

## The complaint

Mrs F complained that Scottish Widows Limited trading as Clerical Medical (Clerical Medical) has caused her significant distress and inconvenience as well as a possible financial loss through its poor administration of contributions into her pension scheme over a prolonged period. She would like Clerical Medical to rectify these problems and provide compensation for her distress and inconvenience and any financial loss she may have incurred.

## What happened

I issued my Provisional decision in September 2023, the relevant parts of which are reproduced below and forms part of my decision:

*"Mrs F has a pension policy with Clerical Medical, into which regular contributions are paid by her employer. These contributions are partly funded by her employer, and partly by personal contributions deducted from her salary.*

*In February 2021, Mrs F's employer emailed Clerical Medical to query why a payment had been returned to their account rather than being credited to Mrs F's pension. The employer then contacted Clerical Medical again a week later to raise concerns about a lack of response and the next pending contribution payment.*

*Two letters were issued by Clerical Medical on 27 April 2021 to Mrs F, one stating that her premiums had been restarted and another stating no premiums had been received. Clerical Medical made Mrs F's pension 'paid up' on 15 May 2021, as it claimed it had no record of payments being made in respect of the policy, which meant her pension plan was effectively treated as being inactive. Clerical Medical restarted the policy on 17 June 2021, before making it paid up once more on 6 August 2021, again claiming no payments had been received.*

*Mrs F's policy was subsequently restarted and made paid up twice more before 4 January 2022 due to her pension payments not being correctly credited to her policy.*

*Mrs F's employer rang Clerical Medical on 1 September 2021 to query the ongoing problems with Mrs F's pension contributions being applied to her policy. As a result of this call Mrs F's employer complained to Clerical Medical about the length of time her call was on hold before she was able to speak to someone about the situation.*

*Clerical Medical responded to the employer's complaint on 15 September 2021 offering Mrs F £100 compensation for her distress and inconvenience. In the letter, it explained that the issue had been caused by an upgrade to the administration system. It said:*

*A regrettable consequence of this was that teething problems arose resulting in some clients being impacted in different ways. In this instance, it was the premiums which was affected, which is why we have arrived at this point.*

*The letter went on to say:*

*Please be assured our IT department are currently working on resolving the issue which is preventing us from applying payments to policies. At this time there is not currently a timeframe in which we expect this to be resolved, however, any payments currently in this box suspense will be allocated at the date of receipt to ensure there is no financial loss to our clients.*

*On 1 October 2021, Clerical Medical wrote to Mrs F's employer to confirm that premiums had restarted on Mrs F's policy. It subsequently wrote again on 16 October to advise the employer that another payment had been missed.*

*Mrs F called Clerical Medical twice in December 2021 querying conflicting information she had been sent and chasing a response. On 3 January 2022, Mrs F received a letter from Clerical Medical indicating that its records showed total contributions of around £18,500 being made into her plan between 1 November 2020 and 3 January 2022. Almost £15,000 was shown as being made in eight transactions on 28 May 2021 and the remainder in two transactions on 12 July 2021.*

*Mrs F called again on 4 and 5 January 2022 chasing a call back that had been promised, but that she had not received. On 7 January 2022, Clerical Medical wrote to Mrs F upholding her complaint about the ongoing problems with her pension account and also that she had not received the £100 compensation that she had been promised. Clerical Medical increased its offer of compensation to £264, with a further £150 for distress and inconvenience added to the original £100 and £14 for her time taken to telephone Clerical Medical on five occasions. This letter repeated the explanation given in the response to her employer's complaint in September 2021, that the problems were being caused by a system migration.*

*Mrs F subsequently received a letter on 24 January 2022, which indicated that almost £31,000 had been allocated to her policy between 10 November 2020 and 14 January 2022. These payments were spread throughout the period between these two dates. Further letters on 16 June 2022 and 30 June 2022 showed contribution figures of approaching £22,500 for the period between November 2020 to June 2022, with the majority of payments being credited to 12 July 2021 – 13 payments being credited on this date in each letter. The last payment on each statement was recorded as being made on 15 September 2021. Records from Mrs F's employer showed contributions of almost £9,000 being made in the period October 2021 to June 2022 which were not reflected in either of these statements.*

*In May 2022, unhappy with the way Clerical Medical had been dealing with her concerns and complaints, Mrs F brought her complaint to this service.*

