DRN-5887255

The complaint

Mr N has complained that Scottish Widows Limited moved his policy into a fund without his agreement, negatively affecting the return achieved, and that the nature of the fund was misrepresented to him. Mr N has also complained about premiums not being collected under the policy, and about the general level of customer service Scottish Widows Limited provided.

What happened

I have previously issued a provisional decision regarding this complaint. The following represents excerpts from my provisional decision, outlining the background to this complaint and my provisional findings, and forms part of this final decision:

"*Mr N took out his versatile endowment policy in the early 1990s, and it was originally invested in the with profit fund. In 2002 Mr N extended the investment term for ten years.*

In December 2011 Scottish Widows wrote to Mr N informing him that the policy was due to mature in February 2012. Amongst the options available to Mr N was to continue investing in the plan, but to do so it needed to be converted into a unit linked policy. Mr N elected to convert the policy to a unit linked basis and remain invested, and he continued to pay monthly premiums into it. The maturity date was extended to February 2022.

In 2022 the maturity date of the policy was extended again.

On 26 March 2024 Mr N emailed Scottish Widows having received an annual statement. He asked what type of fund he was invested in, having seen the value of his policy fall from around £33,000 to £24,000 between the 2022 and 2024 statements. He described the policy's performance as abysmal. Mr N also questioned why his premiums were no longer being collected.

Scottish Widows treated Mr N's email as a complaint. It sent an initial letter on 28 March saying that in December 2022, it had failed in an attempt to collect premium arrears that had not been paid since February 2022, and it had been unable to collect premiums since. It said that it would investigate further, but it commented that Mr N's bank was rejecting the premium request, and it asked if Mr N could question his bank about this. Scottish Widows also confirmed that Mr N was invested in its Indexed Stock fund, and that this had seen a fall in its value since February 2022. It forwarded a fund fact sheet, and said that Mr N had the option to switch funds if he wanted to.

Scottish Widows issued a formal response to Mr N's complaint on 13 April. With regard to the fall in the policy value, it mentioned the performance of global stock markets. In terms of premium collection, Scottish Widows reiterated that payment requests had been rejected by Mr N's bank.

Scottish Widows then issued a further complaint response on 30 May, apologising that its previous letter had not responded to the issues Mr N had raised. Regarding premiums, it said that there had been a problem with the direct debit arranged in 2022, but it had failed to *tell Mr N about this at the time. It said a new direct debit could be set up, and it confirmed Mr N could pay the outstanding premiums if he wanted to. Scottish Widows also indicated that the 2024 annual statement should not have been issued because of the unpaid premiums. For providing Mr N with incorrect information, Scottish Widows paid £150 compensation.*

Mr N emailed on 12 June, explaining that he had been sent an annual statement for another policyholder in error. He also said that he had not received Scottish Widows' 28 March letter, or one of its complaint responses, and he questioned where the business had sent these. In terms of his complaint, Mr N commented that Scottish Widows had not addressed several issues he'd raised. He said he'd not consented to be invested in the Indexed Stock fund, and that instead during discussions with the business in January 2012 he'd understood he was investing in "a 5% balanced fund". Mr N said that, via his wife's knowledge of the investment sector, his understanding of the Indexed Stock fund was now that it represented "one of the worst asset classes" and that it would never recover from the losses it had incurred since 2022.

Regarding the non-collection of premiums, Mr N confirmed he'd checked with his bank and been told the direct debit had never been cancelled. He commented that Scottish Widows was at fault for not taking the premiums, and that he should not be financially disadvantaged by this. Mr N also questioned how this had impacted the value of his policy, and what the effect would be if he paid the missing premiums.

It does not appear that Scottish Widows immediately responded to the points raised by Mr N. It sent a letter on 4 July confirming the premium arrears that it would take by direct debit in mid-July. On 7 August Mr N emailed Scottish Widows reiterating that he'd not consented to invest in the Indexed Stock fund but had instead asked to go into a balanced fund. He said the Indexed Stock fund was very narrow and specific, with around 96% in UK gilts. He also questioned whether the number of units shown in a June 2024 statement he'd received was accurate.

