

## The complaint

Mr W complains that Scottish Widows Limited (trading as Clerical Medical) caused difficulties for him when he tried to access his pension. He says this has caused him considerable stress and financial hardship.

## What happened

Mr W holds a personal pension with Clerical Medical. His pension includes a guaranteed annuity rate (GAR).

Clerical Medical sent Mr W a retirement options pack on 18 January 2023. It explained that if he didn't choose how he wanted to take his pension by his 75<sup>th</sup> birthday (which is in 2025), it would automatically buy an annuity with his funds. And whilst that would provide an income for life, he'd lose the option to take tax-free cash or other options that might best suit his needs. It also explained that Mr W's plan included a GAR, which provided a valuable benefit. The value of Mr W's plan at that point was £44,207.71.

Mr W wrote to Clerical Medical in March 2023 and said he wanted to move to the Uncrystallised funds pension lump sum (UFPLS) scheme. He set out how and when he wanted to receive lump sums from his pension.

Clerical Medical sent Mr W a quotation on 9 March 2023. Under a heading "risk warning" it said that Mr W's pension had *"a potentially valuable guarantee which you'll lose if we proceed with your request to cash in/transfer your pension"*. It explained that he'd need to show he'd taken financial advice if he was intending to take his pension other than as an annuity.

In correspondence sent to Mr W during April 2023, Clerical Medical explained that he couldn't take a part encashment under his current policy, but he could transfer it to another product. It explained it was a legal requirement to take financial advice if his pension pot was valued at over £30,000 and Mr W wanted to cash it in or transfer it.

Mr W wasn't happy with Clerical medical's response, so he contacted it at various points over the following few months. It sent him a series of responses, which said things such as it had sent him the required forms to fill in and again reminded him that he'd need to show he'd taken financial advice if he was intending to do anything other than take an annuity.

Mr W pointed out in May 2023 that Clerical Medical hadn't sent him all of the right forms to fill in. He said he felt he was getting nowhere and needed to access his cash straight away. Correspondence between Mr W and Clerical Medical continued in a similar vein, with Clerical Medical again saying Mr W needed to show he'd taken financial advice if he wasn't intending to buy an annuity – even if he decided not to accept the advice he was given.

In July 2023, Mr W indicated he'd spoken to a financial adviser, but he wasn't impressed by his manner. From what he said, it doesn't appear that things progressed to the point where the adviser gave any advice. He again said he wanted to take his pension as an UFPLS. He felt that Clerical Medical was trying to make things as difficult as possible for him.

Clerical Medical subsequently realised around August 2023 that it hadn't sent Mr W all the forms it thought it had. It apologised for its poor service and paid Mr W £100 in compensation to recognise the inconvenience caused. It again said that if Mr W wasn't intending on taking an annuity, it was a regulatory requirement for him to take financial advice before switching his pension.

Mr W didn't think Clerical Medical's apology and £100 compensation fairly recognised the difficulty he was experiencing. He added that, by law, he was entitled to claim the funds from his pension, and as he understood Clerical Medical didn't offer a drawdown plan, he said he knew he'd have to switch providers at some point. He said he expected Clerical Medical to send him the required forms, following which he'd speak to a financial adviser.

Clerical Medical wrote to Mr W during September 2023. It acknowledged that he still didn't want to proceed with an annuity. Therefore, it remained the case that he'd need to seek financial advice if he wanted to take his pension in any other way. In order to help progress things more quickly for Mr W, it offered to pay his financial adviser fees as a gesture of goodwill.

Mr W complained to The Financial Ombudsman Service in September 2023 due to the ongoing issues he was experiencing. He said he'd waited months to access his pension funds.

One of our Investigators looked into Mr W's complaint and concluded that Clerical Medical didn't need to take any further action. He noted that the safeguarded benefits included in Mr W's pension meant that, in line with pension regulations, he was required to take financial advice. So, he didn't think Clerical Medical had done anything wrong in insisting on this. Although the Investigator noted that Mr W had approached an adviser, he hadn't actually taken financial advice. He also noted that Clerical Medical had since offered to pay the costs for a financial adviser, which was something it didn't have to do. The Investigator was also satisfied that Clerical Medical had acknowledged its poor service by paying Mr W £100 compensation. Mr W responded setting out why he felt Clerical Medical had acted inappropriately. As no agreement was reached, the matter has been passed to me to decide.

### **What I've decided – and why**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I'm sorry to hear about Mr W's recent health issues and the financial challenges he's been dealing with. And I entirely appreciate his strength of feeling concerning this complaint and why he might think Clerical Medical should have processed his pension benefits by now. As he puts it, by law, he's entitled to access the pension benefits he's accrued.

I don't think that's in dispute. And whilst Mr W may not agree with me, from everything I've seen, I don't think it was a case of Clerical Medical trying to prevent him from accessing his pension. But that doesn't mean it could simply do what he wanted either.

Businesses like Clerical Medical have a number of important regulatory and legal responsibilities. When it comes to a policy like Mr W's which is over £30,000 and includes important safeguarded benefits (a GAR), it was required to ensure he'd taken financial advice if he wasn't intending to buy an annuity. That's because there was a risk of the safeguarded benefits being lost if Mr W transferred his policy or took a drawdown from it. So, it was really important that he understood those risks before opting to take his benefits other than through an annuity.

This wasn't a Clerical Medical rule, it's set out in legislation under Section 48 of the Pensions Act 2015. Clerical Medical is required to comply with the legislation. And I'm satisfied that it explained on several occasions why it was necessary for Mr W to take advice. I realise Mr W may not have appreciated the responses he received from Clerical Medical and may have felt it was simply trying to make things difficult for him. I don't agree. And I don't think Clerical Medical did anything wrong in responding in the way it did, given its legal and regulatory responsibilities.

That doesn't mean things were always plain sailing though. And I can appreciate Mr W's frustration when, despite asking for certain forms, Clerical Medical failed to include them (despite initially saying it had) causing Mr W to have to chase things up. Clerical Medical recognised its service issues here and has paid Mr W £100 in compensation. I think that's fair in the circumstances.

But it's worth saying here that even if Clerical Medical had sent the right forms at the outset, I'm not persuaded the position regarding Mr W's pension would definitely have been resolved sooner. I say that because he'd made it perfectly clear that he wasn't interested in buying an annuity. So, there would always have been the requirement for Mr W to seek financial advice given the value of his pension and the safeguarded benefits it includes. But, apart from speaking to an adviser around July 2023, I've seen no evidence that Mr W sought the financial advice that Clerical Medical said he needed. And I think financial advice could have been sought even whilst the issue to do with the forms was being sorted out.

I note that Clerical Medical has since offered to pay a financial adviser's fee as a gesture of goodwill and as a means of resolving this matter for Mr W. This isn't something it's required to do. So, in the circumstances, while I won't direct it to do so, I think it's a fair and reasonable response to this complaint. I'll leave Mr W to discuss that with Clerical Medical if he hasn't already done so.

Taking account of all of the evidence I've seen, I don't think Clerical Medical has done anything wrong.

### **My final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 11 March 2024.

Amanda Scott  
**Ombudsman**