

The complaint

Mr E's complaint is about the service provided by Scottish Widows Limited, the provider of a Group Personal Pension Plan (GPPP) of which Mr E is a member. Mr E's complaint centres on late payment of employer contributions to the GPPP.

What happened

Mr E's main complaint is that Scottish Widows didn't inform him (and other members) about late payment of employer contributions and failed to report all instances of late payment to The Pensions Regulator (TPR). There were other issues, including confusion about whether the GPPP had a trustee and how Scottish Widows dealt with a Data Subject Access Request (DSAR) made by Mr E.

Mr E's complaint has been considered by one of our investigators. In her view issued on 16 April 2025 she set out what had happened. I don't think the salient facts are disputed by either Mr E or Scottish Widows. In summary:

Scottish Widows - as the pension administrator – is required to send a written report to TPR where employer contributions aren't paid on time and there's reason to believe that the late payment is likely to be of material significance to TPR. The reports should be made to TPR within 14 days of the provider having reasonable cause to believe a material payment failure exists. And scheme members should be notified within 30 days of the report to TPR.

An example of a payment failure that's likely to be of material significance is 'any event where contributions have been outstanding for 90 days from the due date'. An example of a payment failure that isn't likely to be of material significance is 'where contributions are paid late but in full and within 90 days of the due date'.

The investigator referred to information from Scottish Widows showing regular employer contribution due dates from October 2022 to February 2024, when payment was made and if late payment had been reported. I'm not going to set that out again. But, in summary, of the 17 contributions due during that period, all were made late. And premiums due for March 2023 through to August 2023 had all been made more than 90 days late and had been reported.

But the payment due on 22 September 2023 and not paid until 9 January 2024 (so 109 days late) hadn't been reported. Scottish Widows had told us that scheme payments are reviewed monthly. In December 2023 the review was on 21 December 2023 so the payment due on 22 September 2023 wasn't yet 90 days late. When payments were reviewed the following month, in January 2024, the payment had been made (on 9 January 2024) so it wasn't reported as a late payment.

But, as the investigator noted, the reports to TPR should be made within 14 days of the provider having reasonable cause to believe there'd been a material payment failure. That would be within 14 days of the payment being 90 days late. The investigator identified five such instances. Scottish Widows didn't dispute that but said that late reporting was due on two occasions to migration to a new system platform which impacted on the time take to

identify and report the late payments to TPR, who'd been made aware in advance about the planned system changes and that it could impact on reporting times. The other three late payments weren't reported promptly because Scottish Widows was in discussion with the employer about the late payments and thought they'd be paid soon.

Further, scheme members should be informed within 30 days of the report to TPR. Scottish Widows had acknowledged they'd failed to write to Mr E following the report to TPR on 10 July 2023. And Scottish Widows couldn't evidence a letter having been sent following the December 2023 report.

The investigator said that, as well as regular contributions, single contributions were also made which were set out. However, she explained that single contributions weren't subject to the same reporting requirements as regular contributions and so she couldn't say that Scottish Widows should've reported them as late.

The investigator didn't agree that Scottish Widows should be required to backdate contributions. Or undertake a loss calculation to determine if Mr E had suffered a loss because contributions were received later than they should've been.

Mr E had made a DSAR on 11 June 2024. Scottish Widows had one calendar month to comply. A business might need more time but should inform the customer within one month of receipt of the DSAR and shouldn't take more than three months. Scottish Widows hadn't provided the full information until 9 October 2024 so there'd been a considerable delay. The investigator didn't think it was reasonable to ask Scottish Widows to cover Mr E's loss of earnings. She noted that Mr E had spent considerable time and effort in pursuing the complaint. But she didn't think legal costs should be reimbursed. And she thought the sum offered, £650, was fair.

Scottish Widows confirmed it had nothing further to add.

Although Mr E was generally happy with how the investigator had dealt with his complaint, he didn't agree with all she'd said and he asked for an ombudsman's decision. I've summarised his main points.

