

## **The complaint**

Ms W complains that Scottish Widows Limited trading as Clerical Medical (Scottish Widows) caused delays in implementing a Court ordered Pension Sharing Order (PSO) and processed it at a lower value than it should have. She wants the value increased and compensation for the inconvenience.

## **What happened**

In March 2021 as part of Ms W's divorce settlement, the Court awarded her 100% of her former husband's Clerical Medical Personal Pension Plan (the plan). Her ex-husband's solicitors wrote to Scottish Widows confirming this in December 2021, enclosing the PSO, and it provided Ms W's email address as it didn't have her current postal address. To comply with the PSO Scottish Widows would require information from Ms W, including a copy of the Decree Absolute and confirmation of whether she wished to set up a new pension plan with it or transfer to another provider. Ms W contacted Scottish Widows herself in January 2022 and provided her postal address.

There is a dispute about what happened but over an extended period of more than two and a half years Scottish Widows says it issued documentation by post on multiple occasions which Ms W says she either did not receive or that it contained errors when she did. During this time Ms W complained and Scottish Widows agreed to email the documents in April 2023, it also paid her £50 for the delay in looking into her complaint.

Despite this communication problems continued, and Scottish Widows says it only received the Decree Absolute in September 2023, having contacted Ms W's ex-husband. It subsequently processed the PSO by setting up a new Scottish Widows plan as Ms W had requested completing this on 15 July 2024. It used the fund value then of £45,469.78. Throughout the period Ms W made various complaints about delays and once completed about the value used, which she said was too low as the plan had been worth around £50,000. Scottish Widows accepted it had made errors including sending incorrect documents and trying to contact Ms W's ex-husband when it didn't need to. It paid her £500 in compensation for the inconvenience it had caused. But it said it couldn't process the PSO until it had the necessary information, and that it had used the correct fund value for the transfer.

Ms W didn't agree and referred her complaint to our service. Our investigator looked into it, and she upheld the complaint.

Our investigator said both Scottish Widows and Ms W had caused delays and there had been confusion over both her postal and email addresses. She said various documents sent to Ms W over the period quoted current values for the plan which had fluctuated. She said as Ms W was calling Scottish Widows over many months to chase documents which she said hadn't been delivered, it should have agreed to email them sooner than it did in April 2023. But our investigator said whilst Ms W had subsequently raised concerns over errors in documents and others not being delivered, she was in a position to respond by October 2023. As Scottish Widows had engaged with her and repeatedly sent out documents to her, although during this period Ms W had changed both her postal and email address. Our

investigator said Scottish Widows caused some further delays but had all it required by 6 July 2024 after which it had taken nine days to set up a new Stakeholder Pension and complete the PSO transfer. She said based on what did happen but for the delays and errors it had made Scottish Widows should have been in a position to proceed from 12 June 2023 and should have completed the transfer by 21 June 2023.

Our investigator said Scottish Widows should calculate the value of the original plan on 12 June 2023. And then the notional value of the new plan now, had the transfer completed on 21 June 2023 and compare that to the actual current plan value. If the notional value was higher there was a loss, and it should pay the difference into the new plan. She said the £500 compensation Scottish Widows had already paid for the delays and inconvenience caused should be increased by £250 to give £750 in total.

Both Ms W and Scottish Widows agreed. Scottish Widows carried out the calculations our investigator had proposed and said the actual value of the old plan on 12 June 2023 was £42,371.10 which would (at the date of the calculations) now be worth £49,189.48 in the new plan. This was £1,988.88 more than the current value of the new Stakeholder Pension plan. It said it would increase the number of fund units held in the new plan to increase its value by £1,998.88. Our investigator sent Ms W details of the calculations. Ms W then said she didn't agree that the value from 12 June 2023 was fair and should be the March 2021 value when the PSO was ordered by the Court. She said she hadn't caused any delay as she'd sent forms back to Scottish Widows. She said she would check her emails and calls for confirmation of the higher fund value of around £50,000.

