

The complaint

The executor of the estate of the late Mr J, complains Scottish Widows Limited did not intervene when, in circumstances the executor argues were suspicious, Mr J surrendered his investments.

What happened

Mr J held an investment with Scottish Widows. He was able to access and provide instructions on his investments by visiting his bank, who belonged to the same group of companies as Scottish Widows. I'll refer to this bank throughout my decision as Bank X.

Across 2013 and 2014, Scottish Widows received a series of withdrawal instructions, some of them in-person at a Bank X branch, from Mr J. The withdrawals gradually depleted the investment until it was fully surrendered in May 2014. In total, a little more than £87,000 was withdrawn. In every instance, the money withdrawn from Scottish Widows was paid into one of Mr J's accounts with Bank X.

Mr J passed away in 2018. Around this time, his executor began making enquiries into how his money had been spent across the final years of his life. What they found gave them cause for concern that Mr J, who they identified as being vulnerable, may have been taken advantage of by a dishonest tradesman. The executors theorised this tradesman may have been behind the withdrawals from Mr J's investment with Scottish Widows.

The executors raised a series of complaints on Mr J's behalf. When addressing Scottish Widows, they argued that:

- The size and frequency of Mr J's withdrawals was suspicious, and the firm should've done more to safeguard him.
- The paperwork and signatures used to authorise the withdrawals contained inconsistencies which should've attracted suspicion from the firm.
- Overall, mindful of his age and vulnerability, Scottish Widows had failed in its duty of care to Mr J.

In its reply, Scottish Widows defended its conduct on Mr J's investment. It argued safeguards were in place, and had it detected any suspicious activity, it would've been handled appropriately. It was satisfied the various withdrawal requests had originated from Mr J, and he was the sole beneficiary of any payments made, all of which were paid to his account with Bank X. As the executor disagreed with Scottish Widows' findings, they referred the matter to our service.

Our investigator didn't uphold the estate's complaint. They found that:

- They weren't persuaded there was enough evidence to conclude Mr J would likely have presented as being vulnerable when he accessed his investments.
- They felt the signatures used to authorise the withdrawals were reasonably consistent, and that it was fair of Scottish Widows to have relied on them.

- A number of the withdrawals were arranged in a Bank X branch, and it was likely therefore that Mr J's identity would've been checked when processing the requests

The executor gave the appearance of accepting some of our investigator's findings. But they argued that one withdrawal in particular was especially noteworthy. The suggestion being that in the executor's eyes, this transaction at the very least should've alerted Scottish Widows that it may need to safeguard Mr J. As there was no agreement, the matter has been 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.

The estate's central argument here seems to be that Scottish Widows ought reasonably to have considered the various requests to withdraw money from Mr J's investment to be suspicious. And knowing this, the estate feels the firm should then have sought to discuss the withdrawals with Mr J in greater detail. The suggestion being that had Scottish Widows questioned the withdrawals, compelling evidence would've become apparent, which should've resulted in some sort of safeguarding activity being conducted, and the withdrawals being prevented.

But for this argument to succeed, I'd need to be persuaded that had Scottish Widows questioned or otherwise vetted the withdrawals from Mr J's investment in greater detail, that, acting fairly and reasonably, it should've prevented them from taking place. Mindful that the events in question took place many years ago, and evidence of what actually transpired is quite limited, I've considered what Scottish Widows could likely have learnt had it questioned Mr J about the withdrawals across 2013 and 2014.

The executor has argued it would've been readily apparent to anyone dealing with Mr J, that he was vulnerable. The suggestion here appears to be that were Mr J to have been questioned on his reasons for withdrawing from the investment, his answers aren't likely to have satisfied the bank he was of sound mind.

In support of this, the executor has provided a detailed account of their relationship with Mr J. As I understand it, a Power of Attorney was not sought for Mr J until 2016. The executor believes this may have come about following an intervention by Bank X's staff, at the same branch where he'd been accessing his investment in 2013 and 2014. They have however also noted that, according to those close to him, Mr J's health had been in decline prior to 2016.

