

PO-14071: Response to Opinion of 15 January 2019

Summary

I do NOT accept this Opinion as it contains, and is based on, false statements and gross distortions relating to both:

- Anti-Money Laundering (AML) Regulations
- The Facts of my Case

Moreover, in what you state is Scottish Widows' position, you accepted statements that are either unsubstantiated or demonstrably false, without making any attempt to check their veracity.

I firstly deal with AML regulations, then with the even more serious misrepresentations of my case.

This document contains numerous links: I use [blue](#) for HTML documents and [crimson](#) for PDF documents.

Gross Misrepresentation of AML Regulations

Firstly, the AML regulations pertinent to my application of April 2016 are those dated 2007. The discussions in section [31] referring to the introduction of AML regulations in 1993 and the latest update of 2017, with innuendo of changes in between (but neglecting to mention the 2007 regulations), are thus irrelevant; I correctly used the 2007 documentation for my assessment of AML regulations.

I studied this over a period of about a week before concluding unequivocally that Scottish Widows' verification demands are totally illegitimate. My analysis is fully documented in the [Verification Issues](#) page of my website, and is unaltered by your false and misleading statements and the 2017 changes.

Your discussions of AML in [33-35] ignore the basic fact that customer due diligence involves two phases:

1. Identification, in which details are taken from the customer and recorded. This requires documents giving proof of (at least) Name, Date of Birth, and Residential Address.
2. Verification of Identity, which is a check that the individual matches that previously identified. This requires proofs of only a subset of the data recorded during the identification phase: viz. Name, plus EITHER Date of Birth OR Residential Address.

You imply that criteria for identification apply in addition to the simpler requirements of verification of identity. But is clear from both AML documents and common sense that identification is done only to establish and record an identity; subsequently, only verification of that identity would be required.

Scottish Widows has already established my identity; and this identification took on a face-to-face basis while I was living in the UK. The comments in [35] are therefore incorrect, as I was physically present when the identification checks were carried out. And as I have had an ongoing business relationship with Scottish Widows since identification, no verification is required either.

It may suit you and Scottish Widows to use the terms Identification and Verification together, but this is only one of many errors in their documentation. As noted above, the requirements for Identification and Verification of Identity are different, but most of their documentation does not distinguish the two. And it should be obvious that one does not do both at the same time. *The [confirmation of telephone interview of 05 April 2016](#) does correctly refer to the process as Verification of Identity (see page 4).*

I maintain that Scottish Widows' assertion that their onerous documentation demands "are required under UK legislation" is false. Furthermore, that Scottish Widows could not possibly have implemented these draconian measures in the genuine belief that they were legitimate, and this together with other circumstances shows that they are part of a fraudulent strategy to evade pension encashment.

False and Unsubstantiated Statements over the Facts of my Case

These are said to be from Scottish Widows, and contained in section [25]. I have been given no prior opportunity to comment on these (or any other) statements. They clearly endeavour to address certain awkward (for SW/TPO) facts in order to sustain SW's false pretence and TPO's "pragmatic solution".

[25.1] "The documents they have received to date only satisfy the criteria for verifying Mr S' address, not his name"

This statement is preposterous. It diametrically contradicts the facts, and in particular clear documented proof that it was my inability to satisfy their **Address** criteria that resulted in my documents being rejected, without any remedy being available on my part. And as you noted in [9], I explained in my [email of 11 April 2016](#) why it was not possible for me to completely satisfy their Address requirement.

