

## **The complaint**

Miss C has complained about a transfer of her Scottish Widows Limited ('Scottish Widows') personal pensions to an occupational scheme in 2012.

Miss C says Scottish Widows failed in its responsibilities when dealing with the transfer request. She says that it should have done more to warn her of the potential dangers of transferring, and undertaken greater due diligence on the transfer. Miss C says she wouldn't have transferred, and therefore wouldn't have put her pension savings at risk, if Scottish Widows had acted as it should have done.

## **What happened**

On 18 July 2012, Miss C signed a letter of authority allowing Total Wealth Solutions Limited ('Total Wealth') to obtain details, and transfer documents, in relation to her pensions. On 10 October 2012, Total Wealth wrote to Scottish Widows, enclosing Miss C's letter of authority and requesting information on her pensions and discharge forms to allow a transfer. Scottish Widows sent Total Wealth the requested information on 15 October 2012. Total Wealth was authorised by the Financial Services Authority ('FSA').

On 26 October 2012, a separate firm - Kynaston-Carnoustie Financial Consultancy Ltd ('Kynaston-Carnoustie') – wrote to Miss C enclosing a report of its analysis on her Scottish Widows pensions. It noted her new pension (the Green Retirement Plan) was an occupational pension scheme and that, based on the charges and projected fund values, it suggested her Scottish Widows pensions be transferred. Kynaston-Carnoustie was also authorised by the FSA.

On 15 November 2012, AC Management and Administration Limited ('ACMAL') wrote to Scottish Widows requesting it transfer Miss C's policies to the Green Retirement Plan Series 3 ('the Scheme'). ACMAL was the Scheme's administrator. In its covering letter ACMAL provided the Scheme's Pension Scheme Tax Reference ('PSTR') number and details of the bank account the transfer payments were to be paid into. Included with ACMAL's letter was a transfer declaration that Miss C had signed earlier on, and a letter addressed to Scottish Widows that was also signed by Miss C requesting a transfer of her pensions to the Scheme. On 21 November 2012, ACMAL wrote to Scottish Widows again enclosing a transfer discharge form it had completed.

Miss C's pensions were transferred on 22 November and 29 November 2012 respectively. Her total transfer value was around £10,200. She was 49 years old at the time of the transfer.

Miss C says she received around £500 from her pension following the transfer, and she believes the remainder of her pension is now frozen. No evidence of where her pension actually went on to be invested has been provided to me, and I note that ACMAL was dissolved on 10 November 2020.

In October 2024, Miss C complained to Scottish Widows. Her argument is that Scottish Widows should have thoroughly investigated the scheme she was transferring to and the subsequent investment to be made in it, and advised her against transferring to the scheme.

Scottish Widows didn't uphold Miss C's complaint. It said Miss C had a right to transfer and that none of the information it had about the Scheme at the time gave it cause for concern.

One of our Investigators looked at the complaint and thought it should not be upheld. Miss C disagreed, so the complaint has been passed 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.

When considering what is fair and reasonable, I am required to take into account: relevant law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the relevant time.

The events complained of occurred more than six years before Miss C's complaint was made. However, Scottish Widows has consented to us considering her complaint. As such, I have not considered further the implications of the relevant time limits on our jurisdiction to consider Miss C's complaint.

### The relevant rules and guidance

Before I explain my reasoning, it will be useful to set out the environment Scottish Widows was operating in at the time with regards to pension transfer requests, as well as any rules and guidance that were in place. Specifically, it's worth noting the following:

- The Pensions Schemes Act 1993 gives a member of a personal pension scheme the right to transfer the cash equivalent value of their accrued benefits to another personal or occupational pension scheme if certain conditions are satisfied (and indeed they may also have a right to transfer under the terms of the contract). The possibility that this might be exploited for fraudulent purposes was not new even at the time of this transfer. However, the obligation on the ceding scheme was limited to ascertaining the type of scheme the transfer was being paid to and that it was a tax-approved scheme.
- On 10 June 2011, the FSA issued a warning about the dangers of "pension unlocking," which specifically referred to consumers transferring to access cash from their pension before age 55. (As background to this, the normal minimum pension age had increased to 55 in April 2010.) The FSA said that receiving occupational pension schemes were facilitating this. It encouraged consumers to take independent advice. The announcement acknowledges that some advisers promoting these schemes were FSA authorised.
- At around the same time, The Pensions Regulator ('TPR') published information on its website about pension liberation, designed to raise public awareness and remind scheme operators to be vigilant of transfer requests. The warnings highlighted that websites and cold callers were encouraging people to transfer in order to receive cash or access a loan.

