

The complaint

Mr C has complained that the process of purchasing a Scottish Widows Limited ('Scottish Widows') annuity was unduly delayed.

Mr C has stated that errors by Scottish Widows meant the annuity purchase was delayed and monthly income payments were missed, causing financial loss.

Mr C is being assisted in this complaint by his financial adviser.

What happened

Broadly speaking all parties agree on the chain of events which occurred in this case, as such the below is a summary of the key points of contact. Whilst not all communications have been included below, I would like to reassure all parties that all the evidence and commentary provided has been fully considered.

Having been advised to purchase an annuity, Mr C stopped drawing down funds from his Aegon pension and applied for a Scottish Widows annuity in October 2022. The application form was accompanied by a quote showing that the annuity was expected to provide £5,967 income each year.

The application form was received by Scottish Widows on 31 October 2022.

On 8 November 2022 Scottish Widows wrote to Mr C's adviser for further policy information and once this was received the transfer was requested via the online Origo system on 11 November 2022. This request was rejected as the reference number which had been supplied by Mr C's adviser was incorrect.

Once this issue was resolved, and a second transfer was submitted via the online Origo system. This was also rejected as Mr C's Aegon policy needed to be transferred manually.

The manual transfer request was submitted to Aegon on 15 November 2022. The documentation was sent to an email address which had been provided to Scottish Widows by Aegon over the phone, with the email being sent to ARC client services.

With no progress being made on the transfer request Mr C's IFA registered a complaint with Scottish Widows on 8 December 2022.

Scottish Widows made further requests on 9 January 2023 and 2 February 2023. The 2 February 2023 chaser was sent to different email addresses at Aegon, which had been provided by Mr C's IFA on 25 January 2023.

Scottish Widows provided an update on their complaint investigation on 7 February 2023, stating that this was still ongoing. Unhappy with this, and with the annuity still not set up, Mr C referred his complaint to this service on 10 February 2023.

On 16 February 2023 Aegon issued a letter to Scottish Widows confirming that they had processed the transfer application for Mr C and would send the funds to Scottish Widows in

3-5 working days.

The annuity was set up on the same day. The purchase price (less adviser charge) was now £117,351 with income of £6,052 per year being provided.

Scottish Widows issued their complaint response on 13 March 2023.

This rejected the complaint. Scottish Widows stated that they had sent the manual transfer request to the email address provided to them by Aegon. This was sent on 15 November 2022. This request was chased on 9 January 2023 and 2 February 2023.

Overall, Scottish Widows did not consider themselves responsible for any delays in the setting up of the annuity.

Our investigator looked into the complaint and concluded that Scottish Widows had not acted fairly. Having decided that Scottish Widows were responsible for the delays suffered by Mr C, the investigator also provided redress instructions.

Scottish Widows did not agree and stated that the email address they had used on 15 November 2022 had been given to them by Aegon and that they had received no 'bounce back' email in response to this submission. Scottish Widows also noted that the annuity income received by Mr C was higher than that which would have been received had there not been a delay.

Our investigator was not minded to change their outcome and as such the case was passed to me for a final decision.

I initially issued a provisional decision which stated:

"From the chain of events above it is clear that any delays prior to 15 November 2022 cannot be considered Scottish Widows' responsibility. Issues with the incorrect policy information and a manual transfer application being required cannot reasonably be attributed to Scottish Widows.

The initial manual transfer request made by Scottish Widows on 15 November 2022 used an email address which had been provided by Aegon. Whilst Aegon had previously provided Scottish Widows with the correct email address to use (when the second Origo request was returned) it was not unreasonable for Scottish Widows to use the email address which had been provided over the phone.

It is clear that Aegon providing an incorrect email address over the phone was an error on their part.

However, our investigator concluded that despite this error on Aegon's part, the delays suffered by Mr C were Scottish Widows' responsibility. I have reached the same conclusion and for broadly the same reasons.

The email address provided by Aegon over the phone was incorrect, as this email inbox had been shut down. Aegon have confirmed that any emails sent to this address would have received an automated 'bounce back' reply stating that the email address was no longer in force and that any correspondence had not been forwarded on.

Whilst Scottish Widows have stated that they could not find any such bounce back email on their file, Aegon have been able to provide a copy of this automated response.

Additional evidence supporting the fact that any emails sent to this incorrect address did receive an automated response has been provided by Mr C's IFA, who also emailed this incorrect address on 15 November 2022 and who has provided this service with a copy of the 'bounce back' email he received in reply.

