DRN-4490606

The complaint

Mr O complains that Scottish Widows Limited trading as Clerical Medical have not applied his contributions to his pension correctly.

What happened

Our investigator set out the context to this complaint, neither party disputed this, so I've included an amended copy of this below:

Mr O has explained his employer previously used to pay pension contributions on an annual basis but from June 2021 they moved to making monthly payments.

Mr O explained he first became aware of an issue when he received a letter from Scottish Widows dated 5 January 2022 saying a total of £5,881.06 had been received but they needed an instruction on how to apply the contributions to the pension. Mr O called to understand what was needed and sent the information he was told was needed on 26 January 2022. Mr O received no further response so understood the issue was resolved.

In September 2022, Mr O told the investigator he called Scottish Widows as he had not received a statement in some time and following this call, was sent a copy of a statement dated 19 April 2022. In reading the statement, Mr O noticed the monthly contributions from his employer weren't showing on the statement, so then contacted Scottish Widows to find out what was happening.

Following this, Mr O has been provided with a few letters from Scottish Widows containing records of the employer contributions. These started to show the monthly contributions being allocated but not on the date that they were paid by Mr O's employer.

Mr O was also sent letters in November and December 2022 saying employee and employer contributions were not being paid so the policy was being made paid-up. Mr O also noted an incorrect amount of £33.52 was collected at the beginning of December 2022, rather than the £191.50 that should have been collected.

Scottish Widows sent their final response letter on 4 May 2023. In this letter they confirmed they were upholding the complaint and would be sending Mr O £250 to his bank account. It was explained this payment consisted of £100, as he needed to contact them multiple times over an extended period to get the issue resolved, and £150, for the stress and anxiety caused.

The final response explained the issue was caused due to a system migration impacting their suspense account and, as this impacted a number of policies, their team had more requests to resolve than possible, causing a delay in correcting the issue for Mr O.

In addition to the compensation offered, Scottish Widows explained the contributions had now been allocated, which was confirmed in a previous letter, and that they had used the best price, meaning more than one contribution shows for some months.

Our investigator looked into matters and upheld the complaint. He said Scottish Widows should pay Mr O an additional £100 for the distress and inconvenience caused on top of the £250 already paid. He also said Scottish Widows should rewrite the plan so that all his personal contributions should be invested on the 1st working day of every month. And the employer contributions should be invested on the day they reached the suspense account. He asked that Scottish Widows provide evidence they had completed this in a clear and easy to follow format.

Both parties accepted the investigators recommendation.

But Mr O later contacted us to say Scottish Widows hadn't carried out the resolution. The investigator got in contact with Scottish Widows, and it told us that it should be done shortly. Months passed and still there was no progress so we re-opened the complaint for Mr O.

Mr O also let us know that the problem appeared to be re-occurring as he was receiving letters again about the premium's having not been paid.

Scottish Widows' case handler told us he had been given assurances the problem had been fixed but a fault with its systems meant that it couldn't evidence this. He said he understood that this wasn't good enough and he had appealed to senior figures in the business in a bid to highlight this issue.

I wrote to both parties setting out my thoughts on the case so far:

'Scottish Widows says it has already put things right in terms of the previous contribution issues, but it cannot evidence this due to a system problem. I note the investigator said that Scottish Widows should apply Mr O's employee contributions as if they'd been invested on the 1st working day of the month. And his employer's contributions should be invested in line with when they were received by the suspense account. Both parties appear to have agreed to this methodology and I agree that it is a fair and reasonable solution. But I'm aware this isn't just an issue unique to Mr O but also to other customers of Scottish Widows. Scottish Widows in its initial response said it would be applying the contributions at the best price which may be the approach it is taking across multiple customers. If Scottish Widows takes this approach instead of the specific dates the investigator has stated, I think this would also be a suitable solution as long as it is in Mr O's favour (being best price it should be) compared to the investigator's recommendation.

However, Mr O has made us aware that despite Scottish Widows' assurances and believing the initial cause of this issue had been resolved, he continues to receive letters stating that his employer's contribution hasn't been made. The letter has been sent directly to him and not his employer and this appears to be a replication of the issue that caused this complaint. So unfortunately, it does appear that whilst Scottish Widows may have carried out the remediation work in terms of the premiums already received (although not evidenced), it's unclear as to whether it has fixed the root cause. It therefore seems this could be an ongoing issue for Mr O.

