

The complaint

Ms P held private medical insurance cover with Vitality Health Limited and she has complained about various issues regarding that cover.

What happened

I issued provisional decisions on this complaint in March and May 2024. Here's what I said in March 2024:

“One of our ombudsmen issued a decision in October 2023 and set out which parts of Ms P’s complaint we had the power to consider, and which we didn’t. So, I’ll only consider and make a finding on the complaint points we do have the power to consider in my decision.

Ms P held a private medical insurance policy with Vitality, underwritten on a moratorium basis. The policy started on 7 July 2014, which was also the moratorium start date. In short, this meant that any pre-existing medical conditions Ms P had in the five years before this start date were excluded from cover. However, these could become eligible for cover once Ms P hadn’t had any consultations, treatment, advice, or taken any medication for those conditions for two continuous years. The policy included an excess of £250 per policy year.

To summarise, Ms P’s complaint is fundamentally about the following key issues:

- *Having to pay premiums between March 2020 and November 2020 whilst Ms P says she couldn’t access treatment, and the impact this had on her health and recovery.*
- *How Vitality applied and calculated the excess for the policy years July 2020 to July 2021, and July 2021 to July 2022. Ms P has also listed several concerns about missing or incorrect claim payments.*
- *How Vitality calculated her renewal premiums for the above policy years, taking into account all of the issues during this time.*

Ms P set out her complaint in detail in her complaint letter to Vitality dated 5 August 2022. I’ve considered all the issues I have the power to consider, but I’m only required to address the points that I consider to be material to the outcome of the complaint. That said, I’ll set out further detail where Ms P says Vitality didn’t do everything right.

In February 2020, Ms P was undergoing physio for her hips and shoulder, and she was seeing a dermatologist for skin lesions. But due to the Covid-19 global pandemic and the resulting ‘lockdown’, the face-to-face treatment Ms P had been having was no longer available during this time. The World Health Organisation (“WHO”) declared Covid-19 a pandemic on 11 March 2020. Ms P wants Vitality to refund her the premiums she paid on her policy whilst she couldn’t get treatment. She’s also unhappy that Vitality didn’t let her know face-to-face treatment was available again until 7 August 2020.

Vitality authorised a dermatologist consultation for Ms P in July 2020, and it said she should pay the clinic directly (£210) and Vitality would reimburse the cost. However, as the treatment didn’t take place until after the policy renewed for another year, Vitality applied the annual excess on this payment. Ms P said that had it not been for the Covid-19 pandemic,

this treatment would have gone ahead before the renewal date so she doesn't think the excess should have been applied.

That said, Ms P accepted she had further treatment so the excess would have applied regardless, but she says Vitality owes her £5 due to how it charged the excess during the policy year July 2020 to July 2021.

Vitality accepted it hadn't applied the excess correctly but said it would have applied this for later claims during the policy year regardless. However, Vitality said it would reimburse Ms P the £210, as well as 8% simple interest.

At the time, Ms P continued to dispute how Vitality had applied the excess and whilst this was ongoing, Ms P says Vitality refused to cover further treatment. Vitality asked Ms P to provide evidence to show that her treatment wouldn't have continued, had it not been for Covid-19. Ms P says that Vitality acknowledged on 30 November 2020 and 8 December 2020 that it shouldn't have refused to allow treatment because Ms P had an ongoing complaint about the excess. Ms P continued to have physio on her hips and shoulder from November 2020 onwards, and treatment for her skin lesions from December 2020 onwards.

Overall, Ms P says Vitality prevented her from accessing any treatment under the policy between March and November 2020. So, Ms P is unhappy that she had to continue to pay premiums during this time. She also says this led to her needing more physio treatment once this started again, and this had an impact on her skin lesions. Ms P wants Vitality to take this into account when calculating her renewal premiums as well as pay her compensation for the impact on her health and recovery.

Ms P has also set out several invoices that she says Vitality hasn't paid. She calculates that she is owed £115. She also asked for clarity for a £50 cheque she received in December 2020. She doesn't know what it was for and she hadn't cashed it.

Ms P also asked Vitality for clarification over the charges for a new medical issue in June 2021. She thinks Vitality has applied the excess incorrectly here, and she's concerned these charges have incorrectly impacted her renewal premium as they appear higher than she thinks they should be.

Lastly, Ms P wanted clarification if her premiums had been impacted by the missing Apple Health data in 2020. Overall, Ms P says her premiums have been impacted by Vitality's actions, including increased claims and reduced Vitality status from the July 2021 renewal.

One of our investigators looked into Ms P's complaint. In short, he didn't think Vitality had acted unfairly or unreasonably by continuing to charge Ms P her monthly premiums under the policy. He said the circumstances around Covid-19 were outside Vitality's control, but Ms P was still able to benefit from her policy during this time. Overall, he thought that Ms P would have had to pay an excess on her policy each year, so even if Vitality didn't deduct this from the correct claims, the excess still applied so Ms P hadn't lost out overall.

The investigator also looked at how Vitality had calculated the premium in July 2021 and July 2022, and he thought this was in line with the terms and conditions of the policy. Overall, he didn't think there was anything else Vitality needed to do, to put things right.

Vitality has offered to do the following (some of these are following our involvement):

- Reimburse Ms P £210 for the dermatologist consultation she had in August 2020 and pay her 8% simple interest.*

- Pay Ms P the £100 it offered on 8 December 2020 (which relates to issues I cannot consider under this complaint), and an additional £25 to apologise for not paying it sooner.
- Pay the shortfall of £15 for physio on 10 May 2021 and pay 8% simple interest.
- Consider the claim for physio Ms P had on 17 May 2021 when she provides the invoice.
- Confirm what the cheque for £50 was once Ms P provides more information about this.

Ms P doesn't think this goes far enough to resolve her concerns, or that we've considered everything she's complained about. She responded to the investigator's view in detail. As no agreement was reached, the complaint has been passed to me to decide.

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.

