

The complaint

Mr S complains that ReAssure Ltd mismanaged his pension, took too long to transfer it to another provider, and provided incorrect information to HMRC.

What happened

Mr S originally had a pension with 'LG', receiving £2,000 per month by way of drawdown. ReAssure took over the administration of LG's pension portfolio in September 2020.

Following this, Mr S started experiencing delays with his drawdown – some months were paid late, and some not at all. Unhappy with this, Mr S advised ReAssure that he wished to transfer his pension to a new provider, who I'll call 'SL' here.

ReAssure also incorrectly reported Mr S's pension income, and tax paid, to HMRC in March 2021 – saying he'd been paid £24,754.55 in the 2020/2021 tax year (with no tax deducted), whereas he'd actually been paid £14,754.55 gross (with £3,700.65 tax deducted at source).

And whilst ReAssure calculated the transfer value of Mr S' pension on 5 March 2021, the date it received the transfer request via the ORIGO platform - £759,052.35 - this wasn't transferred to SL until nearly six weeks later.

Unhappy with the above matters, Mr S complained to ReAssure, and brought his complaint to our service as well. ReAssure agreed it had made mistakes, particularly regarding how they'd managed his drawdown arrangements and communicated with HMRC. They offered a total of £400 compensation for the distress and inconvenience (D&I) they'd caused.

One of our investigators upheld Mr S's complaint, and asked ReAssure to do the following:

- Notify HMRC, as a matter of urgency, of the correct pension income and tax figures for the 2020/2021 tax year
- In respect of the late (and missing) drawdown income payments, calculate the number of days that these were paid late, and on the basis Mr S had been deprived of the use of those funds for those periods, pay 8% simple interest on those 'late' amounts
- Contact SL to obtain the necessary information to allow a calculation to be made that would ascertain if any loss was made as a result of the delays in transferring Mr S' pension to SL
- Pay Mr S an additional £800 compensation for D&I, in addition to the £400 already paid (and ensure the previously offered £400 was paid, if not done already).

Mr S broadly accepted this outcome in principle, but with reservations. However, there was no initial response from ReAssure. And after multiple letters and phone calls from Mr S to ReAssure, it wasn't until July 2022, many months after Mr S brought his complaint to this Service, that they updated HMRC with the correct income and tax figures.

And because ReAssure had failed to acknowledge the other elements of our Investigator's View, Mr S asked that his complaint be escalated for an Ombudsman review. After considering the evidence, I issued a Provisional Decision (PD), in which I said as follows:

My Provisional Decision

Reporting income to HMRC

ReAssure accept they made “*numerous errors with [Mr S's] policy, payments have been made late and incorrectly [and] with information...supplied to HMRC*”. So, this point is not in dispute, and isn't something I need to make a finding on here. And having looked at the evidence, I'm satisfied they've corrected their mistake – and done all I'd have asked them to do in relation to this matter.

However, I think it's clear the time taken for ReAssure to acknowledge their mistakes here, and correct them, took far too long. So, I need to consider how much of an impact these mistakes had on Mr S. After all, it took ReAssure 15 months to rectify their misreporting to HMRC, and this despite multiple attempts by Mr S to alert ReAssure.

Mr S also had to make many enquiries with HMRC as well. I'm satisfied Mr S spent significant time – all of which was avoidable had ReAssure dealt with their mistake promptly – engaging with ReAssure and HMRC on this matter, and that it caused him considerable distress and significant inconvenience. And I think ReAssure should pay compensation to Mr S for this distress and inconvenience – I'll deal with the amount I think is appropriate at the end of this decision.

Unpaid Income

When ReAssure took over the administration of Mr S's pension, he had a £2,000 monthly drawdown arrangement in place. And I think he was entitled to expect that arrangement would continue, without incident. However, his income wasn't paid on time, and after February 2021, none was paid at all – although by this time he had alerted ReAssure that he wanted to transfer his pension to SL. Put another way, he was deprived of the use of these funds when they weren't paid on time, and as expected.

Where this happens, we'd usually expect a business to compensate a consumer for that loss – at a rate of 8% simple interest, for the periods the consumer was without the use of those funds. This is what our investigator concluded, although I haven't seen ReAssure acknowledge or respond to that point. But in the circumstances, I think it's fair and reasonable this happens here.

And I want to be clear how I think these amounts should be calculated. Mr S *should have received* his income on a set day each month – which for payment practicality purposes would have likely changed each month because of weekends and bank holidays. So, ReAssure needs to calculate which day, between September 2020 and March 2021, Mr S should have been paid.