Scottish Widows sent Mr N forms to switch funds on 8 August, together with an updated valuation. On 12 August Mr N emailed with a further description of the investment he'd believed he was in, saying it was "a balanced diversified fund", and that bonus notices up to 2010 showed he was in a mix of bonds, equities and property. He said he'd never been informed about the risk rating for the Indexed Stock fund, and only became aware of its asset allocation in 2024.

Scottish Widows issued a further response to Mr N's complaint on 22 August. It stated that in January 2012, Mr N had signed a form requesting that his policy be converted to a unit linked basis and invested in the Indexed Stock fund.

Unhappy with Scottish Widows' responses, Mr N bought a complaint to this service. He said that he'd not received a fact sheet about the Indexed Stock fund until 2024. As the fund had the word 'stock' in its title, Mr N had not understood that it invested in gilts. He suggested that Scottish Widows had misrepresented the nature of the fund due to its name. Mr N said that key to his dissatisfaction was that he didn't recall requesting to go into the type of fund that he had, and he was unhappy with its performance. He highlighted that Scottish Widows accepted there were errors in its collection of the policy premiums. He also said that communications from Scottish Widows were poor whereby some of its letters were not received, emails were not responded to, and he was unhappy with how he'd been spoken to by a staff member. Mr N also highlighted that he'd been sent an annual statement for another policyholder.

When forwarding its submissions, in terms of the problem with premium collection Scottish Widows said that this was caused by a delay in the extension of the policy whilst it awaited anti-money laundering ('AML') verification.

Our investigator did not uphold this complaint. Her view was that Mr N had consented to investing in the Indexed Stock fund at the time that he completed the form requesting an extension to the maturity date in 2012. Although premiums were not collected for a lengthy period, the investigator said that units were still allocated under the policy on the original premium due date, and that consequently this had not caused Mr N a financial loss. Her view was that compensation of £150 offered by Scottish Widows for poor service was fair.

Mr N did not agree with the investigator's findings. He commented that his concerns about the Indexed Stock fund being misrepresented by Scottish Widows had not been addressed. He said that he'd not been placed in a position to make an informed choice about the fund. Instead he had understood that the fund he was investing in was similar to the previous fund he'd been in, in that it was balanced with similar asset classes. Mr N felt the assessment meant he'd not been properly protected against Scottish Widows giving him incomplete information.

Mr N referred to a Scottish Widows booklet he'd received around the time that he'd extended the policy in 2012, entitled 'Looking at your choices at the maturity date'. He said that in this booklet the Indexed Stock fund was described as 'balanced', and that it was misrepresented as low risk. Mr N said this was inaccurate in light of the fall in the value of his policy by about £8,000 since 2022. He commented that a fund of one asset class of index linked bonds could not be deemed as balanced, because it did not have a range of asset classes in it. Mr N said that he had not received a breakdown of the asset classes in the fund until February 2024.

More recently Mr N said that he'd not received an annual statement for his policy in 2025, and he questioned whether Scottish Widows had sent it to another policyholder in error. He also confirmed that his policy had fallen further in value.

Mr N's complaint was referred for review by an ombudsman.

What I've provisionally 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.

Initially it's necessary for me to consider whether this service has the power to look at all the issues that Mr N has complained about.

<u>*Our powers to consider this complaint*</u>

This service can consider a wide variety of complaints about financial services, but we can't investigate every complaint that's brought to us. The rules under which we operate are set out within the FCA Handbook under the DISP rules, and these can be found online. They detail the limits of which complaints our service can consider.

DISP 2.8.2R states that – where a business doesn't agree – I can't look into a complaint if it was made more than six years after the event complained of, or if later, more than three years from the date on which the complainant became aware, or ought reasonably to have become aware, that they had cause for complaint. An exception to this is where I conclude that the failure to comply with the time limits is the result of exceptional circumstances.

Within the case brought to this service, Mr N has complained about the non-collection of premiums from 2022, and the quality of customer service he has received. Both of these issues relate to events that occurred within six years of Mr N complaining about them. I am therefore able to investigate these matters based on the time limits set out above.

