

The complaint

Ms M complains that Scottish Widows Limited delayed paying her early ill-health pension claim and she incurred costs and suffered distress and inconvenience as a result.

What happened

Ms M's complaint was considered by one of our investigators. She sent her assessment of the complaint to both parties in November 2023. The investigator thought that the complaint should be upheld in part.

The investigator said, in summary, that she had listened to the initial phone call Ms M had had with Scottish Widows. Ms M had said that she wanted to access her pension early due to ill-health. The investigator said the call handler had explained that before any initial decision could be made Ms M would require a form from her doctor. The form would then need to be reviewed by the underwriting team who would write to Ms M and confirm if it could pay the policy early. The call handler said that, provided it accepted the claim, Ms M should call Scottish Widows back once she had received that letter to go through the claims process.

The investigator accepted that Ms M had said she wanted access to the funds quickly as she was waiting to receive treatment. And that the call handler had said that if Ms M was in dire need, the claim *may* be able to be paid out quicker. However, the investigator said the call handler gave no firm assurances regarding a timeframe or whether the claim would even be successful. And she had explained the process to be followed. So, the investigator said she didn't think the call handler had misinformed Ms M in the call.

The investigator said immediately after the call the call handler had sent Ms M an e-mail (9 February 2023). This asked her to complete a form that had been discussed and return it via e-mail or post. Ms M hadn't returned the form until 27 February 2023. So, the investigator said she couldn't reasonably hold Scottish Widows responsible for any delays during the period 9 February to 27 February 2023.

The investigator said during that period Ms M had e-mailed Scottish Widows a number of times without a response. However, on all but one occasion Ms M had e-mailed an inbox which she had been alerted was unmonitored.

With regards to the e-mail Ms M sent on 15 February 2023 – to the correct inbox, the investigator said she didn't think the lack of response delayed the processing of the claim as the relevant forms still hadn't been completed by Ms M's doctor.

The investigator said Scottish Widows had explained that once the forms were received, their service level agreement (SLA) would be ten working days to review the forms and make a claim decision. Scottish Widows e-mailed Ms M on 13 March 2023 to confirm that it had accepted her claim request - ten working days after the form had been submitted. The investigator said this part of the process had technically been completed within the relevant timescale. However, she said this didn't necessarily mean it was reasonable for Scottish Widows to take as long as it did if it could have completed the process sooner.

She said on 1 March 2023 Scottish Widows responded to Ms M's e-mail (submitting the form). It said it had been unable to locate her policy number from the information provided and asked her to provide some additional information. However, the information requested appeared to be included on the form Ms M had already provided. Although Ms M replied on the same day, Scottish Widows then duplicated its request again on 4 March 2023 via another e-mail.

The investigator said she thought as Scottish Widows already had the information, the subsequent requests delayed the process by five days.

Once the claim decision was issued, the investigator said Scottish Widows process required that Ms M went through a two-step call process. This was to ensure Ms M was aware of the repercussions of claiming her pension early and to verify her identity. She said Scottish Widows had a duty to ensure Ms M was aware of the potential long-term consequences of taking her pension and to ensure they were paying the funds to the legitimate policyholder. She didn't think the process was unreasonable.

After the claim decision was issued on 13 March 2023, the first time Ms M appeared to have attempted to call Scottish Widows was on 15 March 2023. Although she wasn't able to get through, the investigator said it appeared Scottish Widows had attempted to call her back a number of times on 15 March 2023 and on the morning of 16 March 2023. Although it hadn't been able to speak to Ms M, the investigator didn't think Scottish Widows caused an unreasonable delay here.

Ms M then e-mailed Scottish Widows several times between the afternoon of 16 March and the 21 March 2023 saying she'd been trying various times to return the missed calls and get through on the phone lines – but was unable to reach anybody. In those e-mails she asked repeatedly for a callback. The first time anybody got back to Ms M was on 23 March 2023.

The investigator said she hadn't been provided with evidence of specifically how many times Ms M had tried to call or how long she spent on hold. However, she said Scottish Widows had acknowledged that its call wait times were higher than usual in this period, and it accepted that there were sometimes extensive delays in March 2023. On balance, the investigator said if it weren't for the issues with Scottish Widows' phonelines Ms M would have been able to complete this part of the claim sooner. And that Scottish Widows could have acted sooner to arrange a callback after Ms M advised them she was still having problems getting through.

