

The complaint

Mrs I complains that Scottish Widows Limited (Scottish Widows) have mis-administered her Personal Pension Plan (the plan) giving rise to personal tax liabilities she says should not have been incurred. She wants the tax liability paid and compensation for the inconvenience.

What happened

Mrs I says that she became aware that her employer hadn't paid pension contributions for her for some time. To rectify this, she says her employer paid a single contribution of £48,723 to Scottish Widows in September 2022. Which would utilise Mrs I's unused pension contribution allowances for the previous three tax years. She says this contribution was lost by Scottish Widows and there was confusion over whether and when it was re-imbursed to her employer. Mrs I's employer paid the £48,723 contribution again in September 2023. But this wasn't allocated to her plan, with her employer attempted to clarify what was happening with Scottish Widows without success.

In February 2024 Mrs I complained to Scottish Widows about the misplaced contribution. It acknowledged the complaint on 20 February 2024 and issued a letter on 12 March 2024 saying it was still looking into it. Mrs I decided to refer her complaint to our service the same day. She said she'd been trying to resolve problems with her pension for over two years, that no payments had gone into it in five years and that she was *"sick with worry"*. She said her employer initially paid the contribution in September 2022, but Scottish Widows hadn't dealt with this correctly. And *"apparently returned the money to her employer"*, without advising her and she'd spent all 2023 trying to ascertain what had happened. She said the repaid contribution in 2023 was missing and *"this mismanagement of my financial future deserves financial compensation and an apology"*.

Mrs I says as she'd heard nothing from Scottish Widows she was concerned about not using her pension contribution annual allowance of £10,000 for the 2023-2024 tax year. So, she paid a £10,000 contribution to another pension plan with Quilter, on 26 March 2024. On 3 April 2024 Mrs I received a letter from Scottish Widows confirming the employer's contribution of £48,723 had been received. Due to a breakdown in communications this hadn't been allocated to her plan, but this had now been backdated to 26 October 2023. On 17 April 2024 Scottish Widows emailed Mrs I saying it had contacted her employer for some information it required *"to apply your outstanding premium"*. Mrs I said she'd expected this payment to be allocated in September 2022, when it had first been paid. But as it wasn't allocated until the 2023-2024 tax year, her tax return for 2022/2023 was incorrect and she'd overcontributed in the 2023-2024 tax year. So, rather than receiving tax relief on the £10,000 pension contribution paid personally, there was a tax liability of 45%, (£4,500), which HMRC had adjusted her PAYE coding notice to collect. Mrs I said the stress and inconvenience this was causing was exacerbating existing health problems. Scottish Widows said it couldn't find any record of a payment being made in September 2022 and asked for further details.

On 21 June 2024 Scottish Widows sent Mrs I its final decision on her complaint, upholding it in part and it apologised for its poor service. It said it had received her employer's contribution on 22 September 2023, which should have been allocated within 10 days, but *"due to a breakdown in communication regarding the employer and who these funds should*

be logged under” this didn’t happen. It said once Mrs I had complained if had located the funds and treated them as invested on 26 October 2023. But on review, had now backdated this to 22 September 2023, when the price was better to avoid any financial disadvantage. It said it had added her employer as the payer of the premium and this would ensure there would be no further issues with future payments. It said as Mrs I hadn’t provided any further information about a premium being paid in September 2022, it considered this aspect closed. It accepted that Mrs I had been inconvenienced by the delays and enclosed a cheque for £600 as compensation for this, but Mrs I didn’t accept this.

Also, on 21 June 2024 Scottish Widows received a letter dated 2 June 2024 from Mrs I. This said her employer had paid a contribution of £48,723 on 6 December 2022, which had not been applied to her plan or returned and a refund should be made to her employer. She said she’d missed out on investment growth since December 2022 and was subject to an annual allowance tax charge of £4,500 on the additional £10,000 contribution paid in March 2024. She said Scottish Widows should refund this tax charge, her additional accountancy costs and her own time and expenses.

