

The complaint

Mr B complains that Scottish Widows Limited failed to act on his request for an enhanced annuity and purchased a standard annuity on his behalf once he'd passed the age of 75 without considering his wishes.

What happened

In 2022 Mr B, with the help of an adviser, sought information from Scottish Widows relating to his pension and the provision of an annuity.

There was a delay in Scottish Widows providing Mr B with the information he required, and a full 'intent pack' wasn't sent to him until 25 October 2022. As part of a response to a complaint from Mr B, Scottish Widows said it would consider if the delay caused any loss when the intent pack was completed and returned by Mr B.

Mr B says he sent Scottish Widows the completed intent pack in April 2023, prior to the normal retirement date of his pension the following month. Scottish Widows say this was received in May 2023.

There was further communication between Scottish Widows and Mr B throughout 2023. Mr B says he made several enquiries with Scottish Widows regarding quotes for an enhanced annuity which took his health conditions into consideration. He also queried the valuation of his policy being used in the quotations considering Scottish Widows' response to his 2022 complaint.

In October 2023 Mr B spoke with Scottish Widows with the help of an adviser. Scottish Widows say they told Mr B that he wasn't entitled to an enhanced annuity as his pension was worth less than £10,000.

Scottish Widows sent Mr B a further intent pack in October 2023 for him to complete and return. As Mr B hadn't accepted any of its annuity quotes by November 2023, Scottish Widows say it set up an annuity for him in line with the terms and conditions of his plan.

In early 2024 Mr B raised a complaint with Scottish Widows as he was unhappy that an annuity had been set up and he hadn't been told about the £10,000 eligibility for an enhanced annuity.

On 30 May 2024 Scottish Widows responded to Mr B's complaint. It said the annuity was purchased at age 75 in accordance with the terms and conditions of his plan. It said that after receiving an intent pack in May 2023 from Mr B, annuity quotes were sent to him, but it didn't receive an acceptance. Instead, Scottish Widows said it received further correspondence from Mr B in June and July 2023 asking for new quotes considering his health conditions.

Scottish Widows explained that it spoke to Mr B in September 2023 and a new intent pack was sent in October. It noted that information was given to Mr B on the telephone on 9 October 2023 that his plan wasn't eligible for an enhanced annuity. But Mr B still sent a

further request for an enhanced annuity in late October 2023.

Scottish Widows went on to say that as they'd explored all options and all extensions had expired, it set up a standard annuity in November 2023. It says it then received a further request for an enhanced annuity from Mr B's advisers in February 2024. It responded, explaining the options Mr B had which included taking tax free cash from his pension. However, that needed to be done before Mr B's 76th birthday.

Scottish Widows then explained however, that as Mr B had now passed his 76th birthday, it could no longer offer a tax-free cash payment.

Scottish Widows said it had already given Mr B the right to refer his complaint to the Financial Ombudsman Service in his previous complaint from 2022 when he was advised he must refer his complaint within six months of that letter. But as that time had elapsed, the Ombudsman would not have Scottish Widow's permission to consider his complaint.

Mr B was unhappy with Scottish Widows response to his complaint. He raised further concerns to them which included that he hadn't received an intent pack from Scottish Widows in October as they'd said. Mr B also said he'd already provided Scottish Widows with his options when he returned the intent pack in April 2023 and the annuity ought to have been set up on that basis.

On 25 June 2024 Scottish Widows issued another complaint response. It had identified a spelling mistake in the email address it used to email him on 9 October 2023 regarding the new intent pack. So, it acknowledged Mr B would not have received the email. It said that Mr B had been given an explanation that he was not eligible for an enhanced annuity in the telephone call on 9 October 2023.

Scottish Widows said the current annuity was set up on Mr B's 75th birthday and had not taken into account any information from the returned pack in April 2023 as the quotes had not been accepted. It noted that Mr B was still able to reshape his annuity to change the way it was paid but could not take any tax-free cash.

Mr B remained unhappy with Scottish Widows' responses. He wrote to it explaining that he hadn't been told about the £10,000 limit for an enhanced annuity despite having had several calls with Scottish Widows. He also explained that as he'd submitted his annuity forms to Scottish Widows in April 2023, they ought to have been used as a basis for setting up his annuity.