What this means for Mr O and this case is that I'm unable to say with any confidence that Scottish Widows has resolved the core reason for this complaint. And I don't therefore want to make any direction in my decision that would impact Mr O's ability to raise a further complaint if this is an ongoing issue. So my decision and the award of compensation is only in relation to the events prior to Mr O raising a complaint alongside the fact that Scottish Widows has still been unable to evidence it has applied the premiums correctly to date. Mr O will be free to raise a new complaint to Scottish Widows about any further premium issues suffered since his initial complaint.

As I’ve said Scottish Widows say they have been able to reapply the premiums as directed but they’re unable to evidence this at the moment. I don’t think I need to tell it that this is not good enough and I have taken this into account in my award to Mr O. As this will no doubt have added to his frustration and upset that even after coming to this service and Scottish Widows agreeing to resolve the issue, a number of months later he’s seen nothing to put his mind at rest. This must be incredibly frustrating for Mr O and this will have intensified the distress suffered due to the considerable time, effort and worry Mr O has had to put to this issue before the ‘resolution’ was reached. I therefore believe an additional award for trouble and upset should be made to the value of £650. This reflects the fact that Scottish Widows still hasn’t been able to evidence it has carried out what is a fundamental part of its responsibility as a pension provider. And the continued stress, worry and frustration this break down in service is causing Mr O.’

Scottish Widows said in response:

‘We agree with the provisional decision, the statement that what we have done so far to resolve the complaint has not been good enough, and the further award of compensation for Mr O We are continuing to chase internally for progress towards being able to evidence that premiums have been correctly applied as of the due dates (1st of each month). Because of the work required to restore all affected policies, a best price deal might take some time to implement. However, once this fault has been resolved we are open to revisiting this offer once again.

Mr O’s complaint started because despite receiving employer contributions they were not being applied to the policy. Once they were applied, the concern then understandably switched to them being applied correctly so as to ensure no financial detriment. However, please note that the contributions are now getting applied when they are received (see attached list of applied premiums to date). This is why, despite not being able to evidence correct application, we have been stating that the original issue has been at least somewhat resolved. However, this is merely a point of clarification. It does not change our agreement on the further compensation or on the suggestion of leaving the door open for Mr O to raise further, premium-related complaints in future.’

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.

And having done so I see no reason to depart from the findings I previously set out to both parties, as above.

Scottish Widows says it has now been able to carry out the corrective action and the premiums have been applied on the correct date but its system is preventing it from showing this on Mr O’s policy. But Mr O has also received new letters recently that appear to be a repeat of the problems that brought about this complaint.

Unfortunately we are unable to resolve this complaint in a neat and tidy fashion as the outstanding issues require Scottish Widows to apply a fix to its system and cannot be put right simply through an award for any loss caused. This is a rather imperfect resolution and so I’ve taken this into account when considering the award due to the frustration this will have caused Mr O.

Scottish Widows has told us it has applied the corrective action on the dates the premiums should’ve been applied but it had previously said it would use best price. So, I think if this is something it applies across this issue for its customers, it should also apply this to Mr O’s case to provide compensation in line with its wider approach. I will not make a direction in this decision for Scottish Widows to carry out the corrective action as it says it's already been done. And if in the future it turns out this hasn't been done correctly, Mr O can then raise a complaint that this issue is ongoing (as Mr O's policy will still not be valued correctly) without the added complication of a final decision directing how this should be achieved at a specific date.

Furthermore, Mr O is free to complain to Scottish Widows about any further premium issues he's had after the initial complaint was made.

Putting things right

Scottish Widows should pay Mr O an additional £650 in compensation for the trouble and upset caused. This should be on top of any figure it has already paid in relation to this complaint.

If payment of compensation is not made within 28 days of Scottish Widows receiving Mr O's acceptance of my final decision, interest must be added to the compensation at the rate of 8% per year simple from the date of my final decision to the date of payment.

Income tax may be payable on any interest paid. If Scottish Widows deducts income tax from the interest, it should tell Mr O how much has been taken off. Scottish Widows should give Mr O a tax deduction certificate in respect of interest if Mr O asks for one, so he can reclaim the tax on interest from HMRC if appropriate.

My final decision

I uphold Mr O's complaint against Scottish Widows Limited trading as Clerical Medical and direct it to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 22 April 2024.

Simon Hollingshead
Ombudsman