

The complaint

Mr R complains about the service provided by My Pension Expert Limited (MPE) when arranging an enhanced annuity. He contends that because MPE failed to properly amend the annuity quote it obtained from Scottish Widows for his revised medical information, he has the right to rely on that quote. Now that Scottish Widows has discovered the incorrect information and reduced his annuity in future, Mr R seeks to be put back into the position as if he was continuing to receive the originally quoted income.

What happened

Mr R used MPE to search for an enhanced annuity. This involved him providing a detailed medical history which was taken over the phone on 19 May 2022. Initially Mr R accepted an annuity quote from Aviva. But on reviewing the paperwork, Mr R identified some medical details were incorrect. He informed MPE who asked him to amend the details manually, and said that information would also be updated on MPE's system.

On the medical details form, Mr R crossed out the diagnosis date for one of his medical conditions of '14/08/2019' (typed) and replaced it with a handwritten '1/1/1980'. His diabetes diagnosis date, typed as '19/05/2020', was left unchanged. Unfortunately when MPE received this back, the diagnosis date for diabetes was incorrectly amended to 1/1/1980 on their system, rather than the diagnosis date of the medical condition Mr R had amended.

Aware that annuity rates were changing, Mr R requested new quotes. As MPE's system hadn't been updated correctly, the quotes generated on 26 October 2022 were now based on him having been diagnosed with diabetes in 1980. Mr R was unaware of this. As Scottish Widows was now offering the highest annuity (at an effective rate of 6.74%), MPE sent a Scottish Widows application form to Mr R which contained the incorrect diagnosis date (1980) for diabetes. Mr R amended the date by hand to May 2020, as he'd done previously, before sending the form back to MPE.

MPE submitted the signed annuity application and original medical details form (mentioned above) to Scottish Widows on 11 November 2022 along with confirmation of the annuity quote reference number. That was the quote from 26 October 2022, which was guaranteed for a month but incorrectly based Mr R's diabetes being diagnosed in 1980. The form had been signed by Mr R on 1 November 2022.

After Scottish Widows contacted MPE on 28 November 2022 to point out that the Lifetime Allowance (LTA) declaration was still required, MPE then returned the completed missing section the following day. Under threat of a complaint about its delays, Scottish Widows agreed to hold the guarantee on the quote until 12 December 2022.

There were some crossed wires between Scottish Widows and Mr R's ceding pension provider meaning that Scottish Widows didn't request the funds until 10 January 2023. So it agreed on that date that it would continue to honour the same rate in the quote from 26 October 2022.

Neither Scottish Widows nor MPE identified that the Scottish Widows quote Mr R was accepting didn't match the amended medical details supplied. The annuity started on 23 January 2023 at the amount of £20,229pa with annual increases in line with the Retail Prices Index (RPI).

This service subsequently considered some complaints from Mr R about Scottish Widows' and MPE's delays in setting up the annuity. In short, our Investigator found that there were 29 days of avoidable delays. Scottish Widows met about half the cost of backdating the annuity to an earlier start date, with MPE meeting the remainder. As all three parties (Mr R, MPE and Scottish Widows) agreed to the Investigator's views at the time, and those delays aren't the subject of this complaint, I won't be revisiting those matters here.

Importantly, a change in annuity rate didn't feature in the compensation for these earlier complaints, because Scottish Widows was still holding open the rate in the quote from 26 October 2022. However at around the same time Mr R's annuity application had also been selected for random data sampling. A medical report was requested from his GP which was then compared to the information on the application.

In March 2024, Scottish Widows told Mr R that as a result of the medical report from his GP, the annuity would need to be reduced from its then level of £21,330 a year to £18,221 a year. Putting it another way, without the 5.44% annual increase paid in January 2024, Scottish Widows was saying that the annuity should have started at about £17,280 a year – an effective annuity rate of 5.76% on the sum received.

Mr R complained to Scottish Widows again as he didn't think it could change what he considered to be a binding contract. Scottish Widows explained that the quote he accepted had been produced based on him having been diagnosed with diabetes in 1980, as specified in the information supplied by MPE. This was despite Mr R manually correcting the date to May 2020 on his annuity application form. So, it was unable to honour the quote of 26 October 2022 as it was generated based on erroneous information.