Impact of Covid-19

It's unfortunate that Ms P was impacted by the unprecedented circumstances of the Covid-19 global pandemic. Independent hospital resources were needed to support the NHS and this had an impact on the private services that they were able to offer. And for Ms P, the circumstances meant that she couldn't continue with face-to-face treatment for her ongoing claims for physio and skin lesions. But I don't think this is something I can hold Vitality responsible for, as the circumstances were outside of its control.

I fully accept this was outside of Ms P's control as well. But she still had a private health insurance policy, and it covered her if she needed any other eligible treatment. Vitality also offered other healthcare services beyond in-hospital treatment, and these continued to be available – for example, virtual GP consultations and referrals, and other remote specialist consultations and treatment. This also included remote or phone physiotherapy where appropriate.

Vitality also launched a Covid-19 cash back benefit for members who required hospital treatment through the NHS as a result of Covid-19. Urgent treatment was prioritised, and many patients were allowed to use hospitals that were not on their chosen hospital list.

Ms P says Vitality was contracted to provide her with healthcare services, which it didn't do during Covid-19. However, that's not entirely correct. Rather, a private health insurer's role is to authorise and pay for private medical treatment. And as I've explained above, Vitality continued to authorise and pay for treatment during this time as far as it was able to.

Overall, Ms P still benefitted from having cover in place in case she needed any other eligible treatment, and she could continue with the same moratorium terms she'd had since July 2014. This meant that there was no break in cover, or a change in the underwriting terms. So, I don't think I could fairly ask Vitality to refund Ms P the premiums she paid during this time.

I have also considered that Vitality offered some members a 50% reduction in premiums for three months, but this also meant a reduction in cover for six months. And any member who chose this reduction also wasn't eligible for the Covid-19 cash back benefit.

Vitality has said that any policyholder who had an ongoing claim wasn't eligible for this premium reduction. So, it says Ms P wasn't eligible because she had an ongoing claim and this would have led to a reduction of benefits for an extended period.

I've considered this carefully, and overall, I don't think Vitality treated Ms P unfairly or unreasonably, or differently to any other policyholder in a similar situation, when it didn't offer her a reduction in her premiums. So, I don't think there are any fair or reasonable grounds for me to ask Vitality to do more here.

Ms P has explained how not being able to access treatment during this time has had an impact on her health and recovery. But as I've explained above, I don't think Ms P not being able to access the treatment she needed due to Covid-19 is something Vitality is responsible for. So, whilst I sympathise with her situation, I don't think I could fairly ask Vitality to pay her any compensation because of this.

Ms P says Vitality didn't tell her until 7 August 2020 that treatment was available again. Vitality's notes show that it discussed Ms P's physio treatment with the provider on 8 July 2020 and it was told the practice was doing screening calls with patients, and there was no guarantee they would do face-to-face appointments. There's also a note on the same day that Vitality tried to call Ms P to let her know of this and left her a message.

I don't think it was Vitality's responsibility to check when any individual provider was providing face-to-face appointments again and contact policyholders individually. That said, as I explained above, it looks like Vitality did try to let Ms P know she could do a screening call with the provider. Overall, I don't think Vitality acted unfairly or unreasonably in the circumstances.

Excesses charged and delay in authorising treatment

Vitality accepted that had it not been for Covid-19, Ms P's ongoing treatment for skin lesions would likely have taken place before the policy renewed on 7 July 2020. So, Vitality said it wouldn't charge an excess on these treatments. This is what led to Vitality offering to refund Ms P the £210 she paid for one of these appointments.

But as Ms P has acknowledged, she had further claims during the policy year that exceeded the excess amount. So, if Vitality refunds Ms P the £210, that means Ms P hasn't paid her full excess for that policy year.

Ms P has asked Vitality for explanation what the cheque (£50) it sent to her on 10 December 2020 was for. Vitality wasn't sure so it asked for Ms P to send it information about the cheque. But I note on Ms P's claim history that there was an invoice for £210 on 9 December 2020 (the above claim), and Vitality paid £50 towards this and retained £160 towards the excess. Ms P says she hasn't cashed this cheque (and I assume it would be too late for her to do so now). As Vitality has offered to pay her the full £210, I think it's likely this would include the amount in this cheque. And in any event, I can't see that Ms P has suffered a financial loss by not cashing in this cheque. So, I don't intend to make any further direction or award on this.

Vitality has offered to pay Ms P £210 plus 8% simple interest. So, as this isn't an actual financial loss Ms P has suffered, I will take this into account when considering any award for compensation for distress and inconvenience caused during this time.

This leads to Ms P's complaint about delays in Vitality authorising treatment when this was again available following Covid-19. She says Vitality refused to cover further treatment whilst her dispute about the excess was ongoing.

But I can't see anything on Vitality's notes to suggest that Ms P was advised not to make claims or request authorisation whilst the dispute about the excess was ongoing, or that Vitality refused to cover further treatment. A phone note on 28 July 2020 says Vitality explained to Ms P that it would make a decision about the excess applying once the treatment had completed. This was also reflected in an email to Ms P on 8 October 2020.

It was noted on 8 December 2020 that Ms P said she had gone through the NHS for physio as Vitality had stopped her cover as the provider she'd used couldn't see people face-to-face and remote sessions didn't work for her. The notes say Ms P explained that a staff member had originally told her Vitality can delay the excess but was then told it needed proof that treatment would have been carried out prior to renewal.

There's a note from a physiotherapist on 2 February 2021 which says that "it took a long time to get any of her previous MRI/Xray reports which impacted what we could initially start with. Now having cleared for no joint pathology and can confirm purely a muscle imbalance we have been able to guide her through a strengthening programme. This was going well pre COVID, she definitely lost some strength during lockdown but has been able to build again slowly since the end of last year. She experiences pain and a clicking sensation inside the hip which concerns her. I am able to improve her pain with exercises."

Based on what I've seen so far, I'm not persuaded that Vitality refused to authorise further treatment for Ms P once this was available again. Overall, I'm not persuaded that it was because of any error on Vitality's part that Ms P's physio treatment was delayed. So, I'm sorry to disappoint Ms P but I don't think I could fairly ask Vitality to pay her any compensation for the impact on her health and recovery.