Following Ms M's e-mail of 16 March 2023, the investigator thought Scottish Widows could have attempted a callback by 21 March 2023 at the latest – within three working days. So, she thought Scottish Widows was responsible for a two-day delay.

Ms M completed her ID verification on 24 March 2023 which was a Friday. Between the following Monday - the 27 March – and the 17 April, Ms M sent a number of e-mails to a number of the firm's e-mail addresses. In her e-mails Ms M said she was struggling to get through on the phonelines and asked repeatedly for a callback. The investigator said it didn't appear that any of the e-mails were responded to, and no valid reason had been given (the no-reply e-mail address apart).

The investigator thought a response should have been sent to Ms M within no more than three working days. So, from Ms M's first e-mail on 27 March 2023, she thought Scottish Widows should have attempted a callback by 30 March 2023. As Ms M was unable to complete the second part of her claim until 17 April 2023, the investigator thought Scottish

Widows was responsible for an eighteen-day delay here.

So overall, the investigator thought Scottish Widows was responsible for a twenty-five day delay. And but for the delays, the second part of the claims process (the second phone call) could have been completed on 23 March 2023. Mirroring the working days timescale for the actual payment this meant it would have been paid on 30 March 2023 (instead of 24 April 2023 when Ms M actually received the payment).

The investigator said that because of the delays she'd identified Ms M may have suffered a financial loss. She said, in summary, that Scottish Widows should calculate the amount Ms M would have been paid on 30 March 2023 and compare this with what she had actually been paid. If the 30 March 2023 amount was higher she said the difference should be paid to Ms M along with appropriate interest.

The investigator noted that Ms M had said:

- She was assured by Scottish Widows that the funds would be released quickly by bank transfer within ten days.
- She had "...stressed the importance of that assurance as I'd been scheduling treatments around that ten-day window."
- That between 20 February and May/June she had had to cancel, postpone, or reschedule treatments due to the delays. This was because she couldn't afford to pay for the treatments otherwise. Since she couldn't drive, most of those treatments had been scheduled for the April Easter Holiday break, when family were available to take her to appointments. Because she'd had to reschedule those appointments, she'd had to take taxis to appointments instead.

The investigator understood that Ms M felt Scottish Widows should be held liable for some taxi costs and for certain medical and treatment costs. Ms M had provided a breakdown of various costs.

The investigator said that but for the delays, Ms M would have received the money on 30 March 2023. So, she didn't think Scottish Widows could be responsible for any rescheduled delays prior to this date; she didn't think it had ever given the impression the claim would be paid by a certain date.

The investigator said, given what Ms M had said, it appeared she had begun scheduling appointments for late February before speaking with Scottish Widows. Whilst the investigator fully appreciated Ms M's reasons for wanting treatment as soon as possible, by scheduling appointments without any firm assurances on a timeframe for the claim to be paid she thought there was always a risk they might need to be rescheduled.

The investigator went on to consider whether Scottish Widows should have to pay any costs which arose from Ms M needing to reschedule appointments which fell between 30 March 2023 (the date she should have had the funds) and 24 April 2023 (the date she actually received them). She said it was unclear from the information Ms M had provided exactly what appointments were originally scheduled between those dates. Ms M had said that because of Scottish Widows delays she had to reschedule April appointments "*into March and May and borrow means to do that*"

The investigator noted that Ms M had provided screenshots of taxi rides associated with what she says were rescheduled appointments. The earliest of these was on 8 March 2023. The investigator explained where a business made an error we'd still expect a consumer to

try and mitigate their losses as far as possible. She said the evidence suggested that Ms M began rescheduling her appointments at point in time when - for all she knew - the claim could still be paid in time. She said based on Ms M's actions, she thought even if Ms M had received the money by 30 March 2023 she would have independently taken the decision to move the appointments around several weeks earlier.

The investigator said it wasn't clear to her how Scottish Widows' delays caused Ms M to reschedule appointments to earlier dates in March if the issue was that she needed the money from Scottish Widows to pay for her appointments. She said she didn't think it followed that appointments would be brought forward instead of being pushed back. She said she understood from what Ms M had said that the decision to take up appointments in March 2023 was guided by a preference to receive treatment sooner, rather than being directly linked to the delays.