See also [Difficulties in Verification of my Address](#). I give here a summary of the main relevant facts:

- The only verification document I sent containing my address is a [bank statement for April 2007](#). I also sent my national ID card as proof of Name, and my birth certificate as the mandated proof of Date of Birth (no issues were reported with these). I had no more recent bank statement as, for security reasons, I requested that these no longer be sent by post.
- I sent all three documents on [11 April 2016](#) by email, as I was worried that they would be rejected (the main worry being over the bank statement). The only usable postal option was courier, which is very expensive. I reasonably expected that Scottish Widows would simply reply to this email, confirming whether or not they would be accepted; and if not, how I could deal with the matter.
- My proof of Address was rejected in SW's [letter of 14 April 2016](#) (received 16 June 2016) as "we are unable to accept any documentation that has fall(sic) outside the required timescales". *This is the document referred to in [10]*. Although the communication is to Scottish Widows' usual low standard, "timescales" can apply only to the bank statement (which must be dated within the last 3 months), not to the other two documents (for which there are no time limits).
- The address on this bank statement is the address that Scottish Widows holds, but this is **NOT my residential address**. As I cannot receive mail at this address, Scottish Widows holds a mailing address (that of a friend) to which to send all their paper. But **AML verification must be done on Residential address**, and Scottish Widows (since my arrival in Mexico in 12/2005) has not held such an address (nor did they ever ask for it). So even if I could have verified this address to SW's satisfaction, it would be invalid for AML purposes. *Another error on SW's "Individual Identification and Verification Form" is that it specifies only plain Address, not Residential Address; these may not be the same.*
- All verification documents were received by Scottish Widows only by email, for the reasons described above. Yet this medium is evidently unacceptable to Scottish Widows. So on this basis alone, they could hardly have received documents that satisfy their requirements for proof of address; they should still require me to supply these on paper. *On [01 July 2016](#) (after asking for their IDRP) I received an email requesting me to post the documents that I had emailed - but I did not do so. See [17].*

The motivation for the above ridiculous assertion is very clear: it is a desperate attempt to negate the embarrassing fact that Scottish Widows' demands for verification of Address were in my case impossible to satisfy, and therefore patently invalid. *The difficulties surrounding SW's demands demonstrate that their intention was to make them as onerous as they could be, without being manifestly impossible to satisfy; my particular situation was clearly an oversight on their part.*

In the [email of 03 October 2017](#) from Barry Berkengoff, TPO pushed a blatantly illegal "pragmatic solution" requiring me to supply yet more verification documents, in place of investigation and determination. This charade continued on [31 October 2017](#) and [05 November 2018](#). To sustain SW's position and thereby the false pretence, SW/TPO had to continue to assert that the documentation I supplied was unacceptable. And this deficiency could not be proof of Address, as I have explained above. Nor could it be Date of Birth, as I had supplied the mandated birth certificate. So they were left with Name (this is easy to verify)...

[25.2] "His National ID card would not verify Mr S's name"

A patently ridiculous statement, which is also directly contradicted by the documentation. As a government-issued document with photo ID, it has the highest standard of authenticity, fully equivalent to a passport in this respect, and is my only universally acceptable form of identification here in Mexico. If verification of identity were required under AML regulations, this would offer good proof of both Name and Date of Birth, and thus be the only document required (*AML guidelines make clear that a single document of this nature will satisfy both verification criteria*).

You may have been confused by a statement that my national ID card was disallowed as a form of Name verification in the paper forms that followed the PDF one. But it is clear that all but the last of the paper forms are older than the PDF one (probably from a stock of preprinted copies), and are otherwise replete with conspicuous errors. The latest paper form they sent (dated 01 June 2016) is very similar to the PDF, and relatively error free. And both the [original PDF form](#) and the [latest paper form](#) include national ID card as a valid means of verifying Name. Furthermore, the error of omission in the older paper forms (for example, [this one of 26 May 2016](#)) is clear, as the allowed Evidence of Address documents include National Identity Card with the proviso "if not used to verify name and it shows the address".

Apart from this, as I indicated above, for Scottish Widows to not allow a national ID card as a form of verification of name would be nonsensical, and clearly not conformant to AML guidelines. Also contradicting the above statement is that whilst the [letter of 14 April 2016](#) rejecting my documents indicated that I did not have satisfactory proof of address and that the documents must be posted, there was no mention of any other issue. And on [01 August 2016](#), my ID card alone was allowed after I had challenged them over their requirements for proof of address - see [25.5].

But as I indicated above, it was necessary for me to lack satisfactory verification of Name to sustain the charade to protect Scottish Widows started by Mr Berkengoff (although no doubt under instructions).