On 18 July 2024 Scottish Widows sent another response to Mr B's latest concerns. It noted Mr B's concerns around the enhanced annuity but explained that it wasn't able to give Mr B advice and its forms were standard for all customers. It reiterated that on the call from 9 October 2023 it was explained that enhanced annuities were only available on policies over £10,000.

Scottish Widows went on to say Mr B had only completed annuity quotation request forms and, on each occasion, it had sent its best quotes based on the information submitted. These were not for an enhanced annuity as the policy didn't qualify. Scottish Widows said none of the quotes had been accepted by Mr B and so a standard annuity was activated in November 2023, using the values from the normal retirement date in May 2023.

Scottish Widows again explained that Mr B could reshape the payments of his annuity but couldn't take any tax-free cash.

Mr B referred his complaint to our Service on 3 October 2024. I sent Mr B and Scottish

Widows a decision on our Jurisdiction over this complaint. I explained our Service had jurisdiction to consider Mr B's complaint as the complaint he made in 2022 regarding a delay in receiving an intent pack from Scottish Widows, wasn't the complaint he had brought to our Service. Mr B's current complaint regarded the actions of Scottish Widows in 2023 and 2024 which were referred to our service in time.

Scottish Widows accepted my decision and consented to us looking into Mr B's more recent complaints.

Our investigator didn't uphold Mr B's complaint as he said that although Mr B had returned a quotation request form in April 2023, he hadn't accepted any of the quotes for an annuity which were subsequently provided. He said the terms and conditions of the pension allowed for Scottish Widows to set up an annuity following Mr B's 75th birthday, so he didn't think it had done anything wrong.

Mr B disagreed with our investigator's opinion. He said he hadn't received the intent pack in October 2023 as Scottish Widows had used an incorrect email address, so he didn't know he needed to return it. Mr B maintained that he'd told Scottish Widows how he wanted his annuity set up in April 2023, so it should be set up on that basis. As Mr B disagreed with our investigator's opinion, the complaint has been passed back to me for a 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.

In deciding this complaint I've taken into account the law, any relevant regulatory rules and good industry practice at the time. I have also carefully considered the submissions that have been made by Mr B and by Scottish Widows.

The Financial Conduct Authority's Principles for Businesses (PRIN) apply to all authorised firms including Scottish Widows. Of particular relevance to this complaint is:

PRIN 7: A firm must pay due regard to the information needs of its clients, and communicate information to them in a way which is clear, fair and not misleading.

I've first considered if the information that Scottish Widows gave Mr B was clear, fair and not misleading.

In its response to Mr B's complaint in late 2022, Scottish Widows said:

'When your intent pack has been completed and returned, I have requested our claims team consider the delays caused by Scottish Widows and compare both the value of your policy from the earliest point your intent pack could have been returned (if sent after your request in August 2022) and when we receive this. We will ensure the higher value from each of these dates are used when processing your claim.'

While I explained in my earlier decision why I can't consider the substance of Mr B's complaint from 2022, this part of the resolution offered by Scottish Widows gives important context as to Mr B's actions when he completed the intent pack in 2023.

I say that because when returning the quotes to Mr B, Scottish Widows made no mention of any consideration made to the delay it caused in 2022. And whether it thought that delay had impacted the value of Mr B's funds for the purposes of its quotes.

It's possible that Scottish Widows didn't think its delay in 2022 impacted the valuation of Mr B's pension when sending quotes in 2023, as Mr B himself hadn't returned the intent pack for several months. However, in light of the regulator's expectations, I would have expected Scottish Widows to make it clear to Mr B whether it needed to consider an earlier valuation of Mr B's pension. Scottish Widows didn't make that clear and so, I can appreciate why Mr B continued to query the value of his fund being used in the quotations throughout 2023.

It might have been helpful for Scottish Widows to include in its complaint response whether there were any limitations to its offer or a deadline in which Mr B needed to return the intent pack. But as I said in my previous decision, I'm unable to consider the merits of the 2022 complaint so I can't comment on whether its resolution was fair.

When Mr B returned his intent pack in April 2023, having included information about his medical conditions, Scottish Widows produced a quote with a covering letter sent by both post and email. The covering letter said that the quote produced hadn't taken into account any health or lifestyle factors. It noted that enhanced or impaired life annuities would take these things into account, saying enhanced annuities are widely available.

