DRN-5794645

The complaint

Mr P is unhappy that Scottish Widows Limited has increased his retirement age from 55 to 57, citing changes made by the government to the minimum age. Mr P disagrees with this as he believes he has a protected pension age.

What happened

The investigator who considered this matter set out the background to the complaint in her assessment of the case. I'm broadly setting out the same background below, with some amendments for the purposes of this decision.

Mr P has a Group Personal Pension (GPP) with Scottish Widows. An email was sent to Mr P following a call he made to Scottish Widows on 12 September 2024. Scottish Widows said that Mr P's pension didn't have a protected retirement age. And Scottish Widows said that, due to legislative changes, there would be an increase in the retirement age at which individuals could begin to access their pension benefits from 2028 to age 57. Mr P would be subject to this change.

Mr P raised a formal complaint on 22 September 2024, saying he disagreed with Scottish Widows and explained why he thought he met the conditions to still access his pension at age 55.

Scottish Widows sent an email to Mr P on 16 October 2025. It said it had liaised with its compliance team as Mr P felt he had a protected pension age of 55. In summary, Scottish Widows' compliance team looked into this and said that, according to the Finance Act 2004, to have a protected pension age of less than 57 on or after 6 April 2028, certain 'entitlement conditions' must be fulfilled. It added the following:

"The entitlement condition is met if:

(a) immediately before 4 November 2021 the member had an actual or prospective right under the pension scheme to any benefit from an age of less than 57,

(b) the rules of the pension scheme on 11 February 2021 included provision conferring such a right on some or all of the persons who were then members of the pension scheme, and

(c) the member either had such a right under the scheme on 11 February 2021 or would have had such a right had the member been a member of the scheme on 11 February 2021."

Scottish Widows also said that the government had clarified what was meant by *'right under the pension scheme'* which was that this was *'an unqualified right under which individuals do not need consent of another person before they can take their benefits at a particular age.'*

And by unqualified right, the government explained this can be where the rules say that the pension benefits can be taken from age 55, or where rules refer to the normal minimum pension age (NMPA) or its underlying legislation that wouldn't confer an unqualified right to a protected pension age.

So Scottish Widows didn't agree that Mr P had an unqualified right to a protected pension age of 55.

Scottish Widows issued its final response letter to Mr P's complaint on 25 October 2024 (which Mr P said he didn't receive). The letter reiterated what Scottish Widows had already said to Mr P in its email dated 16 October 2024.

As Mr P remained unhappy, he brought the complaint to our service.

Having considered the matter, our investigator didn't think that it should be upheld, saying the following in summary:

- This matter related to government legislation which ultimately, this service was unable to question as we're tasked with individual dispute resolution rather than advising businesses on their overall conduct or regulatory matters. Rather, she needed to decide if Scottish Widows had treated Mr P fairly and in line with the rules and regulations.

- The relevant legislation set out some requirements, one of which was to say that a member needed to have had an unqualified right to take their benefits before the NMPA.

- The relevant legislation provided for the NMPA to increase from 55 to 57 from 6 April 2028. It was important to note that, as Mr P had said, in order for him to have a protected pension age below the NMPA, he needed to have been part of a scheme that allowed benefits to be taken from an age under 57.

- Scottish Widows had provided a copy of its scheme rules, which said the following:

  'Payment of Benefit

  5.3 Subject to rules 5.4 to 5.7, payment of benefit commences on such date as chosen by the member, but cannot be earlier than his or her normal minimum pension age, and except where the Scottish Widows policy provides otherwise or the scheme administrator and member agree otherwise in writing, must be before his or her 75th birthday.'

- The rules didn't say that Mr P could take his benefits at age 55. Instead, they said that Mr P couldn't take benefits earlier than the NMPA. It set out the definition of NMPA as the meaning given in section 279(1) of the Finance Act 2004. And Section 279(1) said that, after 6 April 2028, the normal minimum retirement age was 57.

- Mr P considered that the protected pension age applied to him as Scottish Widows had consistently maintained that his retirement age was 55 and set the lifestyle investment plan to age 55. But this was likely because the legislation at the time would have allowed him to take benefits at age 55 – the NMPA at the time.

- The investigator sympathised with Mr P. He'd made plans on the basis that he would be retiring at age 55, and having the NMPA pushed back by two years had understandably had a significant impact on Mr P's retirement planning.