That also means that I think Vitality has acted fairly and reasonably by including the physiotherapy claims when it calculated Ms P's renewal premiums (I'll cover the renewal premiums in more detail later in this decision).

Overall, I can see that Ms P's claims well exceeded the excess amount for policy years July 2020 to July 2021 and July 2021 to July 2022. So, I think Vitality acted fairly and reasonably by applying the excess on both policy years in line with the terms and conditions.

Incorrect and missing claim payments

*Ms P has set out three physio appointments that she doesn't think Vitality has paid for under claim number ending *2826:*

- 1. 4 May 2021: £50*
- 2. 10 May 2021: £15 (Vitality already paid £35 of the £50 claimed)*
- 3. 17 May 2021: £50*

Vitality has said it paid the 1st invoice on 18 May 2021. Its claims history also shows the claim as paid. If Ms P cannot find the payment on her bank account, she should send a copy of the invoice and her bank statement to Vitality. I'd then expect Vitality to check this and consider the claim (if it wasn't paid).

Vitality has agreed to pay the outstanding £15 on the 2nd invoice plus 8% simple interest. It said it will also consider the 3rd invoice once Ms P sends a copy of this. I think this is fair and reasonable. For completeness, Vitality's notes suggest that it paid for all the 17 physio appointments it had authorised. So, if the last invoice related to an appointment that wasn't authorised by Vitality, it should let Ms P know.

*Ms P has also said that she paid £50 to a clinic where she had consultations for claim number ending *1109. But Vitality has said it paid this claim in full directly to the provider. Ms P should send Vitality the evidence of this payment so it can consider if it should pay this as part of the claim.*

*Ms P has also questioned the payments Vitality made on the claim number ending *1109 as she said she only had two consultations and a blood test. However, the invoices Vitality paid are for a significant amount. Vitality has sent us copies of those invoices, and they relate to two consultations and pathology tests, which is in line with what Ms P said she had. In any event, these won't have had a financial impact on Ms P, as Vitality paid these amounts directly to the provider. I also don't think these would have had an impact on Ms P's renewal premium (I'll expand on this further later in this decision). So, I don't think there's anything else Vitality needs to do here.*

Renewal premiums

Ms P's renewal premiums are impacted by age increases and her Vitality status as well as the amount Vitality has paid in claims in the last two months of the previous policy year, and the first 10 months of the current policy year.

I can see that Ms P's Vitality status was Platinum for the July 2021 renewal (the same it had been the July 2020 renewal). I know Ms P has raised concerns about potentially missing some points in 2020, but I can't see that these would have had an impact on her July 2021 renewal as she held the highest Vitality status. So, I don't intend to make any further findings about any potential missing points, as I currently don't think Ms P has suffered a loss.

I can also see that even excluding Ms P's claims for skin lesions, the physio claims exceeded £1,000 as per the renewal terms which meant that the highest increase in this category was applied. And as I explained earlier in this decision, I think Vitality acted fairly and reasonably by including the physiotherapy claims when it calculated Ms P's renewal premiums.

*The same applied for the July 2022 renewal – Ms P's claims exceeded £1,000 as per the renewal terms. This is even when excluding the claim number ending *1109 as I explained above, as the other claims she had exceeded £1,000 as per the renewal terms which meant that the highest increase in this category was applied.*

Ms P's Vitality status, however, was reduced to Silver. Ms P has explained that she wasn't able to earn the points required to increase her Vitality status due to her recovery taking longer than it should have, and because Vitality changed how policyholders could earn these points.

As I explained earlier in this decision, I don't think I can fairly hold Vitality responsible for the impact the delayed physio treatment had on Ms P's health and recovery. So, the same would apply to her ability to earn points because of this. It's also for Vitality to set out how policyholders can earn the points under the Vitality Programme. The policy Ms P held was an annual contract, and the annual terms and conditions set out how policyholders could earn points. Overall, I don't think Vitality has acted unfairly or unreasonably in the circumstances.

Overall, I currently think Vitality has calculated Ms P's premium increases fairly and reasonably, and in line with how it would do so for other policyholders in a similar situation. So, I don't intend to direct it to do more here.

Compensation

Lastly, I do think there has been some confusion along the way during all the issues Ms P has raised, and I think there were times Vitality could have been clearer and help resolve her concerns more efficiently. This would have been distressing for Ms P. I also think she's been inconvenienced by having to continuously ask Vitality to check the claim payments.

Vitality has since offered to pay Ms P £50 for the distress and inconvenience caused and send her flowers. I'm also mindful that Vitality has offered to reimburse Ms P the £210 plus 8% simple interest, which would mean Ms P only paid £90 of her £250 excess during the July 2020 to July 2021 policy year.

Overall, I think Vitality's offer is fair and reasonable in all the circumstances of this complaint, and I don't intend to make a further direction here."

And here's what I said in my second provisional decision in May 2024, in addition to the findings in my provisional decision in March 2024:

"Vitality responded to my provisional decision and said the following:

- Overall, Vitality thought the outcome was fair.*
- The £50 cheque was part payment for the £210 invoice for the dermatology appointment. Vitality will now put a stop to the cheque and reimburse Ms P the full £210.*
- It will pay the physio invoice for 17 May 2021 (I reminded Vitality that it should also pay 8% simple interest on this amount), but its records show the invoice for 4 May 2021 was already paid.*
- It never instructed the clinic to charge Ms P for the claim ending *1109. So, Ms P should contact the clinic directly about the £50 charge.*

Ms P responded in detail. Here are some key points she made:

