

The complaint

Ms L has complained that Scottish Widows Limited (Scottish Widows) caused a delay to the transfer of her occupational pension scheme OPS , causing her to suffer a financial loss.

Ms L would like to be compensated for this loss as well as the distress and inconvenience she has suffered as a result.

What happened

I have reviewed all the evidence provided by both parties. I have not reproduced all of this in this decision but concentrated on what I believe to be the most relevant parts.

Ms L held an OPS which held benefits she wanted to transfer to Scottish Widows. On September 15 2022, she contacted Scottish Widows to request information about transferring her benefits to it, alongside two other pensions.. Scottish Widows replied the same day, providing the information she required and details of how to apply for the transfer.

Ms L requested Scottish Widows to transfer her benefits using its online portal. She subsequently contacted Scottish Widows on 14 November 2022 to ask for an update on the progress of the transfer. She told Scottish Widows that the two other pension transfers had already been completed.

On 7 December 2022 Scottish Widows contacted Ms L to inform her that it had not received the documents she had submitted through the portal and that it believed that there may have been a miscommunication when it informed her of the next steps in the transfer process. Scottish Widows also sent some additional discharge forms that she would need to complete because her policy could not be transferred through the origo system.

Ms L completed these forms and returned them to Scottish Widows the following day, 8 December 2022, before contacting it again on 15 December 2022 to check that the documents had been received. She called again on 6 January as Scottish Widows had not replied to her.

Ms L called Scottish Widows on 23 February 2023 to raise a complaint about the lack of contact from Scottish Widows and the time that the transfer was taking.

Scottish Widows sent the completed forms to the OPS on 19 April 2023, before chasing the OPS on 17 May 2023.

On 31 May 2023 Scottish Widows responded to Ms L's complaint, upholding it. It agreed that it had provided her with poor service and offered her £300 in respect of the distress and inconvenience its mistakes had caused her. Ms L accepted this resolution on her complaint to date.

On 21 August 2023 Scottish Widows received required HMRC information and transfer forms from the OPS. This included forms for both Scottish Widows and Ms L to complete to progress the transfer.

On 7 September 2023 Ms L contacted Scottish Widows to say that the OPS had contacted her directly to ask her to complete a form and send it to Scottish Widows, which she subsequently did and sent to Scottish Widows on 8 September 2023. She also highlighted the fact that the quoted transfer value of her pension she had received from the OPS would expire in November, so the transfer needed to be completed before this date.

The OPS contacted Scottish Widows on 22 September 2023 to inform it that the forms that it had received from Scottish Widows were incorrect and incomplete.

On 5 October 2023 Ms L raised another complaint about delays to the transfer and the service she had received from Scottish Widows.

The OPS contacted Scottish Widows again on 16 and 21 November 2023 to request the completed forms. These were sent by Scottish Widows on 27 December 2023.

The transfer from the OPS was completed on 29 January 2024, and Scottish Widows confirmed this to Ms L on 15 February 2024.

Scottish Widows issued its final response to Ms L's complaint of 5 October 2023 on 21 February 2024. It once more upheld her complaint. Taking into account the issues she had experienced earlier during the transfer it awarded her an additional £550 in respect of the distress and inconvenience she had suffered. It also said:

Having reviewed the timeline of events in relation to the transfer, I believe that the earliest we could have received and applied the transfer funds to your policy would have been 04 October 2023. The transfer amount of [amount] was actually applied on 29 January 2024.

Using these dates, Scottish Widows calculated that Ms L had lost c£620 as a result of the delay and it proposed to pay this amount into her pension.

Unhappy with this response, Ms L brought her complaint to this service. In particular, she felt that not only had she suffered a from poor service from Scottish Widows but she had also incurred a greater delay to her transfer than that suggested by Scottish Widows.

Our investigator reviewed the evidence in this case and agreed with Ms L. They felt that the transfer should have been concluded significantly sooner than 4 October 2023 and felt that the date of 11 May 2023 should instead be used to calculate Ms L's financial loss.

Scottish Widows accepted our investigator's view. Ms L responded to the view to say that she felt that the transfer may also have been affected by a pause in transfer activity her OPS had put in place between March and July 2023 and the transfer should have been completed before this pause came into effect.

On further investigation, evidence came to light which indicated that the pause in the OPS came into effect on 30 March 2023 and lasted until 7 July 2023. Our investigator considered this evidence and concluded that the transfer could have been completed on 14 March 2023, before the pause came into effect. They updated their view to reflect this.

Both Scottish Widows and Ms L agreed with this view and the complaint was closed.

