

The complaint

Mr B complains that Scottish Widows Limited (Scottish Widows) shared information he'd provided in connection with his pension with another business, (which I will call 'X').

What happened

Mr B had a bank account with X as well as a Scottish Widows pension.

In June 2023 he raised a complaint with Scottish Widows because when he opened his online banking app for X, he could see details of his Scottish Widows pension. Mr B said he didn't recall giving either business permission for his data to be shared and he had concerns that this went against the principles of the General Data Protection Regulation (GDPR).

Scottish Widows responded in August 2023, issuing a final response letter (FRL). In this it explained that Scottish Widows and X were both part of the Lloyds Banking Group (LBG) and so they shared information. It said that when Mr B registered to use the terms and conditions for X's online services, he would have signed up to the online banking agreement. It said the terms and conditions of this online agreement enabled LBG to make additional services and products available through internet banking. It therefore didn't uphold the complaint. It also noted there was no 'opt out' process available despite Mr B's continued unhappiness. However, it said that it had taken too long to respond to Mr B's complaint and paid him £30 compensation for this.

Mr B then sent Scottish Widows some follow up questions asking for more detail about the terms and conditions it had referenced in its FRL. Scottish Widows didn't respond to these queries and Mr B then brought his concerns to our Service in January 2024. In May 2024 Scottish Widows issued a second FRL and offered a further £300 compensation for the poor handling of Mr B's complaint - it noted that it should have responded to his further questions sooner. It maintained its position in relation to the sharing of data between businesses, saying that information could be lawfully shared between companies in the group and provided some more links to privacy policies and terms and conditions from both Scottish Widows' and X's websites.

Mr B remained unhappy and asked our Service to look into things further. He asked for £100,000 compensation for the breach of GDPR and £1000 for the inconvenience caused. He raised a number of points including:

- The loss of privacy made him feel his details were vulnerable and insecure which was distressing.
- Seeing details of his pension frequently was distressing as the pot was stagnating and wasn't sufficient.
- He'd felt the need to move other pensions across to his Scottish Widows pension because he wanted to see a bigger pension pot – this movement had incurred costs.
- He'd moved one of his bank accounts with X which was inconvenient. But he noted he still had a joint current and savings account with X so could still see the Scottish

Widows pension which was distressing.

- He'd spent considerable amounts of time chasing a response to his complaint and it was distressing to not have answers or things resolved over such a long period of time.

Our Investigator looked into things and was of the view Scottish Widows' offer to resolve the complaint was fair. They said that the Scottish Widows privacy notice stated that information can be shared within the LBG. They also felt £330 total compensation was sufficient for the distress and inconvenience caused by the poor handling of the complaint.

Mr B disagreed and raised a number of points. This included the fact he remained unclear about what specific clause was being relied on to allow the sharing of his data and that his requests for earlier versions of the relevant terms and conditions/policies had been ignored. He didn't feel Scottish Widows had acted fairly in not setting out what type of data was being shared and why. He also felt that because this complaint had been ongoing for over a year, further compensation was warranted.

Scottish Widows said the details of its data privacy policy would have been shared with Mr B when he joined in 2018 but it explained that it no longer held a copy of this pack and was struggling to obtain a historic copy of his policy.

So, the complaint was passed to me to decide. After reviewing things, I thought it was likely I'd reach the same outcome as the Investigator but for different reasons, so I issued a provisional decision to ensure both parties had the opportunity to respond before a final decision was made. In brief, I said I was satisfied the privacy policy made it clear information would be shared across the LBG. I said that whilst I wasn't sure if Scottish Widows brought this to Mr B's attention in the way I'd expect, I wasn't persuaded he'd have done anything differently if it was. I also said the £330 Scottish Widows had now offered was fair compensation for the impact of the poor complaint handling.

Scottish Widows had nothing further to add. Mr B confirmed there were things he disagreed with and made further points, including:

- The £330 that was offered by Scottish Widows was not contingent on the settlement of the complaint.
- Mr B wanted to know precisely what part of the policy Scottish Widows was relying on when sharing his data.
- Mr B felt Scottish Widows had breached contract by not being able to evidence when Mr B agreed to share his data.
- Mr B felt the lack of an opt-out option was unreasonable.

I'm now in a position to issue a final decision on this complaint.

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.

I'd like to start by clarifying that this is a complaint against Scottish Widows. And whilst it may be part of the wider LBG, X is a separate firm. I am aware Mr B also has concerns about X's actions in relation to his personal information and that these have been dealt with separately. In this decision, I can only consider the actions of Scottish Widows.

I also think it's important to note that it's not my role to decide whether there has been a data breach here. This would be for the Information Commissioner's Office which regulates compliance to data protection laws in the UK. My role is to decide whether I think Scottish Widows has acted fairly in the circumstances and to consider the impact on Mr B if it did not.

It's clear Mr B feels very strongly about this complaint. He's provided detailed submissions to our Service. I've carefully read all of the correspondence that's been sent. That being said, my decision won't address every point or comment raised. I mean no discourtesy by this, it simply reflects the fact our Service is an informal dispute resolution service, set up as a free alternative to the courts. So, in deciding this complaint I've focussed on what I consider to be the heart of the matter, rather than considering every issue in turn.

