

## **The complaint**

Mr B complains that Scottish Widows Limited trading as Clerical Medical (SWL) caused avoidable delays to the transfer of a pension which was linked to a former company he ran. He said that the delays led to issues accessing the cash reserves within that company. He also complains that SWL didn't send him annual statements. And that when he requested copies, it failed to provide them.

Mr B has reference both Scottish Widows and Clerical Medical in his submissions, but I'll only refer to SWL in my decision.

## **What happened**

Mr B used to run a company which had ceased trading at the end of 2022 and was in the process of being wound up. He said his pension with SWL was linked to this company and that he was the only member.

SWL said it updated Mr B's address details on its system on 29 March 2023.

Mr B said that in order to access the cash reserves in the company, he needed to first close the pension scheme. So on 3 April 2023, he said he initiated a transfer into his personal pension with a provider I'll refer to as provider A, through its website.

Mr B said that the transfer form asked for the current value of the fund. He said at this point he realised that he hadn't received any statements from SWL since March 2019. So he called it on 3 April 2023 to advise it of a change of address and to ask for a copy of his statements. He said SWL assured him that he would receive the missing statements in the next ten days. But he said he never did.

SWL said that Mr B called it on 19 April 2023 to ask if his pension was a personal or company pension.

SWL said it issued Mr B's annual statement on 27 April 2023. It said it emailed Mr B on 18 May 2023 to confirm his pension was a company pension. It said it received returned correspondence on 31 May 2023.

Mr B said that he'd heard nothing about his transfer, so on 13 July 2023 he again requested it through provider A's website. SWL said it received the transfer request from provider A on 13 July 2023 through the Origo transfer system. Mr B said that SWL had told him that the transfer should take up to two weeks.

Mr B formally complained to SWL on 6 August 2023, as his pension still hadn't been transferred. He also complained about not receiving his statements. He asked SWL to ensure that he received his statement by return and that his pension transfer took place within the next two weeks.

SWL wrote to Mr B on 12 September 2023 to tell him that although it'd received his Origo transfer request, it couldn't process it as the application didn't support trust-based pensions

like Mr B's. SWL sent Mr B the forms he'd need to complete so that the transfer could be processed.

Mr B wrote to provider A the same day to ask it to complete part of the form. He asked it to complete this and return it as a matter of urgency. He said:

*"The delays in the process so far are, for reasons too complicated to go into here, already causing me considerable financial inconvenience, if not actual hardship."*

Provider A sent SWL documentation for the transfer on 22 September 2023. SWL said it received completed transfer forms from Mr B on 28 September 2023.

Mr B was unhappy with the progress of his complaint. So he brought it to this service in October 2023. He said there were two elements to his complaint:

- a failure to send statements and,
- a failure to transfer his pension.

Mr B also said that SWL's refusal to transfer his pension was preventing the wind up of his company and the release of the cash reserves. Therefore it was stopping him from using those cash reserves for a house deposit. He said that SWL hadn't even explained what it'd done so far or why it was taking so long.

SWL wrote to Mr B and provider A on 23 October 2023 to confirm that the transfer had been actioned. It said that £32,416.35 was transferred as at 28 September 2023, the date it'd received all requirements.

In October 2023, SWL wrote to Mr B. Mr B said that within that letter, SWL said it'd fixed an error on his policy, without telling him what it was. He said the letter said: *"details of the affected policy and the correction will be available through your Annual (sic) statement"*. He said that as he hadn't received a statement since 2020, he raised a further formal complaint. He said he asked SWL for policy-specific data to allow him to calculate if the adjustment was correct.

Mr B said that as soon as provider A had received his funds, he called SWL to ask what he needed to do to formally close the whole scheme. He said that SWL told him that this would be done as a result of the conversation and that he would receive written confirmation within ten days.

Mr B said that as he hadn't received confirmation of closure, he called SWL on 14 November 2023 to ask why. He said it told him that the request to close the fund needed to be in writing. And that he then immediately sent the written request on 15 November 2023. SWL received the letter the same day.

SWL said it wrote to provider A on 6 December 2023 to ask for information so that it could accurately calculate financial redress due to the delays it'd caused.