Unfortunately, Ms L had cause to contact this service again on 4 October 2024 as Scottish Widows had not provided her with the agreed compensation. Scottish Widows wrote to Ms L on 15 October 2024 to say it had not been able to calculate the financial loss she had suffered as it had been unable to obtain the necessary information from the OPS. It asked

Ms L if she could contact her OPS directly to ask for the information, but she was unwilling to do so as she had already spent over two years trying to resolve this situation.

Consequently, the complaint has been reopened and passed to me to make a final decision.

Before doing so, I contacted Scottish Widows to ask what efforts it had made to get the information it required from the OPS and it provided these details.

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 will explain now how I have reached my conclusions.

Firstly, I think it's important to reflect upon the role of this Service. Our role is to impartially review the circumstances of a complaint and make a decision on whether a business has made errors or treated a customer unfairly. Where it has, we expect a business to fairly compensate a customer for any financial loss and distress and inconvenience they have suffered as a result.

In the circumstances of this case, I need to decide whether Scottish Widows caused an undue delay to Ms L's transfer. In its response to Ms L's complaint, it said that the earliest the transfer could have been completed was 4 October 2023. I'll look at the events to decide whether I think this date is appropriate and if not, which date should be used to consider if Ms L has suffered a financial loss because of the delay.

To reach my decision, I have considered a number of the steps in the transfer process to determine what I think is a fair and reasonable estimate of the delay in the circumstances of this complaint. I'll compare the time actually taken with the time that I think would be fair and reasonable to complete each of these. I will also assume that an activity taken by either Ms L or the OPS would take the same amount of time as it actually did during the transfer.

The first stage is when Scottish Widows should have begun the process of requesting the transfer of Ms L's pension benefits. It's fair and reasonable that Scottish Widows should only begin this process when it has received a valid instruction to do this – and in this case it required Ms L to return the completed forms to it. I've considered that Ms L tried to submit these forms via the online portal, but Scottish Widows has stated that this was not a mechanism by which the forms could be submitted. As Ms L contacted Scottish Widows on 14 November 2022 to ask if it had received the forms she sent, I agree with our investigator that Scottish Widows should have responded to her query within five working days. This would have meant on 21 November 2022, rather than 7 December 2022, so I find that Scottish Widows introduced a delay of 11 working days at this point.

Ms L replied the following day with the completed forms, so Scottish Widows should have received the forms on 22 November 2022 rather than 8 December 2022. I can see that Scottish Widows did not send the forms on to the OPS until 19 April 2023, which I consider to be a significant length of time. I would have expected that the forms could have been reviewed and forwarded to the OPS within a further five working days, so by 29 November 2022 at the latest. This means that I consider that Scottish Widows caused a delay of 131 working days at this point in the process.

The next step of the process was when the OPS reviewed and completed the forms before passing them back to Scottish Widows on 21 August 2023. Although it is not reasonable for me to hold Scottish Widows responsible for the delay at this point, I have to also consider that the OPS had placed a pause on making transfers between 30 March 2023 and 7 July

2023, so would not have undertaken any work on Ms L's transfer during this period. This means that by the time Scottish Widows sent the forms to the OPS it was already not undertaking any transfer activity, which contributed to the delay in the OPS completing its work.

The OPS sent Scottish Widows the information it required on 21 August 2023, which is 32 days after it recommenced transfer activity. Ms L then sent the final transfer forms to Scottish Widows on 8 September 2023, which is some 44 days after transfer activity recommenced. I can't hold Scottish Widows responsible for the time taken for both the OPS and Ms L to complete these forms, but I do find that this work should have begun and finished much sooner, as I have already found that Scottish Widows should have sent the forms to the OPS on 29 November 2022. Consequently, I find that the forms would have been returned by the OPS on 3 January 2023. Ms L would have returned her forms a further 22 days later, on 2 February 2023. At this point, Scottish Widows would have received all the information it needed to request the transfer of benefits from the OPS. I agree once more that it should have been possible for Scottish Widows to request the transfer within five working days of this date.

The final stage of the process was the transfer of benefits from the OPS to Scottish Widows. This took a total of 22 days, from the time.

Taking all these elements of delay into account, and starting from the date I consider that Scottish Widows should have had all the information it needed to contact the OPS I find it fair and reasonable that Ms L's transfer should have taken place much earlier than 29 January 2024, or 4 October 2023 as Scottish Widows maintained in its response to Ms L's complaint.

On balance, I think it's fair and reasonable to conclude that the transfer should have been completed by 14 March 2023, before the OPS began its pause on transfer activity. Consequently, I find that Scottish Widows should base its calculation of any loss Ms L may have made on this date.