- At the time of Miss C's transfer, Scottish Widows was regulated by the FSA. As such, it was subject to the Handbook, and under that to the Principles for Businesses ('PRIN') and to the Conduct of Business Sourcebook ('COBS'). There have never been any specific FSA rules governing pension transfer requests, but the following have particular relevance:
  - Principle 2 – A firm must conduct its business with due skill, care and diligence;
  - Principle 6 – A firm must pay due regard to the interests of its customers and treat them fairly;
  - Principle 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; and
  - COBS 2.1.1R (the client's best interests rule), which states that a firm must act honestly, fairly and professionally in accordance with the best interests of its client.

I note here that on 14 February 2013, TPR launched its "Scorpion" campaign. The aim of the campaign was to raise awareness of pension liberation activity and to provide guidance to scheme administrators on dealing with transfer requests in order to help prevent liberation activity happening. The Scorpion campaign was endorsed by the FSA (and others).

Clearly the campaign came too late to impact on Miss C's transfer. But I highlight it here to illustrate the point that the industry's response to the threat posed by pension liberation was still in its infancy at the time of Miss C's transfer. Realistically, it wasn't until after her transfer that scheme administrators had specific guidance to follow.

#### What did Scottish Widows do and was it enough?

At the time of Miss C's transfer, personal pension providers had to make sure the receiving scheme was validly registered with HM Revenue & Customs ('HMRC'). From the evidence provided to me, it doesn't appear Scottish Widows was provided with the Scheme's HMRC registration certificate. But it was provided with the Scheme's PSTR number, which would have been issued by HMRC (and included on the registration certificate) when the scheme was registered. As such, Scottish Widows could have been satisfied the scheme was validly registered with HMRC and that it didn't need to do anything further in this respect.

There was also a need to remain vigilant for obvious signs of pension liberation or other types of fraud. I'm satisfied nothing along these lines would have been apparent to Scottish Widows at the time of the transfer process. The evidence is that Scottish Widows received an information request about Miss C's pensions from a regulated firm (Total Wealth), followed by a request from ACMAL to transfer her pensions to an occupational pension scheme registered with HMRC. Receiving an information request from a regulated firm wasn't conclusive on its own that there was no risk of pension liberation or other types of fraud. But it would reasonably have given Scottish Widows some comfort that Miss C was dealing with other regulated firms, who should also have been acting with their regulatory obligations to her in mind.

It's important to recognise that the more extensive list of warning signs issued in the February 2013 Scorpion campaign hadn't yet been published by the regulator when Miss C's transfer took place. That means Scottish Widows could not have provided Miss C with the Scorpion insert that was produced as part of that campaign.

It wouldn't be reasonable to use hindsight to expect ceding schemes to act with the benefit of that guidance where they could not reasonably have done so at the time. This means that I can't fairly expect Scottish Widows to have investigated for instance, as a matter of course, when the Scheme was registered, the sponsoring employer's trading status, geographical location or connections to unregulated investment companies or the various parties connected to the transfer.

I appreciate Miss C's desire is to locate the pension funds she transferred to the Scheme and recover what she can of them, having worked to earn those benefits for her retirement. It now seems unclear where her funds have ended up. I'm sympathetic to the situation Miss C finds herself in, but this decision is ultimately limited to considering if Scottish Widows acted as it should have done in her transfer. So I'm unable to offer Miss C any assistance beyond that.

## **Conclusion**

At the time of Miss C's transfer, Scottish Widows would have been expected to know what type of scheme it was transferring to and that it was correctly registered with HMRC. Scottish Widows had this information. Beyond that, there was no requirement or expectation for it to have undertaken more specific, detailed, anti-scam due diligence in this particular case. The FSA's Principles and COBS 2.1.1R meant Scottish Widows still had to be alive to the threat of pension liberation, and other types of scams, and act accordingly when that threat was apparent. But I'm satisfied there weren't any warning signs that Scottish Widows should, reasonably, have spotted and responded to.

## **My final decision**

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept or reject my decision before 18 April 2025.

Asa Burnett  
**Ombudsman**