Mr B doesn't think it was fair that Scottish Widows shared information about his pension with X and he doesn't believe it informed him it would do so.

It's not our Service's role to regulate businesses, this would be for the Financial Conduct Authority (FCA). So it's not my role to decide whether a business's policies are appropriate or should be changed. My role is to reach a finding on whether Scottish Widows has treated Mr B fairly.

I'm satisfied Scottish Widow's current privacy policy does state that his information will be shared across the LBG. Specifically, it says:

'We may share your personal information with other companies in the Lloyds Banking Group. These companies may use different brand names. For details of our brands, please see the 'Who we are' section.

We share the information to make sure our records are accurate. For example, if you hold products with different brands in the Group, and you update your information with one of them, we may share this information with the other brands you hold products with. We also share the information to help us provide you with products and services. For example, we could use information we learn about you from your transaction history with one of our brands to support an insurance product application with another brand.'

But Mr B's Scottish Widows pension started in 2018 and I understand that it was in 2018 that his pension information was first shared with X. So, I agree with him that it's also important to consider what policy was in place at that point in time.

Scottish Widows has said it cannot locate a copy of the relevant privacy policy from 2018. Given this was over six years ago, I don't think it's unreasonable that this record is not readily available. However, having used an online website archive tool, I have found a version of its privacy policy from 2018. And this similarly advises that information will be shared across the LBG for a variety of purposes. So, I think the 2018 privacy policy also made clear that information could be shared by Scottish Widows to other businesses within the LBG.

Scottish Widows has confirmed that it shares data for a number of reasons including to provide its customers, in this case Mr B, with *'products and services'* as per its privacy policy. It has said having this information available within X's banking app aligns with FCA good practice guidance for pension providers to maximise awareness of pensions to customers. Whilst I appreciate this is something Mr B has personally found distressing, I am not persuaded that the sharing of Mr B's pension information for this reason is inherently unfair given its also in line with the privacy policy.

Whilst I appreciate Mr B feels Scottish Widows should enable its customers to opt-out of sharing their data across the LBG, this isn't an option that is currently offered. And it's not my

role to decide whether a business's policies are appropriate or should be changed. Here I'm satisfied the relevant policies are clear that Scottish Widows will share data across the LBG and there is no suggestion that there is an option to opt-out of this. So, I'm not persuaded Scottish Widows has acted unfairly in not giving Mr B an opt-out option.

Of course, I would expect Scottish Widows to have brought its privacy policy to Mr B's attention so that he could understand that his data might be shared in this way and therefore make informed choices. Scottish Widows has said the data privacy policy would have been included in Mr B's welcome pack, but it now doesn't have any evidence to confirm this was done. Once again, given the time elapsed since this pension was first taken out, I don't think it's unreasonable Scottish Widows no longer has this evidence available. But I recognise that ultimately, this means I do not know if Scottish Widows brought this data policy to Mr B's attention in the way I'd expect in 2018. Typically, where information is incomplete or conflicting, I have to decide what I think is more likely than not to have happened based on the evidence available. However, I don't think I need to make a finding on this specific point because I'm not persuaded Mr B would have done anything differently even if this privacy policy was brought to his attention at that time. I say this noting that Mr B has chosen to keep his pension with Scottish Widows since finding out about the sharing of this data. And I'm also satisfied links to the privacy policy were included in his annual statements, so it was open to Mr B to look into the way in which his data was used by Scottish Widows if this was information he'd been seeking.

I appreciate it must have been shocking for Mr B to discover his data had been shared in a way he hadn't expected, but the privacy policy was then immediately available to him online to help him understand how and why his data had been shared in this way. So, I think it was possible for him to quite quickly satisfy himself that his data hadn't been compromised. I'm also satisfied Scottish Widows isn't responsible for the size of Mr B's pension pot or the upset seeing this caused him. Ultimately, I think it is reasonable for Scottish Widows to make Mr B aware of the size of his pension pot as this allows him to make informed choices. And in these circumstances, I do not think it's fair or reasonable to hold Scottish Widows responsible for the cost of any pension transfers Mr B independently decided to carry out because he was unhappy with the size of his pension pot.

Scottish Widows has agreed that it's handling of Mr B's complaint was poor. And I recognise this prolonged things for Mr B, causing inconvenience. I also think that Scottish Widows didn't provide him with a very clear explanation of what terms were in place at the time he took out his pension, which I think was a reasonable question for him to have asked. So, I think it's taken a lot longer than it ought to have for Mr B to get the explanation I'd expect. And it's clear he found this distressing. I note Scottish Widows has now offered Mr B £330 for the distress and inconvenience caused, and I think this is a fair award in the circumstances taking this impact into account.

So, whilst I recognise this decision will come as a disappointment to Mr B, I do not think Scottish Widows needs to do anything further.

My final decision

My final decision is that Scottish Widows Limited should pay Mr B £330 for distress and inconvenience if it hasn't done so already.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 11 April 2025.

Jade Cunningham
Ombudsman