It should then work out how many days late each payment was made. And then pay Mr S 8% simple interest on each payment based on these calculations from the date the payment should have been made until the date it was paid. There were also some months when Mr S wasn't paid at all – in this case ReAssure must calculate from the day the payment should have been made, to the date the pension was transferred to SL. This is because Mr S was deprived of the use of these funds indefinitely, although ReAssure's liability for this must end at the point they were no longer administering Mr S' pension.

Loss Assessment

ReAssure have accepted they caused delays in the transfer of Mr S' pension. And they've now accepted the recommendation made in our Investigator's View - and have made the necessary enquiries with SL to obtain the fund value information that is needed to feed into a redress calculation. They've calculated Mr S experienced a loss of £17,728.85. This figure was calculated as at 7 November 2022.

Prior to this Mr S, with the assistance of his IFA, provided what they believed was a fair redress calculation and amount – £24,261.82. But this used a different calculation methodology.

Mr S' methodology was based on the total value of a named fund and showed the total increase in value of that fund between two dates (I'll comment on the dates shortly). However, this isn't the methodology we'd usually expect a business to use when calculating an investment loss caused by transfer delays - whereas the methodology used by ReAssure is the one we'd ordinarily expect to be used. I'll explain.

Where a business has made a mistake, and a consumer has suffered a loss as result, we'd tell a business to take steps (as much as possible) to put the consumer back in the position they would have been in had the mistake not occurred. And in this case, as part of my considerations, I need to think about the time I think ReAssure *should have taken* to transfer Mr S' funds. I note ReAssure have said they'd expect a transfer to take 15 working days following receipt of the request, and that is a good place to start.

ReAssure have confirmed they received the required transfer notification on 4 March 2021 – via the ORIGO transfer platform from the receiving scheme - and began the transfer process the following day. The transfer value was calculated on this date. The transfer funds were sent to SL on 26 March 2021 – 15 days after receipt of the ORIGO request. This is the date ReAssure used in their calculations for the delay, and fund transfer loss Mr S experienced.

However, the ORIGO platform was introduced to speed up the process of pension transfers. It's an electronic platform which allows the transfer of pensions and investments and can reduce transfer times to a matter of a few days or sooner, depending on the complexity of the transaction.

Here, I haven't seen a detailed breakdown of each stage of the transfer process, however I note Mr S was invested in multiple funds. And the transfer was a relatively high value one, at about three quarters of a million pounds. These are both factors that could reasonably cause ReAssure to take a few extra days to process the transfer – certainly a high value transfer of this type would justify a few extra days checking to ensure everything was in order.

But even allowing for that, I don't think ReAssure should have taken 15 working days to process the request. ReAssure haven't advised they experienced any problems in disinvesting Mr S' various funds.

So, in the circumstances, and in the absence of any evidence that suggests otherwise, I think a ten-day transfer processing period was likely achievable – and a fair and reasonable outcome here is for ReAssure to re-calculate the transfer based on Mr S' funds being sent to SL on 19 March 2021.

Distress and Inconvenience

Reassure have already paid Mr S £400 compensation for the inconvenience they've caused. A payment of £150 was made following Mr S not receiving his regular withdrawal due in

October 2020. And a further £250 was paid in April 2021, after ReAssure admitted they'd caused delays. And our investigator said ReAssure should pay additional compensation for D&I of £800, because of the significant delays Mr S experienced in having his HMRC records corrected, and the time he spent having to liaise with ReAssure and HMRC on this matter. ReAssure have since advised they've agreed to pay this extra D&I.

Placing a value on distress and inconvenience is not an exact science. And our D&I awards are not designed to 'punish' businesses for any mistakes they've made. But in this case, I think total D&I of £1,200 seems fair compensation, and I won't be asking ReAssure to increase this sum here.

I must also respond to Mr S' request that, as part of my decision, he would like to see "*some public censure or action taken formally by the Ombudsman to criticise ReAssure...*".

The Ombudsman is an informal dispute resolution organisation. My role within that is to consider Mr S's complaint, and decide what I think is a fair resolution to put Mr S back into the position he would have been in had ReAssure not made the mistakes they did. And this is what I have done here. It isn't my role to criticise or censure ReAssure. If Mr S wishes to complain about the way ReAssure operates, he must address those concerns to ReAssure's regulator, the FCA.

I then set out the calculation methodology I thought was appropriate to compensate Mr S for the transfer loss he experienced.

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.

Both parties responded to my PD.

Mr S raised a question about the £800 D&I awarded. I can confirm this amount is in full and final settlement in respect of the distress and inconvenience Mr S experienced as a result of ReAssure's delays and mistakes.

