DRN-4444010

The complaint

Ms P complains that Scottish Widows Limited (Scottish Widows) mis-sold her a stakeholder pension plan, failed to provide her with annual statements and with ongoing advice, resulting in financial losses. She would like compensation for her losses and the distress and inconvenience caused.

What happened

Ms P says she wanted to make a single pension contribution of £3,600 gross before the end of the tax year in 2012. She met with a Scottish Widows adviser. She was 53 years old and wasn't working due to long term ill-health. She wanted to be able to take pension benefits at age 65. She says she was told that five years before the retirement date the pension fund would be increased because of her poor health. Ms P paid the contribution. She says she subsequently didn't receive annual statements or ongoing advice. And she says instead of being increased the value of her pension fund declined in the years before her retirement age. And it didn't offer flexi access drawdown as she'd been told it would.

Ms P complained to Scottish Widows. It upheld her complaint in part. It said it hadn't undertaken to provide ongoing advice on the plan or charged for it. It said her plan had a life styling feature where the investment was progressively switched to lower risk investments in the five years before the selected retirement age. These investments hadn't performed as well as expected, but there had been no guarantee about future returns. It said flexi access drawdown could be provided if requested. However, Scottish Widows said it had made an error in not providing annual statements for which it apologised, and it sent Ms P a cheque for £50 as compensation.

Ms P didn't accept this and referred her complaint to our service. She said the £50 offered was inadequate. And that Scottish Widows hadn't considered her main complaint point that the value of her plan would be increased five years before her retirement date because of her health issues.

Whilst our investigator considered the complaint, Scottish Widows increased its compensation offer for failing to send the annual statements to £100. But it didn't agree that Ms P had been told the value would be increased because of her ill health. It said the plan hadn't been mis-sold and that details of what had been recommended had been set out in a suitability letter sent to her and she'd had 30-days to cancel the plan if it wasn't what she expected.

Our investigator didn't uphold the complaint. She said Scottish Widows original offer of £50 compensation for not sending annual statement was fair. But she said it had fairly explained why the other complaint points shouldn't be upheld. She said only Ms P and the adviser were party to the discussions. But from the documents provided and sent to Ms P there was no evidence that the plan had been mis-sold. And nothing in the terms and conditions of the plan said the value would increase in the five years before her selected retirement age. And, as Scottish Widows had said, Ms P did have 30-days to change her mind if the plan wasn't what she wanted. She said flexi access drawdown was available but hadn't currently been requested. And that it was also clear that Scottish Widows had neither undertaken to provide, or charged for, any ongoing advice.

Ms P didn't agree. She said Scottish Widows had now offered her a further £75 for failing to investigate her complaint properly. And this showed its argument that it's adviser would have followed processes correctly was flawed, and that she had been misled when the policy was sold. She said our service should tell Scottish Widows to change the way it behaved and conducted itself.

As Ms P doesn't agree it has come to me to decide.

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.

Having done so I am not upholding the complaint.

I understand Ms P's frustration, but it isn't the role of our service to regulate firms. So, I can't tell Scottish Widows to change its systems and procedures. But I can award compensation if I think these have caused unfair outcomes. In the circumstances here I think Scottish Widows offer of £50 (since increased to £100) is fair for the error it made in not sending annual statements, which was caused by a computer problem. I understand this offer is still available if Ms P wants to accept it. And we can't usually consider complaints about how a complaint has been handled by a firm, as this isn't a regulated activity. But I note Scottish Widows has also offered Ms P £75 compensation for delays in considering her complaint.

In terms of Ms P's other complaint points, I don't think Scottish Widows has made any error or treated her unfairly.

There is no evidence she was mis-led. Instead, I think there may have been a misunderstanding or mis-recollection over what might have been discussed. I say that because I've never heard of the value of a stakeholder pension plan being increased due to ill-health in the way that is sometimes granted on occupational pension scheme benefits, which Ms P also had. So, I think it is unlikely that the adviser would have said this was available. And it clearly wasn't under the terms of the plan. But an option that can be available when benefits are taken from a stakeholder pension plan for someone in poor health is an enhanced annuity. This would offer a higher rate of income than a standard annuity for the same cost, so this might have been something which was discussed at the time.

There might also have been some confusion with the life styling option Ms P selected. Where five years from the selected retirement age funds were to be progressively switched to fixed interest type investments. The performance of which were expected to be better aligned to purchasing an annuity at retirement. Unfortunately, due to poor returns on fixed interest investments in recent years, life styling strategies haven't performed as expected, although that needs to be considered in the context that annuity rates have increased at the same time. But it is clear from the documents provided to Ms P when she took the plan out that there were no guarantees about investment performance, and it was her responsibility to monitor investments.

Likewise, there seems to be some confusion about Ms P's plan automatically offering flexi access drawdown. This wasn't available in 2012 when she took out her plan, so it couldn't have been offered then. It was introduced by the 2015 pension freedom legislation. And many providers, including Scottish Widows, have chosen to make it available on plans set up before 2015 if required. So, this option is available to Ms P if she wants to use it, which I think is fair.

It is clear from both the illustration and suitability report that Scottish Widows wasn't providing Ms P with ongoing advice about her plan. And it wasn't charging her for it. It recommended that she did contact it to undertake reviews, but the obligation was on her to do this. As Ms P is now aware Scottish Widows chose to withdraw from the advice market soon after her plan was taken out, as it was free to do. So, it wouldn't have been able to provide advice had she requested it. But she was of course free to speak to another financial adviser if she wanted too.

So, having considered the available evidence I don't think the plan was mis-sold to Ms P, or that she was mis-led about what it offered. And apart from the error over the annual statements which Scottish Widows has accepted and already offered fair redress for, it hasn't done anything wrong and needn't do any more.

My final decision

My final decision is that I do not uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms P to accept or reject my decision before 21 December 2023.

Nigel Bracken
Ombudsman