The investigator also said she understood Ms M was claiming taxi costs for appointments in July, August and September because the 14 March 2023 treatment was:

"...not at all suitable to my needs unfortunately and [I] ended up having to incur 3x additional allergy testing costs in July, Aug and Sept."

The investigator said she didn't think Scottish Widows was responsible for the costs associated with the 14 March 2023 appointment if the treatment turned out not to be suitable for Ms M: Scottish Widows didn't have direct control over that treatment. And the investigator didn't think it was fair to hold Scottish Widows responsible for treatment costs in general. As Ms M required treatment, irrespective of the delays, she thought she would always have had to pay these costs.

For phone costs, the investigator said Scottish Widows original offer already included compensation to cover the bill of 143.82 euros (roughly £124) that Ms M was claiming - rounded up to £150. The investigator didn't think this was unreasonable in the circumstances.

Scottish Widows had also offered £150 to take into account the distress and inconvenience caused - for example the long call wait times. The investigator thought a fairer amount would be £350 given the delays caused Ms M a great deal of frustration and distress - which was magnified as a result of her health condition. As Scottish Widows had already paid £150 for distress and inconvenience, the investigator thought it should pay Ms M an additional £200.

Scottish Widows didn't accept all of the investigator's findings. Neither did Ms M. Scottish Widows also said the amount Ms M was actually paid on 24 April 2023 was higher than the value as if calculated and paid on the dates suggested by the investigator.

Ms M provided further evidence and arguments; in particular about the costs that she'd incurred as a result of the delay in payment of the pension. She said, in summary, that it was difficult for her to communicate by phone because of her health conditions and she thought this had disadvantaged her in resolving the matter both with Scottish Widows and ourselves. She said it was difficult to get across the impact of her health on her day to day living. And how any added stress exacerbated her symptoms.

Ms M provided a breakdown of the costs she was claiming; including phone, travel, excess medical bills and costs relating to reclaiming tax paid from HMRC. She said she had received £2,433.67 from the pension. But had incurred costs of £2,396.01 - so nearly the full value of the pension. She said she wouldn't have incurred these unnecessary costs if the original timeline for payment of the pension had been met.

Ms M agreed that she didn't hold Scottish Widows responsible for her ongoing medical bills or costs that weren't directly related to its delay. But she said after weeks and months of extra burden on her time and additional stress, she was still having to deal with the matter some eight months later and she really felt that Scottish Widows had failed her.

The investigator responded to Ms M acknowledging the reality of Ms M's health condition and the difficulties this imposed on her. She appreciated the reasons Ms M wasn't able to discuss the matter with her and that this could make it a lot more difficult to set out her position. However, she said it was important to emphasise that in order to hold Scottish Widows responsible for the losses Ms M was claiming, it had to be established that Scottish Widows caused errors. And that those errors caused the losses Ms M suffered. She said it wasn't fair to hold it responsible for losses which more directly arose out of something a third party did, or which could have reasonably been mitigated by Ms M.

Although Ms M had said that Scottish Widows had assured her that she would have the funds within ten days, the investigator said for the reasons she'd explained she wasn't persuaded it had said this, or ever given a fixed date or timescale for receipt of the funds.

She said if Ms M had to reschedule appointments that were due to take place prior to 30 March 2023, then she couldn't hold Scottish Widows responsible for this. Ms M's belief that she would have the money prior to this date wasn't based on any information she'd received from Scottish Widows.

The investigator said it wasn't clear to her that Ms M had tried to mitigate her losses by waiting to begin rescheduling appointments. The evidence suggested she'd started rescheduling appointments in early March. However, that she would consider any evidence Ms M provided showing which appointments were originally booked between 30 March and 24 April 2023; which were rescheduled, when and to what date. And a breakdown of what costs were associated with that rescheduling.

The investigator said she didn't think it was fair to hold Scottish Widows responsible for the extra dental costs. She said it appeared there were a number of intervening factors which led to extra costs, including the dentist not being available and a second dentist messing up the treatment. She said it seemed a significant factor in the extra costs was the errors made by the second dentist.