- Ms P referred to previous submissions she made about not being able to access treatment during Covid-19, and the information Vitality had sent her at the time. She says this was different to what I've set out in my provisional decision. Ms P maintains that Vitality didn't provide the services it should have under the contract or act fairly.*
- Ms P wasn't merely paying for a policy in case something happens, she was undergoing treatment but continued to pay premiums even though that treatment stopped during Covid-19. Overall, she doesn't think Vitality did enough during this time, or treat her fairly in the circumstances.*
- There is no need to consider the excess charged for policy year July 2021 to July 2022.*
- She hadn't received treatment through the NHS during this time as mentioned in my provisional decision.*
- Ms P was contacting Vitality to get treatment from July 2020 onwards which is clear from and specifically referenced in her correspondence during this period.*
- It may be that the physio appointment on 4 May 2021 was paid, albeit using a wrong invoice number. If that's the case, Ms P says the invoice for 8 June 2021 is still outstanding as overall, Vitality hasn't paid all 22 sessions it authorised.*
- The issue with the missing Apple Health data may have impacted her Vitality status for the July 2022 renewal, and I should also consider this as part of her complaint.*
- Ms P hadn't been able to exercise as she needed physio treatment. Due to the delay in receiving it and Vitality later refusing to cover further treatment meant that her Vitality status was reduced for the July 2022 renewal. And the gym she was going to closed and she couldn't earn points in the new one. Ms P says this impacted her premiums.*

- *The physio claims shouldn't be included when calculating the renewal premium.*
- *I hadn't considered the delays in physio treatment in 2021, or how Vitality hadn't responded to her queries about how to reduce her premium before the July 2022 renewal.*

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.

Firstly, Ms P has sent us extensive submissions about her complaint, and I have considered everything she's said and sent. But I'm required to only address issues and points that I consider to be material to the outcome of the complaint. So, whilst I've considered everything, I won't be addressing the issues in as much detail as Ms P has. This isn't meant as a discourtesy, it simply reflects the informal nature of our service.

I accept that Ms P may not agree on what I consider to be material. But if I haven't referred to something, it doesn't mean I haven't considered it – it simply means that I don't think it has a bearing on the outcome of the complaint.

Impact of Covid-19

I've considered all the points Ms P has made before and after my provisional decision. But the points she's raised following my provisional decision are not fundamentally new or materially different to what I already considered when reaching my provisional findings. Overall, I currently see no reason to depart from the findings I reached in my provisional decision on this aspect of the complaint.

I fully appreciate that Ms P doesn't think the measures Vitality took during Covid-19 were sufficient, or that the policy provided her with enough value during the time. But I had considered all these points when I reached my provisional decision. Fundamentally, these were unprecedented circumstances, and I'm satisfied what Vitality did in the circumstances, and how it treated Ms P, was fair and reasonable – for the reasons I explained in my provisional decision.

I've reviewed again the information Ms P has sent from Vitality during Covid-19. This doesn't contradict anything I said in my provisional decision. My provisional decision was also based on my understanding of what was available during Covid-19 – both in terms of generally and what Vitality offered at the time. I appreciate Ms P might not have been aware of all of this at the time, but I can see that Vitality's email in March 2020 explained how Ms P could make a claim for treatment she needed, and how she could access support.

I explained in my provisional decision that Vitality had explained Ms P wasn't eligible for the 50% reduction in premiums during the time, as she had an ongoing claim. Vitality has also clarified that this option was available for members who struggled financially to pay their premiums during the time, and not because of circumstances due to Covid-19.

Vitality hasn't been able to show that it discussed this option with Ms P at the time. But Vitality has referred to a note on 8 July 2020 which suggests that Ms P discussed her renewal premium with Vitality, and she didn't want to reduce her cover as she was in the middle of treatment. I accept this would have been different to the Premium Saver Option, but this would also have reduced Ms P's cover. Overall, I'm not persuaded that even if Vitality had offered the reduction of premiums to Ms P at the time, she would have chosen to go ahead with it, given that it would have meant a reduction in her cover for an extended period.

Ms P has made further comments that Vitality should have done more to inform policyholders of what treatment was available and when. But I don't agree. As Ms P knows, Vitality did tell policyholders in August 2020 that treatment was available again. I don't think it was Vitality's responsibility to let Ms P know individually that the specific treatment she needed, by a specific provider, was available earlier than this.

I'm sorry to disappoint Ms P but I currently don't think Vitality has acted unfairly or unreasonably in the circumstances. Overall, I don't think I could fairly hold Vitality responsible for the delays in treatment during this time, and the impact this had on Ms P.

Excesses charged and delay in authorising treatment

Firstly, Vitality has confirmed that the £50 cheque Ms P had asked about was payment towards the £210 appointment (skin lesions), as Vitality was retaining £160 towards the excess. Now that Vitality is issuing a full refund, it will cancel the cheque.

As I explained in my provisional decision, Ms P made further claims during the July 2020 and July 2021 policy year, which meant the excess should have applied in full. But Vitality paid Ms P's later claims in full without applying the excess on these amounts. So, as Vitality is issuing the above refund, that means Ms P will have underpaid her excess by at least £160. I've taken this amount into account when considering if Vitality should pay Ms P any compensation for distress and inconvenience caused during this time.

Ms P says Vitality didn't authorise the treatment she kept requesting for both the physio and skin lesions. She says she was contacting Vitality to get the treatment since July 2020, but these weren't authorised until 13 November 2020 (physio) and 8 December 2020 (skin lesions). Ms P also sent correspondence and notes from this time, which I've reviewed, along with the evidence provided by Vitality.

Vitality doesn't hold the call recordings from the relevant time any longer. I don't think this is unusual, considering the length of time that's passed. But Vitality has provided a timeline, which also includes some notes of calls.

Physio treatment

When face-to-face treatment stopped due to Covid-19, Ms P still had one physio appointment left with the provider. And I can see that Vitality was in touch with the provider on 8 July 2020 who said Ms P hadn't been discharged and she had one appointment left. The notes show Vitality tried to contact Ms P to let her know this, as well as to discuss the excess that Ms P was disputing. I can see that Vitality finally spoke with Ms P on 27 July 2020, but it looks like only the excess was discussed and a complaint raised about this.

Vitality has clarified that due to the gap in treatment, Ms P would have needed to go through a triage before going ahead with further physio treatment. Ms P says she asked Vitality to authorise further physio treatment several times in July 2020. However, there are no contemporaneous notes to support that. But considering Vitality got in touch with the provider on 8 July 2020, I think it's more likely than not that Ms P did ask about further physio treatment before this. So, I think Vitality should have discussed what Ms P needed to do to continue with further treatment at this point, and I can't see that it did.

