

The complaint

Ms B complains that Scottish Widows Limited trading as Clerical Medical (Clerical Medical) were negligent by failing to review her fund selection in the years leading up to her retirement. To put things right, she wants Clerical Medical to compensate the loss that her policy has suffered.

What happened

Ms B holds a Group Stakeholder Pension plan with Clerical Medical.

In October 2021, she received her annual pension statement which showed a value of just over £76,000.

In October 2022, she received her annual pension statement which showed a value of just over £50,000, which meant the fund value had fallen by around £25,000.

On 16 January 2023, Ms B complained to Clerical Medical as she felt the fund had been mismanaged and they'd been negligent going against their own investment strategy. She asked to be compensated for the loss in the fund value.

On 27 January 2023, Clerical Medical issued its final response. It gave a detailed explanation for the unusual combination of economic reasons that had seen lower risk funds such as bonds lose value in the last 12 months. It explained the fall in value was due to market fluctuations and not mismanagement and so it didn't uphold her complaint. Dissatisfied, Ms B brought her complaint to this service.

An investigator looked into things for Ms B. In his view, whilst he accepted the disappointment Ms B must feel with the current performance, he agreed that market conditions were the reason for the fall in the fund value and not mismanagement. He didn't feel that Clerical Medical had acted unfairly and didn't ask it to do anything further.

Ms B disagreed. She says that it was evident for a number of years that the market was volatile, and that Clerical Medical should have undertaken a review of what she says should no longer have been considered a low-risk investment – in failing to do that she regards it as negligent and liable for her losses. She asks for an ombudsman 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 have independently reached the same outcome as that of the investigator. I appreciate this will come as a disappointment to Ms B – I'll explain why.

I'm very aware that I've summarised this complaint in far less detail than the parties and I've done so using my own words. I'm not going to respond to every single point made by all the

parties involved. No discourtesy is intended by this. Instead, I've focussed on what I think are the key issues here.

Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts. If there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual argument to be able to reach what I think is the right outcome. Instead, I have concentrated on what I understand to be the crux of Ms B's complaint which is that she feels Clerical medical should have reviewed her investments given the market conditions and in not doing so it was negligent in its duty and so liable for the fall in the fund value.

Whilst I can consider complaints about investment performance, in most instances, I would need to see evidence that Clerical Medical had done something wrong and I can't just rely on actual or perceived poor performance. That's because, even if the fund has underperformed compared to the rest of the market, we don't usually think this proves the fund was mismanaged. Many consumers have seen the value of their pension funds fall over the last 18 months given the economic conditions not just across the UK, but wider financial markets too. So, to be clear, this isn't just a Clerical Medical issue, and it's something many other consumers are having to face at other businesses too.

Having carefully considered the evidence, I can see that Clerical Medical wrote to Ms B in October 2019. The letter was entitled in bold, large print *"Please review your pension plan"* and that letter as our investigator pointed out it said:

'Your pension plan can only invest in a lifestyle strategy with a selection of funds chosen by your employer, which assume you'll buy a guaranteed income for life at retirement. A lifestyle investment strategy gradually moves the value of your pension into lower risk investments as you approach retirement. This aims to help protect the value of your pension as you get close to retiring, although there are no guarantees.'

'We recommend you speak to a financial adviser before making any decisions. We're happy to discuss your options and help explain your plan's features for free. We also have our own financial advisers who may be able to give you advice on the options you have and products we offer. Please call us if you'd like more information.'

I think it's important to be clear about the level of service Ms B was paying for. The costs associated with her plan covered the management of the underlying monies and a separate charge for the wrapper (or plan) her monies were sat in.

Ms B wanted Clerical Medical to review her investments and feels it mismanaged her retirement fund by failing to do so. But Clerical Medical is not Mr W's financial advisor. So, it simply acts on the instructions she provides. It isn't for Clerical Medical to ensure that any investment decisions are suitable for Ms B's needs – those were essentially decisions she needed to make for herself. And I have seen that Clerical Medical's website (or by post on request) provides comprehensive information for investors about the range of funds that are offered. Had Ms B wanted someone to advise her on the appropriateness of the investments her monies were sat in, she would've needed to seek out and pay for financial advice. The regulator also sets out the timing and content of the regular statements that need to be issued to pension investors. Generally, that sort of communication needs to be issued at least once a year. I can see that Clerical Medical did provide that sort of information to Ms B and it highlighted the warnings that Ms B should review the ongoing suitability of her investments.

There is no doubt that the performance of Ms B's pension investments will have caused her great disappointment. During 2022, the value of her pension investments fell. But those falls

mirrored falls across a whole range of investment classes and were entirely outside the control of Clerical Medical. The information provided to investors about the funds into which Ms B's pension savings were invested clearly set out that their values weren't guaranteed and might fall.

Ms B's monies were invested in fixed interest investments. That said, the fixed interest element of the life styling funds is impacted by changes in the interest rate. As interest rates rise, a fall in value is then often seen. But importantly at the same time there will typically be an increase in annuity rates. So, this means although Ms B's fund value has fallen its annuity purchasing power may appreciate. This is different to a loss that might be incurred in a higher risk fund when annuity rates might be falling. So, life styling is a way to act protectively for future annuities.

Given that Clerical Medical was not providing Ms B with any advice about her pension savings, it would not have been appropriate for it to contact her specifically about the change in value of any of her underlying investments. Doing so might reasonably lead a consumer to consider that Clerical Medical was recommending a change in the chosen investments. Based upon what I have seen, I'm not able to hold Clerical Medical responsible for general falls in the market or the value of investments. In 2022 in particular, there was uncommon volatility in those asset classes that led to the falls in value Ms B experienced. Those could not have been reasonably anticipated, and so wouldn't have been mitigated by any investment approach that was taken by Clerical Medical.

Ultimately it fell to Ms B to monitor her pension investments, and seek financial advice as prompted in the letter sent to her in October 2019. Only Ms B can instruct Clerical Medical to make changes to her portfolio if she felt it had become unsuitable for her circumstances. I think that Clerical Medical has met its obligations in the information it provided to Ms B and in carrying out the investment strategy set with regard to the particular funds Ms B has invested in.

So, whilst I appreciate that my decision will be disappointing for Ms B I don't agree that Clerical Medical has treated her unfairly or done anything wrong. So, I don't uphold her complaint.

My final decision

For the reasons I have given I don't uphold this complaint or make any award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 18 September 2023.

Wendy Steele
Ombudsman