SWL issued its final response to the complaint on 7 December 2023. The response letter addressed two complaint points:

- The transfer out delays and
- the poor service received, specifically relating to information requests and the failure to receive annual statements.

In this letter, SWL acknowledged that Mr B had asked for his statement and policy information several times, but it had failed to issue any of the requested information to him. It also acknowledged that it'd told Mr B on 13 July 2023 that his transfer out request would take two weeks to complete, but that it had then failed to adhere to the timescale provided. The transfer eventually completed on 28 September 2023. I understand the complaints handler couldn't see any specific reason for the delay.

SWL said it'd contacted provider A to ensure that Mr B hadn't been financially disadvantaged. But it was still waiting for a response. It therefore couldn't calculate any potential payment difference to put Mr B in the financial position he would've been in if a delay hadn't occurred.

SWL also quantified the difference between the policy value on 27 July 2023, when it felt the transfer should've been received by provider A, and on 28 September 2023, the effective date of the actual transfer. It said this calculation showed a difference of £319.18. SWL told provider A of this difference and paid the same amount to provider A on behalf of Mr B on 7 December 2023.

SWL offered Mr B £275 for the distress and inconvenience the delays and the poor service had caused.

Mr B said he received the final response letter on 17 December 2023. He felt that although SWL had upheld his complaint, and offered redress, most of what needed to be done to put things right hadn't happened. He rejected the £275 SWL had offered and returned the cheque it'd sent. He made the following points:

- he still hadn't received the missing statements. And he still didn't know when they would be sent. He said that if he wasn't going to receive them he wanted an explanation as to why.
- He said he hadn't received SWL's 7 December 2023 email. He confirmed his email address in case there'd been an error with it. He said he'd called SWL who had confirmed that it would re-send the email and post a hard copy, but he hadn't received either.
- He said there was no trace of the £319.18 SWL said it had sent to provider A on his behalf. He said it wasn't showing in his account.
- Mr B said that the transferred pension was connected to a company he used to run, which had ceased trading at the end of 2022 and was in the process of being wound up. He said that when the wind up was complete, around £50K of cash reserves would be distributed to the shareholders. He said he needed this money to fund a house deposit. But that the wind up was on hold until SWL confirmed that the scheme had been completely closed.

Mr B said that SWL had told him on 14 November 2023 that the request needed to be in writing, so he'd written to it to ask it to close the fund and send him written confirmation that it'd done so. He also said that before SWL told him this, he'd had two contradictory phone calls. But as he hadn't heard anything about this request yet, he wanted to add this to his complaint. He asked SWL to confirm that this could be added to his current complaint or if a new one would be required.

Mr B confirmed to this service that his unresolved complaints with SWL were:

- *"Continuing failure to send statements"*

- *Delay in transferring my pension to [provider A]*
- *No explanation for the reason for the delay*
- *An unexplained error on my policy*
- *Failure to supply the data to allow me to calculate if the adjustment on account of the error is correct*
- *Failure to apply the redress promised in the response to my complaints*
- *Failure to close the scheme*
- *Failure to notify me in writing of the closure of the scheme*
- *Being disadvantaged by £50,000 until the above happens”*

Our investigator asked SWL to confirm the following:

- if the requested statements had now been sent to Mr B.
- if the pension was now closed.

SWL said that it'd sent statements to Mr B each year. And said that it'd asked for a copy of the statements to be re-issued to Mr B by first class post. It said it would confirm to this service once this had happened.

SWL also confirmed that the pension had been closed since 23 October 2023.

Our investigator also asked SWL to provide system screenshots to evidence that the annual statements had been issued to Mr B. SWL provided this for 2021 and 2023, including the address the statements had been sent to. It said it couldn't screen shot the actual documents for 2022, so instead it provided a screen shot showing that they would've been sent on 24 February 2022. SWL said that its system only went back to the 2020/2021 period, but said it was aware that Mr B had said he'd received the 2019 statement.

Our investigator issued his first view on the complaint on 19 March 2024. He felt that SWL had taken reasonable steps to put things right in respect of the delayed pension transfer. He felt that SWL was taking steps to ensure Mr B would be put back in the position he would've been in if the transfer hadn't been delayed. And that SWL's actions were in line with what this service would expect.

