

The letter accompanying this document explains what your options are depending on whether or not you accept my opinion. Please read the letter carefully and take action by the date given, or the investigation might come to an end.

Opinion by adjudicator for the Pensions Ombudsman

Applicant	Mr S
Scheme	Scottish Widows Personal Pension Plan, S2P Replacement Plan and Stakeholder Pension Plan (the Plans)
Respondent	Scottish Widows Limited (Scottish Widows)

Outcome

1. I am authorised by the Pensions Ombudsman to give an opinion on the merits of complaints, whether or not they can be upheld and, if applicable, what should be done to put matters right.
2. I do not agree that this complaint should be upheld and, in my opinion, no further action is required by Scottish Widows Limited.
3. My reasons for reaching this view are explained in more detail in the section, “My findings”.

Complaint summary and background

4. Mr S holds three pension plans with Scottish Widows referenced N80803X, P56879Q and 7410049. Mr S resides in Mexico.
5. Mr S complains that Scottish Widows have imposed and enforced identity verification requirements that, he says, he is unable to fulfil. As a consequence, Mr S is unable to access the benefits held under the Plans.
6. On 15 March 2016 Mr S wrote to Scottish Widows about encashing the Plans. In his letter he said:

“I am a permanent resident in Mexico, and have been living here continuously for over 10 years. I do not have any investments or other form of income in the UK, and am no longer in Self-Assessment. I would like to take the maximum tax-free cash sum (this would presumably be 25% plus the basic single

person's allowance)...I can be contacted on the above email address. Please advise me on this matter, and whether you would accept a signed fax, as sending a letter by courier would be very expensive. I cannot receive fax, but can provide a contact telephone number if you wish. Please do not use post, as it takes around three months."

The letter included the name, address and account details for Mr S' bank in Mexico.

7. Scottish Widows responded on 18 March 2016, in relation to policy 7410049, and said "Under UK legislation we must verify all parties we pay money to and we may require Identification and Verification documents from yourself to enable any encashment."
8. On 5 April 2016, following a telephone conversation with Mr S, Scottish Widows sent an email to Mr S setting out its specific requirements for verification of identity. Mr S says that during that conversation he confirmed that he no longer wished to encash policy 7410049. The email stated that, for non-UK residents, Scottish Widows required a certified copy of two of the following documents. One to verify identity and the other to confirm address:
 - Current signed passport
 - National identity card
 - Photo-card driving licence
 - Utility or Rates bill
 - Bank Account statements
9. On 11 April 2016, Mr S sent Scottish Widows an email, about policies P56879Q and N80803X, and said:

"The best Evidence of Address document that I can provide is a bank statement of 2007. I have no more recent statement, since at that time I chose to no longer receive bank statements through the post...given that payment is to be made direct to the account to which the statement relates, I fail to understand why any further proof of address would be required. You will note that this bank statement contains the same details that you hold and have already used. I received a much larger sum from Scottish Widows in this account in late 2013, as surrender of an OEIC (11215134) and a Mortgage Plan (K168358K) without having to furnish any such proofs.

I cannot provide Evidence of Address in any other of the forms specified for the following reasons:

- My national identity card contains no address information
- I hold no driving licence
- Utility bills are of no use as they relate to the residential address, and during the over ten years I have been living in Mexico, I have used a

separate address to receive mail. This is since neither of my two residences is a deliverable postal address...In the case of property tax, nothing is sent (or delivered); one pays at the council offices, and again the receipt issued contains the address to which the payment relates....

Therefore I attach the following certified documents:

- Bank Statement (as Evidence of Address)
- National ID Card (as Evidence of name)
- Birth Certificate (as Evidence of Date of Birth)

These are certified by a notario public (in Mexico this is an experienced government-appointed lawyer). They insisted on doing the certification in the manner customary in Mexico. In particular I was unable to prevail upon them to mark the copies as "original seen"...I testify here that they did act on the originals...Also, their certification does not include their address – however I have included a scan of their card containing this..."

10. On 14 April 2016 Scottish Widows sent a letter to Mr S, in relation to Policy P56879Q, and said:

"...Scottish Widows are required under UK legislation to verify your identity(ies). To enable us to do so please supply two types of evidence...one from Part A and one from Part B.

All documentation must be certified by one of the parties listed on the enclosed form."

11. On 21 May 2016, Mr S sent a further email to Scottish Widows as he had not received a response to his email of 11 April 2016.
12. On 26 May 2016, Scottish Widows sent another letter to Mr S, in relation to policy P56879Q, and said "Under UK legislation we must verify all parties we pay money to and we may require Identification and Verification documents from yourself to enable any encashment."
13. On 1 June 2016, Scottish Widows wrote to Mr S, about Policy N80803X, saying that it still required valid documentation to verify his name and address.
14. On 16 June 2016, Scottish Widows wrote to Mr S, about Policy N80803X, and said:

"Thank you for returning your documentation relating to your retirement of the above-mentioned policy. Unfortunately, I am unable to process your retirement from the documentation you have provided.

