

The complaint

Mr C complains that ReAssure Limited (ReAssure) didn't contact him prior to the maturity of his personal pension plan (PPP). He thinks he may have suffered a financial loss because of events which affected the PPP during the period in which he was eligible to draw his benefits. He also complains about the loss of the investment growth he could have received if the funds had been invested into his new plan at maturity, and about the worry and concern he suffered as ReAssure didn't properly communicate with him over a period of around six months.

What happened

Mr C had held a "rebate only" PPP with ReAssure since 1989. In February 2014 he moved to France and for the first year after his move he used a postal forwarding service – which passed on mail that had been sent to his previous UK address. During this time Mr C says he wrote to all the firms that he received forwarded mail from so that they could note his change of address. One of those letters was to ReAssure.

ReAssure says it sent an annual PPP statement to Mr C at his UK address in 2015 but the letter was returned as "gone away". It says it continued to try to trace Mr C but was unsuccessful.

Mr C was 65 in February 2020 and entitled to draw his state pension the following February at age 66 – and assumed this was when he could take his benefits from the ReAssure PPP. But upon further investigation of his entire retirement provision he became aware that he was entitled to draw the benefits of the PPP from February 2020. So, in November 2020 – as he hadn't received any correspondence about drawing his benefits, he contacted ReAssure. Mr C said he couldn't get through to ReAssure on the phone and didn't receive a prompt reply to his emails, but was simply informed – some months later – that he couldn't set up a new drawdown plan with ReAssure as he was no longer a UK resident. It said he was only able to draw his fund in full or transfer it to another provider if he wished to use a more flexible "drawdown" type plan.

Mr C said he was talking with a "retired" adviser at this point, who suggested he complain about what had happened. Mr C contacted ReAssure and said that, in advance of receiving his UK state pension, as he was now resident in France, he looked into his other retirement provision and learnt that he was entitled to the benefits of his ReAssure pension on his 65th birthday. Since he had contacted ReAssure in November 2020, which was eight months after his birthday, he hadn't received any communication about his request to draw his benefits and was becoming increasingly worried. He asked ReAssure to pay him his pension benefits as soon as possible.

ReAssure didn't uphold the complaint. It said its records showed no suggestion of a notification from Mr C about a change of address. It confirmed that following the return of a letter it sent in February 2015 it had been unsuccessful in trying to trace him and so didn't notify him of his plan's maturity in 2020, but instead extended the retirement date to age 75. ReAssure accepted that it hadn't called Mr C back when it promised to, although it said that it was unable to answer his question about confirming the most suitable option for him as it couldn't give advice.

It sent him a cheque for £215 (£200 plus £15 to cover exchange rates) as compensation for the service errors it had made.

In February 2021 another adviser requested details of Mr C's PPP and began the process of transferring it into a self-invested personal pension (SIPP) with a new provider. By August 2021 the transfer completed with a fund value of £82,659.30. Mr C then invested within a FTSE "European" fund into the SIPP.

Mr C wasn't happy with the outcome of his complaint, so he brought it to us where one of our investigators looked into the matter. But he didn't think the complaint should be upheld. He said that, while it would have been good practice for ReAssure to have tried to contact Mr C, it wasn't obliged to do so. So he didn't think ReAssure had caused Mr C to suffer any financial loss. But he did think that ReAssure had made some errors and thought the £200 it had paid for the distress and inconvenience it had caused was fair and reasonable.

Mr C didn't think the investigator had fully appreciated the worry, stress, and frustration he'd suffered over three months' worth of poor customer care from ReAssure, as well as the problems caused from not being able to contact it through its website. He said ReAssure had failed to provide him with his retirement options for over six months after the maturity date of his plan which had a big impact on his situation. He also didn't think the investigator had considered the fact that he'd been "forced" to take out a SIPP when he finally drew the benefits as ReAssure didn't allow him all the options it had said were available. He said he would have chosen a flexible retirement income option by February 2020, if he'd been offered the opportunity by ReAssure.

The investigator wasn't persuaded to change his view. He maintained that he didn't think ReAssure was responsible for Mr C's address not being changed and he didn't think it had denied Mr C the opportunity to take his pension in a tax efficient way. He said ReAssure no longer offered flexible drawdown to non UK customers by the time Mr C wanted to draw his benefits and it gave him the option to transfer to another provider and take up a flexible retirement option. He thought that ReAssure couldn't be responsible for any issues – such as investment loss, which occurred as a result of transferring to a new provider and product.