Scottish Widows apologised for its part in not amending the application taking into account Mr R's manual correction, and offered compensation for the distress caused. When that complaint was referred to our service, Scottish Widows agreed to no longer pursue Mr R for the past overpayment and to reverse the amounts it had clawed back from his ongoing pension payments in respect of that overpayment.

Although Mr R has a number of other medical conditions, and his GP has now confirmed the diabetes diagnosis was formally made in April 2021 rather than May 2020, Scottish Widows confirmed that it was the incorrect 1980 diabetes diagnosis date that caused the spike in the enhancement to the annuity quote. (That is to say, the difference between the 2021 and 2020 diagnosis date was immaterial.)

Scottish Widows told our service it was now clear that MPE was at fault for the original error with the medical information. But as Mr R applied to Scottish Widows because its quote at the time was highest, Scottish Widows doubted Mr R would have been able to obtain a higher quote with the correct information, than the amount to which his annuity had now been corrected. In support of this, our Investigator asked both Aviva and Scottish Widows to recreate quotes as of 26 October 2022 and they found that the Aviva quote was lower.

The premise of Mr R's complaint against Scottish Widows was that two principles needed to be considered – one relating to contract, the other to mistake. He thought his dispute was about an issue of misrepresentation, and therefore one of contract, and therefore the options he had were either to void the annuity contract or enforce it, at its erroneously high level.

I was the Ombudsman who decided Mr R's complaint against Scottish Widows. I didn't agree that Mr R was able to rely on the incorrect quote as part of his contract with the firm. In part that was because it was a known possibility all along that Scottish Widows going back to sample the accuracy of the medical information could result in it needing to amend the terms of the annuity – and the quote Mr R accepted had referred to this. Even though Mr R amended the medical information supplied with the application, and Scottish Widows overlooked that he had done so, it continued to be based on a quote that was incorrect. Scottish Widows had in effect extended the guarantee date unaware that this was a quote it could never honour in the first place.

In respect of MPE's involvement, in that decision I said:

"In fact we now know that a transcription error by the broker [MPE] caused Scottish Widows' incorrect quote to be issued in the first place. The broker should also have appreciated that as Mr R had to significantly amend his medical information a second time on the application form it submitted on 11 November 2022, it couldn't expect Scottish Widows to honour the quote. And it was in a position (which Scottish Widows wasn't) to establish whether Mr R should even be purchasing his annuity from Scottish Widows at all. It would only be clear after getting new quotes whether Scottish Widows remained the most competitive."

...
Moreover, I don't consider it's fair and reasonable for any compensation for the loss of the ability to shop around to fall at Scottish Widows' door in the particular circumstances of this case. That's because his broker also had a responsibility to ensure that the correct medical information was entered into the quoting system originally. Scottish Widows not picking up on the discrepancy when Mr R applied for the annuity on 11 November 2022 was a failure in a second line of defence. It would only have been Mr R's broker, on acting diligently when submitting a correct quote for acceptance, who could have identified whether Mr R could obtain a higher level of income elsewhere. So, I'm not persuaded that Scottish Widows should provide additional compensation here.

Mr R says in his current complaint that he is open to the possibility that I may apportion compensation between Scottish Widows and his broker. However he has not brought a complaint to us about these new issues against his broker."

I should note here, for future reference, that I wasn't reaching a conclusion that Mr R had actually been financially disadvantaged from losing the ability to shop around with the correct medical information. Only that if it could be shown that he had been disadvantaged, it wasn't fair to expect Scottish Widows to pay him compensation for that.

However, a key reason why Mr R likely wasn't disadvantaged was because Scottish Widows told this service that it still took into account the underlying basis of the 26 October 2022 quote (by which I mean things like the interest rate underpinning the annuity and the overall mortality basis, other than where it altered the medical information) when it reduced his annuity. In other words, it didn't fully re-run a quote for the changing market conditions by the time Mr R's annuity started (at a time when market rates had been falling). This was even though I thought it would have been entitled to do that, due to the error made by MPE when generating the quote. This decision was in Mr R's favour.

I also said that even if Mr R had lost the ability to shop around based on the correct medical information at the time, it was also evident from Scottish Widows' market research that by mid-October 2022 it had become the most competitive provider – with the set of rates it regularly sampled being over 3% higher than competitors. So it was likely that Scottish Widows remained competitive over the following month, and Mr R hadn't suffered a loss from a missed opportunity to shop around in any event.

Mr R accepted my decision against Scottish Widows, which resulted in him receiving the compensation for distress and inconvenience it had already offered him. He then pursued the further complaint against MPE which I've set out above.