That said, I don't think I could fairly hold Vitality solely responsible for the delay in authorising the physio treatment from here onwards, simply because it failed to respond to Ms P at this point. This is because I've gone through the available notes and emails during this time, and these don't show that Ms P chased Vitality for a response on any request to authorise further

physio treatment. It's also clear that both Ms P and Vitality were focusing on the dispute about the excess during this time. Overall, I don't think it's clear from the evidence I've seen that Ms P wanted Vitality to authorise further physio treatment before her excess dispute was resolved.

That said, based on the contemporaneous notes and emails available, I think Ms P made it clear on 28 October 2020 that she was asking for a re-referral for physio treatment, and she chased Vitality on 9 November 2020. Ms P explained she was in pain, and her mobility had deteriorated, and she was worried about this. Vitality noted on 12 November 2020 that Ms P's physio provider said her last appointment had been cancelled because it couldn't get hold of Ms P. So, Vitality said she would need to go through a new triage, and it authorised further physio treatment which started on 13 November 2020.

Overall, I don't think the delay here was significant. Therefore, I don't currently think I could fairly hold Vitality responsible for any significant impact on Ms P's health and recovery for lack of treatment during this time. Additionally, any deterioration in Ms P's condition would also have been impacted during Covid-19 which I don't think I could fairly hold Vitality responsible for.

But as I said above, I think Vitality should have discussed already in July 2020 what Ms P needed to do to continue with further treatment. I've taken this into account when considering the amount of compensation Vitality should pay Ms P in all the circumstances of her complaint.

Skin lesion treatment

Vitality authorised a skin lesion consultation for Ms P in July 2020, and she had the appointment on 11 August 2020. She sent a copy of the invoice to Vitality on 18 August 2020, and she said the excess shouldn't be applied to this treatment. Ms P doesn't request authorisation for further treatment in this email. Vitality responded on 20 August 2020 to say that to consider waiving the excess, it needed a letter from the consultant confirming that treatment would have been completed had it not been for Covid-19.

Ms P wrote to Vitality on 30 September 2020 and said she would ask the consultant to provide the letter. Ms P said she needed to go ahead with treatment for the skin lesions and said the previous quote she'd provided was still valid (this was from March 2020). She asked Vitality to provide a pre-authorisation number so she could book the treatment.

Vitality responded on 8 October 2020 and explained that it had explained to Ms P on 28 July 2020 that for it to consider waving the excess in relation to any treatment that was delayed due to Covid-19, it needed a letter from a consultant (as above).

Ms P sent Vitality an email on 28 October 2020 in which she said she'd attached a letter from the consultant for skin lesions confirming treatment would have gone ahead before renewal had it not been for Covid-19, a receipt of the consultation on 11 August 2020, and two quotes for the removal of lesions on two separate parts of Ms P's body. Ms P asked for pre-authorisation for the treatment. Although it looks like Ms P hadn't attached a letter from the consultant, so she sent it to Vitality on 10 November 2020 when it asked for it. She chased Vitality on 19 November 2020, and it authorised Ms P's skin lesion treatment on 8 December 2020.

I do think Vitality should have authorised the treatment for skin lesions earlier. Ms P made it clear on 30 September 2020 that she wanted to go ahead with this. It doesn't look like she had provided all the documents Vitality needed to authorise this (quotes for both treatments), but Ms P provided these on 28 October 2020. And it wasn't until 8 December 2020 that Vitality authorised the treatment. I think the delay caused Ms P unnecessary distress and inconvenience.

As I've explained above, I've taken into account the refund Vitality is issuing to Ms P that isn't a financial loss to her (at least £160). I currently think Vitality should also pay Ms P an additional £200 for the distress and inconvenience it caused when it didn't discuss with her what she needed to do to continue with further physio treatment, and when it didn't authorise the treatment for skin lesions earlier or ask Ms P for any evidence it needed promptly.

Ms P wants Vitality to adjust or reimburse the premiums she paid during this time. But I don't think I could fairly ask Vitality to do so. Vitality set Ms P's premiums at the start of the policy year, which were payable whether or not she made a claim, and Ms P has made successful claims on her policy. I think a payment for compensation, as I've set out above, is fair and reasonable in the circumstances of this complaint.

Further delays in physio treatment

Ms P has also complained about further delays in physio treatment once it started again. Vitality's notes only refer to the physio treatment for Ms P's hip which is what she has complained about. So, the below sessions only refer to physio treatment for Ms P's hip.

Ms P has specifically referred to a delay between 8 January 2021 and 5 February 2021, but the earliest contact note Vitality has is on 29 January 2021. This shows that Ms P spoke with Vitality as her physio became de-registered with the provider. Vitality asked for an updated report from the physio to see how many more sessions Ms P needed. This was received on 2 February 2021, and the physio recommended sessions for further four to six weeks.

I can see that Ms P was in touch with Vitality at this time and explained she needed the physio treatment urgently. And Vitality said on 4 February that it would allow one session while waiting for the claim to be assessed. Vitality then authorised 4 sessions on 5 February 2021, so a total of 8 so far.

Vitality authorised two further sessions on 8 March 2021, but said it needed a report after this. Ms P's physio wrote to Vitality on 11 March 2021. This doesn't, however, outline how many further sessions were required.

Based on Vitality's notes, it paid all the pre-authorised 10 sessions in total by 23 March 2021, plus an additional one. But its notes say a letter was sent to Ms P on 6 April 2021, and it put the last invoice on hold as it exceeded the number of pre-authorised sessions.

Ms P got in touch with Vitality on 8 April 2021 and Vitality said it hadn't received a further report, only invoices. However, Vitality apologised on 12 April 2021 that it had found the report sent by the physio on 6 April 2021. Vitality authorised 7 further sessions on 13 April 2021. However, Vitality's notes show that it had already received five invoices for sessions it hadn't authorised, so this further authorisation included those sessions, as well as two further ones. I can see that Vitality wrote to Ms P on the same day to advise her of this. Vitality also noted that it had already authorised double the amount of physio sessions than it normally would in the circumstances.

