

## **The complaint**

Miss R holds a personal pension with Scottish Widows Limited which she contributes to monthly. However, she complained to Scottish Widows Limited ("Scottish Widows") after it stopped taking her monthly direct debit.

## **What happened**

The background to this complaint is well known to both parties so, rather than listing all correspondence and telephone calls, I've only summarised what has happened.

Miss R received a letter from Scottish Widows in January 2023, confirming that her personal pension plan was being made paid up as the last payment received had been paid in July 2022.

Miss R hadn't been aware that her direct debit payments hadn't been taken so she contacted Scottish Widows to query this. She also queried why £223.36 had been paid back into her account in August 2022. After the call, Scottish Widows dealt with Miss R's concerns as a complaint, investigating matters and issuing its first final response letter on 30 March 2023.

In its final response letter, Scottish Widows explained that the issue had occurred when it had tried to collect the August 2023 direct debit payment. It said that it had been unable to collect the full premium. And the amount it was able to collect was insufficient to apply as a regular premium. A suspense was placed on the policy to stop collecting premiums. And the amount that had been collected (which was insufficient to apply as a regular premium) was refunded to Miss R's account.

Scottish Widows said that direct debit payments would resume in April 2023 and it also provided details of what Miss R could do if she wanted to make a payment for the missing monthly payments.

Scottish Widow apologised for the delay in sorting the problem out and said that it had arranged a direct payment for £300 for the inconvenience Miss R had experienced. Miss R complained to Scottish Widows again in May 2023. She said the direct debit was still not being collected and Scottish Widows had taken a random amount out of her account. Miss R also wanted to know how the missed direct debit payments were going to be addressed and she said the compensation of £300 previously offered was insufficient.

Scottish Widows issued a further final response letter. It upheld Miss R's complaint and apologised that direct debits were not being collected from the right bank account. But it said the issue had now been resolved and payments would recommence from the correct account. In terms of the random amount that had been taken from Miss R's account, it believed this had been down to human error. It explained that if Miss R would like this amount refunded, then she should get in touch. Scottish Widows also apologised for providing incorrect reasoning as to why Miss R's direct debits were not collected. It explained that this was not due to too little funds in her account but a processing error on the policy.

Due to the further issues, Scottish Widows said it would be paying a further £250 compensation into Miss R's account. However, it said that with regards to the missed months of direct debits, it was unable to compensate Miss R for these payments. Miss R called Scottish Widows in June 2023 as she was still not happy as her direct debit payments hadn't been taken. She reiterated her concerns about the unauthorised random payment that had been taken from her account. And she said she was unhappy that she hadn't been called back when Scottish Widows said it would call her.

It also came to light that incorrect bank details – belonging to someone else - had been held on Miss R's account for three months, resulting in a different policy holder paying Miss R's contributions for May – July 2023, these had then been reversed. Following this, a further double contribution was collected in September 2023, without Miss R's consent.

Scottish Widows issued a further final response letter. It explained that the issue of another policy holder paying Miss R's contributions, had been raised internally as a data breach. The correct bank account details had been updated and that Miss R had been making contributions since August 2023. Scottish Widows apologised for taking a double contribution in September 2023, without prior consent from Miss R. It acknowledged that this may have caused financial difficulty and it confirmed that £402.05 had been refunded on 29 September 2023, with a confirmation letter being issued.

Scottish Widows apologised for the lack of clarity and poor communication Miss R had received and it offered £500 for the distress and disruption caused. It also compensated Miss R for the calls she'd had to make to Scottish Widows trying to resolve this issue. Miss R referred her complaint to this service. In her complaint form she said that she would like to be compensated for the loss of her pension fund.

Although the first final response letter was issued by Scottish Widows more than six months before Miss R contacted our service, Scottish Widows provided its consent to the complaint being considered. So Miss R's complaint was considered by one of our investigators. Our investigator didn't uphold the complaint. In summary the investigator said the total compensation Scottish Widows had paid - £1,050 and £25 to cover the cost of the phone calls Miss R had made- was fair and in line with what our service would recommend.

The investigator didn't think Scottish Widows needed to cover the cost of the missing premiums as these were always payable by Miss R. And the investigator thought Scottish Widows' offer to arrange a suitable repayment plan if Miss R wished to invest the missed contributions was fair.