In investigating the new complaint, MPE accepted it had made a mistake when trying to make the corrections to the medical information advised by Mr R. It also accepted it should have re-run the quotes as a result, before concluding that Scottish Widows remained the most competitive. MPE offered Mr R £500 for the distress and inconvenience caused and the length of time it had taken for matters to be resolved.

Unhappy with the offer from MPE, Mr R referred his new complaint to our service. Our Investigator issued their initial view on 24 October 2025, noting that I had already issued a decision in which I hadn't accepted Mr R's arguments relating to misrepresentation. They quoted my decision which had said "*the remedy of a mistake, whoever made that mistake, is not to put the applicant into the more favourable position mistakenly indicated.*"

Our Investigator reiterated that the best evidence we have available suggests that Scottish Widows would have remained the most competitive quote even with the corrected medical information. They thought that MPE's offer of £500 adequately acknowledged the contribution MPE had made to Mr R's overall loss of expectation at the hands of the companies involved – both of whom had overlooked to some extent his attempts to correct the medical information supplied.

As Mr R had mentioned in his complaint that he had paid a fee for MPE's services, our Investigator considered whether it would be appropriate for MPE to refund some or all of that fee. They concluded that doing this would place Mr R in a more beneficial position than he would otherwise have been, had the errors not occurred.

Mr R didn't agree with the Investigator. He explained:

- MPE's conduct simply cannot be construed as a simple mistake. The law of misrepresentation is that repeated mistakes amount to misrepresentation. No attempt was made by MPE to alert Scottish Widows as to their error.
- He should also be able to rely on MPE's representation that they provide an "*expert and excellent service*"
- Had he contracted directly with Scottish Widows he could have relied upon its quote given the warranty to honour quotes in its terms and conditions. So he wasn't warned by MPE that by using their service his rights of redress would be diminished.
- Given the abysmal quality of service provided by MPE, he should be able to reclaim its fee. MPE should be held to the same standard as an accountant or lawyer.

As agreement couldn't be reached, the matter was referred to me.

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.

Request for further time

Mr R provided the response I've set out above four days after the Investigator's view and well within the two-week deadline set. However he added that "*I will need to review previous documentation and likely need to undertake further research in order to prepare a full reasoned argument as to why I have rejected the assessment.*"

The Investigator notified Mr R on 31 October that his case would start to be prepared for referral to an Ombudsman. On 17 November they confirmed that referral was being made, and asked that Mr R submitted any further points or information by 1 December 2025. This meant that Mr R would have had a total of five weeks to expand on his response to the view.

Mr R responded on 23 November that he was out of the country caring for one of his adult children with a long term health condition, and had also come to the conclusion that he “*will probably need to take advice*”. He asked for an unspecified amount of further time to achieve this. Our Investigator responded that the referral to an Ombudsman couldn’t be delayed further given the time that had already been allowed, but the Ombudsman would take into account any further information provided before a decision is made.

The complaint has now reached me for a decision. I consider that Mr R has already responded materially to the Investigator’s view, essentially by re-stating the position he has taken throughout the complaint. I’ve considered whether there is any likely benefit in setting another deadline for Mr R to provide a further response.

It seems unlikely that a fundamentally different point to those already made will emerge so long after the Investigator’s view was issued, and when Mr R hasn’t been prevented from adding to his comments for some two months. In any event, Mr R has the right to have his case considered by an Ombudsman and our rules don’t require that he needs to have identified a fundamentally new point in order to do that.

From looking at the history of his complaints, I’m aware that Mr R often spends time outside the UK. The Financial Ombudsman Service also has an inquisitorial role to get to the heart of a complaint and we don’t require complainants to have sought expert representation. If I think the Investigator has missed something important, it’s part of my role to identify this and explain if it changes the outcome of the complaint. For all of these reasons, I consider it’s appropriate to proceed to make a decision on the complaint.

The merits of the complaint

Mr R’s position is that due to the repeated mistakes MPE made – namely, transcribing his medical information incorrectly before obtaining the second quote, and then overlooking Mr ‘s second correction of that information – he should be entitled to keep the higher annuity originally quoted. He says that this amounts to a misrepresentation at law.