Vitality's notes show it paid the authorised physio sessions by 18 May 2021, as well as an additional one. Vitality received a further report from the physio on 4 June 2021 requesting further treatment, but this was declined. I'll only consider any delays up until this point.

Having looked through all the contemporaneous information, I'm not persuaded that Vitality caused further delays in physio treatment. For example, where it acknowledged that it had in fact received a report it needed, I can see that Ms P had already gone ahead with treatment that hadn't yet been authorised. And Vitality authorised these retrospectively. So, I don't think Vitality's actions caused Ms P a loss, or any unnecessary distress or inconvenience.

Overall, based on what I've seen, I don't think there's anything else Vitality needs to do, to put things right on this aspect of Ms P's complaint.

Incorrect and missing claim payments

In addition to agreeing to pay the outstanding amount on the invoice for 10 May 2021, Vitality has now said it will also pay the invoice for 17 May 2021, along with interest. But it maintains that it has already paid the invoice for 4 May 2021 on 18 May 2021.

Ms P has now said that the claim statement on 18 May 2021 refers to treatment on 4 May 2021, however the invoice number doesn't match with the invoice for that date. But Ms P accepts that if Vitality has simply referred to an incorrect invoice number, the appointment on 4 May 2021 was paid.

However, Ms P says Vitality authorised a total of 22 physio sessions, and once it's paid the missing ones as per my direction, Vitality has only paid 21 sessions. Ms P says Vitality still needs to reimburse one session, and she has sent a copy of an invoice for a session on 8 June 2021.

As Ms P has confirmed she has a claim statement showing Vitality paid an invoice for 4 May 2021, albeit likely using an incorrect invoice number, I'm satisfied the session Ms P had on this date was paid. However, I cannot see that Vitality authorised 22 sessions. As I set out under the previous subheading, Vitality's notes show it only authorised 17 sessions, but it paid a few additional ones as well. They also show Vitality didn't authorise any further sessions following the physio report dated 4 June 2021, and the invoice Ms P has sent is after this date.

The dispute Ms P had raised with Vitality was for the invoice for 4 May 2021. Considering the above, I'm persuaded that Vitality has paid this invoice. So, I don't intend to make any further direction in this regard.

*Vitality has said it paid Ms P's claim number ending *1109 in full, and it didn't instruct the provider to take any payments from Ms P. So, I think Ms P should ask the provider what the £50 payment was for. If this was part of the claim, she should then let Vitality know (as well as any reasonable evidence it requires) so it can consider this part of her claim.*

Vitality has offered to pay Ms P £50 and send her flowers for the distress and inconvenience caused in how it has handled the missing claim payments. I think this is fair and reasonable in the circumstances.

Renewal premiums

Vitality had let Ms P know there was an issue with her Apple Health data in 2020 which was resolved at the time – Vitality honoured her previous Platinum status. Vitality said the data started to come through again on 3 August 2020. If Ms P has further concerns about missing

data after this, she should let Vitality know what those concerns are, and what data she believes is missing. She should give Vitality the opportunity to look into her concerns. If she's not happy with its response, she can ask us to look into the complaint.

Ms P has also said she couldn't earn activity points as the Vitality partnered gym she went to closed. But I don't think this is something I could fairly hold Vitality responsible for. And as I've explained above, if Ms P thinks there's some data missing that might have impacted her Vitality status, she should raise this with Vitality in the first instance.

Having considered everything again, I don't think any of the other points Ms P has raised are fundamentally new to what I already considered when reaching my provisional decision. So, I see no reason to depart from the findings I reached on this part of Ms P's complaint in my provisional decision.

Vitality agreed not to apply the excess to the physio and skin lesion treatment. However, it doesn't automatically follow it shouldn't take these claims into account when calculating Ms P's renewal premium. And at no point did Vitality say it wouldn't take these claims into account when calculating Ms P's renewal premium. I know Ms P may not agree, but I think these are separate issues.

In any event, the claims calculated for the July 2022 renewal would have been over the highest threshold even if the physio and skin lesion treatment were excluded. This is because of the new treatment Ms P had since June 2021. So, the only renewal where this aspect is in dispute is the July 2021 one.

However, having considered everything, I think Vitality has acted fairly and reasonably in taking into account all of the actual claims paid on Ms P's policy when calculating renewal premiums, as this is in line with the terms and conditions of the policy.

In any event, had the treatment gone ahead prior to the July 2020 renewal, this would have had an impact on that renewal premium. As it didn't, Ms P has benefitted from having a lower renewal premium in July 2020 as this didn't include an increase with the highest threshold for claims paid during the policy year. Additionally, if any of the claims would have been made during the last two months of the policy year, these would still have impacted the July 2021 renewal premium.

Overall, I currently think Vitality has calculated Ms P's premium increases fairly and reasonably, and in line with the terms and conditions of the policy.

Ms P has also complained that she got in touch with Vitality prior to the July 2022 renewal to ask how she could reduce her premiums – for example, by amending the excess or changing hospital lists. Ms P says she never got a response from Vitality. She's unhappy that Vitality didn't discuss her renewal premium as per her request, and this would have had an impact on those premiums.

Vitality has accepted it should have responded to Ms P's query, and it never did. But Vitality has also noted Ms P didn't get in touch again after this.

I don't think it would be fair or reasonable for me to direct Vitality to retrospectively discuss Ms P's renewal premium for July 2022. She continued with the policy after this point until cancelling it. And considering the overall compensation I'm requiring Vitality to pay in all the circumstances of Ms P's complaint, I don't intend to make a further award on this aspect of her complaint."