But Mr C remained of the view that ReAssure's actions had caused him to lose the option of using its drawdown facility and that as a result he calculated a current investment loss of around £3,000. He said he wanted his complaint to be referred to an ombudsman – so it was passed to me to review.

Mr C's SIPP is currently invested with around 45% across two funds but with around 55% in cash.

My provisional decision

In my provisional decision I said that ReAssure ought to have done more to contact Mr C before his PPP ended and I thought this would have allowed Mr C to access his benefits earlier.

I thought ReAssure should compensate Mr C by comparing the current value of his plan with its notional value had he been able to access his benefits earlier based on two different scenarios.

I made the following points in support of my findings:

- I'd reached my provisional decision without information I'd requested previously from ReAssure. If this information was provided after my provisional decision, I might need to reconsider the outcome depending on any new evidence.
- Regarding the change of address after Mr C moved to France, I couldn't reasonably dispute what either party had said about that matter– so I looked at what I thought should have happened after 2015, and who ought to have been the primary driver in confirming Mr C's new correct address.
- Although there was an argument to say that Mr C might have checked that his address had been changed with all the various businesses he said he notified, I don't think it was practical to expect that to have happened. And by overlooking that he hadn't received his annual pension statements after 2015 Mr C was only causing himself a future problem by being unaware of the value of his retirement provision. So I didn't think Mr C was obliged to have done anything more to ensure his change of address had been actioned by the various businesses involved – including ReAssure.
- However, I thought ReAssure had been aware that Mr C had moved and had received a “gone away” notice from a letter it sent in 2015 which confirmed that position. So, as it knew it needed to contact Mr C within five years to provide his retirement options, I thought ReAssure should have done more to contact Mr C.
- I thought that Mr C's situation meant that, had ReAssure tried to contact him using generally accepted tracing services, it was more likely than not that it would have traced him and established a line of communication. I thought that would have led to Mr C receiving the pre-retirement packs which would have included his PPP benefit options.
- I thought Mr C would have taken his benefits at the earliest opportunity if advised of his pending retirement date. But the reality of the situation was that his preferred method of drawing benefits flexibly was no longer available from ReAssure for someone resident overseas - when he finally did request them in 2021. As a result Mr C had to transfer his PPP to another provider.
- So I said that ReAssure should calculate whether Mr C had suffered a financial loss by not being able to draw his benefits on or around his original “maturity” date. I said the calculation should look at the position had Mr C been able to drawdown flexibly with ReAssure on that date, or the other situation where he had to transfer elsewhere to accommodate a drawdown solution.

Responses to my provisional decision

ReAssure made the following points in response:

- It wasn't possible to provide evidence of the pre-retirement packs and illustrations it was obliged to send Mr C prior to his normal retirement date (NRD), as these had been placed on hold at the time as it didn't have a record of Mr C's address. It provided a screenshot to show that only data records existed for the documents with them not being “printable.”
- It provided a copy of the document from 2015 which had been returned “gone away.”
- It was unable to find any evidence of having tried to trace Mr C, although it thought it would have followed its usual process of making a bulk request on an independent system. But it wasn't able to confirm this happened in Mr C's case.
- Its first contact with Mr C after the 2015 letter had been returned was his email of November 2020.

Mr C said that:

- Following my provisional decision and proposed solution for redress, he had a better understanding of how to work out fair compensation. He had calculated a reduction in his SIPP value of over £5,000 from September 2021 to date. He provided a number of documents to show that from an initial investment of £82,632 into his SIPP – and allowing for income received of £4,000 – the most recent value he had was £73,533.
- He explained the reason behind the investment choices he had to make regarding his new SIPP. But he thought we ought to compare the current value of his SIPP against one of the top performing pension firms in 2019 as he thought that's where he would have invested in February 2020 – given enough time before the NRD. He questioned to what extent I'd considered the firm he would have selected as he thought it was most likely he would have chosen the best performing and most appropriate plan on the market instead of simply reinvesting with ReAssure.
- He thought it would be fairer if either I, or an independent source, calculated the financial loss involved. He thought that by allowing ReAssure to carry out the calculation he might not be treated entirely fairly.
- He thought I would have understood – from all the evidence provided with his complaint – why he retained little trust in ReAssure. He thought it would be simple enough to use an independent provider of fund prices and performance to carry out any required calculation.
- He wanted me to reconsider the level of compensation awarded for the distress and inconvenience he'd been caused over a period stretching back two years.
- He has had to self-manage his SIPP because of the high costs and charges involved with using an international SIPP adviser. He says he has to constantly monitor the funds he's chosen and isn't aware of what he should do when funds fall in value.
- He doesn't believe any redress can be paid into his SIPP as he isn't resident in the UK. He says he hasn't paid any tax in the UK or as a resident overseas since 2015 and doesn't think it's likely this will change due to his lifestyle. So he wants payment to be made directly to him and without the deduction of any income tax.
- He was also concerned about other victims of such errors and wanted the service to make comments on whether there should be a legal requirement for firms to trace people. He provided a link which he said gives his overseas address and phone number and would have taken "*just two minutes to google*".