Miss R didn't accept the investigator's findings. She initially did not agree that Scottish Widows had already paid £1,050 in compensation. She has since confirmed that she has received this amount. But in any event, Miss R was shocked that the investigator considered this was sufficient compensation for all the errors. Miss R says that she has missed over a year of contributing to her pension and the profit that she would have gained from this. And although Scottish Widows had said they would work out a payment plan so she could make up the lost premiums, she doesn't have the extra money to be able to do this. Miss R feels that she is being penalised. And although she hadn't actually lost that income and it was always in her own account, she assumed it was leaving her account and therefore spent or invested the missing premiums elsewhere. Miss R also raised concerns that Scottish Widows had breach GDPR by linking (and sharing with her) someone else's bank details.

The investigator reviewed Miss R's comments but remained of the opinion that the compensation offered and the offer of a repayment plan - investing the contributions at the time they should have been invested – was a fair and reasonable way to put matters right. In terms of Miss R's comments about the GDPR breach, the investigator explained that the Financial Ombudsman Service is not the regulator so we don't punish or fine firms for an error. But if Miss R is unhappy with how Scottish Widows operates, the investigator explained that Miss R could contact the regulator – the Financial Conduct Authority. And any concerns about a GDPR (General Data Protection Regulation) breach can be referred to the Information Commissioner's Office.

As the matter remains unresolved, it's been passed to me to reach 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.

As our investigator explained, it's not the role of this service to regulate or punish businesses for their conduct – that is the role of the Financial Conduct Authority. And concerns about how a business manages individuals' personal data, is a matter for the Information Commissioner's Office. Instead this service looks to resolve individual complaints between a consumer and a business.

In this case, it's not in dispute that Scottish Widows' service fell short on this occasion. Scottish Widows has accepted this so I don't need to make a finding on this aspect. What I need to decide is whether Scottish Widows has done enough to put matters right for Miss R, following these errors.

Having reviewed the available information, I agree with the outcome the investigator reached and for mostly the same reasons. So I'm not upholding this complaint. And I won't be asking Scottish Widows to do any more than it has already offered.

There is no doubt that these repeated service failings caused Miss R inconvenience and she had to follow this matter up with Scottish Widows many times. So I'm pleased Scottish Widows has apologised to Miss R for these repeated errors and that it has already made a payment to cover the cost of the telephone calls she had to make. And overall, looking at the impact and inconvenience caused, I'm satisfied the total compensation payment of £1,050 is in line with what our service would have awarded if Scottish Widows hadn't already awarded this. So I'm not asking Scottish Widows to pay any more compensation in respect of the distress and inconvenience caused to Miss R.

It seems the crux of Miss R's dissatisfaction is that her pension has missed out on a year's worth of contributions and the growth that would have been achieved on these contributions.

In thinking about putting matters right here, my aim is to put Miss R, as far as possible, in the position she would have been in, had the error not occurred. In my view, if Scottish Widows covered the cost of these missing contributions, Miss R would be in a better position because, not only would she not have covered the cost of these contributions herself, she would also have had the benefit of this money, which she has said she spent or used for investment elsewhere. So although I acknowledge Miss R has said she didn't realise the contributions hadn't been taken from her account, she hasn't lost this money and has in fact benefited from having surplus funds in her account.

I also note that Miss R was made aware in January 2023 that the payments were not being taken. Scottish Widows wrote to her at this point to let her know her plan hadn't received contributions since the previous July. So, although the payments didn't get correctly reinstated until August 2023, there was only a period of 6 months where she wasn't aware the money hadn't been taken.

Scottish Widows has offered to set up a repayment plan and it has said that it will apply the contributions at the point they should have been paid so Miss R won't lose out on any investment growth. I think this is fair as these contributions were always payable by Miss R and although she may have spent the surplus money she had in her account without realising, she had still had the benefit of these funds.

In terms of another consumer's bank details being attached to Miss R's account, Scottish Widows dealt with this issue as a data breach internally. So I don't think it needs to do anything more here with regards to Miss R. I say this because, other than the disruption to her contributions, Miss R wasn't impacted by this; it wasn't her personal information that was shared. And for the reasons explained above, I'm satisfied Scottish Widows has already done enough to put matters right in terms of the direct debits not being collected from Miss R's account and the resulting poor service she experienced.

Overall, I think what Scottish Widows has already paid in compensation, and its offer to set up a repayment plan for the missing contributions, is fair. So I'm not upholding this complaint.

If Miss R decides she wishes to proceed with a repayment plan, she should let Scottish Widows know.

### **My final decision**

For the reasons explained, I'm satisfied that Scottish Widows Limited has already done enough to put matters right. So I'm not upholding this complaint.

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

Lorna Goulding  
**Ombudsman**