In respect of the letter Mr B had received about an unexplained error on his statements, our investigator said that SWL had explained that the Policy Fee from the renewal date in April 2022 to December 2022 was applied at the wrong amount of £9.70 each month, when it should've been £9.40. He said that SWL had provided evidence to show that this had been corrected before the policy was transferred away. He acknowledged that SWL hadn't communicated this issue well, and that it hadn't explained to him what'd happened. So he understood why Mr B wanted to know what had happened.

Our investigator acknowledged how frustrating it had been for Mr B to have made repeated requests for his statements without success. He considered the distress and inconvenience caused and agreed that the customer service could've been better. But he felt that SWL's offer of £275 in respect of the distress and inconvenience was fair, and in line with what this service would expect.

Mr B didn't agree with our investigator. He said SWL had still not enacted the offers it had made to put things right. He said he still hadn't received all the missing statements that our investigator had claimed to have evidence of. He asked him to share the evidence and the statements. He said SWL had sent him copy statements for 2021 and 2023, but not 2022 or from the date of the 2023 statement to the date his account closed.

Mr B said that it was incorrect that SWL had paid £319.18 into his pension with provider A.

Mr B also felt that our investigator had ignored the main substance of his complaint, which he said was the lack of access to the £50,000 he said had been trapped in his company account until SWL had confirmed the account closure. He said even SWL had said he was entitled to the interest on this money, but our investigator hadn't mentioned it. He asked that his complaint be referred for an Ombudsman review.

Our investigator asked Mr B for evidence of when the £50,000 from his company account was paid to him. I've not seen that any such evidence was provided.

Mr B told this service that SWL had now confirmed to him that it wasn't possible for it to send statements for the 2022 policy year. He questioned how our investigator had seen evidence of them being sent. He said he hadn't received the statements for the 2022 policy year or the evidence our investigator had relied on, despite asking for it.

Our investigator told Mr B that as some of the information he'd requested could be commercially sensitive, he'd written to SWL to get its authority to share it. SWL gave its permission for our investigator to share non-commercially sensitive information with Mr B.

SWL said it couldn't provide our investigator with a copy of the email it said it'd sent Mr B on 7 December 2023 with the information he'd requested. It said that it'd issued a revised final response letter on 4 April 2024, in which it had apologised to Mr B for not receiving this email.

In SWL's revised complaint response, it increased its distress and inconvenience offer by a further £300 to a total of £575. It also said that if Mr B provided it with evidence which showed the date the company cash reserves couldn't be accessed from, to the date they were received, it would consider paying delayed interest.

SWL also told Mr B that it couldn't provide the 2022 statement due to a system migration which meant it could no longer generate a copy. It also said it couldn't issue a statement from the date of the 2023 statement to the date of the transfer. It apologised for this.

On 11 June 2024, our investigator asked SWL if provider A had responded to its 6 December 2023 request for information regarding any financial losses as a result of the delayed transfer.

SWL said it hadn't heard from provider A. It sent an urgent chaser to provider A for the information. And asked our investigator to ask Mr B to contact provider A himself for the required information, or to provide it with a copy of any contract notes he received about the transfer.

Our investigator issued his second view on the complaint on 19 June 2024. He explained that he didn't have copies of the statements themselves, he simply had evidence that they were sent in 2021, 2022 and 2023.

Our investigator said that he'd considered SWL's 4 April 2024 revised final response in his second view as it was part of the same complaint. He felt it was poor that SWL wasn't able

to produce previous statements. But he said he hadn't seen any evidence to suggest that there'd been a financial detriment as a result of not having the statements.

Our investigator shared with Mr B the evidence he had which showed that SWL had written to provider A to confirm it'd paid £319.18 on Mr B's behalf, and asking it to allocate that money to his pension plan. He felt this showed that SWL had made the payment it said it had made and that it didn't need to do any more here. He also shared evidence which showed that SWL had asked provider A to run a loss calculation as a result of the delayed transfer.

