DRN-4410255

The complaint

Mrs R complains that Scottish Widows Limited (SWL) caused unacceptable delays processing her pension switch request. She states that the delays have impacted her financially and emotionally and would like to be compensated.

Mrs R's complaint has been brought on her behalf by a third party however to keep things simple I will refer to all correspondence as coming from Mrs R.

What happened

Mrs R held a personal pension arrangement with SWL. This arrangement had to cease or be transferred by the time Mrs R was 75, and because Mrs R turned 75 in July 2022, her adviser recommended a transfer to Fidelity FundsNetwork.
Due to the nature of the arrangement, an eight-week extension after Mrs R's 75th birthday was allowed.

On 31 August 2022, the adviser submitted an urgent application via Origo for the funds to be transferred. SWL state they received the Origo request on 6 September 2022. Over the following months, Mrs R's adviser chased SWL on numerous occasions in order to complete the transfer. The adviser was provided with limited information and varying timescales for completion of the transfer, and on 15 November 2022, they submitted a complaint whilst continuing to chase for the transfer to be transacted.

As a Final Resolution Letter to the complaint had not been received, on 16 March 2022, Mrs R complained to this service.

After eight months, during which Mrs R's adviser continued to chase SWL for completion of the transfer, on 13 April 2023 the transfer completed. There was a further delay following completion of the transfer when Fidelity contacted SWL relating to the income payments and did not receive a reply. Mrs R started receiving income from her pension in June 2023.
SWL provided a response to Mrs R's complaint on 26 May 2023. They upheld her complaint and apologised for the delays and distress caused. They confirmed that the transferred funds were based on the valuation as at 6 September 2022, with net interest added. The transfer value was approximately £113,800, with net interest of £3,300 added. Fidelity have confirmed that £117,000 was received. SWL also offered a compensation payment of £750 to reflect their failings. Mrs R states that she did not receive this letter, which was forwarded to her by our investigator.

In August 2023, the investigator issued her view. She agreed that SWL were at fault, although did not agree that adding interest to the transfer value was the correct approach. She stated that because the funds would have been invested with Fidelity in the New Growth 3 fund following transfer, a comparison should be made between a notional value of what the fund would be worth on 13 April 2023 if the transfer had been transacted and invested within appropriate timescales, and the actual amount that was transferred to Mrs R's new pension with Fidelity FundsNetwork. If the notional value is higher, this should be paid into Mrs R's pension. She also agreed that an additional payment to Mrs R was appropriate, however recommended that it be increased from the £750 offered, to £1,000.

SWL accepted this. Mrs R did not. She stated that the delays had impacted her life significantly including having to restart working, missing time with her family, and having to put on hold some home renovations. She stated that due to the increase in the price of materials, the delay has meant that the renovations will now cost more than they would have done if they had been completed in the Autumn of 2022. Mrs R also states that the delays resulting in her not having her pension fund available to her has caused her stress and impacted her mental health.

The investigator requested evidence of the additional cost of the renovation work caused by the delay, however as Mrs R was unable to provide evidence, the investigator did not increase the compensation payment in her view.

Mrs R was unhappy with this, and the case has been referred to me for 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.

It is not in question that Scottish Widow's errors caused unacceptable delays in the transfer of Mrs R's pension. SWL have accepted that and upheld Mrs R's complaint. They have offered compensation which has been increased by our investigator.

What is disputed is amount of compensation that is appropriate for Mrs R, to reflect the distress and inconvenience caused. SWL have already paid the transfer value as at the date it was originally calculated in September 2022, plus interest net of tax. The investigator did not agree that this was correct, and stated that a notional value of the investment should be calculated if it had been transferred at the right time, and if this was more than the amount they did transfer, the difference should be paid to Mrs R. SWL have agreed to this. I've thought carefully about the revised approach and I'm satisfied it will put Mrs R back as closely as is reasonably possible had the mistake not occurred.

In addition to this, the investigator stated that she believed £1,000 to a fair level of compensation to reflect the overall impact and inconvenience for Mrs R.

Mrs R's initial application to transfer her pension from SWL to Fidelity FundsNetwork was originally received in September 2022, and was completed on 13 April 2023, a delay of approximately eight months. This is a significant delay, made all the more significant by Mrs R's age, and the fact she relied on the income from the pension to support her standard of living in retirement.

I have considered whether £1,000 is an appropriate level of compensation, and fully takes into account the distress and inconvenienced experienced by Mrs R. I am satisfied that it is. It is in line with this service's standard approach, as published on our website. It states that "*an award of between £750 and £1,500 could be fair where the impact of a business's mistake has caused substantial distress, upset and worry – even potentially serious offence or humiliation. This may have been a serious disruption to daily life over a sustained period, with the impact felt over many months, sometimes over a year."*

Mrs R has been clear about the inconvenience caused and the impact that the delays had on her day to day life. I have considered the severity of these, and whether a higher award is warranted. I do not believe it is – whilst I am not in any doubt that the delays caused in transferring Mrs R's pension caused her substantial distress, upset and worry, to justify a payment within this compensation bracket, there is no evidence that it caused “serious disruption to daily life over a sustained period with the impact felt over many months” which would lead to an award at the top end of the bracket.

Mrs R has stated that the renovation work that she had planned to carry out on her home has increased in cost during the delay period caused by SWL, and she believes she should be compensated for this increase in cost. The investigator requested evidence of the increase in cost, however Mrs R was unable to provide this. As an evidence based service, decisions made are based on facts and statements backed by evidence, or where this is not available, on the balance of probabilities. As Mrs R has been unable to provide evidence to support her statement that she has suffered a financial loss in terms of a hypothetical additional cost to carry out her home improvements, I am unable to make a financial award in respect of this.

Putting things right

For the reasons stated above, I uphold Mr A’s complaint and direct that SWL pay Mrs R compensation in line with the following calculation. My aim in awarding compensation to Mrs R is to put her back in the position she would have been had it not been for SWL errors.

SWL should therefore;

- Calculate a notional value of Mrs R’s pension as at 13 April 2023 if it had been transferred to the New Growth 3 fund on 6 September 2022.
- Compare the notional value above with the actual amount transferred to Mrs R.
- If the notional value is higher than the actual value, there is a loss and the difference should be paid into Mrs R’s pension.
- Despite the fact the consumer has switched their pension away, any loss Mrs R has suffered needs to be brought up to date. To keep things simple for both parties, rather than asking SWL to seek out third party information from Mrs R’s new provider calculating what would've happened with her fund, I’m satisfied that adding 8% simple interest per year is a fair award. Therefore:
    - SWL should add 8% p.a. simple from the end date (13 April 2023) to the date of settlement.
- The total should be paid to Mrs R’s pension.
- The payment shouldn’t be paid into the pension if it would conflict with any existing protection or allowance.

If a payment into the pension isn’t possible or has protection or allowance implications, it should be paid directly to Mrs R as a lump sum after making a notional reduction to allow for future income tax that would otherwise have been paid.

Additionally, I direct that SWL pay an additional £1,000 to reflect the distress and inconvenience caused. This payment can be made directly to Mrs R.

My final decision

For the reasons stated above I uphold Mrs R's complaint, and direct that Scottish Widows Limited should pay compensation as outlined above to Mrs

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs R to accept or reject my decision before 1 December 2023.

Joanne Molloy
Ombudsman