

The complaint

Mr S has complained that Scottish Widows Limited trading as Clerical Medical transferred his pension to another pension provider without his authority. Mr S claims that he suffered a financial loss as a result.

What happened

The background to this complaint and my initial conclusions were set out in my provisional decision, which I issued last month.

My provisional decision said:

What happened

Mr S holds a pension plan with Scottish Widows Limited trading as Clerical Medical. In November 2021 Mr S contacted another pension provider, who I will refer to as “Firm A” in this decision.

Firm A sent Clerical Medical a letter of authority in respect of Mr S’s pension on 6 December 2021. Firm A then sent Clerical Medical an Origo “fast track” pension transfer request on 22 December 2021. This request was for Mr S’s Clerical Medical pension to be transferred to Firm A.

Clerical Medical wrote to Mr S on 31 December 2021 to tell him that his policy had been updated. Mr S has said that the letter wasn’t received until mid-January 2022.

Mr S telephoned Clerical Medical on 14 January 2022. He said that he didn’t know what policy update the letter was referring to. During the call Mr S was told that the letter had been sent because of a “mis-match” with his National Insurance (NI) number.

Mr S raised a complaint with Clerical Medical during the call because of the level of service that he’d received. He also expressed a concern that the funds in his pension policy had gone somewhere else.

Clerical Medical telephoned Mr S on 18 January 2022. They told Mr S that they had received a letter of authority from Firm A. This allowed Firm A to request information from Clerical Medical in respect of Mr S’s pension. Mr S asked Clerical Medical to send him a copy of the letter of authority as he said that he couldn’t remember either contacting or giving permission for anyone to ask for information on his pension plan. Mr S told Clerical Medical that he wanted the letter of authority to be removed from his pension and that no information should be sent to Firm A.

Clerical Medical telephoned Mr S again on 20 January 2022. They told Mr S that if he wanted the letter of authority removed from his pension plan then he would need to request this in writing. Clerical Medical also told Mr S that they had received a pension transfer request from Firm A and the transfer had been completed the day before the telephone call, so on 19 January 2022. A letter had been posted to Mr S on 19 January 2022 to inform him

of the transfer.

Clerical Medical went on to say that Mr S should have been given five working days' notice before the transfer completed. Mr S said that he wanted the pension transfer sent back from Firm A to Clerical Medical.

Clerical Medical spoke to Mr S again on 4 March 2022. Clerical Medical said that they'd requested the transfer back from Firm A but hadn't had a response from them. Mr S said that he'd exchanged emails with Firm A and had been told that they were ready to send the transfer back to Clerical Medical.

Clerical Medical explained that once they received the transfer back from Firm A they would reverse the whole transfer process and would invest Mr S's pension as it was. Mr S said that as markets had fallen then he wanted to see where he could put his money where he wouldn't lose anything.

Firm A completed the transfer of Mr S's pension back to Clerical Medical on 6 April 2022. Clerical Medical then reversed the transfer to put Mr S back in the position that he would've been in had the transfer never happened. This meant that they reinstated Mr S's pension as it would have been on 19 January 2022 and put it back into the same investment funds that Mr S held at that time.

However, Mr S wasn't happy with this. He says that the investment funds that his pension was invested in had fallen in value between 19 January 2022 and 6 April 2022. Mr S says that this meant that when Clerical Medical reinstated his policy, its value fell by approximately £3,250. Mr S felt that Clerical Medical should compensate him for this fall in value.

Clerical Medical responded to Mr S's complaint on 7 April 2022. They said that the letter that they'd sent to Mr S on 19 January 2022 giving him notice of the pension transfer should have been sent five working days earlier. They paid Mr S £200 in respect of the inconvenience that he'd suffered as a result. Clerical Medical explained that they had now fully reversed the transfer.

Mr S wasn't happy with Clerical Medical's response, he thought that this didn't address the fall in the value of his pension once it had been reinstated. He therefore referred his complaint to the Financial Ombudsman Service.