I'm happy to accept the executors account of Mr J's wellbeing on face value. But on balance, I'm not persuaded Mr J's likely to have given Scottish Widows cause for concern when placing his withdrawal instructions. I can see a number of the disputed withdrawals were arranged face to face with members of Bank X's branch staff. From what the executor has told us, and from the pattern of transactions, it seems Mr J may well have had regular interactions with these staff. It was these same staff, as the executor recalls it, whose intervention in the years following the withdrawals, led to greater care and assistance being given to Mr J. Because of this, and on the balance of probability, I'm persuaded that had Mr J seemed especially vulnerable or at risk whilst he was accessing his money, that Bank X would likely have intervened much sooner than it did. The fact it did not do so, suggests to me it's more likely that Mr J will have seemed capable of making his own decisions during the interactions in 2013 and 2014.

What seems to underpin the estate's concerns with the withdrawals in question, is the suspicion that Mr J was being directed to make the withdrawals by the tradesman the executors have identified. The estate therefore seems to suggest that had he been questioned on his motives for withdrawing, it would've been apparent to Scottish Widows that Mr J was being economically abused.

From the evidence presented to me, it's not been possible to directly link any specific withdrawal with an unambiguous instance of economic abuse. The estate has suspicions, but no clear evidence of any occasions where Mr J was in fact coerced or manipulated into making withdrawals. The executor's linked some of the larger withdrawals to sub-standard building works the tradesman carried out at Mr J's home address. But from what little is available to me, mindful that we are sadly making this assessment without Mr J's direct input, I'm not persuaded Scottish Widows could've reasonably concluded he was being abused, even if it'd asked him more questions about his withdrawals. Given there's no dispute the tradesman was in fact carrying out some work, whatever in reality the quality of that work might have been, Mr J seems likely to have been able to give a plausible sounding reason for accessing his funds.

I also think it's worth considering that, at the time, there's been no suggestion Mr J was raising any concerns over his relationship with the tradesman in question. As I understand it, these concerns weren't raised until years later. So even if the tradesman could be directly linked to the withdrawals, at the time, there's no evidence that this is likely to have seemed problematic to Mr J, such that him mentioning it to Scottish Widows could fairly or reasonably have given the firm any cause for concern.

I've also considered that, from Scottish Widows' perspective, the purpose of all the withdrawals made from Mr J's investment was to increase the amount of available funds in his own accounts with Bank X. There was never an occasion across the period in question where Scottish Widows was asked to make a payment to anyone else other than Mr J. So, from Scottish Widows' perspective, beyond the potential for growth on his investments, Mr J won't have lost anything as a direct result of any of the withdrawals it authorised. It's possible that, following these withdrawals, Mr J might have made onward transactions directly with Bank X. But if he did so, and those payments are disputed, this is a matter the estate must raise with Bank X directly if it has not already done so. Because I cannot fairly or reasonably hold Scottish Widows responsible for any subsequent transactions Bank X arranged on Mr J's behalf, which may have resulted in his money being paid away elsewhere.

I can accept that, from the estate's perspective, the depletion of Mr J's investment with Scottish Widows, mindful of his reportedly modest lifestyle, is likely to appear unusual. But there's not enough evidence of the concerns and suspicions the estate has, for me to conclude that further due diligence on Scottish Widows' part should've led it to decline to process the withdrawals in 2013 and 2014. All of the withdrawals were authorised with a signature which appears to match Mr J's, many were conducted face to face at Bank X in a branch he frequented, and he was the sole beneficiary of all of the transactions in question.

The executor has argued that one of the withdrawals, is a duplication of a previous request that's marked as "second request". Their argument seems to be that this is evidence of either, Mr J losing track of his finances and being unaware that he'd already received the first request. Or alternatively, that the tradesman manipulating him had been unable to locate the money in his accounts. As above, I accept these could be possibilities. But there's no evidence which persuades me either of these scenarios are more likely than Mr J simply deciding to reuse a copied instruction he'd retained. Again, it is regrettable in this case that there is a dearth of evidence where Mr J's true motivations of signing these various withdrawals is concerned. And considering the matter as a whole, I'm not persuaded that

further due diligence on Scottish Widow's part should have seen it conclude that the withdrawals should be prevented.

For the reasons given above, I do not uphold the estate's complaint.

My final decision

My decision is that I do not uphold the estate's complaint about Scottish Widows Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mr J to accept or reject my decision before 18 October 2023.

Marcus Moore
Ombudsman