- Scottish Widows' failings had exposed members of the GPPP – many whom were still unaware of the payment problems – to unnecessary risks.
- Every single regular payment was made late by the employer during his employment. And the problems went back to 2017, before Mr E was employed. Data from TPR showed 50.8% of businesses ceased trading within 12 months of that sort of pattern.
- A system migration is a self inflicted activity. When it goes wrong, the onus is on the business. It wasn't sufficient that TPR was informed in advance. Problems do arise but members weren't informed retrospectively. Scottish Widows didn't tell those who were affected and instead protected their own commercial interests.
- Scottish Widows had failed to comply with the DSAR by the deadline – 11 July 2024. The information wasn't provided until 9 October 2024, suggesting a 'laissez faire' cultural approach.
- Although no legal action had been taken against Scottish Widows, legal advice had been sought. Mr E said that was a reasonable step, given Scottish Widows' inaction, errors and avoidance to numerous letters. The overall spend was £2,506.80. Mr E would be able to get a breakdown as to how much was for pensions which Scottish Widows should meet.
- His estimated lost earnings were £93,537. There were also other lost employment opportunities that would have taken his income to over £200,000. He referred to the impact on his health, wealth and life for the past 13 months (and still going on) as

immense. Scottish Widows' failure to fulfill its legal obligations (as recorded in the investigator's view) were clear contributing factors.

- He'd spent 100+ hours on the telephone, writing letters after getting many incorrect answers, chasing and seeking answers to legitimate questions. There'd been four complaint handlers, some 90 separate communications and the matter was still unresolved. He didn't agree that Scottish Widows complaints procedure is "consumer friendly and no legal representation is required". He referred to Scottish Widows "marking their own homework". He said preliminary legal investigation was an entirely legitimate action in this case.
- He considered fair compensation for the additional personal time he'd spent on the case should be based on a litigant in person costs award. And the time he'd spent had been driven by potential mistakes, negligence and possible misrepresentation. He didn't agree that £650 was fair 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.

Although I've considered everything, I've focused on what I see as central to the complaint and my decision as to what's a fair and reasonable outcome. I've paid particular attention to Mr E's further comments in response to the investigator's view. However, and although I realise Mr E is likely to be disappointed, I don't have much to add to what the investigator said and I agree with the outcome she reached.

Mr E accepts that single payments are treated and reported differently. The investigator was unable to say Scottish Widows had erred by not reporting those as having been made late. So I've focused on the regular employer contributions.

As to what actually happened, I don't think this is in dispute. I agree with the investigator that Scottish Widows did report all the late payments to TPR as it should've done. All the payments that were over 90 days late were reported, with the exception of the payment due on 22 September 2023. Mr E describes that as an important example where Scottish Widows had the means and the opportunity to investigate and declare the full facts but didn't leaving it to this service to bring the matter to members' attention. But Scottish Widows has explained why that payment wasn't reported as being 90 days late. I accept that at the time the position was checked it was an overdue contribution which was then paid and was reported correctly as such.

But there was also an issue with the timing of the reports – 'material payment failures' weren't always reported promptly – that is within 14 days of being 90 days late. The investigator identified five such instances. And, perhaps more significantly, Scottish Widows didn't inform Mr E, as a scheme member, within 30 days of the reports to TPR. He's said there was only one letter from Scottish Widows in May 2024 (and which was after he'd telephoned on 16 May 2024).

Where, as here, what's gone wrong has been established and isn't in dispute, the central issue is how the consumer has been affected and what the business needs to do to put things right for that consumer.

Mr E has stressed that other members of the GPPP were affected too. He says Scottish Widows failure to comply with its legal obligations and other issues exposed members of the GPPP to unnecessary risks – especially given that there was a statistical likelihood of the employer going out of business. I do understand Mr E's concern, especially given that late payment of regular contributions by the employer was a regular occurrence and which

persisted throughout Mr E's period of employment. I can see why he considers, had all scheme members been informed, it might've strengthened their position and pressure could've been brought on the employer to meet its obligations on time. But that isn't a given. The timing of the employer's payment of contributions is likely to have been driven by its cash flow and overall financial commitments. Pressure from members won't necessarily have changed things. And when reporting the employer to the regulator in 2023 didn't really change the pattern – by May 2024 the employer contributions were again over 90 days late.

Further, as the investigator has explained, there are limitations to our role. We deal with individual complaints. What Mr E has said about there being systematic failings on Scottish Widows' part which have exposed scheme members to unnecessary risks isn't something we can consider. That's more a matter for the regulator, the FCA. We're only looking at Scottish Widows' failings in so far as Mr E is concerned and what the impact on him was.