The other two parts of Mr N's complaint are that he did not agree to invest in the Indexed Stock fund in 2012, and that the nature of the fund was misrepresented to him in 2012. As these events both occurred more than six years before Mr N raised his complaint in 2024, I asked Scottish Widows whether it consents to this service considering them if they've been brought too late. It responded that it does not consent to this. I therefore need to consider whether Mr N's concerns that he did not agree to invest in the fund, and that the nature of the fund was misrepresented to him, have been brought too late with reference to the rule stated above.

In terms of agreeing to invest in the fund, Scottish Widows has provided a copy of the instruction form it received in January 2012 that Mr N signed, in which he requested to buy units in the Indexed Stock fund. Mr N did not complain about this issue within six years of this form being completed, and is therefore outside the first element of the time limit set out above.

The second element of the time limit says I can consider a complaint issue raised outside the six year period if it's been made within three years from the date on which the complainant became aware, or ought reasonably to have become aware, that they had cause for complaint. Mr N completed the instruction form requesting to go into the Indexed Stock fund in 2012. In my view, he therefore knew or ought reasonably to have known in 2012 that he had cause for complaint if he was unhappy that he'd not agreed to invest in this fund.

It was more than three years after this that Mr N complained that he'd not consented to be invested in this fund. I have not seen evidence that Mr N's failure to comply with the time limits was the result of exceptional circumstances. My conclusion is that this part of Mr N's complaint is time barred, and consequently I cannot consider it.

Mr N has also said that the Indexed Stock fund was misrepresented to him. He said this happened during a discussion with Scottish Widows in January 2012, meaning he believed he was investing in a balanced and diverse fund. Instead his understanding is now that the asset holdings in the fund are narrow and concentrated in UK gilts. Mr N has said that he wasn't told about the risk rating for the Indexed Stock fund, and only became aware of its holdings in 2024 when he received a fact sheet for it for the first time. He has stated that having the word 'stock' in its title meant Mr N didn't realise that it invested in gilts.

Mr N has provided the Scottish Widows booklet he was given around the time he moved into the Indexed Stock fund in 2012, entitled 'Looking at your choices at the maturity date'. Descriptions of the funds available were included, and each fund was also given a risk rating. The Indexed Stock fund's rating was 'balanced', falling between the 'cautious' and 'progressive' ratings. The fund's aim was described as being to achieve growth by investing mainly in UK index linked securities. It was explained that if long term interest rates were to rise, the value of units was likely to fall, and vice versa.

This aspect of Mr N's complaint is that in 2012 Scottish Widows misrepresented the type of assets held in the Indexed Stock fund, and its risk rating. He complained about this issue in 2024, more than six years later, and he therefore brought his complaint outside the first element of the time limit outlined above.

In terms of the three year element of the time limit, it seems to me that from 2012 when he was given the Scottish Widows booklet, Mr N knew or ought reasonably to have known that the fund was primarily invested in UK index linked securities or gilts, based on that booklet. I also consider that from 2012 Mr N knew or ought reasonably to have known that the fund was risk rated by Scottish Widows as balanced, again based upon the booklet's content. In my view in 2012 Mr N had, or ought reasonably to have had, knowledge of the issue that he later complained about regarding the representation of the fund. He did not complain about this until 2024, which was more than three years later, and outside the relevant time limit.

Again I've not seen evidence that Mr N's failure to comply with the time limits was the result of exceptional circumstances. My current conclusion is that Mr N's complaint that the nature of the Indexed Stock fund was misrepresented to him has also been brought too late, and cannot therefore be investigated by this service.

I appreciate that Mr N is likely to be disappointed with my findings regarding how time limits impact our power to investigate some elements of his complaint. However I am required to take these time limits into account, as they form part of the rules that determine the jurisdiction of this service.

As explained above, I am able to consider Mr N's complaint about the premium collection problems he encountered from 2022, and the customer service he received from Scottish Widows. The following section of my findings relates to my current view of those aspects of his complaint.

<u>My findings regarding premium collection problems and customer service</u>

Premiums stopped being collected for Mr N's policy from February 2022, and this was also when the policy's maturity date was extended. A payment of £1,500 taken by Scottish Widows in July 2024 via direct debit brought the premiums due under the policy up to date.