As we have made three requests for the additional information without reply, we must assume that you do not wish to proceed with this claim and we are therefore terminating this claim."

15. On 26 June 2016, Mr S emailed Scottish Widows saying that he had been unable to find any information about its Internal Dispute Resolution Procedure. The email was headed "P56879Q and N80803X."
16. Scottish Widows responded by email on 27 June 2016 and said it was "not aware of the expression "Internal Dispute Resolution Procedure".
17. On 30 June 2016 Scottish Widows sent Mr S a letter about Policy P56879Q, saying that it could not accept photocopies or scanned documents and would require original certified copies of the verification documents to be sent by post.
18. On 10 July 2016 Mr S emailed Scottish Widows to complain about its identification and verification process.
19. On 15 July 2016, Scottish Widows sent Mr S an email, in response to his email of 10 July 2016, saying it would appreciate the opportunity to discuss the matter further with him and asking him to call them or alternatively email confirming a convenient time for Scottish Widows to contact him.
20. Mr S responded on 17 July 2016 saying he was not prepared to discuss the matter over the phone as he had a hearing impairment and, also, it was not an appropriate way to handle a complaint.
21. Scottish Widows emailed Mr S on 1 August 2016, about Policy P56879Q, and said

"In order to proceed with the encashment of the above policy we require to see original or certified copies of your proof of identity.

I realise there have been various issues providing this and apologise for any inconvenience caused.

We cannot accept copies sent from private email accounts, however if you could arrange for a certified copy of your Identity Card to be emailed by the HSBC branch you have supplied the address for we would be able to accept this as verified proof.

Please advise the branch to include in their email:

- The name and staff number of the person verifying the ID
- The branch address and contact details
- Any specific wiring instructions to ensure payment reaches you
- Confirmation (*sic*) that you are the account holder.

Alternatively if the branch cannot facilitate this please send by courier the original or certified copies."

22. On 22 August 2016, Scottish Widows sent a letter to Mr S in relation to the email it had sent to him on 1 August 2016. The letter said:

“We would be grateful if you could request from the HSBC branch you have supplied the address for to send us a certified copy of your identity card to enable us to proceed.

For a document to be properly certified, it should be:

- Stamped original seen and dated
- The name of the certifier is visible
- The branch and address of the bank.

You can also send this to us by courier, please note that we will only accept the original or the original certified copies.”

23. On 24 August 2016 Scottish Widows responded to the complaint Mr S raised in his email of 10 July 2016 as follows:

“We appreciate the difficulties you may face with the postal services in Mexico, Scottish Widows is a UK based company and our processes are set to suit the majority of our customers...

Until such times as all of our requirements are met, no claim can be initiated. This would include satisfying any Identification and Verification requirements. These are required under UK legislation and we would ask all customers to satisfy these requirements prior to the settlement of these types of pension policies.

I have checked the history of your case in depth and can find no evidence that we have delayed in any response to your enquiries. We have responded to your correspondence in a timely manner each time...”

Mr S' position

24. Mr S has made the following submissions:

- Scottish Widows state that the identification and verification documents are required under UK legislation. Scottish Widows' references are deceitful and have nothing to do with any measures imposed by the UK government.
- He has had considerable difficulties dealing with Scottish Widows and considers its policies abusive and fraudulent.
- Scottish Widows require verification documents to encash his policies despite the fact that, just two years earlier, he had encashed a Scottish Widows investment plan and only a signed letter was required.
- The money from the policies was to be paid to the same bank account as the money from the investment account had been paid to.

- Government documents indicate that, as a face-to face customer taking the lump sum as part of an ongoing business relationship, no verification documents should have been required.
- Even if verification were appropriate, Scottish Widows' specifications and requirements are erroneous and grossly excessive in relation to what the government requires in its anti-money laundering regulations.
- It was only when he said he was going to make a complaint that Scottish Widows started responding to his emails by email rather than letter, even though he had made it clear that post was not a practical option. As a result, it was months before he received its replies.
- By the time Scottish Widows agreed that his documents were acceptable, although he still had to post them, the value of his policies were several thousand pounds lower than they had been when he chose to encash them.
- On 8 and 9 November 2016 Scottish Widows tried to ring him on 5 occasions all at un-social hours. This was clearly an attempt to get him to withdraw his complaint.

Scottish Widows' position

25. Scottish Widows' say:

- The documents they have received to date only satisfy the criteria for verifying Mr S' address, not his name.
- His National Identity card would not verify Mr S' name. As Mr S does not have a driving licence and he is not an EEA member, only a UK passport would suffice.
- Bank statements from HSBC would verify Mr S' address. HSBC can certify both the bank statements and the passport. It would be preferable if the documents could be certified by a branch manager, who should clearly show that the original has been seen and that it was a true copy. The name, address and position of the certifier should also be shown.
- The reason Mr S was able to take monies for other investments was because, at that time, Anti Money Laundering exemptions applied to those policies. Those exemptions do not currently apply to these policies.
- The offer for Mr S to email the documents should not have been made.