Mr E has stressed the extent and seriousness of the situation. As I've said, while he was employed, all of the contributions were made late. He's also said that dates back to 2017, before he became employed. I'm only considering Mr E's position so I can only look at what happened when he was an employee. And I'm pleased to note that all the regular employer contributions due to Mr E for his period of employment – I understand he left his employment in March 2024 – have since been paid, in August 2024 I think. However, he wants the contributions backdated. I've considered that below along with any other financial and/or non financial losses Mr E has suffered as a result of Scottish Widows' shortcomings.

I've noted Mr E's other comments, including that he considers Scottish Widows acted to protect its own commercial interests. But I don't really think there's any evidence to support that. Scottish Widows had legal obligations which I don't immediately see why Scottish Widows would deliberately attempt to avoid.

I also note what Mr E says about system migrations and that, if they go wrong, the onus is on the business to put things right. System migrations are often essential – to preserve or move data and to upgrade processes and workflow and improve customer service. So I'm not sure they can be termed self inflicted as such. But although I'd agree the timing and implementation is within a business's control and every effort should be made to minimise disruption. And, although new systems are generally tested thoroughly before launch, unforeseen errors and glitches may arise, hence planned work may be notified in advance. But here I don't think the central issue is whether Scottish Widows, as well as notifying TPR, should've told members about the system migration. There's no dispute that, for whatever reason, Scottish Widows failed to meet all of its obligations and, as I've said, my focus is on how that impacted on Mr E.

Mr E also refers to Scottish Widows '*marking its own homework*'. But I think that could be said generally whenever a complaint is made. The DISP (Dispute Resolution) rules in the FCA's handbook set out how businesses must deal with complaints and provides an opportunity for the business to sort things out with the consumer first. And many complaints are resolved directly with the business concerned. I note all Mr E has said about the time and effort he's spent on this matter. Here I've seen that Scottish Widows issued several final response letters between April and December 2024 with various compensation amounts offered. So I can understand if Mr E found the complaints process somewhat protracted. But that can sometimes evidence that a business is prepared to listen to a customer, understand why they remain unhappy and review things. Or it might be that the customer has further points or requirements and so the dialogue will continue. Looking at the correspondence, I think both things were going on here.

In so far as Mr E's DSAR was concerned, there's no dispute that Scottish Widows took a long time to provide the information. There's an initial one calendar month response period

but that can be extended by another two months if the request is complex or more than one request is made. Scottish Widows did respond within a three month period. But Mr E wasn't informed that more time was needed. Although he considers that underlines a somewhat relaxed approach by Scottish Widows generally, I think, given that his communications with Scottish Widows had been fairly extensive, it was probably more the case that the request was complex and identifying all the relevant information took some time. But Scottish Widows should've told Mr E that.

Looking at Mr E's losses, he says the regular employer contributions should be backed. He wants Scottish Widows to undertake a loss assessment to compare the actual value of his GPPP with what it would've been, had the contributions been paid on time and so invested from an earlier date. And, if there's a loss, Scottish Widows should make that up from its own resources.

I'm unable to say that backdating would be fair and reasonable. Scottish Widows did have certain duties as the administrator of the GPPP, including monitoring the employer's regular contributions, reporting late payments to TPR and notifying members. But although Scottish Widows didn't do all it should've, it was the employer's responsibility to make the contributions on the dates due. The employer would've been aware of its obligations and would've known that they weren't being met.

Further, there's no guarantee, even if Scottish Widows had done all it should've, that would've resulted in the employer complying with its responsibilities in a more timely fashion. As I've said above, even if more pressure had been put on the employer – whether that was from employees or TPR or Scottish Widows – payment would've depended on the employer's financial commitments at the time and decisions taken by the employer as to priorities for payment. I think Scottish Widows has correctly applied the premiums paid by the employer from the date of receipt.

I've considered Mr E's claim for loss of earnings (both with his former employer and from other sources). I'm sorry to learn how this matter has affected Mr E and his ability to work. But I can only award compensation for loss of earnings if I'm satisfied that Scottish Widows' failings caused the losses Mr E is claiming. Here the principal cause of the issues that arose was the employer's failure to comply with its obligations to pay the regular employer contributions on time. So I agree with the investigator that Mr E's loss of earnings isn't directly attributable to Scottish Widows' errors.