[25.3] "Bank statements from HSBC would verify Mr S's address"

As noted in [25.1], I was not able to supply a printed bank statement later than April 2007 with the address that Scottish Widows holds (which in any case is not my residential address, and therefore not valid for AML purposes), and this remains the case. So bank statements did not and cannot verify my address; and anyway, Scottish Widows does not even know the residential address needed under AML regulations.

Moreover, this is inconsistent with [25.1], which states that they had already received satisfactory criteria for verifying my address. And I cannot supply another statement with the address held by Scottish Widows - see [Difficulties in Verification of my Address](#) (which in any case, this is not my Residential address).

[25.4] "The reason Mr S was able to take monies was because, at that time, Anti Money Laundering exemptions applied to those policies. Those exemptions do not currently apply to these policies."

I have searched extensively for references to exemptions to Anti Money Laundering policies, and can find none (on the internet, or elsewhere). The 2007 regulations were applicable when I liquefied my investment and mortgage plans, and there are no references to exemptions in that, except where the transaction amount is below the threshold (my liquidation was for many times that amount). And there were no changes to these regulations until 2017.

AML regulations are not transaction-specific (this was stated by TPAS, and confirmed by the lack of any reference to transaction types in government documentation). The [Final Response](#) from Scottish Widows gave the game away somewhat in indicating that it was applied to "these types of pension policies" (I suspect those to which the Pension Freedom legislation of April 2015 applies). And there can be no rational basis for HMRC to grant exemptions to certain (unspecified) types of policies, and then remove them at some (unspecified) later date. *It is convenient, of course, that these exemptions do not currently apply to these kinds of policies - otherwise the statement would be relatively easy to disprove.*

Apart from the SW investment and mortgage plans, I also made a number of large transfers from Lloyds bank accounts in the UK to this same HSBC account from 2006 to 2013; each required only a signed letter. The last of these was made when I closed my two accounts (numbers 10869268 and 02208398) in a letter of 02 December 2013. At least some of these (including early ones for construction of my house, and the last) were well above the threshold at which verification would be required - did these exemptions apply here too? If so, what types of transaction were not exempted?

All things considered, I can give this very weak statement zero credibility. If there were any basis to your claim that exemptions applied, you would have provided specific information that could be checked, including the types of policies affected and the period of the exemption (just as you provided specific, although irrelevant, information in other areas). And if this statement was made by Scottish Widows, you should have asked them to substantiate it, rather than simply accepting it.

I contend that this statement is not just unsubstantiated, but an outrageous lie. It is another desperate attempt to negate evidence supporting my statements about the illegitimacy of Scottish Widows' documentation demands, which I expect to be able to conclusively disprove with further investigation. In the meantime, I challenge you to prove me wrong by providing proper verifiable information.

[25.5] "The offer for Mr S to email the documents should not have been made"

Indeed not, as it is yet more evidence of Scottish Widows' manipulations to avoid being brought to justice. But I do not yield to criminal misconduct, which had become clear by the time this "offer" was made.

This second offer was in response to my earlier incomplete assessment described in my [interim complaint of 10 July 2016](#), in which I asserted only that Scottish Widows had no business to require verification of address. It was to accept my national ID card alone as verification, with some stipulations, including that it were emailed by my bank, plus others that were clearly ad-hoc in nature - see [21].

It was necessary to add these stipulations to avoid the charge that they should have accepted the original emailed documents. *This was Scottish Widows' second attempt to defuse my serious complaint; as mentioned above, Scottish Widows first offered to accept the documents as I emailed them, provided they were sent by post (they first attempted to telephone me, then sent an email).*

Other Issues

[8] "...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"... <List of documents>

This statement bears little relation to the facts. The email required four documents: proof of name, proof of age, proof of address, and in addition a certified birth certificate. Details of allowable options for proof of Name and Address were specified on the attached PDF form. *I could also not provide any separate proof of age, but this was not referred to later, so must be taken as an error.*

Nowhere does it say that one document is to confirm address and the other to verify identity - all four documents are presumed to be required to verify identity. Please view the [email of 05 April 2016](#).

