

## **The complaint**

Mrs F's complained that Scottish Widows Limited unfairly declined the claim she made following her cancer diagnosis.

## **What happened**

In 2017, Mrs F was working for a company I'll call B. B offered their employees a number of benefits through their flex scheme, including critical illness cover.

Around this time, Mrs F was sadly diagnosed with a low grade bladder cancer. She underwent an operation and some chemotherapy to try and prevent recurrence. But her six month check showed the cancer had progressed. She contacted B's flex providers, who advised her the critical illness policy only covered her in the event her bladder was removed.

Mrs F didn't pursue the matter further at that time. In October 2018, she left her employment with B. But she has continued to have treatment to prevent progress of the cancer. She says this will continue for the rest of her life.

In 2023, Mrs F was prompted by a conversation with a former colleague to pursue matters with Scottish Widows. Scottish Widows sent her claim forms to complete. Having obtained and reviewed her medical records, they declined Mrs F's claim because they said it didn't meet the policy definition.

Mrs F complained about Scottish Widows' decision. And she complained about being given the wrong information in 2018, being given poor information at the start of her claim and that she wasn't told she could continue to be covered by Scottish Widows after she left B.

Scottish Widows reviewed the claim but maintained their claim decision was right. While they acknowledged the invasive nature of her treatment, they said Mrs F's records showed her cancer was classified as non-invasive – so it was excluded from the policy.

In respect of Mrs F's other complaints, Scottish Widows said they hadn't been able to find a recording of the call she referred to. And they said the terms and conditions of Mrs F's flex documentation had set out what she had to do if she wanted to continue her critical illness cover. But they accepted their communication had been poor when Mrs F had first contacted them in 2023 and that they'd taken longer than they should have done to deal with her complaint. Scottish Widows offered her £125 compensation for these shortcomings.

Mrs F didn't accept Scottish Widows' offer and brought her complaint to the Financial Ombudsman Service. Our investigator reviewed the information provided by both parties and concluded the £125 compensation Scottish Widows had offered was a reasonable amount for what had happened. She was satisfied the decision to decline the claim was reasonable, based on the evidence provided and the policy terms.

And, while she acknowledged Mrs F's condition has deteriorated, she no longer has a policy on which she can make a claim. She said it was for B – Mrs F's employer – to have explained her option to take out a new policy and she couldn't say Scottish Widows should arrange this retrospectively.

Mrs F didn't agree with the investigator's view. So the matter's been passed to me to make 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.

Having done that, I'm not asking Scottish Widows to do any more than they've already offered to resolve it. I know this will be unwelcome news for Mrs F and I'm sorry about that. I hope it will help if I explain why I've reached this decision.

My role is to decide whether Scottish Widows have acted fairly in all the circumstances and that the conclusions they've come to are reasonable. To do that, I've reviewed the policy documentation and other evidence available to Scottish Widows. And, to be clear, I can only look at what Scottish Widows themselves did. I can't make any findings about what B should or shouldn't have done.

The starting point is the policy. Like all policies of this type, it doesn't cover every illness. Rather, a list of specific conditions is covered – provided the condition meets the policy definition and doesn't fall within an exclusion.

While I appreciate what Mrs F has said about the particular nature of bladder cancer, the policy has a single definition of cancer:

*“Any malignant tumour positively diagnosed with histological confirmation and characterised by the uncontrolled growth of malignant cells and invasion of tissue. For this definition the term malignant tumour includes leukaemia, sarcoma and lymphoma except cutaneous lymphoma (lymphoma confined to the skin)”.*

And there are a number of exclusions, of which the following is relevant here:

*“For the above definition, all of the following are not covered:*

- (i) All cancers which are histologically classified as any of the following:*
  - pre-malignant;*
  - non-invasive;*
  - cancer in situ, other than ductal carcinoma in situ of the breast treated with surgical mastectomy, partial mastectomy, segmentectomy or lumpectomy;*
  - having borderline malignancy; or*
  - having low malignant potential;”*

Scottish Widows concluded the exclusion applied, because Mrs F's records show her cancer is non-invasive. I've thought very carefully about this.

The medical records Scottish Widows obtained don't show her cancer is invasive. Before declining the claim, I can see they referred to their Chief Medical Officer (CMO) who confirmed that to be the case. I also note Mrs F has said that her treatment was targeted towards containing her cancer. So, while I'm sorry about the undoubted toll the cancer and its treatment has taken on Mrs F, I'm satisfied Scottish Widows' decision it didn't meet the policy definition was reasonable.

Mrs F also complained she was given the wrong information in 2018 about whether she could make a claim. I can see that Scottish Widows have tried unsuccessfully to trace a recording of that call.

I've no reason to doubt Mrs F's recollection of the call. But, for me to say Scottish Widows should do something more than they have to remedy things, I have to be satisfied not only that they did something wrong, but that disadvantaged Mrs F in some way. In those circumstances, our service's approach is to put the customer back in the position they would have been in, had nothing gone wrong.

I don't think I can do that here. Even if Mrs F had been given the right information about the policy terms when she called, the evidence shows her cancer doesn't meet the policy definition. So the outcome of her claim would have been the same, even if she'd pursued it in 2018.

Next, I've considered Mrs F's complaint that she wasn't told she could continue to be covered by Scottish Widows after she left B's employment. She wants cover to be put in place retrospectively. I understand why Mrs B wants this, as her condition makes it impossible to get cover now.

But I agree with our investigator that any failure in relation to providing information was B's fault, rather than Scottish Widows'. While I acknowledge the strength of Mrs F's feeling on the topic, this was a policy Scottish Widows provided to B for the benefit of its employees – not to her directly. So it was B who was entitled to information from Scottish Widows, rather than her. And it was for B to share information about how she could continue her cover. On that basis, I don't think it's unreasonable for Scottish Widows not to give Mrs F retrospective cover now.

Finally, I've thought about the £125 compensation offered by Scottish Widows for causing Mrs F confusion when she first lodged the claim. Mrs F also complained about how long it took for a decision to be made and for her complaint to be dealt with.

From reviewing Scottish Widows' notes, I can see that the initial call handler was confused by the fact Mrs F no longer worked for B, but the claim related to the time when she did. That wasn't Mrs F's fault and I accept it would have caused frustration. But this was resolved within two or three days when claim forms were sent to her for completion.

After that, I'm satisfied that Scottish Widows progressed the claim without unreasonable delay. There's evidence they had to chase Mrs F's doctors for the reports they needed to progress the claim and that they sought their CMO's confirmation that their decision to decline the claim was correct. I note that Scottish Widows took ten weeks to address Mrs F's complaint which they've accepted was longer than they should have done.

Overall, I'm satisfied that £125 is adequate to address these shortcomings and they should now pay this to Mrs F.

### **My final decision**

For the reasons I've explained, I'm upholding Mrs F's complaint about Scottish Widows Limited and directing them to pay her the £125 compensation they previously offered.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs F to accept or reject my decision before 14 May 2025.

Helen Stacey  
**Ombudsman**