In saying that I bear in mind that Mr E's losses could be treated in legal proceedings as a claim for damages for Scottish Widows' failure (negligence) to give him information to which he was entitled. But I'd still need to consider remoteness of damage – that is, if Mr E's loss was a reasonably foreseeable consequence of the Scottish Widows' actions (or inaction). Here I don't think it was – I can't say it was reasonably foreseeable that Scottish Widows' failure to report the employer's late payments to TPR as it should and to notify scheme won't be fair and reasonable for Scottish Widows to have to compensate Mr E for loss of earnings. I note Mr E has suggested that a contribution from Scottish Widows would be appropriate. But in view of what I've said about causation and remoteness I don't agree.

As to legal costs incurred by Mr E, we're an informal dispute resolution service. We aim to be easy to use so that consumers won't need to use the services of a lawyer or other professional representative, although some consumers, for a variety of reasons, may choose to do so. Here Mr E isn't represented in bringing his complaint, but he incurred some legal fees in seeking initial legal advice about what had happened. I can understand why Mr E did that. A consumer may want to have the reassurance provided by obtaining a legal opinion, particularly where the consumer will be unfamiliar with the relevant legal or regulatory position, and so be better informed in making their complaint. But I think that was essentially

Mr E's choice and not something he had to do in order to complain to Scottish Widows and subsequently this service.

I'd add that we don't routinely award legal costs except perhaps if the complaint is very complicated or the subject matter very technical. Mr E describes his case as complex and extensive but many of the complaints we deal with have some degree of complexity and/or may involve considering a considerable volume of material. Here I'm not going to say that Scottish Widows should contribute towards Mr E's legal costs.

That leaves distress and inconvenience. Scottish Widows has offered Mr E in total £650. I know Mr E regards that as inadequate. I've considered his comments very carefully.

While we take into account the time taken trying to sort things out, we don't usually make an award based on an hourly rate – whether that's what someone might earn in their job or profession or, on what's been suggested here – the hourly rate a court might award a litigant in person. Instead we'll look at time spent as part of the overall impact that the business's mistake(s) has had. And where, as here, what the business has (or hasn't) done flows from another party's errors we'll take that into account too.

As the investigator acknowledged, Scottish Widows' service was lacking. Not only did Scottish Widows fail, more than once, to inform Mr E that the employer hadn't paid contributions on time, there were other issues – such as how the DSAR was dealt with and confusion as to whether there was a trustee for the GPPP. The investigator concluded that, all in all, Mr E had been caused considerable upset and frustration. I'd agree with that.

On our website we set out some examples of the sort of compensation levels we might award, ranging from a small monetary amount; up to £750; up to £1,500; and up to £5,000 and over. We say an award of up to around £750 might be fair where the impact of a mistake has caused considerable distress, upset and worry and/or significant inconvenience and disruption that needs a lot of extra effort to sort out and where, typically, the impact lasts over many weeks or months.

I think that's broadly consistent with what's happened in Mr E's case. I don't ignore the impact on his health and wellbeing generally. But, in considering what's fair and reasonable compensation for distress and inconvenience, I bear in mind that the root cause of the problem lay with another party – the employer. And it seems the complaint to Scottish Widows wasn't all Mr E was dealing with. I acknowledge that Scottish Widows had responsibilities which it failed to meet, hence Mr E's complaint. But that's all I'm considering and any award for compensation has that narrow focus. In the circumstances I agree with the investigator that the sum offered, £650, is fair and reasonable and within the range I'd expect to see.

Lastly, I've seen that Mr E has mentioned some other concerns – outstanding information requests and issues regarding cheques from the employer. As the investigator noted, those matters were raised at a later stage. We haven't looked into them and they don't form part of this decision.

My final decision

Scottish Widows plc has already made offers totalling £650 to settle the complaint and I think that's fair and reasonable in the circumstances of this complaint.

So my decision is that Scottish Widows plc should pay Mr E £650, less any sums already paid to him.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 10 July 2025.

Lesley Stead
Ombudsman