

The complaint

The estate of Mrs P deceased complains that Scottish Widows Limited gave it wrong information about the sale value of an ISA. The complaint is brought on behalf of the estate by the executor, who I'll refer to as Mr P.

Mr P says he was told the estate would receive the probate value of the ISA, and he wants Scottish Widows to honour this.

What happened

I set out what happened in my provisional decision dated 20 June 2023. In brief summary, Mrs P passed away in January 2022. She held an ISA with Scottish Widows which contained one fund, which I'll refer to as "C". The probate value of the ISA was £35,747.69.

When Mr P phoned Scottish Widows on 4 March 2022, Scottish Widows told him that the estate wouldn't receive less than the probate value of the ISA. But, when the fund was sold on 27 June 2022, the estate received around £3,800 less than the probate value.

Scottish Widows accepted it had given Mr P the wrong information. It paid him £201 to cover the cost of his phone calls, and for the inconvenience. It offered to reinstate the fund as if it hadn't been sold, but Mr P didn't agree to that because he thought it would leave the estate in a worse position.

Our investigator didn't recommend that the complaint should be upheld. Mr P didn't agree, so the complaint was passed to me.

My provisional decision

I thought the complaint should be upheld. I explained why and what I thought Scottish Widows needed to do to put things right. I said:

I find, and Scottish Widows accepts, that it gave Mr P wrong information during his phone call on 4 March – he shouldn't have been told that the estate would receive the probate value of the ISA when it was sold. The probate valuation of the ISA was based on the price of C as at the date of Mrs P's death and didn't have any bearing on the sale proceeds the estate would receive – which would be based on the sale price of C.

I can understand why Mr P wants Scottish Widows to honour what it told him and pay the estate the probate value of the ISA. But I agree with our investigator – there was no guaranteed value of the ISA, and the probate value wouldn't have been the amount the estate would ever have received, (unless the price of C when it was sold happened to be the same as the probate price).

I don't agree it's fair to reinstate the ISA. The price of C has decreased and there's no guarantee it will increase to match the sale price the estate received on 27 June

2022. So reinstating the ISA could unfairly put the estate in a less favourable position, and it will delay completion of the administration of the estate.

After careful consideration, I think Mr P would have acted differently if he'd not been given the wrong information. I can't say for certain what he would have done. But I think it's more likely than not that he would have kept an eye on the price of C and that he would have arranged to complete and submit the sale instruction paperwork much more quickly than he did. I say this because he was clearly worried about the impact of the war in Ukraine on the price of C and he wanted to obtain the best price he could for the estate.

Aside from the fact Mr P had taken a relaxed approach to the timing of completing the required paperwork (because of what he'd wrongly been told), there was also a delay because Scottish Widows told him it needed both his signature and the second executor's signature on the paperwork. Either that, or Mr P needed to explain that the second executor was working abroad and provide his contact number. But it's clear from the grant of probate that power had been reserved to the second executor. This meant that, unless a further application was made to the Probate Registry, the second executor played no part in the administration of the estate, and his instruction, or agreement, should not have been required to sell C and close the ISA.

This means there was no reason why Mr P couldn't have completed the required form relatively quickly after his 4 March phone call and sent it to Scottish Widows. I don't think it's unreasonable to conclude that Scottish Widows could likely have received the completed paperwork by 8 March 2022. Using the same timing for when it actually received the paperwork, I think the sale most likely would have taken place four working days later. So, on 14 March. I think Scottish Widows should calculate what the estate would have received had C been sold on 14 March 2022 and pay the estate the difference, plus interest.

Scottish Widows paid Mr P £201 for the inconvenience he'd been caused, and for the cost of his phone calls. I only have the power to order compensation for distress and inconvenience to an "eligible complainant" who, in this case, is the late Mrs P. That doesn't mean I'm unsympathetic to Mr P's situation. The administration of an estate can often be a stressful time and I appreciate Mr P felt responsible for what had happened as he was acting on behalf of the other executor and beneficiary. But I can't increase the compensation payable to him.

Scottish Widows accepted my provisional decision and said it thought it was a fair outcome.

Mr P was pleased I was minded to uphold the complaint. But he didn't agree with my conclusion that he would have completed the sale paperwork shortly after his 4 March phone call. He said the late Mrs P had two other similar investments with other providers, and for these he requested valuations and used the FTSE 100 as a gauge to initiate the sales. If he'd asked for a valuation on 4 March 2022, it would likely have been quite low and he would have delayed giving sale instructions until the price rose, probably towards the end of March.

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've considered very carefully what Mr P said in response to my provisional decision. As

I explained in that decision, I can't say with certainty what Mr P would have done if he'd been given the right information. I appreciate what he says he did with other, similar investments, and I don't doubt he wanted to ensure he achieved the best outcome for the estate. I accept it's *possible* he may have delayed giving sale instructions until he thought he would get a better price.

He says the FTSE 100 began to recover in the days after 4 March and returned to pre-war levels nearer to the end of March. But I've looked at the price of C and it didn't move that much during this period and didn't recover to the probate price of 159.70. Looking at the price movements, it would be difficult to pick a particular point which would have been the trigger for Mr P to give a sale instruction.

Based on what he told Scottish Widows at the time, he was worried about the impact of the war in Ukraine on the price of the fund. For that reason, I still think he would have wanted to sell sooner, rather than waiting to see what the impact might be.

Whilst I accept my approach is based on what I think is most likely to have happened, and for that reason doesn't necessarily reflect exactly what would have occurred, I still think it is the fairest way of calculating the compensation due to the estate. For that reason, I won't be departing from my earlier conclusion.

Putting things right

Scottish Widows Limited should calculate how much the estate of Mrs P would have received if it had sold C shares on 14 March 2022. It should compare this to the amount the estate actually received and pay the estate the difference.

Scottish Widows Limited must also pay interest on this amount at the simple rate of 8% per year from 14 March 2022 to the date it makes the payment. *

* HM Revenue & Customs requires Scottish Widows Limited to take off tax from this interest. Scottish Widows Limited must give the estate of Mrs P a certificate showing how much tax it's taken off if it asks for one.

My final decision

My final decision is that I uphold this complaint. Scottish Widows Limited should pay compensation as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mrs P to accept or reject my decision before 9 August 2023.

Elizabeth Dawes
Ombudsman