I can see from Ms L's evidence that the very lengthy delay to her pension transfer caused by Scottish Widows has caused her significant distress and inconvenience. Scottish Widows itself agrees that it provided Ms L with poor customer service. It has apologised to her for this and initially offered her compensation of £300 in respect of her distress and inconvenience, before increasing this amount by a further £550, making a total of £850. I find that this amount is appropriate given the circumstances of this complaint, so I won't be asking Scottish Widows to do any more in this respect.

I also understand that despite the fact that both Ms L and Scottish Widows accepted our investigator's view, Scottish Widows has not yet provided Ms L with the level of compensation it should have, leading to the complaint being reopened and sent to me for a final decision. Scottish Widows gave details of attempts it has made to get the relevant information from the OPS, which I understand to be without success.

I expect Scottish Widows to make every attempt to prioritise the payment of compensation to Ms L in these circumstances.

Putting things right

In assessing what would be fair compensation, my aim is to put Ms L as close as possible to the position she would probably now be in if Scottish Widows had not made the mistakes it did.

To compensate Ms L fairly, Scottish Widows should:

- Compare the actual value of Ms L's pension funds divested on 29 January 2024 with the notional value if the divestment had taken place on 14 March 2023.

If the notional value is greater than the actual value, there is a loss and compensation is due. For the purposes of calculating Ms L's financial loss, Scottish Widows should seek a notional value from the OPS, had the transfer been made on 14 March 2023. If the OPS charges a fee for producing this notional value, the cost of doing so must be met by Scottish Widows. If there is a loss, Scottish Widows should also calculate the effect of any consequential investment loss on the compensation from 14 March 2023 to the date of settlement to establish the total level of compensation due.

- If there is a loss, Scottish Widows should pay into Ms L's pension plan, to increase its value by the amount of the compensation. The payment should allow for the effect of charges and any available tax relief. Scottish Widows shouldn't pay the compensation into the pension plan if it would conflict with any existing protection or allowance.
- If Scottish Widows is unable to pay the compensation into Ms L's pension plan, it should pay that amount direct to her. But had it been possible to pay into the plan, 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 Ms L won't be able to reclaim any of the reduction after compensation is paid.
- The notional allowance should be calculated using Ms L's actual or expected marginal rate of tax at her selected retirement age.
- It's reasonable to assume that Ms L is likely to be a basic rate taxpayer at the selected retirement age, so the reduction would equal 20%. However, if Ms L would have been able to take a tax-free lump sum, the reduction should be applied to 75% of the compensation, resulting in an overall reduction of 15%.
- Provide the details of the calculation to Ms L in a clear, simple format.

It may, however, not be possible for Scottish Widows to get the relevant information from the OPS in a timely manner. I'm mindful that Ms L has been waiting for a long time to resolve this issue, or the OPS might not be willing to do this, or potentially fail to respond. So, in the event the OPS refuses or fails to respond within three months of Scottish Widows' request, then Scottish Widows should use the FTSE UK Private Investors Income Total Return Index instead as a benchmark. The percentage change between these values between 14 March 2023 and 29 January 2024 should be applied to the actual value transferred to determine whether a loss has occurred.

Why is this remedy suitable?

I've chosen this method of compensation because:

As an alternative, the FTSE UK Private Investors Income Total Return index is made up of a range of indices with different asset classes, mainly UK equities and government bonds. It's a fair measure for someone who was prepared to take some risk to get a higher return.

Although it is called an income index, the mix and diversification provided within the index is close enough to allow me to use it as a reasonable measure of comparison given Ms L's circumstances.

I think this is a reasonable way to ensure Ms L is appropriately compensated in the event that Scottish Widows is unable to get the required information from the OPS.

Actual value

This means the actual amount paid or payable from the investment at the actual date of divestment, i.e. 29 January 2024.

Notional value

This means the actual amount paid or payable from the investment at the correct date of divestment, i.e. 14 March 2023.

Any additional sum paid into the investment should be added to the fair value calculation from the point in time when it was actually paid in. Any withdrawal, income or other distributions paid out of the investments should be deducted from the fair value calculation at the point it was actually paid so it ceases to accrue any return in the calculation from that point on. If there is a large number of regular payments, to keep calculations simpler, I'll accept if Scottish Widows total all those payments and deduct that figure at the end.

My final decision

For the reasons given above, I uphold Ms L's complaint.

SCOTTISH WIDOWS Limited should take the actions outlined above to resolve this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms L to accept or reject my decision before 13 June 2025.

Bill Catchpole
Ombudsman