In its submissions to this service, Scottish Widows stated that the issues collecting premiums occurred because it required updated AML verification. I can see that Scottish Widows did send a letter to Mr N on 18 January 2022 that requested AML related documents. However on 30 March 2022, it sent a further letter to Mr N that said before it could update its records showing the policy extension, it needed a qualifying declaration to be completed. There was no mention in the March 2022 letter of any outstanding requirement for AML documents to be provided, indicating to me that Mr N had already provided these.

Scottish Widows received Mr N's qualifying declaration on 18 April 2022. However it was not until 16 November 2022 that Scottish Widows issued a letter to Mr N confirming the policy had been extended and remained qualifying for tax purposes. It apologised in this letter for the delay in processing the extension request, and said that it would collect outstanding premiums in December 2022. Based on the evidence provided, it seems to me more likely than not that the reason no premiums were collected from February 2022 was due to internal administrative delays extending the policy within Scottish Widows, rather than any delay on Mr N's part in providing AML documentation, or the qualifying declaration.

Scottish Widows told Mr N in March 2024 that it had been attempting to collect outstanding premiums every month from December 2022, and it suggested there might be a problem with Mr N's bank, or with the bank details it held. However in its May 2024 complaint response Scottish Widows stated that there was an issue with the direct debit in 2022, and it accepted that it should have alerted Mr N to this at the time.

Overall it's not clear to me what the exact cause was for the failure of premiums to be collected under the policy. It does appear that units were purchased under the policy on their *original due date despite the premiums being collected late, meaning that Mr N has not suffered a financial loss due to this issue. However I would agree that when Scottish Widows found it was unable to collect premiums in 2022, it should have told Mr N, rather than continuing to make failed attempts to do this each month for well over a year. Scottish Widows has offered £150 compensation to reflect that it gave Mr N incorrect information about this issue and I will return to what I consider to be fair compensation shortly.*

Mr N has complained about the general level of customer service he has received from Scottish Widows. He's highlighted to Scottish Widows that he's received an annual statement for another policyholder in error, but the business does not appear to have responded to him (or this service) about this. Mr N has said that certain letters Scottish Widows wrote to him have not been received, and he has questioned where they were sent. He has expressed dissatisfaction generally with the quality of communications he has had from Scottish Widows.

I appreciate why Mr N has raised concerns about where Scottish Widows letters that he did not receive have been sent, bearing in mind he received a statement for someone else. However the letters intended for Mr N do appear to have been correctly addressed, leading me to conclude on balance that Scottish Widows has not been at fault for them not being received by him.

That said, I would agree with Mr N more generally that the service he has received from Scottish Widows has on occasions been poor. Receiving a statement for another policyholder would in my view have caused Mr N some concern about whether his policy details might be sent to the wrong person.

In addition, I do not consider that Scottish Widows gave Mr N a clear explanation for why his premiums were not collected from February 2022 until July 2024. I am also mindful that the failure to alert Mr N to the non-collection of premiums at an earlier date meant that he had to pay a significant sum in one go to cover the arrears. And it took Scottish Widows some time to resolve the premium collection problem once Mr N contacted it about this issue. Scottish Widows has also accepted that it should not have issued annual statements to Mr N which were based on premiums having been collected when they were still outstanding.

Overall my view is that poor customer service from Scottish Widows has caused Mr N unnecessary distress and inconvenience. I understand that Scottish Widows has already paid Mr N the compensation amount of £150 that it offered to him. In light of the difficulties detailed above that it has caused him, in my view it is fair that Scottish Widows should pay Mr N a further £150 compensation, in addition to the amount already paid."

Responses to my provisional decision

Scottish Widows accepted my provisional findings.

Mr N disagreed with my findings. He said that some of the provisional decision covered areas which were no longer relevant. He listed these areas as the premium collection issue and the number of times he'd had to contact Scottish Widows about this, and the fact he'd received someone else's annual statement.

Mr N said that the name Indexed Stock suggests the fund invests in equities, but that's not the case. He forwarded a page of the '*Looking at your choices at the maturity date*' booklet, saying it described the fund as low risk or balanced, and questioned how a fund invested in index linked bonds could be described as balanced. Mr N said that a balanced fund would hold a diversified mix of equities, bonds, property and cash. By way of example, he forwarded information about the holdings that the with profit fund had when he was invested in it.