Vitality accepted my findings. Ms P didn't, and she responded in detail. I've considered everything she said, but I've only summarised some of the key points she raised below:

- I haven't investigated all the issues Ms P raised, namely:
 - overpayment of the excess by £5 for policy year July 2020 to July 2021,
 - Apple Health data,
 - impact of Vitality's actions on Ms P when treatment was available in 2020 but Vitality delayed authorising this, and
 - July 2022 renewal (status reduction and no available option to earn points).
- Vitality should have put in place adjustments to the policy (including to premiums) during Covid-19, it should have mitigated the impact on policyholders, and it should have told policyholders treatment was available sooner than it did. Overall, Ms P says Vitality didn't do enough for policyholders in her position.
- Ms P maintains that she requested authorisation for the physio treatment, and Vitality acknowledged the treatment shouldn't have been delayed.
- Ms P chased Vitality for pre-authorisation for the skin lesion treatment several times in addition to on 19 November 2020 as set out in my findings.
- Vitality's notes are not accurate for 2021, including a phone call on 27 January 2021.
- Ms P has provided evidence of the authorisations made, and no appointments were booked without them being authorised first.
- Vitality didn't allow Ms P to gain points at a gym that wasn't a Vitality partner gym.
- Vitality failed to make changes to her policy before the July 2022 renewal, which impacted her premiums.

As both parties have had the chance to respond to my provisional findings, and the deadline to do so has now passed, I'm issuing my final decision.

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.

As I've explained previously, I'll only be addressing the crux of Ms P's complaint in my decision, and those issues and points that I consider to be material to the outcome. But I've read and considered everything Ms P has said and sent in detail.

Ms P is concerned about the evidence Vitality has sent us, or lack of. For clarity, Vitality's notes do include emails and notes of phone calls. But considering everything Ms P had said, it seemed that Vitality didn't hold copies or notes of everything – which is why I explained to Ms P that she should send us any information she wanted me to consider in support of her complaint. I'm satisfied she's had the opportunity to do so, and I've reviewed everything she's provided. And overall, I'm satisfied I have enough information from both parties to make a fair and reasonable decision on Ms P's complaint.

However, where the evidence is incomplete or contradictory, it's my role to weigh up the information and evidence available, and decide what I think is more likely to have happened.

It is not within my remit to punish or penalise a business in any way. If Ms P has concerns about the information Vitality holds, she can raise this with the Information Commissioner's Office (ICO).

All of my findings below should be read together with my provisional findings for each subheading.

Impact of Covid-19

I've considered all the points Ms P has made, but I don't think the issues she's raised are fundamentally new or materially different to what I had already considered. So, I see no reason to depart from the findings I reached on this aspect of Ms P's complaint.

I'm sorry to disappoint Ms P but I'm satisfied that the conclusions I reached in my provisional decisions are fair and reasonable in all the circumstances of this complaint. I'm satisfied that what Vitality did during the unprecedented circumstances of Covid-19, and how it treated Ms P, was fair and reasonable – for the reasons I set out in my provisional decisions.

That means that I don't think I can fairly ask Vitality to refund any premiums Ms P paid, or hold it responsible for the delays in treatment and the impact this had on Ms P, during this time.

Excesses charged and delay in authorising treatment

I don't need to make a finding on Ms P's point about overpaying her excess by £5. This is because once Vitality refunds the £210 invoice, Ms P will have underpaid her excess by at least £160 as per Vitality's notes.

Physio treatment

I can see from Vitality's notes that there was a phone conversation with Ms P on 4 July 2020, as she has said. The notes of this call, however, focus on the excess. Nevertheless, I accepted in my second provisional decision that I think it's more likely than not that Ms P asked Vitality about further physio treatment before 8 July 2020, considering Vitality got in touch with the provider on that day. So, I thought Vitality should have discussed what Ms P needed to do to continue with further physio treatment at this point, and I can't see that it did.

However, I haven't seen contemporaneous evidence to show that Ms P chased Vitality for a response on any request to authorise further physio treatment, or that Vitality refused to authorise this.

Ms P has provided her notes of calls with two of Vitality's staff members where she says they acknowledged Vitality delayed authorising the treatment. For example, one of the notes says that "excess shouldn't have held up treatment". However, I don't interpret the notes to show that Vitality accepted it had delayed the authorisation, rather, they appear to be general statements. Having considered all the evidence available, and in light of all the other notes and emails that I've referred to, these notes don't change my overall findings.

For the reasons I've explained above and in my provisional decisions, I don't think it's clear from the evidence I've seen that Ms P wanted Vitality to authorise further physio treatment before the excess dispute was resolved – until in her email on 28 October 2020.

I also can't see anything on Vitality's notes to suggest that Ms P was advised not to make claims or request authorisation whilst the dispute about the excess was ongoing, or that Vitality refused to cover further treatment.

Overall, I'm satisfied that the conclusions I reached in my provisional decisions on this part of Ms P's complaint are fair and reasonable in all the circumstances of this complaint.

Skin lesion treatment

As I set out in my second provisional decision, I think Vitality should have authorised the treatment for skin lesions earlier – Ms P had made it clear on 30 September 2020 that she wanted to go ahead with this. I accept that Ms P chased Vitality for the pre-authorisation several times until it was finally authorised on 8 December 2020. However, this doesn't change my overall findings on this aspect of Ms P's complaint. Again, I'm satisfied that the conclusions I reached in my second provisional decision on this part of Ms P's complaint are fair and reasonable in all the circumstances of this complaint.

In addition to the £160 that isn't a financial loss to Ms P, I think Vitality should also pay her an additional £200 for the distress and inconvenience it caused when it didn't discuss with her what she needed to do to continue with further physio treatment, and when it didn't authorise the treatment for skin lesions earlier or ask Ms P for any evidence it needed promptly, and the impact these had on her.

Further delays in physio treatment

I've carefully looked through the authorisations Vitality gave for the physio treatment in 2021. Firstly, I hadn't included the authorisation on 19 March 2021 as set out by Ms P. I've now included this in the below. I still think Vitality authorised 17 sessions in total in 2021. When I said this in my second provisional decision, I also included the 4 sessions it authorised in November 2020 for this claim. So, I think Vitality authorised a total of 21 sessions or this claim overall, or 17 sessions in 2021.