- But according to the scheme rules, Mr P couldn't take benefits earlier than the NMPA. So, whilst he had the right to take his benefits when he chose, he couldn't choose to take them before the NMPA as he didn't have a protected pension age.

Mr P disagreed, however, saying the following in summary:

- Scottish Widows didn't follow the intended protection for individuals in his position. Specifically, during the consultation period, the government made it clear that protection should be offered to individuals who would have an unqualified right to take pensions at 55 prior to the change.

- The lifestyle investment was geared to 55 and all documentation provided by Scottish Widows specified retirement at age 55. Not once had Scottish Widows ever said he would need to seek permission to retire at 55. He was never provided with the scheme rules to which the investigator had referred, and so he requested a copy of these.

- Scottish Widows was relying on the fact that the NMPA had been raised to justify altering his planned retirement age, but as set out above, if the age hadn't been increased, he would have had a right to take his retirement benefits at 55. Scottish Widows appeared to have not followed the spirit of the exception made for existing pension policyholders to not cause problems for pension planning.

- It could be the case that HMRC should provide further clarification of the guidance it had already given to avoid misinterpretation of the legislation. He requested that the investigator obtain this.

The investigator replied to say that she'd explained why she considered that Mr P didn't have an unqualified right and, as she believed the rules to be clear, it wasn't something which she would contact HMRC about. However, Mr P was free to contact HMRC to seek clarification if he wished, she added.

The investigator also sent Mr P a copy of the scheme rules.

Mr P replied as follows:

- The relevant section of the rules was section 5, which confirmed that the pension couldn't be taken before the normal retirement age, unless agreed and documented. His normal minimum pension age was 55. As previously set out, all documentation, including the policy schedule, showed a retirement age of 55, and the lifestyle investment plan was geared to age 55. Therefore, without the change in legislation, Scottish Widows would have allowed the retirement benefits to be taken at age 55.

- The provisions provided in the legislation that increased the normal minimum retirement age allowed for the existing retirement age to be retained for existing policy holders where there was previously a right to take the pension at age 55. This was to avoid issues where there would not be sufficient time for individuals to accommodate the pension changes.

- Scottish Widows' interpretation of the guidance would mean that no pension provider could allow retirement before 57, but that wasn't the case. His wife was in a similar situation to him, but her pension providers had both said that she could retain her selected retirement age. It seemed that not all personal pension providers were interpreting the guidance in the same way.

- Mr P added that perhaps this was something with which this service couldn't help, and he was therefore unsure how to proceed.

The investigator replied to say that previous documentation would have mentioned a retirement age of 55 because of the legislation at the time. And without the change in legislation, Scottish Widows would have allowed retirement benefits to be taken at that age.

As agreement couldn't be reached on the matter, it's been referred to me for review.

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.

And having done so, I've reached the same overall conclusions as the investigator, and for broadly the same reasons.

I'm sorry to disappoint Mr P, but there's little in fact which I think I can meaningfully add to what's already been said here.

If Mr P had a protected pension age, then Scottish Widows would be able to allow him to retire earlier than the minimum age of 57, but this isn't the case. Mr P had so such entitlement under the provisions for his policy. The scheme rules said that Mr P couldn't access his benefits before the NMPA, which for him, following the change in legislation, would be age 57.

And as set out by the investigator, the reason that policy documentation (and the investment approach) would have previously mentioned a minimum retirement age of 55 was simply because, prior to the change in legislation, this had been the case. It didn't guarantee that, even if legislation changed the minimum age for accessing benefits, Mr P would still be able to do so.

And although I can't comment on other cases, including that of Mr P's wife and how her pension providers have implemented the change for her individually, I don't think Scottish Widows has treated Mr P unfairly in not interpreting the rules differently. If it was open to Scottish Widows, or other pension providers, to allow policyholders who had previously had a NMPA of 55, and who didn't have a protected pension age, to simply retain this, then this would for hopefully obvious reasons somewhat undermine the objective of the legislation.

As also expressed by the investigator, I sympathise with Mr P having planned around a retirement age of 55, but as he has also rightly surmised, this service can't change the legislation which has caused the amendment in the NMPA, and so wouldn't be able to assist him further.

My final decision

My final decision is that I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 21 November 2025.

Philip Miller
Ombudsman