Our investigator said that although Mr B's complaint about the withheld £50K wasn't addressed in the 7 December 2023 final response letter, he could now address it as SWL had covered it in its revised final response of 4 April 2024. He felt that SWL's offer of considering an interest payment was in line with this service's expectations. He also said that we would recommend that interest should be paid at 8%.

Our investigator felt that overall, although SWL had provided poor service, he felt the evidence showed that it'd taken reasonable steps to put things right. He also acknowledged that SWL had now increased its offer of compensation for the distress and inconvenience caused by the poor service and the delays from £275 to £575. He felt this was reasonable under the circumstances.

On 20 June 2024, SWL sent a further chaser email to provider A for the information it needed for the full loss calculation.

Mr B was unhappy with our investigator's second view. He felt he'd asked for his case to be escalated to an Ombudsman and that our investigator shouldn't therefore have issued a further view. Mr B said he didn't complain about the statements not being sent in the first place. He said he'd instead complained about not receiving them. He also didn't think it was reasonable to be told that he wouldn't receive the 2022 statement or a statement covering the period from the 2023 statement to account closure. He said that if SWL couldn't reconstruct the statements from data held within its system, how could anyone know if the balance transferred out was correct. He felt SWL could, in fact provide the statements, but didn't want to because of the cost of doing so. He felt this service should order SWL to provide the missing statements. Or at least ask it to explain why the data are no longer available.

In terms of his delayed access to the cash reserves in his company, Mr B said he'd already verbally agreed a figure with SWL which he expected it to honour.

On 26 June 2024, SWL told this service that it still hadn't heard from provider A. It again asked this service to ask Mr B to ask provider A for the required information. It said it was extremely keen to get this matter resolved as soon as possible for Mr B.

As agreement couldn't be reached, the complaint has come to me for a review.

### **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.

Having done so, I agree with our investigator that the compensation SWL has offered Mr B for the poor service and for the transfer delay is fair under the circumstances of this complaint. I therefore can't reasonably ask SWL to increase its compensation offer or take additional steps over and above those it's already agreed to take to put things right. I know

this will be disappointing to Mr B.

I appreciate that as I'm not going to require SWL to take additional steps to put things right other than those it has already committed to, Mr B will be disappointed.

I can see that Mr B told our investigator that he felt his findings were little more than repetition of SWL's statements. But I agree with our investigator that it wouldn't be reasonable to require SWL to take any further steps. I say this because I'm satisfied that it has agreed to take steps to put Mr B back into the position he would've been in but for the delays. From what I've seen, SWL is keen to take action to put things right. But it needs the information it's requested from provider A to finalise financial redress.

I also consider that the total distress and inconvenience compensation offered of £575 is reasonable for the poor service. I'll explain why.

I've not further considered Mr B's complaint point about the lack of access to his closed company's cash reserves as he told this service he was satisfied with SWL's offer.

I'd also like to say that although Mr B is clearly unhappy that our investigator issued a second view, rather than requesting an Ombudsman review, which he had asked for, I'm satisfied that he acted reasonably in considering new information and issuing a second view. I say this because he followed our usual process.

I can also see that Mr B felt that our investigator had covered the wrong complaint, as he said he hadn't complained about the statements not being sent in the first place, but that his complaint was that he'd not received them. However, having reviewed Mr B's complaint form which he sent to this service on 11 October 2023, I can see that he explicitly stated that part of his complaint was about SWL's "*failure to send statements*". I acknowledge that Mr B has now amended his complaint to not having received the statements. I'll address this point below.

Where a business has made an offer to settle a complaint – as SWL has done – what I have to decide is whether, in all the circumstances, that offer is fair and reasonable.

In this case, in its first final response letter, SWL acknowledged that it provided a poor service to Mr B relating to information requests and the failure to receive annual statements. It also acknowledged that it'd caused delays to the transfer of his pension. It apologised, offered to put Mr B back into the position he would've been in but for the delays – although to calculate any loss would require input from provider A – and offered to pay Mr B £275 compensation in recognition of the poor service it'd provided.

Until SWL receives the information it needs from provider A, it won't be in a position to calculate any investment loss that might've occurred due to the delayed transfer of Mr B's pension fund to provider A. But SWL has been able to calculate what the transfer value should've been if there'd been no avoidable delays.