This email also states that 30 days are allowed to respond; yet the very next day, Scottish Widows sent two letters with quite different (and highly erroneous) forms, giving only 14 days (including post both ways).

It also gave the impression of flexible options for sending documents, but it only became apparent in small print on the attached form that all documents must be certified; and these may only be sent by post. The very specific requirements for certifying documents also differed considerably between the email and the attached form. This and other issues caused considerable difficulties at the outset.

[10] "On 14 April 2016 Scottish widows sent a letter to Mr S, in relation to Policy P5779Q..."

This was the [letter of 14 April 2016](#) referred to above in rejection of my documents. The first part was an unhelpful repetition of their standard letter; in the second part, there was an indication that my documents were rejected as my bank statement was out of date, and that Scottish Widows required documents to be posted.

[12] "On 26 May 2016, Scottish Widows sent another letter to Mr S, in relation to policy P56879Q..."

Yes, this was just two days after they sent [a similar letter and form](#), also for P56879Q (some were for N80803X). Non-response to these two letters and a [further one of 01 June 2016](#) [13] for policy N80803X was used to justify terminating my application in a [letter of 16 June 2016](#) as "we must assume that you do not wish to proceed with this claim" (even though I had sent a [follow-up email](#) on 21 May 2016).

[19] "On 15 July 2016, Scottish Widows sent Mr S and email, in response to his email of 10 July 2016..."

This [email of 13 July](#) (re-sent 15 July) offered three communication options - all of them telephone. This was despite my making my difficulties with this clear in the second paragraph of my [email of 10 July 2016](#) [18]. They would not deal with my complaint by email on the grounds of security - this despite having emailed me two PDF documents with secure reply less than two weeks earlier.

[37] (issues with use of post and telephone)

Not only did Scottish Widows insist on corresponding by post in the knowledge that it was completely impractical, their letters also required a response within 14 days of the date of the letter (including post both ways). And the Final Response was completely intransigent, blaming the problems on the Mexican postal service (chopped from your excerpt in [23]). Whilst post to this country may be slow, this 14 day limit would be impossible for many others living overseas to satisfy (even before considering the difficulties in fulfilling their verification demands). How can you possibly justify this?

Scottish Widows only reverted to email when they knew I was about to make a complaint (I mistakenly requested their IDRP). And they first tried to contact me by telephone before sending me an email requesting me to post the (apparently now valid) documents. **Section [17] skips over the important point that Scottish Widows asked me to post documents that they had previously rejected (on valid grounds, according to their criteria); you did not explain how they could comply with government regulations afterwards but not before.** In another email received at the same time, they denied familiarity with the term IDRP [16]. *Both of these emails were sent as password-protected PDF documents with a secure reply facility.* This is the first phase of [Dishonest and Evasive Handling of my Complaint](#).

And I have already explained why I sent my documents by email; I was fully prepared (at that time) to send them by courier if I got the green light by way of a simple reply to my email.

Another issue is the forced use of telephone. This includes the nightmare telephone interview of about an hour and a half (which was clearly an effort to dissuade me from encashment), the initial response to my complaint, and the points already described in [19] above. The Final Response also offered only telephone as a medium for follow up.

It is clear that, despite feigning flexible means of communication, Scottish Widows forces the medium on the customer. This is usually ordinary post, with telephone being imposed to browbeat the customer or keep sensitive material off the record.

If you believe that all of the above is acceptable and does not amount to maladministration, I am all the more pleased to be living in a country where there is decency and respect for the individual. Nobody in their right mind would give money to Scottish Widows in the light of my experiences; but people putting money into pensions cannot know what kind of deal they will get as pensioners, and have to rely on you for justice.

[38] (summary)

I have already made clear that Scottish Widows had no business whatever to require any verification documents, never mind identification ones. Again, you imply that both identification and verification of identify apply, when this would clearly be nonsensical.