An Investigator within the Financial Ombudsman Service reviewed Mr S's complaint. Their view was that Clerical Medical should cover the financial loss that Mr S says he's suffered.

Clerical Medical didn't agree with the Investigator's view so asked for Mr S's complaint to be brought to an Ombudsman.

What I've provisionally 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 have seen the letter of authority sent to Clerical Medical by Firm A. This contains Mr S's name, address, date of birth and NI number. Mr S has said that when he was completing online information with Firm A he didn't realise that when he clicked to accept their Terms And Conditions, this also gave approval for Firm A to contact Clerical Medical and request policy information and a pension transfer.

I have seen the pension transfer request that Clerical Medical received from Firm A. This did correctly request the transfer of Mr S's Clerical Medical pension through the Origo "fast track" transfer service. I therefore think that Clerical Medical were right to act upon both the letter of authority and the pension transfer request when they were received.

Clerical Medical received the pension transfer request on 22 December 2021 and have said that had it not been for their delays the transfer would've been completed by 6 January 2022. The transfer was completed on 19 January 2022.

Clerical Medical wrote to Mr S on 31 December 2021 to tell him that changes had been made to his policy. However, Mr S has said that he didn't receive this letter until mid-January 2022. I have seen the letter that was sent to Mr S and it says "Thanks for your request to change your details. We've updated details for your plan".

Mr S telephoned Clerical Medical on 14 January 2022 to ask why he had been sent the letter. I have listened to this telephone call. It is evident to me that the Clerical Medical representative that Mr S spoke to had great difficulty in tracing records for Mr S. When details were located then Mr S was told that the letter had been generated due to a NI number "mis-match".

The Clerical Medical representative was unable to explain what this meant. She asked Mr S for his NI number so that she could check this against her records. However, Mr S said that whilst he had his NI number to hand, he wasn't going to tell the Clerical Medical representative what this was, so she was unable to check her records.

Mr S asked for a service complaint to be raised and for an explanation to be provided of what a NI number "mis-match" was. He also said that he wanted to know this "in case all funds in his policy have gone somewhere else".

When Clerical Medical called Mr S back on 18 January 2022 they explained that they had received a letter of authority from Firm A. Mr S asked that Clerical Medical email him a copy of the letter of authority and provided his email address. He also asked that nothing was to be sent to Firm A and that the letter of authority be removed.

However, it was by then too late as the next day the transfer completed and Clerical Medical wrote to Mr S the same day to tell him of this.

Clerical Medical have said that they should've given Mr S five working days' notice before they completed his pension transfer. Mr S said during his telephone call of 18 January 2022 that he didn't want any information to be sent to Firm A, so I think that if Mr S been given the five working days' notice on the pension transfer then it's likely that he would have told Clerical Medical not to go ahead with the pension transfer.

Mr S has said that because Clerical Medical did complete the transfer of his policy he suffered a financial loss. He says that this is because investment markets fell during the period between when Clerical Medical transferred Mr S's pension and when Firm A completed the transfer back to Clerical Medical.

Clerical Medical said that they would reverse the pension transfer for Mr S. Therefore, when they received the transfer back from Firm A on 6 April 2022, they reinvested this back into Mr S's pension using fund prices applying on 19 January 2022, and then calculated what the value of Mr S's pension was on 6 April 2022. This meant that the value of Mr S's pension on 6 April 2022 was the same as it would have been as if the transfer to Firm A had never happened.

Clerical Medical have said that they did this to put Mr S in exactly the same position he would've been in had the transfer to Firm A never happened. This meant that if fund prices had increased between 19 January and 6 April 2022 then Mr S's pension would benefit from any such increase. However, it also meant that if fund prices fell during this period, then Mr S's policy value would also fall, and this is what happened. Mr S is unhappy about this.