The evidence shows SWL paid £319.18 to provider A on 7 December 2023 in respect of the difference between the transfer value that was actually paid and what would've been transferred if there'd been no delays. And that it asked provider A to allocate this to Mr B's account. SWL confirmed to this service that provider A hadn't contacted it about the payment it'd sent. It felt this showed that the payment had successfully reached provider A's bank account.

In its second final response letter, SWL further acknowledged that Mr B hadn't received its 7 December 2023 email; that it'd issued a policy error letter without being clear about what had

happened; and that it couldn't provide a copy statement for 2022 or for the period from the 2023 statement to the account closure. It apologised and offered to pay Mr B £300 further compensation for the distress and inconvenience these issues had caused.

I first considered whether the overall settlement offer is fair.

*Is the settlement offer fair?*

Mr B hasn't made any specific points about why he disagrees with SWL's offer. I understand that his main concern is that the steps SWL has offered to take to put things right are actually taken, and that this happens as quickly as possible.

It's my role to decide if SWL's overall offer to resolve Mr B's concerns is fair and reasonable.

In terms of the main point in this complaint – the transfer delay and SWL's offer to put things right – I'm satisfied that SWL's offer to ensure that Mr B's transferred pension is put back into the position it would otherwise now be in but for the delays is fair and reasonable. It is also entirely in line with what this service would've otherwise required.

I'm satisfied that the evidence shows that SWL has carried out the redress calculations that it was able to. And that it's paid an amount to provider A to reflect the difference between the amount that it did transfer and the amount that it should've transferred.

I appreciate that Mr B doesn't think SWL made this payment. But I'm satisfied that the evidence shows that it did. And that it clearly asked provider A to allocate the money to Mr B.

It is possible, given the lack of response from provider A, that it hasn't yet allocated the £319.18 SWL sent it to Mr B's account. I suggest that Mr B asks provider A how it processed the payment SWL made to it. But I can't reasonably ask SWL to take any further steps in respect of this payment, other than to ask it to provide Mr B with further details about how it calculated it.

I understand Mr B's frustrations that SWL hasn't yet been able to take all of the steps it will need to take to ensure he's not financially disadvantaged due to the transfer delays. I note that it is still waiting for the information it first requested from provider A on 6 December 2023 and has subsequently chased for. It has also suggested that Mr B might be able to provide the information it needs, or himself ask provider A to provide it. I can see that the information needed was explained to Mr B in SWL's 7 December 2023 final response letter. I consider that these are perfectly reasonable requests under the circumstances. I would expect both Mr B and SWL to continue to take steps to try to get the required information from provider A so that the calculations can be finalised and the correct redress paid to Mr B.

I next considered Mr B's remaining issues with the service he's received from SWL. I understand that he now accepts that SWL can't provide him with a copy of the 2022 statement or a statement from the date of the 2023 statement to the date of the transfer. SWL has explained why this was the case and I noted this reasoning earlier in my decision.

Mr B doesn't think it's reasonable for SWL not to provide him with this information, which he feels is necessary so he can check that the balance SWL transferred to provider A was correct. He also didn't believe that SWL really couldn't provide the statements.

I know Mr B would like me to order SWL to provide the missing statements, or ask it to explain why the data are no longer available. But I'm satisfied with SWL's explanation of why it can't do so. I also consider that the evidence shows that SWL did send the statements when it was supposed to. And that it sent them to the correct address. I have no way of

knowing why the statements didn't arrive. But I can't fairly hold SWL responsible for a failure in the postal service.

I also agree with our investigator that although it's poor service from SWL, there's no evidence to suggest that there's been a financial detriment as a result of not having the statements. I also agree that if Mr B wants to conduct further analysis of the value SWL transferred, he could ask it to provide him with other specific information that might help him to do what he requires.

I next considered the poor service SWL has provided to Mr B. And the total of £575 it has offered him in respect of all of the issues.

I can see that SWL offered the first £275 compensation payment for the distress and inconvenience caused by the transfer delays and its failure to provide the annual statements when requested.