Given such 'bounce back' emails are typically automated and would have required no specific activity on Aegon's part, I can see no reason why such an automated email response would have been received by Mr C's IFA and not Scottish Widows. As such, based on the evidence above I have concluded that it is more likely than not that an automated 'bounce back' email was sent to Scottish Widows by Aegon following their 15 November 2022 submission.

Overall, whilst I accept an error was made by Aegon in providing an incorrect email address, I have concluded that this was negated by the provision of a response to Scottish Widows' email confirming that the email address used was no longer valid.

I accept and have fully considered Scottish Widows assertion that they can find no evidence of any such 'bounce back' email being received. However, in cases such as this, where parties to a complaint disagree, it is my role to make a decision based on what I consider most likely to have occurred based on the evidence available.

Upon receipt of such an email Scottish Widows would, or should, have taken steps to re-submit the documentation to the correct place. Making further queries to Aegon directly or referring back to the Origo system would have provided the correct correspondence address and allowed the transfer to complete in a timely manner.

Whilst Scottish Widows and Aegon tried to chase each other between November 2022 and January 2023, none of this would have been necessary had appropriate action been taken following the failed submission of the transfer documentation on 15 November 2022.

In the findings already issued our investigator concluded that had Scottish Widows acted reasonably Mr C's annuity would have been set up around 10 working days after the 15 November 2022 request. It is impossible for me to know exactly when the annuity would have been set up had Scottish Widows acted differently, however I do not consider this date unreasonable and as such I see no reason to change it."

In addition to the rationale above I asked both parties to provide any additional information or commentary they wanted taken into consideration before a final decision was issued.

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 both parties agree with the outcome reached and the redress instructions provided, I have not made any changes to the outcome already communicated, I remain of the opinion that this represents a fair outcome in this case.

The redress instructions below are unchanged from those included in my provisional decision.

Putting things right

I have concluded that Mr C's annuity should have been set up more quickly than it was.

As such Mr C lost out on annuity payments that he would otherwise have received.

In order to compensate for this, Scottish Widows should undertake the following steps.

- Calculate the income payments missed had the annuity been set up in a timely manner, using a start date 10 working days after 15 November 2022 until actual annuity income commenced.
- Interest should be added to the missed payments at 8% simple per annum as Mr C was deprived of access to these payments.

It should be noted that the annuity income eventually set up for Mr C was in fact higher than that which had originally been applied for. As such it is reasonable to take this gain into account.

To do this Scottish Widows should:

- Calculate the future gain of Mr C's pension by deducting the original annuity amount which would have been payable had the annuity been set up on time from the actual annuity amount which Mr C is now receiving.
- Scottish Widows must then work out the cost of purchasing an annuity on the open market with these features. It will need to refer to published annuity rate tables and get a quote from a competitive provider.
- The value of this gain can then be deducted from the value of the missed payments. If the answer is negative, there's a future gain and no redress is payable but if the answer remains positive then this amount should be paid as redress to Mr C.

If there is a loss, it would have provided a taxable income. Therefore, the compensation should be reduced to notionally allow for any income tax that would otherwise have been paid. This is an adjustment to ensure the compensation is a fair amount – it isn't a payment of tax to HMRC, so Mr C won't be able to reclaim any of the reduction after compensation is paid.

The notional allowance should be calculated using Mr C's actual or expected marginal rate of tax at his selected retirement age. It's reasonable to assume that Mr C is likely to be a basic rate taxpayer, so the reduction would equal 20%.

In addition to this, Scottish Widows must pay £250 for distress and inconvenience that has been caused to Mr C by having to chase for the transfer of funds and not having his annuity set up on time.

There is guidance on how to carry out calculations available on our website, which can be found by following this link: <https://www.financial-ombudsman.org.uk/businesses/resolving-complaint/understanding-compensation/compensation-investment-complaints>.

Alternatively, just type 'compensation for investment complaints' into the search bar on our website: www.financial-ombudsman.org.uk.

Within their response to the findings issued by our investigator Scottish Widows noted the complexity of the recommended redress. I have concluded that the redress outlined by our investigator is fair in that it accounts for both the annuity income lost by Mr C due to the unnecessary delays, and the gain made by Mr C given the actual annuity income eventually secured was in fact higher than originally applied for.

However, should Scottish Widows want to minimise the administrative burden of the redress recommended above, and simply complete step one, redressing Mr C for the lost annuity income without taking into account the higher annuity income moving forward, I would consider that reasonable.

This would technically over-compensate Mr C but would allow Scottish Widows to reduce the complexity of the redress calculations required.

My final decision

In line with the commentary above I am upholding this complaint against Your text here

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

John Rogowski
Ombudsman