Mr S spoke with Clerical Medical on 4 March 2022. I have listened to a recording of this telephone call. During this call he said that he had been in contact with Firm A. Mr S also asks where his pension funds were going to be reinvested and was told by the Clerical Medical representative that he spoke to that when received from Firm A, the transfer would be invested back as it was. Mr S then says: "bearing in mind that the stock market has taken a huge crash, I don't know if that's good advice or not."

Mr S is asked what his expectations are and replies "I expect the money to come back from (Firm A) to Clerical Medical but I was hoping to speak to someone in...I don't know what department that would be, to see where I can put that money without losing anything because of the way the stock markets have crashed due to this Russian Fiasco".

Mr S is told that his pension would be put back as if the transfer hadn't happened, but will put Mr S's comments "in escalation". Mr S then repeats that he expects the same money back but also doesn't want to lose anything because of a stock market crash.

I think that in reversing the transfer to put Mr S back in the position that he would've been in as if the transfer had never happened, Clerical Medical acted reasonably.

I therefore don't think that it would be reasonable for Clerical Medical to change or backdate the way that Mr S's pension was invested on 19 January 2022, as Mr S had seen investment markets fall. If Mr S's pension hadn't been transferred, which is the result Mr S was originally seeking when raising the issue with Clerical Medical, then its value would've still fallen by the same amount.

However, because the policy was transferred this did mean that Mr S wasn't able to make any changes to the investment of his pension, if he had wanted to, until the transfer was paid back by Firm A on 6 April 2022.

Mr S spoke with Clerical Medical on 4 March 2022 and asks for help to see where he could invest his pension "without losing anything". He is also unhappy that the transfer back to Clerical Medical had not been completed.

I've therefore considered whether it's likely that Mr S would still have contacted Clerical Medical at that time to ask for fund information had his policy not been transferred.

Whilst Mr S wasn't able to make any investment changes until his policy was reinstated on 6 April 2022, he has been able to do so since then. But Clerical Medical have said that Mr S's policy has remained invested as it was since it was first set up, so with no investment changes being made.

I therefore think that on balance it's likely that had Mr S not been in contact with Clerical Medical in early 2022 because of the transfer of his pension, he wouldn't otherwise have contacted them and asked for fund information. I also haven't seen any evidence to suggest that Mr S would have made any changes to the investment of his pension in early 2022, had he been able to do so.

Mr S had asked Clerical Medical for fund information during his telephone call of 4 March 2022. Clerical Medical are not Mr S's financial adviser, they are his pension administrator.

They were therefore unable to give Mr S any advice on how he should invest his pension. I do however think that they were able to provide Mr S with information on investment choices available to him, so that Mr S would be able to make an informed decision, if he had wanted to change his funds. Clerical Medical didn't send any information to Mr S.

I therefore think that if Clerical Medical had sent information to Mr S then he could've been able to use this information if he'd wanted to make changes to the investment of his policy when it had been reinstated on 6 April 2022, if he had wanted to protect it against any further possible market falls.

As Mr S hadn't received a response from Clerical Medical following his telephone call on 4 March 2022 then I think it's reasonable that he could have asked Clerical Medical for this information again, if he did then want to make any fund changes. However, as I've said above, Clerical Medical have said that Mr S has not made any changes to his pension and it still remains invested as it was on 19 January 2022.

I've also considered whether Clerical Medical delayed the transfer of Mr S's pension back from Firm A, and whether this meant that there was a delay from when Mr S could've made investment changes to his policy. Mr S says during his telephone call of 4 March 2022 that he's been told by Firm A that they are ready to transfer his policy back to Clerical Medical.

But Clerical Medical told Mr S during this telephone call that they had requested the transfer back from Firm A. Therefore, as Clerical Medical had requested the transfer, I don't think that they can be at fault because Firm A didn't action this request until 6 April 2022.

Also, as I've said above, I haven't seen any evidence to show that if the transfer back to Clerical Medical had been completed at an earlier date, Mr S would then have changed the investment of his policy.

I therefore don't think that Clerical Medical did anything wrong when they reinstated Mr S's pension on 6 April 2022, as they put him back in the position that he would've been in had the transfer never happened. Mr S has been able to change the investment of his plan since then, but hasn't done so.