Mr S also repeated that his advisor had sent in a calculation of what he felt Mr S' transfer loss was – £24,261.82 – as a result of ReAssure's delays. I explained in my PD why I felt a different calculation method was appropriate, and that view remains.

Mr S has repeated that ReAssure have caused significant delays in effecting the redress calculation, and by association offering (or making) a payment in respect of this. My redress methodology takes account of those delays – as it requires up to date calculations to be made, so that the loss (and redress) is calculated based on what Mr S' receiving fund would be worth *now* had the transfer been made on time – not at a specific point in time in the past.

Mr S also comments on the issue of taxation, as set out in my PD redress recommendations, and repeated below. Mr S is right that no tax is paid on the redress funds paid into the receiving scheme, and that tax will naturally be levied when it is eventually drawn down. The taxation comment is included purely in the event that a payment into the receiving scheme is *not* possible, in which case the redress would need to be paid directly to Mr S – and in which case the taxation calculation would then be necessary.

ReAssure have agreed with my PD conclusions. They agreed to calculate and pay 8% simple interest on the late monthly pension payments.

Regarding the loss calculation, ReAssure asked I clarify a point on the calculation dates I'd said should be used. They reiterated they'd received the ORIGO transfer request on 4 March 2021, and applying ten working days to that date, it took them to 19 March 2021. And assuming this was the date the funds were sent to the receiving scheme, it would (in real terms, based on what *did* happen) have taken a further five working days for the funds to be received and reinvested by the receiving scheme – meaning ReAssure would be using the values taken from Mr S' receiving scheme as at 26 March 2021 for their redress calculation.

I can confirm that, on the assumption Mr S's pension funds were transferred to the receiving scheme on 19 March 2021, and it would have taken a further five working days for the receiving fund to have received and invested those funds, then the receiving fund values as at 26 March 2021 are the correct ones to use for the purposes of redress calculation.

Putting things right

Loss calculation – Fair compensation

My aim is that Mr S should be put, as closely as possible, into the position he would now be in if ReAssure had transferred his pension to his new provider on 19 March 2021. So, to compensate Mr S fairly, I think ReAssure must do the following:

- Calculate, as at the date of any final decision along these lines, the notional current value of Mr S' current pension plan had his pension funds – using the value calculated on 5 March 2021 – been sent to the receiving scheme on 19 March 2021
- Compare this value to the *actual* value of Mr S' pension at the date of any final decision along these lines.
- If the notional value is greater than the actual value of Mr S's pension, then Mr S has suffered a financial loss and should be compensated accordingly. If the notional value is less than the actual value of Mr S' funds, then there's no loss and no investment compensation is due.

The compensation should be paid into Mr S's current pension plan. The amount paid should allow for the effect of charges and any available tax relief. Compensation should not be paid into the pension plan if it would conflict with any existing protection or allowance.

If ReAssure is unable to pay the total amount into Mr S's pension plan, it should pay that amount direct to him. But, had it been possible to pay into the plan, it would have eventually provided a taxable income. So, the total amount paid in this way should be reduced to notionally allow for any income tax that would otherwise have been paid.

The notional allowance should be calculated using Mr S' expected marginal rate of tax at retirement. I think it's reasonable to assume that Mr S is likely to be a basic rate taxpayer at retirement, so the reduction would equal 20%. However, as Mr S would have been able to take a 25% tax free lump sum, the 'tax' reduction should only be applied to 75% of the compensation, resulting in a fair overall 'tax' reduction of 15%.

If Mr S, or ReAssure, disputes this is a reasonable assumption, it must let us know so that the assumption can be clarified as necessary, and Mr S receive appropriate compensation.

Unpaid Income – Fair compensation

To compensate Mr S for the loss of use of his pension income that was either paid late, or not at all, I think ReAssure need to do the following:

- ReAssure must calculate which date, between September 2020 and March 2021, Mr S should have been paid.
- In respect of any payments made after these respective dates, ReAssure must work out how many days late each such payment was made, and pay Mr S 8% simple interest on each late payment, for the period between the expected and actual paid dates
- In respect of any months during this period that Mr S wasn't paid, ReAssure must work out the dates any such payments should have been made, and pay 8% simple interest on the period between the expected payment date and the date Mr S' funds were transferred away from ReAssure

Distress and Inconvenience

In the event it has not already been paid, ReAssure must pay Mr S further compensation for distress and inconvenience of £800.

My final decision

I uphold Mr S' complaint, and require ReAssure Ltd to undertake the redress calculations, and pay Mr S compensation, as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 24 March 2023.

Mark Evans
Ombudsman