint to our Service where an Investigator looked into things. The Investigator didn't think the complaint should be upheld. Mr N disagreed and asked for a further investigation. So, the complaint has been passed to me to consider and make a final decision.

## **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.

I'd like to note that Mr N has responded to our Investigator in detail, and I've thought about everything he has said. However, I won't respond to each, and every, point made. Instead, I'll be focusing on the crux of this complaint. This doesn't mean I haven't considered

all of the arguments or thought about everything Mr N has said, it simply reflects the informal nature of this service.

I've also noted Mr N's request that we conduct a forensic review of his complaint to include contacting HMRC. Our role is as an alternative to a court, and we are required to resolve complaints with minimum formality. We don't conduct "forensic" investigations to the level I think Mr N is expecting. Furthermore, HMRC or its actions, don't fall within the jurisdiction of this service, so we can't consider any mistakes it may have made or the impact mistakes by HMRC might have had on Mr N. Whilst we can contact HMRC to request information, if necessary, I'm satisfied this complaint can be decided without any further information.

Mr N has also referred to appropriate sanctions being placed on SW for its failures. However, that's not the role of this Service. That would be a matter for the industry regulator, the FCA. Our role is to consider individual complaints and put right financial losses, and that's what I've focussed upon within this decision. I'll address Mr N's various complaint points under different headings for ease.

#### *The request for identification*

Mr N is correct in saying that SW wasn't *required* to ask for identification before allowing this withdrawal. However, SW does have a duty to protect its customer's money. And to do so, it's entitled to take a risk-based approach. It had been five years since Mr N had made a withdrawal from this pension, so I don't consider it unreasonable for SW to have asked Mr N to provide new identification to ensure the request for a withdrawal was genuine. And providing identification isn't a particularly arduous task, especially when considering that it was done to protect Mr N's pension from potential fraud.

Ultimately, whether to ask for identification or not is a matter for SW's commercial judgement, and I'm satisfied it's exercised this fairly in this situation.

#### *Delays in the withdrawal*

Mr N completed the withdrawal form on 23 March 2023. It took just under a month from Mr N making the request for the withdrawal to it being paid to him. SW says within its withdrawal form that it will aim to pay the funds within 14 days of it having all of the information it requires. SW decided it required identification (and I've set out above why I felt this was reasonable). Mr N says this was sent immediately and that this was verified on 28 March 2023.

14 working days from the date the ID was verified would be 17 April 2023, and the second payment was made on 21 April 2023 to Mr N. I accept this is a few days outside of the timescales SW aims for, but I don't think this is an unreasonable or particularly long delay.

#### *Use of an emergency tax code*

Mr N says that SW had been provided with his correct tax code when he made his previous withdrawal in 2018. However, this was five years ago. And tax codes are only applicable for a single tax year.

The withdrawal form completed by Mr N says:

*This will be calculated using the Emergency Tax Code we discussed on the call or the actual Tax Code supplied by HMRC if we already have this.*

So, I'm satisfied SW made Mr N aware that it may use an emergency tax code.

As I've said, SW had Mr N's tax code for a previous tax year. Mr N believes that HMRC provides the tax code to SW each year, and in coming to this opinion he's relying on a part of his HMRC tax code notice letter which says:

*Your tax code is used by your employer(s) and/or pension provider(s) to work out how much Income Tax to collect from your pay or pension. We send them a separate tax code notice.*

So, I do understand why Mr N thinks SW would've had his tax code. However, SW tells us it didn't, and I've not seen enough to suggest it is incorrect in this assertion. When an income is paid by a pension provider it informs HMRC of the payment(s). HMRC then provides it with the correct tax code to apply to further payments in that tax year. However, Mr N didn't take a regular income in the way another pension might provide. Mr N instead took ad-hoc payments.

I can see that Mr N's tax code letter of January 2023 set out which providers had been provided with a tax code. And whilst one of them was SW, I think this was likely for a different pension plan. I say this as another tax code letter was sent in April 2023, and this now showed a second BR tax code for an SW pension shown as "Scottish Widows Workplace Savings". This was not on the tax code letter from January 2023, and I suspect was driven by this withdrawal.

My understanding is that tax codes such as this are applied to individual pensions, rather than providers. Therefore, until this withdrawal was made, I don't think it likely that SW did have a tax code for the pension at the centre of this complaint.

As Mr N hadn't taken any income or made a withdrawal for five years, there would've been no reason for HMRC to provide SW with the tax code for this particular pension. So, I'm satisfied SW didn't make an error or treat Mr N unfairly when it used the emergency tax code.

As I've said, I do understand the confusion here. But I think this was most likely caused by HMRC's letter, not by SW. I also understand Mr N's frustration in having to now claim this excess tax back from HMRC, but I understand he will be able to do so. So, he hasn't suffered a financial loss as a result. And in any case, as I've set out above, I'm satisfied that SW hasn't made a mistake here.

#### *Customer service*

Mr N has complained about the amount of time he had to spend calling SW and that he didn't receive a promised call back. I can also see that Mr N chased SW regularly to verify his ID. But SW completed this verification within around four to five days, which I think is a reasonable time frame. I also accept Mr N may've spent some time on the phone when making his complaint. But complaint handling isn't in itself a regulated activity, so we are unable to consider complaints about the way SW dealt with his complaint so I can't make any award for that.

SW agrees it didn't call Mr N back when it said it would, and I can see this would've likely caused Mr N some inconvenience. But I can't see this was significant or caused Mr N anything other than short-term irritation, so I'm satisfied the £55 SW has already offered fairly reflects this. I'm not going to ask it to pay anything else.

#### **Putting things right**

Scottish Widows Limited should pay Mr N £55 for the inconvenience caused by not calling him back when it said it would. I make no further award.

**My final decision**

I uphold this complaint and direct Scottish Widows Limited to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or reject my decision before 29 September 2023.

Rob Deadman  
**Ombudsman**