Ms P has set out that Vitality authorised 1 session on 4 February 2021, and 8 sessions on 5 February 2021. However, I can see that Vitality allowed Ms P to attend a session whilst waiting for it to assess the information from the physio on 4 February 2021. I can't see that this was an additional authorisation to the formal one given on 5 February 2021. And Vitality's notes show that it authorised 4 further sessions that day, bringing the total number of authorised sessions to 8 (the treatment had restarted in November 2020). So, I think at this point Vitality had only authorised 4 physio sessions in 2021.

I agree that the rest of the authorisations Ms P has set out are correct. Vitality authorised:

- 2 sessions on 8 March 2021,
- 4 on 19 March 2021 and
- 7 on 13 April 2021.

That means that Vitality authorised 17 physio sessions in 2021, but its notes show it paid for a few additional ones as well. I don't think there are any further sessions Vitality needs to pay for that it hasn't already paid or offered to pay.

I said in my second provisional decision that the earliest contact note Vitality had was on 29 January 2021, but Ms P says she was in touch with Vitality prior to this. I've looked through the notes again and I can see a note on 27 January 2021 which refers to a call back being arranged. I can also see notes of a complaint recorded on 28 January 2021, and that Ms P informed Vitality that her physio had become de-registered with the provider. Whilst the notes refer to a complaint, these also say Ms P didn't want to register one.

But what's key here is that I can't see any contact notes in January 2021 prior to these ones. Ms P has referred to an email to her physiotherapist on 13 January 2021, but this doesn't confirm she'd already been in touch with Vitality. Overall, I'm not persuaded that Vitality caused any delays between 8 January 2021 and 5 February 2021, for the reasons I set out in my second provisional decision.

Ms P has also set out a delay between 1 April and 20 April 2021. However, it looks like Vitality didn't receive a report from the physiotherapist until 6 April 2021, and it authorised further sessions on 13 April 2021. I don't think this delay was significant, or something that Vitality should pay Ms P compensation for.

I'm also mindful that Vitality has said it authorised more physio sessions than it normally would under the circumstances, and its notes show it paid for a few additional ones as well. Overall, I think this has mitigated any impact on Ms P with regards to her complaint about physio – both any impact in 2020 and 2021.

Having considered everything again, for the reasons I've set out above and in my second provisional decision, I don't think there's anything else Vitality needs to do, to put things right on this aspect of Ms P's complaint.

Incorrect and missing claim payments

For the reasons I set out in my provisional decisions, as well as under the above subheading, I think what Vitality has offered to do to put things right on this aspect of Ms P's complaint is fair and reasonable. I've set this out in my direction to Vitality at the end of this decision.

Renewal premiums

I'm satisfied my findings in my provisional decisions address Ms P's complaint about her Apple Health Data in 2020. As I explained in my second provisional decision, if Ms P has further concerns about missing data after 3 August 2020, she should raise these with Vitality in the first instance.

Ms P has said I haven't considered her complaint about the July 2022 renewal. Firstly, I don't think Vitality needed to honour Ms P's previous Vitality status because it had done so previously. And in any event, Ms P's circumstances were different in 2021 than they were a year before.

As I explained in my provisional decisions, I don't think I can fairly hold Vitality responsible for the fact that she couldn't earn activity points as the Vitality partnered gym she went to closed. The Vitality Programme is a benefit of Ms P's policy. I think Vitality is entitled to decide how its members can earn points under the programme. The terms and conditions say the following:

“We may change the way we award points and/or eligible partner activities and the Vitality status you may achieve as a result. We may also change our Vitality partners from time to time and the incentives we offer. There may be instances where other aspects such as particular benefits, may be significantly enhanced, changed or withdrawn.”

That said, Ms P hasn't complained that Vitality changed the benefit – rather, she's complained that Vitality hasn't allowed her to earn points outside of that programme. That is, by using a gym that wasn't one of Vitality's partner gyms. However, I think this is a decision Vitality is entitled to make.

For the reasons I set out in my provisional decisions, I think Vitality has calculated Ms P's premium increases fairly and reasonably, and in line with the terms and conditions of the policy. I'm also mindful that Vitality mitigated the impact on Ms P's premiums when it honoured her Vitality status for the July 2021 renewal when she wasn't able to earn the points required for the highest level.

Finally, Ms P says Vitality had an obligation to deal with a contractual change a policyholder has requested at renewal. I don't disagree. However, I can't see that Ms P asked Vitality to make changes to her policy for the July 2022 renewal. Rather, she asked Vitality to let her know what changes she could make, and how these would impact her premium. In fact, Ms P explained in her original complaint letter of 5 August 2022 that she had asked Vitality generic questions about how to reduce the premium.

Overall, for the reasons I set out in my provisional decisions, I'm not asking Vitality to take any further action on this aspect of Ms P's complaint.

My final decision

My final decision is that I uphold Ms P's complaint in part, and direct Vitality Health Limited to do the following:

- Pay Ms P the £100** it offered her on 8 December 2020, and the further £25** it offered on 28 February 2023, unless it has already done so.
- Reimburse Ms P £210 for the dermatology appointment, as well as 8% simple interest*** from a month after the claim was made until settlement.
- Pay Ms P £15 for the physio treatment on 10 May 2021, as well as 8% simple interest*** from a month after the claim was made until settlement.
- Pay Ms P £50 for the physio treatment on 17 May 2021, as well as 8% simple interest*** from a month after the claim was made until settlement.
- Consider if there's an outstanding balance of £50 due to Ms P for claim number ending *1109 in line with the terms of the policy, upon receipt of further reasonable evidence from Ms P.
- Pay Ms P £250** for the distress and inconvenience caused and send her flowers as offered (this includes my further award of £200, as well as the £50 Vitality already offered).

***Vitality must pay the compensation within 28 days of the date on which we tell it Ms P accepts my final decision. If it pays later than this, it must also pay interest on the compensation from the deadline date for settlement to the date of payment at 8% a year simple.*

****If Vitality considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Ms P how much it's taken off. It should also give Ms P a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.*

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms P to accept or reject my decision before 24 July 2024.

Renja Anderson
Ombudsman