The letter asked that if Mr B felt he was eligible for this type of annuity, he could contact Scottish Widows by phone.

I can understand why, having already completed a health questionnaire with the intent pack, Mr B would have questioned why his health wasn't taken into account when the quotes were produced. And therefore, why he questioned that in his subsequent letter to Scottish Widows in July 2023 in which he asked for a quote which did consider his health and lifestyle factors.

It wasn't until a phone call in October 2023 that Scottish Widows told Mr B he wasn't eligible for an enhanced annuity with it, due to his pension being valued at lower than £10,000. I think Scottish Widows could have explained its criteria to Mr B much earlier in the process.

Mr B seems to dispute that he was told he wasn't eligible for an enhanced annuity in the call of 9 October 2023 or that he was sent a new intent pack.

I've listened to the call and it's evident Mr B was on the call and was being assisted by an adviser who facilitated the call. While Mr B is hard of hearing, he was offering comments during the conversation, so I'm satisfied, on balance, he was aware of what was being said on this call.

During the call Mr B had questioned why his doctor's surgery hadn't had any contact from Scottish Widows regarding his health when producing quotes for the annuity. Scottish Widows confirmed on the call that, as Mr B's pension was valued at less than £10,000, it didn't qualify for an enhanced annuity. Therefore, Mr B's doctors wouldn't be contacted, and his annuity could be set up by just completing the relevant forms.

Scottish Widows noted that Mr B had already completed and returned an intent pack in April 2023 but suggested that as he'd completed the part of the form for an enhanced annuity, he might need to complete a new intent pack. Scottish Widows said on the call that it would check whether Mr B needed to complete a new intent pack. It said it would email Mr B to let him know whether he needed to complete one, and if he did, it would send one out in the post to his home address.

Scottish Widows then sent an email on 9 October 2023 to say Mr B needed to complete a new intent pack which was being sent out in the post. However, that email was sent to an incorrect email address. So, I'm satisfied it wouldn't have been received by Mr B and he

wouldn't have been aware of its content.

That being said, the adviser had said that he would be checking if Mr B needed to complete a new intent pack and would send one out in the post if he did. So, when a new intent pack arrived in the post for Mr B, I think it's reasonable to conclude Mr B ought to have known it needed to be completed and returned.

I say that especially as the intent pack, dated 10 October 2023, asked Mr B to read the documentation it contained before making a decision. It said that once Mr B had decided which option he wanted to proceed with, he needed to call Scottish Widows quoting his policy number.

I'm also satisfied Mr B received this intent pack as he wrote a letter back to Scottish Widows on 18 October 2023 in which he referenced the 10 October 2023 letter. But in this letter Mr B questioned the policy value and asked Scottish Widows to produce a revised valuation for an enhanced annuity taking into account his health conditions.

The call Mr B and the adviser had with Scottish Widows on 9 October, ought to have made it clear to him that he wasn't entitled to an enhanced annuity, and he needed to return the intent pack if it was sent to him. The intent pack itself was clear that Mr B needed to contact Scottish Widows to accept either of the options given to him. But Mr B didn't return the intent pack, and he didn't accept the quotes sent to him.

It's disappointing to see that Scottish Widows didn't respond to Mr B's letter dated 18 October 2023. While it had been clear with him on the phone that his policy wasn't eligible for an enhanced annuity, Mr B's letter ought to have shown it that he was still under the mistaken impression he would qualify. And, as I've said earlier, Scottish Widows never addressed Mr B's views on the policies valuation either.

I've considered whether Scottish Widows lack of response here led to a loss to Mr B. But I can't say with any certainty that if Scottish Widows had responded to Mr B's letter to explain his eligibility for an enhanced annuity again or why it had used the valuation it had, he would have accepted the annuity quotation. I say that because he had, by that point, been sent the same quotation at least twice before. And Scottish Widows would only be reiterating what Mr B was already clearly told on the phone about his eligibility for an enhanced annuity.

I'm also conscious that when Scottish Widows later say it told Mr B's adviser in February 2024 that he needed to accept the quotation before his 76th birthday to claim any tax-free cash, he still didn't send a clear acceptance. So, on balance, it's unlikely had Scottish Widows been clearer, it would have led to a different outcome for Mr B.

I've gone on to consider whether it was fair for Scottish Widows to set up the annuity and whether it should have done so on the basis of Mr B's returned intent pack from April 2023.