*A further complaint response was sent to Mrs F on 27 May 2022 which again offered her the £264 compensation and repeated the same explanation of why the situation had arisen. It also contained incorrect information that the last contribution received had been on 12 July 2021.*

*Throughout this period, both Mrs F and her employer made numerous attempts to contact Clerical Medical to try and resolve the situation. Mrs F also had numerous contacts with her employer on the same subject. She reported that she found communicating with Clerical Medical to be very time consuming and difficult, owing to difficulty in contacting the complaints manager dealing with her case who worked part time and lengthy delays getting through on the phone.*

*Our investigator asked Clerical Medical for its business file on 31 May 2022. After repeated requests the file was provided on 13 December 2022. A communication that accompanied the file stated:*

*You will see our administration team are still actively working on correcting the premiums on [Mrs F's] pension and we will be in contact with both you and [Mrs F] once we are confident that the pension is in the correct financial position in terms of the units being purchased at the correct backdated months.*

*Having reviewed all the evidence, our investigator noted that the issue had still not been resolved by March 2023. In view of the prolonged nature of the issue and the effects it has had on Mrs F as she approached her planned retirement, the investigator came to the view that Clerical Medical should make an award of £1,500 as compensation for Mrs F's considerable distress and inconvenience, as well as resolving the issue by correcting Mrs F's pension records and attributing all affected contributions to the correct time they should have been received. She also considered that once the issue has been resolved, Clerical Medical should consider awarding a further amount of compensation for any further distress and inconvenience it caused Mrs F.*

*Clerical Medical accepted this view but Mrs F did not. She was concerned that if the complaint was resolved in this way, Clerical Medical would have less incentive to work quickly to resolve her complaint and allow her to undertake urgent retirement planning. She also felt that this approach did not take into account the fund changes she would have expected to make as her planned retirement date approached.*

*The case was then passed to me to review all the evidence and make a final decision.*

*Before reviewing the evidence, as this is a complaint that has not yet been resolved, I asked both parties to provide any further evidence as to the progress made since the investigator provided her view.*

*No further information was provided by Clerical Medical. Mrs F was, however, able to report that the situation was still not resolved, despite her MP writing to both the Chair of the DWP Select Committee and the Group Chief Executive Officer of Lloyds Bank (which owns Scottish Widows, and ultimately, Clerical Medical).*

*Mrs F was, however, informed that her complaint had been escalated to a specialist complaints manager within Lloyds Banking Group. Mrs F was also able to confirm that she has been in contact with Clerical Medical on a more frequent basis since the investigator wrote her view.*

*During this period, it appears that little concrete progress has been made toward a resolution of this issue. On 2 May 2023, Mrs F received a letter from Clerical Medical summarising her contribution history since the plan started in 2007. This letter once again showed incorrect contribution data since October 2020. On 19 May Mrs F was able to speak to the new complaints manager handling her case. On 26 May, she received an email from the complaints manager which stated:*

*Our teams are working through the issues on your pension but are facing a few hurdles that are taking longer to resolve.*

*On 19 June 2023, Mrs F again contacted Clerical Medical to ask if there was any indication of how long it would take to resolve her complaint. The following day she received a reply which stated:*

*As the issue is an IT system issue that seems to be causing or caused the problem it's hard to say until they find a fix there is no specific timescale. It depends what they find whilst investigating it.*

On 10 July 2023, Mrs F received an email saying that:

*“Things are moving in the right direction and we have applied all your premiums up till April 2023”*

*This was, however, followed by a letter a fortnight later which showed all the payments since September 2020 being credited to one date – 9 March 2023.*

*On 31 July 2023, Clerical Medical wrote to Mrs F’s MP in response to his earlier letter. In this letter, Clerical Medical admitted that it had not been making correct pension contributions to Mrs F’s pension plan, despite having received them. It also stated that this issue was affecting some other customers of both Clerical Medical and Scottish Widows.*

*It went on to reassure him that Mrs F’s account was now up to date, as all her contributions had been correctly applied, and backdated to when they should have been credited.*

*On 11 August 2023, Mrs F received yet another letter saying that as outstanding contributions to her plan had not been received, her pension had once more been made ‘paid-up’.* “

Since issuing my provisional decision, Clerical Medical has still not resolved the issues with Mrs F’s pension payments, issuing her another letter on 6<sup>th</sup> September telling her that her pension had been made ‘paid-up’ once again.