DISP 3.6.1R in the Financial Conduct Authority’s handbook requires me to determine a complaint by reference to what is, in my opinion, fair and reasonable in all the circumstances of the case. DISP 3.6.4R further sets out that in considering what is fair and reasonable I will take into account the law, as well as any relevant regulatory rules, codes of practice, or what I consider to have been good industry practice.

This means the Financial Ombudsman Service is not a court. Our rules envisage that a determination of what is fair and reasonable in all the circumstances of a case may not necessarily produce the same answer as a court. And it is not for me to say what outcome a court might reach in Mr R’s dispute with MPE. If Mr R doesn’t accept my decision, he retains the right to take his dispute to court if he wishes to do so.

The law on misrepresentation is complex. Here, Mr R was forming a contract with a different party (Scottish Widows) but partly on the basis of information and assertions made to him by MPE. Nevertheless, I think that there would reasonably have been some doubt in the mind of an applicant in Mr R’s position at the time, about the extent to which they could rely on a quote being supplied alongside medical information that was still incorrect.

For this reason I think it is more likely that when considering the law, Mr R's ability to recover losses from MPE would be limited to any higher annuity he could have obtained from MPE producing a correct quote (from the whole of the market) using the correct medical information. In any event, that is the outcome I think would be fair and reasonable in all the circumstances of this case.

I've already taken the approach in Mr R's previous complaint that the remedy of a mistake, on a fair and reasonable basis, is not to put the complainant in a financially advantageous position – unless they could actually have arrived at that position had everything happened as it should have done. That means considering whether the income level Mr R's annuity has now been corrected to is the highest he could have achieved if quotes were obtained based on the correct medical information originally.

I also don't follow Mr R's point that had he contracted directly with Scottish Widows his case would have been stronger. MPE wasn't a contracting party to the annuity – he and Scottish Widows were. My earlier decision on his Scottish Widows complaint already discussed the mechanisms that were already available to Scottish Widows to correct the annuity when the mistake was discovered. I don't consider that what is a fair and reasonable outcome overall in terms of financial loss has been altered as a result of MPE sitting as the broker between Mr R and Scottish Widows.

In a case such as this it is often difficult to recreate all the information that would have been available due to the passage of time. Where evidence is incomplete I make my decision on the balance of probabilities, but two key factors stand out to me as making it unlikely Mr R could have bettered his income:

- Scottish Widows' own data suggests it would likely have remained the most competitive provider over that month – more competitive than Aviva, which is the firm that had provided the previous best quote (due to a repricing at Scottish Widows).
- Even when correcting Mr R's annuity Scottish Widows held open the interest rate/mortality basis from the original, incorrect quote – a gesture that looks to be in Mr R's favour given that rates were reducing at the time.

I'm satisfied based on the evidence available that Mr R wouldn't likely have secured a higher annuity than the Scottish Widows one he is now receiving, even if MPE had acted diligently in correcting his medical information before looking for new quotes. And a lot of what went wrong has already been put right by Scottish Widows itself. There is no need for me to consider the extent to which Mr R should have been able to retain the past overpayments of income, for example, because Scottish Widows has allowed him to keep them. Even though MPE also played a part in Mr R receiving more income than he should have done, it wouldn't be a fair and reasonable outcome for Mr R to be compensated for that twice.

I've considered Mr R's claim that MPE purport to provide an "*expert and excellent service*", and given that this hasn't been met in his case he ought to be able to reclaim its fee. That isn't the basis on which I would consider awarding compensation in a case where Mr R set out to rely on MPE's expertise in order to obtain the most competitive annuity. It seems most likely to me that he has ended up with the most competitive annuity, despite the significant errors made by MPE. Presumably if Mr R felt able to source the best annuity rate himself he wouldn't have approached MPE.

I'm therefore satisfied that MPE is entitled to retain its fee, providing it pays adequate compensation to Mr R for the distress caused by its errors – including Mr R's loss of expectation as a result of initially believing he could secure a significantly higher income. The amount already offered by MPE falls into a bracket of awards we would make where a business' errors have caused considerable distress, upset and worry – and/or significant inconvenience and disruption that would have taken the complainant a lot of extra effort to

sort out. Looking at the impact on Mr R of MPE's actions, I'm satisfied that the existing amount of £500 is already fair and reasonable and I won't be making a further award.

My final decision

I uphold Mr R's complaint on the basis that My Pension Expert Limited caused him distress and inconvenience, and agree that it should pay him the sum of £500 it has already offered as compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 30 January 2026.

Gideon Moore
Ombudsman