Scottish Widows wrote to Mrs I on 28 June 2024. It said with the further details about the payment in 2022 it had rechecked its records and located this. It said the employer had sent the payment to a *“defunct closed policy”* preventing the funds from being allocated. It said the employer had linked the payment to a pension scheme that Mrs I had opted out of on 22 September 2022. It said the contribution itself was collected by direct debit from the employer on 21 November 2022 and was refunded to the employer on 7 December 2022 in line with Financial Conduct Authority rules. Scottish Widows said on 28 June 2023 the employer had contacted it querying this and asking for the policy number of another plan Mrs I had with it. Scottish Widows said it was unable to provide this due to data protection requirements. It said it hadn’t received any request to allocate funds to Mrs I’s actual policy with it until 22 September 2023 and had backdated investment to that date.

Our investigator now looked into the complaint and initially he didn’t uphold it.

Our investigator said in backdating the contribution paid in September 2023 to the date it was received, Scottish Widows had treated Mrs I fairly and the £600 compensation offered for the distress and inconvenience caused was fair. He said the contribution in September 2022 wasn’t paid correctly and refunding it wasn’t unreasonable. And the contribution paid in September 2023 was always going to be applied in the 2023-2024 tax year, so there weren’t any further financial losses to consider.

Mrs I didn’t agree. She said Scottish Widows should have allocated the contribution to the 2022-2023 tax year but hadn’t without any communication with her. And was *“100% responsible for giving me a tax liability of £4,500”* in respect of the additional £10,000 contribution paid, as well as causing problems with her prior year contributions. Our investigator reconsidered and said this part of the complaint should be upheld. He said it was clear Mrs I had paid the £10,000 contribution as she didn’t want to lose her annual pension allowance before the end of the tax year. He said Mrs I had chased Scottish Widows for an update about the contribution from September 2023 in February 2024, with it acknowledging this on 12 March 2024. But as it hadn’t confirmed any details, it hadn’t been unreasonable for Mrs I to then make the £10,000 contribution. And if she provided evidence of a tax liability incurred solely because of this second contribution Scottish Widows should re-imburse her.

Scottish Widows agreed that had it contacted Mrs I sooner she wouldn’t have needed to make the further contribution and subject to evidence of the tax liability it would re-imburse her. It requested various details around the contribution, her annual allowance and unused relief. Mrs I said she didn’t trust Scottish Widows with her personal information, but provided

our investigator with a bank statement confirming the £10,000 contribution had been paid to Quilter and proof of her income. Scottish Widows said it still needed evidence of the tax liability. Mrs I provided a tax coding notice from HMRC, which she said had been adjusted due to the £4,500 additional tax liability, which would be finalised when she filed her tax return for 2023-2024. Scottish Widows said it wanted something from HMRC confirming the liability, but if this wasn't available it would refund the £10,000 under the excess contributions rule.

Mrs I said she didn't want to provide Scottish Widows with her personal financial information or that she should have to. Our investigator said refunding £10,000 would be fair and Mrs I said she wanted to proceed with this option. Scottish Widows then said there had been a misunderstanding, as it hadn't realised the further £10,000 contribution hadn't been paid to it. So, Quilter would need to be approached about any refund. Mrs I said she wouldn't ask Quilter to cover Scottish Widows mistakes and she would seek a letter from HMRC.

As both Mrs I and Scottish Widows don't agree it has come to me to decide.

My provisional decision

I issued my provision decision on; 29 April 2025, I explained the reasons why I was planning to uphold the complaint in part. I said:

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'm planning to uphold the complaint.

The role of our service is to impartially settle complaints by being fair to both sides. I'll set out below how I think the complaint should be fairly resolved.

I think Scottish Widows did make an error in not resolving the issues around the contribution paid in September 2023 as soon as it should have. That created uncertainty, and it should have got back to Mrs I promptly with proper information after she contacted it in February 2024. Had it, I think the subsequent issues could have been avoided. However, there is no evidence Scottish Widows made any error in 2022, and it is correct when it says that the contributions paid in September 2023, could only be allocated in the 2023-2024 tax year.