### **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.

In my provisional decision, I stated:

*Overall, I think that it is reasonable to conclude Clerical Medical is responsible for causing a significant amount of distress and inconvenience to Mrs F. It is also possible that it has caused a financial loss as her pension contributions have not been invested as they should have been. She has not been able to manage her pension in the way she and her financial adviser had planned as she approaches the date when she could take her benefits.*

*Mrs F first became aware of this issue in February 2021, over two years ago. The issue itself seems to have affected all her pension contributions since October 2020, over two and a half years ago. Mrs F’s employer first identified the problem, and raised it with Clerical Medical, which leads me to conclude that this error had arisen and gone unnoticed by Clerical Medical after it upgraded its administration system. In the time since the issue was identified, Clerical Medical appears to have made little or no concrete progress toward resolving the issue. It also remains unable to provide any indication of when Mrs F might expect the issue to be resolved.*

*Clerical Medical initially informed Mrs F that the cause of the issue was an ‘upgrade’ to its administration systems, which it states have caused ‘teething issues’ to a number of clients. I find that such fundamental delays over such a prolonged period can in no way be described as ‘teething issues’, and Clerical Medical must take full responsibility for these problems and the impact they have had on Mrs F.*

*I consider that a delay of over two and a half years in resolving this type of issue would be very serious at any time. I find it particularly concerning that Clerical Medical has caused*

*these delays as Mrs F is moving toward her retirement date, making it impossible for her to reliably make any decisions about her retirement plans.*

*The Financial Conduct Authority's (FCA) Principles for Businesses are important to keep in my mind here, in particular:*

- Principle 2 (A firm must conduct its business with due skill, care and diligence)*
- Principle 6 (a firm must pay due regard to the interests of its customers)*
- Principle 7 (A firm must pay due regard to the information needs of its clients, and communicate information to them in a way which is clear, fair and not misleading)*

*I consider that these principles are relevant to this case and form a key part of the regulatory framework that companies such as Clerical Medical operate within. In essence, I have considered whether Clerical Medical treated Mrs F fairly by not providing her with a resolution of her difficulties over the extended amount of time it has been aware of them.*

*In these particular circumstances, Mrs F was very specific about what she wanted to happen. She wanted her contribution records to be correctly updated as they should have been, and a calculation of financial loss used to put her back in the position she would have been were it not for Clerical Medical's inability to reconcile her contributions with its records. I find that it is reasonable to assume that Clerical Medical ought to have been able to resolve these issues in a much shorter timescale to allow Mrs F to move forward with her retirement planning.*

*With the FCA's principles in mind, I think Clerical Medical has fallen short here and hasn't treated Mrs F fairly.*

*Mrs F believes that she may have suffered a financial loss owing to this situation, arising from her inability to take financial advice relating to her forthcoming retirement, given that she has no reliable information on the value of her pension. I am not able to cover this aspect of her complaint in this decision, as until the issue is resolved it would be impossible for Clerical Medical or Mrs F to accurately assess how she may have been impacted.*

*Consequently, my redress formula below can only take into account the significant amount of distress and inconvenience Clerical Medical has caused Mrs F up to this point in time. I appreciate Mrs F's concern that a decision now will not adequately reflect any financial loss she may have suffered, but I would like to reassure her that my decision only covers the period up to the date of my decision.*

*If she feels that any compensation subsequently offered to her once Clerical Medical has finally resolved the issues with her pension is inadequate, she will be free to raise a subsequent complaint with Clerical Medical and bring it to this service if she is unhappy with what Clerical Medical proposes. Any further complaint could include elements to reflect compensation for any further distress and inconvenience or any financial loss she believes she has suffered as a result of Clerical Medical's mistakes.*

*Given the extremely long period over which this issue has persisted, I would urge Clerical Medical to treat this case with the utmost urgency.*

*I think £1,500 is a fair and reasonable award for the distress and inconvenience Mrs F has suffered to date. I say this because Mrs F has had to devote considerable time in pursuing her complaint and yet the issue still hasn't been resolved – and Clerical Medical still doesn't appear to have got to grips with the system migration that caused the problem in the first place. In addition, we've reached the point where Mrs F has – quite reasonably – become concerned about the impact this is going to have on her retirement plans. I also note that the*

*parties appear to agree about £1,500 being a fair and reasonable amount and that the sticking point is the best way to get Mrs F's pension fixed.*