SWL told this service that it hadn't issued the requested information to Mr B due to a 'gone-away' marker on the policy. It said it'd updated his address details in March 2023. But when correspondence had been returned by the postal service it was then required to place a 'gone-away' marker on the policy as SWL needed to verify the correct address. It said it did then verify the address, but that it failed to process the information request.

I agree that this was poor service. I also consider that the delayed transfer would've been worrying and frustrating for Mr B, especially considering its impact on his ability to access his former company's cash reserves. But I can see that SWL has offered to pay financial redress for the delayed transfer and it's also offered to pay Mr B interest on his lack of access to his cash reserves, subject to him providing the relevant evidence. If any interest is payable in respect of that lack of access, it should be paid in line with what this service would've otherwise recommended, which is 8% simple each year.

Overall, I'm satisfied that the £275 compensation SWL offered in respect of the poor service and the delay was reasonable. And was in line with what this service would've otherwise recommended.

SWL then offered a further £300 compensation payment for the distress and inconvenience caused by:

- Mr B not receiving the 7 December 2023 email;
- the policy error letter SWL sent without being clear about what had happened or how the issue would be fixed; and
- SWL's inability to provide a copy statement for 2022 or for the period from the 2023 statement to the account closure.

I understand that SWL doesn't know why Mr B didn't receive the 7 December 2023 email. But I can see that it has apologised for that failure. And re-issued the information that was sent at that time.

I can see that the October 2023 policy error letter SWL sent to Mr B didn't contain a clear explanation. So I appreciate that it would've been concerning. However, I can also see that SWL has provided further explanation for what happened with this letter. It also provided this service with information to evidence showing that the error had been reversed. It also confirmed that the monetary difference of £2.70 had been corrected on the policy before the transfer. SWL accepted that it was poor service that the correction wasn't clearly explained

to Mr B at the time.

I appreciate that receiving a letter like the one sent in October 2023 would've been concerning. But I consider that SWL has now explained exactly why it was sent.

I also agree that it was poor service that SWL can't provide Mr B with some of the statements he's asked for. But I'm satisfied that it has explained why this is the case. And I've seen no evidence that this failure has caused financial detriment

Given the steps SWL has taken to explain what has happened and to put things right, I'm of the view that the additional £300 compensation SWL has offered in respect of the highlighted poor service covered by the second final response letter was reasonable. And in line with what I would've otherwise recommended.

Therefore, while I uphold the complaint, as SWL is yet to take all of the steps it offered to take, I don't require it to improve its offer.

### **Putting things right**

I understand that Scottish Widows Limited trading as Clerical Medical hasn't yet taken the following steps it has offered to take to put things right. Therefore I require it to do the following:

- Pay Mr B the £275 compensation it originally offered but which I understand he rejected.
- It's unclear whether or not Mr B cashed the second compensation cheque for £300, so this must also be paid if it hasn't yet been cashed.
- Scottish Widows Limited trading as Clerical Medical must carry out the investment loss assessment it has offered to complete as soon as it has received the required information from provider A.
- Scottish Widows Limited trading as Clerical Medical must identify, based on the evidence it has asked Mr B to provide, any interest it needs to pay in respect of his delayed access to his company cash reserves. Any interest so calculated should be based on 8% simple each year.
- Provide the details of the calculation of the £319.18 payment it has made to provider A to Mr B in a clear, simple format. It should also provide the details of the investment loss assessment to Mr B in a clear, simple format.

If payment of compensation is not made within 28 days of the later of Scottish Widows Limited trading as Clerical Medical receiving Mr B's acceptance of my final decision and the date it receives the information it needs from provider A, interest should be added to the compensation at the rate of 8% per year simple from the date of my final decision to the date of payment.

Income tax may be payable on any interest paid. If Scottish Widows Limited trading as Clerical Medical deducts income tax from the interest, it should tell Mr B how much has been taken off. Scottish Widows Limited trading as Clerical Medical should give Mr B a tax deduction certificate in respect of interest if he asks for one, so he can reclaim the tax on interest from HMRC if appropriate.

### **My final decision**

For the reasons set out above, I uphold Mr B's complaint. I require Scottish Widows Limited trading as Clerical Medical to take the actions detailed in the "Putting things right" section above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 2 September 2024.

Jo Occleshaw  
**Ombudsman**