The investigator said the HMRC rebate for the tax paid on the pension would always have to have been claimed—delays or not. And that as the evidence she'd seen didn't show that Scottish Widows was the cause of Ms M having to re-schedule appointments, she thought £350 compensation was fair to take into account the scale of the delays. This was in addition to the £150 paid to cover phone costs – so a total of £500 altogether. The investigator again said she was happy to reconsider this if further evidence was provided.

The investigator responded to Scottish Widows saying, in summary, she didn't think the timeframe she'd given for a callback was unreasonable given Scottish Widows was aware Ms M was seeking a callback and had e-mailed several times asking for somebody to get back in touch with her. And when Ms M had e-mailed the same mailboxes between 13 and 14 March 2023, a callback had been arranged within less than two days.

Scottish Widows subsequently said it was willing to settle the claim in accordance with the investigator's findings if they were accepted by Ms M.

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've come to the same conclusions as the investigator, and largely for the same reasons.

Like the investigator, I don't think Scottish Widows gave any guarantees as to when the payment would be made or gave misleading information on that issue. I think it did explain the process, that it would require information from Ms M's doctor and that Ms M's claim would then have to be assessed. I don't think it gave the impression that the claim would either firstly be definitely agreed, or would be paid within a certain timescale.

However, I also agree with the investigator that there were some avoidable delays, and I think the revised timescale she recommended was reasonable. I think what's key, however, is that irrespective of any arguments about any particular minor delays, during the period in question the value of Ms M's pension was rising. So, the upshot is that Ms M ultimately received a higher amount in reality than if the pension had been paid earlier. I'm satisfied Ms M didn't lose out financially as a result of any delays in terms of the amount of pension she was paid.

As has been explained, we would only require Scottish Widows to re-imburse costs where they were additional costs that would otherwise not have been incurred had payment been made in a timely manner - for the reasons set out by the investigator by 30 March 2023. Such costs would need to be reasonably foreseeable and naturally flow from the errors made. And a claimant also has a duty to try and mitigate their position where possible

Given the evidence presented, I don't think the costs Ms M has claimed for here arise or flow from the late payment of the pension, or couldn't have been mitigated. For the reasons explained by the investigator, some would always have needed to be paid, such as treatment or reclaiming tax. Some extra treatment appears to have been required because the original treatment was deficient – but that poor treatment wasn't a result of something that Scottish Widows did wrong. And the taxi fares Ms M has claimed for appear to be either for treatment arranged prior to the 30 March 2023 and so before she ought reasonably have received the pension. Or I haven't seen sufficient evidence to reasonably find that they were appointments already scheduled for the period where Ms M said she was able to arrange transport through family, and there was no alternative but to reschedule them for a period where she had to pay for transport. So, I've not been persuaded to award further costs (my understanding is Scottish Widows has already re-imbursed Ms M for telephone costs).

I've also considered what's fair in terms of compensation for distress and inconvenience. I recognise the impact that Ms M's health has on her being able to do some day-to-day activities. And I agree with what she says that it can be difficult to get that impact across, and that it will have heightened the stress and anxiety caused by the situation. But I have to consider the matter in the context of what Scottish Widows actually did wrong, and what detriment naturally flowed from that.

I realise my findings will be very disappointing to Ms M. But for the reasons I've explained above and by the investigator, on the evidence presented, I've not been persuaded Scottish Widows' errors resulted in a financial loss, or that they caused the additional costs that Ms M has claimed. Scottish Widows caused delays in the payment of the pension. And Ms M had to contact Scottish Widows on numerous occasions and was in call waiting queues for long periods of time. I do appreciate that this would all have been very frustrating for Ms M and would have been stressful in her circumstances and given that she wanted the money as quickly as possible. But given the timescales involved and in the context of what I think Scottish Widows did wrong, I think the additional £200 (so £350 in total) is fair in the particular circumstances of the case.

My final decision

Accordingly, my final decision is that I uphold Ms M's complaint in part.

My understanding is that Scottish Widows Limited has already paid Ms M £150 for distress and inconvenience and £150 for phone costs. However, if it hasn't, it should pay these amounts to Ms M.

In addition, I order Scottish Widows Limited to pay Ms M another £200 for the distress and inconvenience I'm satisfied the matter caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 22 February 2024.

David Ashley
Ombudsman