Mr N said that the Indexed Stock fund was not just invested in gilts, but in inflation linked gilts. He also commented that Scottish Widows had not explained why there had been a 34% fall in the fund value since 2022.

Mr N explained that he'd only become aware of problems with the performance of the fund in February 2023. He said that he had not known about the exact holdings in the Indexed Stock fund until February 2024 when he received a fact sheet. Because this was the actual date of his knowledge of the assets held in the fund, Mr N said that he did not consider the element of his complaint relating to how the Indexed Stock fund was represented to him was time barred.

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.

I note what Mr N has said about only becoming aware of the exact holdings of the Indexed Stock fund when he received its fact sheet in 2024. However, Mr N was given the '*Looking at your choices at the maturity date*' booklet in 2012 when he converted his policy onto a unit linked basis and chose a fund for investment. That booklet contained a description of the Indexed Stock fund.

The booklet's description of the fund was that it invested mainly in UK index linked securities. Index linked securities would include those that are linked to the rate of inflation. The exact holdings of the fund were not shown in the booklet, but I wouldn't necessarily expect them to be. In my view the purpose of the booklet was to provide an overview of the nature of the assets included in the fund.

Part of Mr N's complaint is that the nature of the Indexed Stock fund was misrepresented to him by Scottish Widows. In determining whether a consumer knew or ought reasonably to have known that they had cause for complaint about an issue, it's not necessary that they needed to know everything that might have gone wrong with that issue. What's important is to determine whether there was something that triggered, or ought to have triggered, the consumer's knowledge of their cause for complaint.

Mr N has said that he believed the Indexed Stock fund was spread across diverse holdings that included equities, and it was only when he received the February 2024 fact sheet that he realised the fund was concentrated in UK gilts. My view remains that based on the 2012 booklet he received, Mr N should reasonably have known at that time that the Indexed Stock fund was invested predominantly in UK index linked securities, and that this differed from a fund spread across a mix of equities, bonds, property and cash, such as the with profit fund that he had previously been invested in.

Mr N did not complain about the nature of the fund being misrepresented until 2024. This was more than six years after he began investing in the fund in 2012. In my view this was also more than three years after Mr N became aware, or ought reasonably to have become aware, that he had cause for complaint in relation to how the Indexed Stock fund had been represented to him. That's because he'd been given a general description of the fund in 2012. I consider the description of the fund in the booklet was sufficiently detailed to inform Mr N that the fund invested in index linked securities, and not across the range of underlying assets that something like the with profit fund held. Consequently my view is that the issue raised by Mr N about the nature of the Indexed Stock fund being misrepresented to him has been brought too late.

Mr N has said that his problems with premium collection and communication around that, and the fact he was sent someone else's statement by Scottish Widows, are no longer relevant. Whilst I acknowledge what he's said, these issues did form part of his initial complaint, and it's for this reason that they remain part of my determination of this case. I don't consider I have any reason to reach a different view on those subjects than I reached in my provisional decision.

Mr N has commented that Scottish Widows has not explained why the Indexed Stock fund fell by 34% from its value in 2022. In my view Scottish Widows has provided some commentary about this, within its letters to Mr N and in more detail in the fund fact sheets it's provided. It has also explained that Mr N can switch fund if he wants to, and has suggested he can speak to a financial adviser about this if he wants to. Overall my view is that Scottish Widows has adequately addressed the questions raised by Mr N about the performance of the Indexed Stock fund.

In conclusion, having carefully considered Mr N's response to my provisional decision, my view of this complaint remains as outlined in that provisional decision.

My final decision

My final decision is that I require Scottish Widows Limited to pay Mr N a further £150 compensation to reflect distress and inconvenience it has caused him due to non-collection of premiums from 2022, and the quality of customer service it has provided. This amount is in addition to the compensation of £150 that it has already paid Mr N.

What I do not have the power to consider:

Because they have been referred outside of this service's time limits, I cannot consider the issues raised by Mr N that he did not agree to invest in the Indexed Stock fund, and that the nature of the fund was misrepresented to him.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or reject my decision before 13 November 2025.

John Swain
Ombudsman