The 2022 contribution

Scottish Widows hasn't been able to provide full details due to data protection matters. But as it confirmed to Mrs I, this contribution was incorrectly paid to a pension scheme provided by her employer, which she'd previously opted out of. Effectively that meant she'd never been a member of that scheme, and no contribution could be allocated for her. For employer provided schemes, typically the employer will upload a monthly contribution schedule, often generated through payroll, detailing the contributions due for each member. And a few weeks later the pension provider takes payment for all member contributions on one direct debit and then allocates them to each individual policy. Any refund of contributions paid either in error or perhaps because an employee has chosen to opt out of the scheme is processed the following month and might mean that a lower total contribution is taken on the next direct debit in view of the "credit" held.

This might explain the confusion over whether and when a refund was made to the employer in December 2022. And because Mrs I wasn't a member of the pensions scheme in question, I wouldn't expect Scottish Widows to have contacted her personally over this matter and I don't think it made any error here.

The 2023 contribution to Scottish Widows

This payment was made to a plan Mrs I did have with Scottish Widows. However, it doesn't appear any further documentation was provided, and it seems Mrs I's employer hadn't previously, or certainly not for some time, paid contributions to this plan for her. Scottish Widows wouldn't have been able to discuss this plan with her employer without Mrs I's specific authority to do so. When contributions are paid pension providers have a number of obligations including both pension legislation and money laundering requirements. And as it has explained Scottish Widows subsequently completed various processes to enable any future contributions paid by the employer to be applied promptly.

What seems to have happened is that the funds ended up in a suspense account for many months, with no attempt to reconcile them before Mrs I wrote personally to Scottish Widows in February 2024. That is clearly unacceptable and Scottish Widows agrees it should have acted sooner than it did to resolve this. But in terms of the contribution itself, backdating this to the date of receipt is fair and puts Mrs I into the position she should have been in but for this error. However, it was never possible for Scottish Widows to treat this contribution as being received in the 2022-2023 tax year.

The 2024 contribution to Quilter

I think if Scottish Widows had acted as it should have in respect of the September 2023 contribution Mrs I wouldn't have made the further £10,000 contribution to Quilter. So, I think it bears some responsibility for any adverse tax consequences that may have arisen.

The annual allowance tax charge

The rules around what can be contributed to pension plans and the tax relief available are complex. Mrs I has a relatively high income which means that her annual allowance is less than the standard. And she has shown evidence that her allowance would have been £10,000 in the 2023-2024 tax year. If more than that was paid without unused relief from previous tax years being available (which Mrs I says isn't available) an annual allowance tax charge is payable at the individual's marginal rate of tax, in this case 45%. This is a liability for the individual regardless of who pays the contribution, although in some cases it can be paid by the pension scheme. Mrs I should still have received tax relief on the contribution itself, but the annual allowance tax charge effectively claws this back.

Refunding the excess contribution

It generally isn't possible to refund pension contributions although HMRC rules provide for excess contributions paid in error to be refunded. Mrs I says she doesn't want the Quilter contribution refunded and my understanding is that a refund under the excess contribution rule would be unlikely to be available in any case. This rule applies for genuine payment errors, like a bank paying the "same" contribution twice, rather than because someone has contributed more than their available annual allowance and incurred a tax charge.

Re-imbursing the annual allowance tax charge

As a refund wouldn't appear possible and if Mrs I hasn't obtained the tax relief she expected to be available on the £10,000 contribution paid I think the offer Scottish Widows has now made to refund any annual allowance tax charge incurred as a result of the £10,000 subsequent contribution is a fair one. However, I also think it's reasonable that Mrs I shows evidence of the tax liability incurred. She has referred to possible legal action against

Scottish Widows to resolve this matter and she would need to prove her loss and disclose all relevant financial information if she went down this route. So, I don't think Scottish Widows is being unreasonable in asking for the same details now.

Putting things right

I said my aim in awarding compensation is to put Mrs I as closely as possible back into the position she would have been in but for the errors made by Scottish Widows.