*I recognise that this doesn't solve the problem for Mrs F. But I don't think an ombudsman's decision directing Clerical Medical to put her policy in the position it should always have been in will necessarily help Mrs F at this point. From what I can see, Clerical Medical is trying to do that – it's just that it is incapable of doing so at this point and it hasn't given me confidence that it will be sorted imminently. Furthermore, until it has rectified the problems with Mrs F's policy, there's no way of assessing the financial impact Clerical Medical's actions have had or the impact its actions have had on Mrs F's retirement plans. So to break the impasse, I think it's better at this stage for Clerical Medical to make an award for the distress and inconvenience it has caused to date, with any financial losses Mrs F may suffer compensated for when/if they become apparent – which is most likely to be when Clerical Medical finally solves the issues that have been plaguing Mrs F's policy. Mrs F can complain to Clerical Medical at that point if she doesn't think Clerical Medical has put her back in the position she should have been in. Or she can complain before then if it doesn't appear as though Clerical Medical is making any progress in sorting out her policy.”*

Both Mrs F and Clerical Medical responded to provisional decision. Clerical Medical informed me that it had increased its offer of compensation in respect of the distress and inconvenience it has caused Mrs F to £2,000. It also indicated that it was willing to consider making a payment to Mrs F to have its financial loss calculations reviewed by an independent actuary once the issues with her pension have been resolved.

Mrs F indicated that this situation has now existed for almost three years, and that Clerical Medical still seems to have made little progress in resolving it. She also reiterated that she is now within three months of when she could take her benefits and retire.

Mrs F's comments also indicated that she is understandably frustrated by this whole situation and this service's inability to compel Clerical Medical to resolve the problems it has caused her.

While I appreciate her frustration, I must first restate that the role of this service is to investigate the circumstances of individual complaints, and where it finds that a business has done something wrong, to recommend compensation to the complainant back in the position they would have been had the mistakes not been made. We can also recognise the distress and inconvenience caused to the complainant, and recommend compensation in this respect, as appropriate.

Consequently, this service does not have the power to compel Clerical Medical to resolve Mrs F's problems in any particular way. As she rightly notes, the issues relating to her pension are still unresolved after almost three years. As these issues remain unresolved, I do recognise the significant distress and inconvenience Clerical Medical has caused to her over a prolonged period of time. I have to do so based upon the guidance that this service issues, and the sum of £1,500 reflects the seriousness of this case. I am pleased to see that Clerical Medical has recognised the serious distress it has caused to Mrs F by increasing its offer of compensation to £2,000 in this respect.

I also recognise that Mrs F has lost faith in Clerical Medical's ability to resolve these problems and asked me to consider instructing Clerical Medical to 'hand over' all of her pension benefits to a new provider. This is also not in my power to dictate. Mrs F has always had, and continues to have, the right to request that Clerical Medical transfer her pension benefits to a new provider. However, as the problems remain unresolved, it would not be possible to undertake an accurate assessment of any financial loss she has incurred at this point in time. Given this, as it is not possible for Clerical Medical to compensate her for any

financial loss she has suffered until these issues are resolved, I can't see that transferring her pension away at this time would help provide the clarity she needs for her retirement planning.

I realise that this will be of little comfort to Mrs F, but as I mentioned in my provisional decision, she is free to complain about Clerical Medical if she is unhappy with the compensation it offers her in terms of any financial loss she has incurred or any further distress and inconvenience it has caused her once the issues are finally resolved.

Although I have no powers to compel Clerical Medical to resolve the issues that have so badly affected Mrs F, I would urge it to address finding a resolution of these issues as a highest possible priority.

### **Putting things right**

I'm satisfied that this matter will have caused Mrs F considerable distress and inconvenience over a prolonged period. I believe that the sum of £2,000 offered by Clerical Medical that is a fair and reasonable amount up to the date of this decision, given the circumstances of this case.

To compensate Mrs F fairly, Clerical Medical must:

- Pay Mrs F the sum of £2,000 in respect of the distress and inconvenience it has caused her up to the date of this decision.

### **My final decision**

For the reasons explained above, I uphold the complaint. My final decision is that Scottish Widows Limited trading as Clerical Medical should fulfil its offer to pay Mrs F the amount set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs F to accept or reject my decision before 20 October 2023.

Bill Catchpole  
**Ombudsman**