

## The complaint

Miss E says Scottish Widows Limited failed to communicate clearly that her pension was in a holding account and that despite her funds not being invested it continued to levy fees on her retirement provision. She says this has caused her financial detriment.

## What happened

Miss E received advice from an independent financial adviser (IFA) in 2010 which resulted in her switching pension funds she held with a former provider to a Retirement Account with Scottish Widows.

It appears the protected rights transfer value was about £35,000 and from this sum initial adviser fees of around £1,000 were deducted. At the outset, ongoing commission based fees of 1% of the fund value were payable to the IFA. And service charges of 0.4% were payable to Scottish Widows.

In 2023 Miss E decided to seek advice from Pension Wise. She asked Scottish Widows for information about her Retirement Account. She found out that her fund hadn't been invested since November 2017. She was concerned about what she had discovered. And she was also annoyed to find Scottish Widows had continued to charge her administration charges, as well as pay fees to the IFA which had given her the original advice. She raised her concerns in a complaint on 14 August 2023.

Scottish Widows responded to Miss E on 18 August 2023. It noted that she'd agreed to the charges and fees when she'd set up her Retirement Account in 2010. And it said it had written to her in 2017 to let her know about the closure of the fund she was invested in and what options were available to her. It didn't uphold her complaint.

Miss E brought her complaint to this Service. An Investigator considered her case but didn't uphold it. He thought she'd been made aware of the need to take action following the closure of her investment fund and that subsequent statements she received showed her money was being held in a control account. He also didn't think Scottish Widows had done anything wrong with regards to the fees it had taken from her account.

Miss E disagreed with the Investigator's findings. Summarising, she said:

*"In my opinion, Scottish Widows have an ethical responsibility to communicate with their pension fund holders in clear and easy to understand English. To allow my fund to remain dormant in a holding fund, without clearly communicating this fact to me is unethical. They have benefited from my fund and I have not. They let it continue. When I spoke to Scottish Widows last Summer the call handler was shocked and profusely apologised when she explained the meaning of "retirement planning" as the fund is described on my annual statement. That too is a misleading title for a dormant/holding fund."*

As both parties couldn't agree with the Investigator's conclusions, Miss E's complaint has been passed to me to review afresh and to provide 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.

Where there's conflicting information about the events complained about and gaps in what we know, my role is to weigh the evidence we do have and to decide, on the balance of probabilities, what's most likely to have happened.

I've not provided a detailed response to all the points raised in this case. That's deliberate; ours is an informal service for resolving disputes between financial businesses and their customers. While I've taken into account all submissions, I've concentrated my findings on what I think is relevant and at the heart of this complaint.

I'm not upholding Miss E's complaint. I'll explain why.

I should make clear that my decision only relates to the alleged acts and omissions by Scottish Widows, not those of her IFA. I understand she is pursuing matters separately with that firm.

The first thing I've considered is the extensive regulation around the services like those performed by Scottish Widows for Miss E. The FCA Handbook now contains twelve Principles for businesses, which it says are fundamental obligations firms must adhere to (PRIN 2.1.1 R in the FCA Handbook). These include:

- Principle 2, which requires a firm to conduct its business with due skill, care and diligence.
- Principle 6, which requires a firm to pay due regard to the interests of its customers and treat them fairly.
- Principle 7, which requires a firm to pay due regard to the information needs of its clients, and communicate information to them in a way which is clear, fair and not misleading.

So, the Principles as set out at the relevant time, are important and form part of the regulatory framework. They must always be complied with by regulated firms. As such, I need to have regard to them in deciding Miss E's complaint.

It will be no comfort at all to Miss E when I note that the rules and practice we expect firms to operate under today have evolved considerably, even since 2010. For example, from 31 December 2012, IFA's were no longer able to be paid through commission from providers like Scottish Widows. But obviously, this change was subsequent to the transaction she complains about. So, I can't reasonably conclude Scottish Widows has done something wrong in arranging those payments.

Further, I've seen no evidence to show that the fees Scottish Widows charged Miss E for the administration of her pension plan were not as provided for in the arrangement she agreed with it.

Turning to the matter of the closure of the pension fund Miss E had originally been invested in. The new Consumer Duty and Principle 12, which says a firm must act to deliver good outcomes for retail customers, requires firms to be proactive in identifying and addressing where good outcomes aren't being achieved, and to ensure they put customers' interests at the heart of their activities. It has a broader application and sets a higher standard.

If I were measuring Scottish Widow's actions against this new duty I think it would have more questions to answer. But the duty applies to products and services that were still available to buy or renew from 31 July 2023, or products and services that are closed from 31 July 2024. It doesn't apply to complaints about events that happened before this, so it isn't applicable in her case.

Scottish Widows provided a copy of the letter it says it sent to Miss E in August 2017. This stated the SafetyPlus Fund was closing on 17 November 2017 and that her funds would be moved into a Control Account.

The letter went on to outline Miss E's options such as switching to another fund available through her Retirement Account. She couldn't recall receiving the letter. But she has confirmed the address used was correct at the time of posting. On balance, I think it's more likely than not she received the letter at the time.

Miss E was also in receipt of annual statements after the letter Scottish Widows had issued in 2017 about the closure of her fund. These showed her funds were held in a Control Account. And underneath in bold writing it noted:

*"We recommend that you or your financial adviser regularly review each Control Account to ensure an adequate balance is maintained to cover expected deductions".*

I note these statements showed the value of her funds were broadly flat.

On balance, I've concluded Scottish Widows met its obligations to Miss E. I recognise she will be frustrated and disappointed by my decision.

### **My final decision**

For the reasons I've already set out, I'm not upholding Miss E's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss E to accept or reject my decision before 4 March 2024.

Kevin Williamson

**Ombudsman**