I do however think that Clerical Medical were at fault when they completed the transfer of Mr S's policy without giving him five working days' notice. If they had given him notice, the need to reverse the transfer wouldn't likely have arisen and Mr S would have been saved some of the distress and inconvenience he went through. Clerical Medical need to pay Mr S compensation for this, and for the poor service they provided when Mr S contacted them. I'm therefore upholding Mr S's complaint.

Putting things right

Clerical Medical have paid Mr S £200 in compensation for the distress that he's suffered. I think that a payment of £350 is more appropriate given the mistakes outlined above. No further action is then needed from Clerical Medical.

My provisional decision

My provisional decision is that I uphold Mr S's complaint against Scottish Widows Limited trading as Clerical Medical and that they now pay Mr S a further £150 in addition to the £200 that they have already paid for the distress and inconvenience that he has suffered, so that the total amount paid to Mr S is £350.

In my provisional decision I invited both Mr S and Clerical Medical to respond with any additional information or comments that they wanted me to consider before I made my final decision.

Both Mr S and Clerical Medical have responded to my provisional decision.

Clerical Medical have said that they agree with my provisional decision.

Mr S has replied to say that Clerical Medical admitted they were wrong and their own procedures had not been followed correctly. Mr S has also said that he's not happy that Clerical Medical were unable to stop the transfer taking place. He's also said that he's unhappy with the way that Clerical Medical reinvested his monies when the transfer was reversed.

Mr S has also said that he was never advised by Clerical Medical about being able to transfer monies to another provider and that he was not informed in writing by Clerical Medical when everything had been transferred back into his pension. Mr S has added that he doesn't think that £350 is adequate compensation.

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 have considered the additional comments made by Mr S in his response, and whether these change my provisional decision. However, I don't think that any new or additional evidence has been presented by Mr S which would result in me changing my provisional decision.

I think that Clerical Medical had already admitted that they should have sent their letter of 19 January 2022, giving Mr S notice of the pension transfer, five working days earlier. They therefore sent Mr S payment of £200 in respect of the inconvenience that he'd suffered and because of a delay in resolving his complaint. I had also said in my provisional decision that I think Clerical Medical were at fault when they completed the transfer of Mr S's policy, without giving him five working days' notice.

I'd also explained in my provisional decision why I don't think that Clerical Medical did anything wrong when they reinstated Mr S's pension on 6 April 2022, and I have not seen any new evidence that would make me change this view.

Mr S has said in his response that he wasn't advised by Clerical Medical about being able to transfer to another pension provider. I don't think that Clerical Medical were responsible for telling Mr S that he was able to transfer his pension to another pension provider. I think that they were Mr S's pension administrator and not his adviser.

Mr S also said in his response that Clerical Medical didn't write to inform him that his policy had been reinstated. However, when Clerical Medical responded to Mr S's complaint on 7 April 2022 in writing, they explained that they had fully reversed the transfer.

I therefore think that compensation of £350 is appropriate, given the mistakes made by Clerical Medical.

I am therefore upholding Mr S's complaint for the reasons set out above in my provisional decision.

Putting things right

Mr S has said that he received a cheque for £200 from Clerical Medical in April 2022. However, Mr S has said that he hasn't paid the cheque into his bank account as he wasn't aware that it was a compensation payment.

I think that a total payment of £350 is more appropriate given the mistakes outlined above. As Mr S didn't pay in the cheque for £200 that he was sent in April 2022, Clerical Medical need to re-issue their original payment of £200 to Mr S, together with a further £150, to bring the total compensation paid to Mr S to £350. No further action is then needed from Clerical Medical.

My final decision

My final decision is that I am upholding Mr S's complaint against Scottish Widows Limited trading as Clerical Medical and that they now pay Mr S total compensation, including the payment of £200 that they have already offered, of £350.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 17 August 2023.

Ian Barton
Ombudsman