The "options" you refer to were provided from 03 October 2016 by yourselves at TPO, in gross violation of your statutory duty to investigate and determine complaints under the provisions of the Pension Schemes Act 1993/2017 sections 145(4C) and 146. The legitimate functions of TPO do not include any kind of arbitration or negotiation. This alone is a very clear and documented case of the criminal offence of Misconduct in Public Office.

But (in consideration of the criminal nature of Scottish Widows' offences) this brazen collusion in their protection is a conspiracy to pervert the course of justice. And I am practically certain that this follows a deal between SW and TPO dated shortly before 23 November 2016. In any case, you would hardly have resorted to such blatant breaches of the Pension Schemes Act unless there were some very strong motive.

When I sent my TPO application, Scottish Widows appeared to have something to fear from TPO. Their complaint information did not mention either TPAS or TPO, instead referring me prominently to the Financial Ombudsman (see their [complaint information of 15 July 2016](#) and their [Final Response](#)). You will be aware that this organisation is not supposed to handle pension administration complaints; yet I could quickly find several purely pension administration complaints for Scottish Widows (and none was upheld). But it seems that Scottish Widows now also has an "arrangement" with you at TPO.

The above point that Scottish Widows supplied invalid complaint information was omitted from your Opinion, but this must also be considered maladministration, in misleading complainants.

Your rehash of my position is otherwise seriously incomplete, but I suppose this is inevitable as there are so many issues involved. I refer the reader to my [Personal Pension Fiasco](#) website for full information.

Finally, it is apposite to put this Opinion in its context. There is a full chronology of my dealings with TPO on my web page [Details \(TPO\)](#). I give a synopsis of events here:

- From the time my case was assigned in October 2016, there was no communication whatever from the Adjudicator until mid May 2107; and that was only after I had learned his name, surmised his email address and emailed him directly on [14 May 2017](#).
- Since then, the Adjudicator showed considerable evasiveness, and it became clear that he had no intention of investigating my case. On [12 July 2017](#), I challenged him to give me evidence that he was taking my case seriously, but the reply was unsatisfactory.
- I then attempted to get information on my case, and when this was not forthcoming, explained in a reasonable and cautious manner my concerns about the conduct of the Adjudicator. This resulted in more evasiveness (including a blatantly false statement from the Casework Manager that my case had been actively investigated since it was assigned in May 2017), culminating in...
- A malfeasant Complaint Response of [15 September 2017](#) (in fact I never made a formal service complaint). This asserted that I had made allegations (I made none), and accused me of mistreating staff. The reasons given for both the delay and subsequent prevarication are untenable.
- On [03 October 2017](#), it became clear that the protection of Scottish Widows went well beyond the Adjudicator. This was his first effort to force a "pragmatic solution", in which I was required to supply more verification documents. He followed this up on [31 October 2017](#) with a request for a Mexican passport, requiring me to either accept his "solution" or withdraw my case.
- I sent three emails in response, making clear that I would not be party to such a solution: one of [04 October 2017 to the Adjudicator](#) copied to the Casework Manager and Pensions Ombudsman; one of [08 October 2017 to the PO alone](#); another on [01 November 2017 to the PO](#). I sent a further email on [10 January 2018 to the Legal Director](#), spelling out clearly the issues with both SW and TPO and inviting a response. **All four of these emails were unanswered.**

- On [05 November 2018](#), I received a follow up (over a year later) to the last email from the Adjudicator. I replied to this in an [email of 11 November 2018](#), with an explicit demand that my case be investigated and determined under the provisions of the Pension Schemes Act 1993/2017. **There was also no reply to this email.**

This ludicrous Opinion continues the brazen cover up by TPO of criminal misconduct by Scottish Widows, and is yet more evidence that TPO will resort to barefaced lies to sustain its position.

In all these circumstances, I have not the least expectation of any justice from TPO. But regardless:

I demand that my case be determined by an Ombudsman in accordance with the provisions of the Pension Schemes Act 1993/2017.

Yours sincerely,

Ian McInnes.