26. Mr S confirmed that he does not hold a UK passport or a Mexican passport.

27. Scottish Widows have said that, as Mr S does not hold a passport for either the UK or Mexico, it will accept a letter of introduction from the final financial exclusion list which include a letter of introduction from a person of responsibility confirming both the

name and address of the customer. The person of responsibility must be amongst a doctor, solicitor, barrister, accountant, civil servant, staff in a higher education authority, minister of religion, teacher, midwife/district nurse who has visited at home, hostel manager, social worker, armed services officer, UK forces base commander, care home manager, prison governor, probation officer or police officer.

28. Mr S has declined to provide a letter of introduction and maintains that Scottish Widows is “guilty of criminal misconduct in imposing onerous verification requirements.”

My findings

29. The sequence of events is not in dispute, so I have only set out the key points in my Opinion. I acknowledge there were many other exchanges of information between all the parties.
30. Mr S’ complaint is in relation to Scottish Widows’ identity verification requirements which he says he is unable to fulfil. As a consequence, Mr S is unable to access the benefits held under the Plans. Mr S maintains that the requirements are ‘onerous’ and ‘deceitful’ and have nothing to do with UK legislation.
31. The UK anti-money laundering regime commenced on 29 July 1993 when the Money Laundering Regulations 1993 (SI 1991/1933) were laid before parliament. These regulations came into force on 1 April 1994. The 1993 regulations have since been amended and replaced over the years, and the current regulations are The Money Laundering, Terrorist Financing and Transfer of Funds Regulations 2017 (SI 2017 No. 692) which came into force on 26 June 2017 (**the Money Laundering Regulations**).
32. HM Revenue and Customs (**HMRC**) require any business which is covered by the Money Laundering Regulations to register with it and to meet certain day-to-day responsibilities. These include carrying out ‘customer due diligence’ measures to check that its customers are who they say they are.
33. HMRC guidelines state that customer due diligence:
- “...means taking steps to identify your customers and checking they are who they say they are. In practice this means obtaining a customer’s:
- name
 - photograph on an official document which confirms their identity
 - residential address and date of birth

The best way to do this is to ask for a government issued document like a passport, along with utility bills, bank statements and other official documents...

In some situations, you must carry out 'enhanced due diligence'. These situations are:

- when the customer is not physically present when you carry out identification checks
- when you enter into a business relationship with a 'politically exposed person' - typically, a non-UK or domestic member of parliament, head of state or government, or government minister and their family members and known close associates
- when you enter into a transaction with a person from a high risk third country identified by the EU
- any other situation where there's a higher risk of money laundering

The enhanced due diligence measures for customers who are not physically present and other higher risk situations include:

- obtaining further information to establish the customer's identity
- applying extra measures to check documents supplied by a credit or financial institution
- making sure that the first payment is made from an account that was opened with a credit institution in the customer's name
- finding out where funds have come from and what the purpose of the transaction is..."

34. Scottish Widows is a business which is required to comply with the Money Laundering Regulations and it was therefore correct for it to have carried out the required identity and verification checks, and to have asked Mr S to provide the information in the format it did. The information requested clearly complies with that set out in the Money Laundering Regulations and the HMRC guidelines.
35. Although Mr S refutes that Scottish Widows' actions are in line with UK legislation, he says that "Government documents indicate that as a face-to-face customer taking the lump sum as part of an ongoing business relationship no verification documents should have been required." Regardless, of whether the payment of the pension benefits from the policies would be regarded as part of an on-going business relationship, the HMRC guidelines are clear that 'enhanced due diligence' should be carried out when the customer is not physically present when the identification checks are carried out. Given that Mr S resides in Mexico, and so was not physically present, it follows that verification documents would be required.

36. Mr S says that although he had made it clear that post was not a practical option, Scottish Widows only started responding to him by email rather than letter once he had made a complaint. As a result, it was months before he received their replies to his queries.
37. Mr S made clear at the outset in his letter of 15 March 2016 that he would prefer to correspond with Scottish Widows by email as the postal system in Mexico was unreliable. Furthermore, Mr S made clear that communication by phone was not an option because he has a hearing impairment. Whilst I can see that on occasion Scottish Widows did respond to Mr S by email, for the most part it corresponded by letter. Whilst this was not particularly helpful, and unnecessarily prolonged the process, I do not think it amounts to maladministration on the part of Scottish Widows. However, whilst I think Scottish Widows should have taken into account Mr S' circumstances when generally liaising with him, that is not to say that it should have accepted the emailed version of his verification documents as he would have liked.
38. In summary, Scottish Widows' request for identification and verification documents was complicit with the Money Laundering Regulations, and the format in which they were requested also complies with those regulations and HMRC guidelines. Scottish Widows have provided Mr S with a number of different options by which he can provide certified documents which will meet the provisions of the Money Laundering Regulations. It is open to Mr S to decide whether he wishes to accept those options and so access his pension benefits.
39. It is therefore my opinion that this complaint should not be upheld.

Jane Stephens
Casework Manager

15 January 2019