My understanding of the forms Mr B returned in April 2023 was that they were a 'Quotation Request Form' meaning Scottish Widows would produce quotes based on the information they contained, and Mr B would subsequently have to accept those quotes if he chose to.

The form itself wasn't an instruction for Scottish Widows to set up the annuity and Mr B's covering letters effectively asked for Scottish Widows to set up an annuity which took into account his health problems – which we've established couldn't be done. I'm therefore satisfied Mr B didn't send a valid instruction to Scottish Widows in April 2023 as to how his annuity should be set up.

Scottish Widows sent an extract from the terms of Mr B's policy which states that if the policy

holder reaches the day before their 75th birthday and no request had been received to start the pension, then Scottish Widows would use the whole of the total value of the pension to secure a pension, unless otherwise agreed.

Scottish Widows also sent annual statements which included information about Mr B's plan. The 2021 statement reminded Mr B that he needed to take his pension benefits before his 75th birthday otherwise Scottish Widows would use the whole value of the plan to purchase an income for life. It also noted Mr B would lose the right to access tax free cash.

I'm satisfied Scottish Widows followed the terms of Mr B's pension when it used the whole of the total value to secure a pension for Mr B having not received a valid instruction from him.

I've seen that Scottish Widows extended the deadline for Mr B accepting one of their quotes throughout 2023 as he remained in communication with them. After the intent pack was sent to Mr B in October 2023, the deadline was extended for one final time until 20 November 2023.

Although Mr B did respond to the intent pack on 18 October 2023, his response wasn't an acceptance of the quote he'd been given.

Therefore, when the deadline of 20 November 2023 expired, it was reasonable for Scottish Widows to take action in line with the terms of Mr B's policy and set up an annuity in line with those terms. Scottish Widows also back dated the annuity to Mr B's 75th birthday. I'm satisfied that was the fair thing to do to ensure Mr B didn't miss out on several months of payment.

Mr B still maintains that he wants 25% of the value of his pot as tax free cash. However, Scottish Widows had previously warned that Mr B needed to have set up the annuity by his 75th birthday to be eligible. And while it says it extended the deadline to Mr B's 76th birthday, an annuity quote still wasn't accepted. Scottish Widows have explained there are HMRC rules which prevent it from making a tax-free payment now. I don't think Scottish Widows have acted unfairly or unreasonably here. Mr B didn't set up an annuity by his 76th birthday and I have no reason to doubt Scottish Widows explanation that HMRC rules prevent them from making that payment now.

Mr B has also recently said if he knew about the £10,000 limit, he would have been able to make contributions into the pension before he turned 75 to ensure it exceeded £10,000. I've thought about Mr B's comments here, but it doesn't cause me to change my mind.

I say that because it wasn't Scottish Widows role to advise Mr B on how much he should contribute into his pension on the lead up to his 75th birthday. In his annual statements Scottish Widows also regularly reminded Mr B that he could seek financial advice if he was unsure about anything.

Summary

Scottish Widows communications with Mr B could have been much clearer at points. It ought to have made clear the reasons why it hadn't considered Mr B's health and lifestyle factors in its quotes. It also should have explained why it was using the pensions valuation from Mr B's 75th Birthday and not earlier, as per the complaint resolution from 2022.

However, Scottish Widows did make it clear to Mr B in October 2023 that he wasn't eligible for one of its own enhanced annuities and Mr B ought to have known he needed to return the new intent form. When the form wasn't returned, Scottish Widows set up an annuity based on the terms and conditions of the plan which was fair.

Mr B wasn't eligible for an enhanced annuity from Scottish Widows, so he hasn't suffered a loss by now not having one. Mr B was also made aware of the option to shop around and approach other annuity providers throughout the process and I've seen no evidence that he did.

Mr B had opportunities to accept quotations from Scottish Widows before it purchased an annuity on his behalf, but Mr B didn't accept those. He also had the opportunity in February 2024 to accept a quotation based on receiving 25% tax free cash before his 76th birthday. But I've seen no evidence he did. Therefore, I don't hold Scottish Widows responsible for Mr B not accepting the quotes that were sent, and him losing out on the ability to obtain tax-free cash from his pension.

My final decision

For the reasons I've given, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 19 June 2025.

Timothy Wilkes
Ombudsman