If Mrs I has suffered a loss through the payment of the further £10,000 contribution to Quilter, then I think it's fair that Scottish Widows compensates her accordingly and sets out a simple calculation of how it arrived at the figures. It's reasonable that Mrs I provide the financial information necessary to Scottish Widows to demonstrate her loss.

I said Mrs I has been caused distress and inconvenience by what has happened. I think the £600 compensation already offered by Scottish Widows for this is fair and is in keeping with what our service would award in similar circumstances. Scottish Widows should now pay this to Mrs I unless it has already done so.

I asked both parties to send me any further information or comments they would like me to consider.

Response to provisional decision

Scottish Widows said it accepted my provisional decision.

Mrs I said my provisional decision was an accurate overview of what happened and when. But she felt the £600 in compensation for distress and inconvenience was inadequate for three years of poor communication given the time and expense she'd spent in chasing Scottish Widows. She said she didn't expect Scottish Widows would ever pay her compensation.

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've decided to uphold the complaint.

As set out in my provisional decision whilst I think Mrs I has been caused quite considerable inconvenience it isn't reasonable to blame Scottish Widows for the situation in 2022. When the second contribution was paid in 2023 by her employer it wasn't done in a procedurally correct manner, although Mrs I wouldn't be aware of that, and that did result in problems. But Scottish Widows took too long to resolve them and it certainly should have contacted Mrs I much sooner than it did once she complained in February 2024. Scottish Widows has already backdated the investment of this contribution to September 2023, when it should have been allocated, so there is no investment loss and that is fair.

I think the uncertainty over what had happened was responsible for Mrs I making a further £10,000 contribution in the 2023-2024 tax year, which has resulted in unexpected tax issues. I think it's fair that Scottish Widows meets those tax costs subject to satisfactory evidence of them. That will fairly resolve that aspect of the complaint.

I understand the further comments Mrs I has made about the impact of these problems on her, particularly with regard to her health. But the evidence of actual errors made by Scottish

Widows here relates to the delay in processing the 2023 contribution, and the subsequent overpayment. And I can only reasonably award compensation for those issues. And I do think the £600 offered by Scottish Widows is fair under the circumstances and in keeping with awards we would make in similar circumstances. Our service doesn't usually make specific awards to cover a person's time costs, that is factored into the award for inconvenience suffered. There is information about and examples of the type of distress and inconvenience awards we make on our website. My final decision directs Scottish Widows to pay compensation for both distress and inconvenience and any annual allowance tax charge suffered. It is unlikely it won't promptly comply with my decision, but if not, then my decision is legally enforceable and Mrs I could ask Court Bailiffs to recover payment.

Putting things right

My aim in awarding compensation is to put Mrs I as closely as possible back into the position she would have been in but for the errors made by Scottish Widows.

If Mrs I has suffered a loss through the payment of the further £10,000 contribution to Quilter, then Scottish Widows must compensate her accordingly and set out a simple calculation of how it arrived at the figures. It's reasonable that Mrs I provide the financial information necessary to Scottish Widows to demonstrate her loss.

I think it's reasonable that Mrs I provides details of her income and pension contribution history for the three tax years before 2023-2024 and evidence of the annual allowance tax charge paid. If her HMRC tax calculation for the year 2023-2024 is available, this might be relatively straightforward. Scottish Widows should treat this information in the strictest confidence and either return or destroy it once it has completed the calculations. If Mrs I has obtained a letter from HMRC confirming these details and demonstrating the tax liability, I think that should be adequate evidence of the loss suffered.

Mrs I has been caused distress and inconvenience by what has happened. I think the £600 compensation already offered by Scottish Widows for this is fair and is in keeping with what our service would award in similar circumstances.

My final decision

For the reasons I've given above and in my provisional decision, my final decision is that I uphold this complaint against Scottish Widows Limited.

I direct Scottish Widows Limited to reimburse Mrs I any annual allowance tax charge arising from the £10,000 additional contribution as set out above.

I further direct Scottish Widows Limited to pay Mrs I £600 in compensation for the distress and inconvenience caused unless it has already done so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs I to accept or reject my decision before 11 June 2025.

Nigel Bracken
Ombudsman