DRN-4522666

The complaint

Mr P complains about the service he received from Scottish Widows Limited (Scottish Widows) as he was approaching his 75th birthday and the benefit options available to him at that time.

What happened

The history leading up to this complaint is well known to the parties and therefore I have only summarised events below.

Mr P had a personal pension plan (PPP) with Scottish Widows. As he was approaching his 75th birthday in April 2022 he contacted Scottish Widows to explore his options. Mr P spoke to Scottish Widows a number of times during March and April 2022.

Mr P was aware that if he didn't take benefits from this plan before age 75, it would automatically be used to purchase an annuity. He was already receiving benefits from other pension arrangements and did not want an annuity.

Instead, Mr P wanted to keep his funds invested with the option to take withdrawals as and when he chose with each amount provided 25% tax-free. Scottish Widows told him that this was a product available to be applied for online. But it transpired that this was only available for consumers under the age of 74.

As Mr P was nearing 75, Scottish Widows told him that he could either take the entire pension fund, with 25% of it tax-free or transfer his PPP benefits to a Retirement Account (RA). The latter options, Mr P would receive 25% tax-free cash and the remainder would be moved to a flexi-access arrangement and would remain invested. Mr P could make withdrawals from this account, but these would be taxed. He could also continue to make contributions. Mr P also had the option to explore what was available to him on the open market.

Mr P opted to start a Scottish Widows' RA. This was arranged by phone on 10 June 2022 and Mr P received 25% tax-free cash.

Mr P wasn't happy with the service he received from Scottish Widows throughout this journey. He felt he was given confusing information and phone calls weren't well handled. As a result, Mr P raised a complaint with Scottish Widows.

Scottish Widows looked into things and issued a final response letter where it agreed it had provided poor service and paid Mr P £100 for the inconvenience caused.

Mr P felt outstanding concerns remained, so Scottish Widows issued a second final response letter acknowledging that incorrect information had been provided to him following his call on 4 March 2022 – namely it should not have included the option for Mr P to "leave it for now." Scottish Widows also said it should have gotten back to him sooner, so it arranged a further £100 compensation to be paid to Mr P.

But Scottish Widows didn't feel it had caused a delay in the retirement options journey and explained that although Mr P wanted to keep his pension arrangement as it was, this wasn't possible with the type of plan he had once he reached age 75.

Dissatisfied with this response, Mr P brought his complaint to this Service for an independent assessment. One of our investigators looked into things and concluded that although Scottish Widows could have provided better service, he thought the £200 compensation already paid was fair and reasonable in the circumstances. The investigator didn't think Scottish Widows had acted incorrectly by not telling Mr P earlier about applying for a different product which wasn't permitted online after age 74. And he explained that what Mr P wanted – to remained invested in the same product – was simply not possible after age 75 under the terms and conditions of his plan.

Mr P didn't agree. He reiterated that he never wanted to take 25% tax-free cash and that this is now a depreciating asset. He thought the information Scottish Widows provided to him over the years was misleading as it implied he'd have all options available to him if he acted before age 75, but in reality, he wasn't able to take the product he wanted as this had to happen before he turned 74.

The investigator wasn't minded to change his view, so the complaint has been passed 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.

Having done so, I have reached the same conclusions as the investigator and there is little I can add to what has already been explained.

When considering what is fair and reasonable, I have taken into account relevant law and regulations; regulator's rules, guidance and codes of practice; and what I consider to have been good industry practice at the time.

I think it is also useful to reflect on the role of this service here. This service isn't intended to regulate or punish businesses for their conduct – that is the role of the industry regulator, the Financial Conduct Authority (FCA). It is my role to fairly and reasonably decide if the business has done anything wrong in respect of the individual circumstances of the complaint made and – if I find that the business has done something wrong – award compensation for any material loss or distress and inconvenience suffered by the complainant as a result of this.

In order to uphold a complaint I would need to find the business responsible for something having gone wrong and that the complainant has lost out as a result. I would then ask the business to put things right by placing the complainant, as far as is possible, in the position they would have been if the problem hadn't occurred.

Where the evidence is incomplete, inconclusive, or contradictory, I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in the light of the available evidence and the wider circumstances.

It's clear to me that Mr P has strong feelings about this complaint. He has provided detailed arguments to support his case which I can confirm I've read and carefully considered. However, I trust Mr P will not take the fact that my findings focus on what I consider to be the central issues, as a discourtesy. The purpose of my decision isn't to address every point raised, but instead to set out my conclusions and reasons for reaching them.

It is not disputed that Scottish Widows could have provided better service to Mr P, especially during the numerous phone calls he had to have with it to get the information he sought. But having listened to the calls and considering all of the circumstances, I consider the £200 already offered and paid by Scottish Widows to be fair and reasonable compensation for any inconvenience these issues caused to him.

But the central issue appears to be that Mr P is unhappy he was not told before he turned 74 of an option that would allow him to remain invested but take withdrawals as he wished, each including a 25% tax-free element. I understand Mr P's frustration here as it is clear from the correspondence in 2022 that he wished to keep all of his funds invested and did not want an annuity or need a 25% cash lump sum at that time.

However, as the investigator explained, there was simply no option for Mr P to remain in the plan he had when he turned 75. If he didn't do something with this, it was going to be automatically used to purchase an annuity. So regardless, Mr P had to switch his plan to a new product.

He could have chosen a product with Scottish Widows or sought out options on the open market. Mr P ultimately chose to move to a flexi-access arrangement with Scottish Widows, which under its terms required he take 25% tax-free cash. From everything I've been provided, this appears to have been Mr P's choice, after consulting an adviser and looking at his options with other providers.

And while it's true that Mr P might have been able to move to a different product with Scottish Widows when he was 73, I don't consider it fair or reasonable to expect Scottish Widows to have provided him with information about all of its products available to him at that time. I've seen no evidence to suggest that he contacted them about his retirement plans and at that point his selected retirement date was age 75. Scottish Widows sent him reminders in 2020 and 2021, and Mr P could have followed up then, but I haven't seen any evidence that this took place.

Age 75 is a critical for pension tax purposes, which is likely why Scottish Widows made repeated mention of it in the mailings sent to Mr P in 2020 and 2021. After age 75 the ability to take tax-free cash can be lost, depending on the plan. And with Mr P's policy it would be annuitised if other arrangements weren't made before age 75. Furthermore, if tax-free cash isn't taken before age 75, benefits payable after death at this age, would be subject to tax at the beneficiary's applicable tax rate.

So while I appreciate Mr P didn't want the tax-free cash at that time, doing so has ensured he has fully benefitted from the tax-free entitlement. And as the investigator pointed out, he could reinvest this money if he chooses.

Also, I can't see that Scottish Widows prevented him from making any changes to his investment selections, with either his former plan or his retirement account. Therefore, I'm unable to conclude that any mistakes it may have made caused him a financial loss.

So, for all these reasons, whilst I know Mr P will be disappointed with this outcome, I'm not upholding his complaint and I won't be asking Scottish Widows to take any further steps than it has already offered to put things right.

My final decision

I do not uphold this complaint and I make no award.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr P to accept or reject my decision before 25 April 2024.

Jennifer Wood
Ombudsman