Our investigator didn't change her mind and thought the adjustment Scottish Widows proposed would fairly resolve the complaint. Ms W said Scottish Widows had now made the adjustment to her new plan, but she didn't provide any further evidence about the value of the previous plan.

As Ms W doesn't agree it has come to me to decide.

### **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 am upholding the complaint.

I think Scottish Widows did cause significant delay and it should have better got to grips with whatever issues were preventing Ms W from receiving and returning the necessary documentation to process the PSO in a timely fashion. I think that has caused her distress and inconvenience over an extended period of time. Fundamentally this complaint is about the delayed transfer of a pension plan. So, I think it is fair, as our investigator has done, to consider it as we would any other pension transfer delay. Which is to establish whether any avoidable delays caused by Scottish Widows have had any financial consequences for Ms W, and if so to put her back into the position she should have been in.

A pension provider can only complete any pension transfer when it has all the necessary information to do so. If it takes too long to issue the necessary paperwork, or documents contain errors, it is responsible for the delays that causes. Should the consumer delay returning that paperwork or other documents, it isn't fair to say the pension provider is also responsible for those delays. Instead, we look to the evidence to see who or what caused avoidable delays and compare what did happen to what should have happened. And that means it is fair to use the value of the plan on the day it should have been transferred if there were no avoidable delays to calculate whether any financial loss has occurred.

Scottish Widows' records show it sent multiple letters to Ms W over the period and after it began emailing her it seems she had some difficulty opening secure emails. But once documents had been sent by email, I think it should have been possible to get everything together by 12 June 2023 as our investigator has said. So, it's fair that the value from then is used for the transfer into the new plan. Scottish Widows has confirmed the value then was £42,371.10. It calculated that the current value would have been £1,988.88 higher (at £49,189.48), if the transfer had been completed on 21 June 2023. This is despite the higher transfer value of £45,469.78 on 7 July 2024, initially used by Scottish Widows, presumably because the new investments selected by Ms W have performed better than those under her ex-husbands old plan.

Ms W says the transfer value should be higher and should have been around £50,000. I can see from its file that Scottish Widows emailed Ms W on 27 March 2024 confirming a current, but not guaranteed, value of £48,935.83, which may be the figure she is referring to. In reply, Ms W told Scottish Widows on 28 March 2024 that it should action the transfer with an effective date on 12 March 2021 (the date of the Court order), something she has suggested again following our investigators view. But Scottish Widows didn't have the necessary information needed to comply with the PSO then and the divorce wasn't finalised at that point. And whilst it is understandable that Ms W would want the highest value to be transferred the value of her ex-husbands plan wasn't guaranteed. And the value might well have been quite a lot lower in March 2021 than it was in June 2023. As the following valuations show, investment markets have been quite volatile over the last few years. From Scottish Widows file I can see that the value of the plan on 20 December 2020 was £35,333.97, by 20 December 2021 it had increased to £41,865.36. In December 2022 the value was down to £39,960.13 before increasing to £45,756.83 in December 2023.

Had the transfer been completed as it should have been any values after 12 June 2023 wouldn't have applied as the new plan, with its own value, would have been in place. So, it is fair to take the value from then and compare the returns achieved since to establish if there has been any investment loss. The calculations undertaken by Scottish Widows showed there was. And by increasing the number of investment units in Ms W's plan, it has put her back into the position she should have been in, which I think is fair.

But Ms W has been caused inconvenience by the delays. Scottish Widows has already paid her £500 in compensation for this. In the circumstances I think it is fair that it should pay Ms W a further £250 compensation to give £750 in total for the distress and inconvenience she has suffered. I think this award is in keeping with those our service would make in similar circumstances.

### **My final decision**

My final decision is that I uphold the complaint against Scottish Widows Limited.

I direct Scottish Widows Limited to complete any unit adjustments as necessary as if the former plans value of 12 June 2023 was used for the transfer and completed on 21 June 2023, if it hasn't already done so. And to pay Ms W a further £250 in compensation for the distress and inconvenience she's been caused to give £750 in total.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms W to accept or reject my decision before 21 May 2025.

Nigel Bracken  
**Ombudsman**