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.

And having done so I see no reason to depart from my original findings. But I have carefully considered the number of additional points raised by both parties – which I'll answer below alongside my summary of the overall situation.

The change of address

The central aspect of this complaint lies with the change of address when Mr C moved to France in 2014. He says he used a mail redirection service for the first year of moving away and took the opportunity to contact all the organisations that he received forwarded mail from, to make them aware of his new address. He says this included ReAssure.

And indeed, had this request been acknowledged and actioned I don't think there would now be a complaint along these lines. However, ReAssure says it has no record of being advised of an updated address in 2015 and had a letter it sent Mr C that year returned to it with the message "*gone away*". So it says it no longer had a current address for Mr C from that point and didn't send any further correspondence to him – but extended the NRD of his plan to

age 75.

There's no documentary evidence to confirm that Mr C had contacted ReAssure – so I couldn't reasonably say ReAssure had failed to act on his instruction. But at the same time I have no reason to dispute Mr C's assertion that all the organisations updated his address and continued to correspond with him. So I've looked at who I think had more responsibility and resources to ensure Mr C's address was updated correctly.

Having been persuaded that I think Mr C did make other organisations aware of his updated address, I don't think he was obliged to do more to ensure those actions had been carried out. I think he was entitled to assume the information would have been received and actioned. I did consider whether Mr C ought to have been more aware of not receiving correspondence from certain businesses – which might have alerted him to the fact his address hadn't been updated. But with the upheaval of moving abroad I think Mr C could be forgiven for overlooking that matter – and it would seem that it was only ReAssure that Mr C didn't hear from again, which would support the idea that he simply wasn't aware of missing information at that time.

But I think ReAssure did have more of a responsibility to trace one of its customers – particularly with the resources available to it through the various generally accepted tracing systems. I note the DWP tracing system uses national insurance numbers for example – which I think would have been very likely to have “traced” Mr C's whereabouts from 2015. I say that because Mr C has told us that he made everyone aware of his new address including the department responsible for his UK state pension, so I think it's likely that Mr C would have been a straightforward candidate for tracing.

Indeed, ReAssure did tell us that it would have tried to trace Mr C's whereabouts but was unable to provide any evidence of it doing so. It says it would have used a bulk tracing request with an independent service it uses – so there's no suggestion that it wouldn't have tried to trace Mr C in some way. But I can't discount the fact that Mr C was left off a bulk request list or that the trace wasn't carried out for him for some particular reason. Either way I take the view that it was more likely than not that, had ReAssure made a reasonable effort to trace Mr C, he would have been located by one of the services and ReAssure would have been provided with Mr C's updated address details. Mr C has confirmed that he has only held one address since moving to France and he has even demonstrated that his address and contact details can be found through a simple internet search.

Of course, I accept that there was no regulatory requirement for ReAssure to try to contact Mr C, but as he was only five years from his NRD I think, not least from a *“treating customers fairly”* requirement as set out in the regulator's handbook, it was reasonable for ReAssure to have done more to trace Mr C. And if it had tried to trace him I believe it would have been provided with his details before the NRD of his PPP – which I think would have started a chain of correspondence between ReAssure and Mr C in advance of the date he was eligible to draw his pension benefits.

And looking at Mr C's actions when he was finally provided with an illustrative pack of his retirement benefits I think he would have acted with sufficient speed to ensure the benefits could be paid – or transferred if necessary, by his NRD.

What would have happened?

I've said that I believe ReAssure could have done more to trace Mr C and that it would therefore have been provided with his details prior to the end of the PPP term. So I've gone

on to consider what Mr C might have done in February 2020, considering the options that might have been available at that point and the actions he later took.

Mr C has been consistent in confirming that he would have taken the “flexible drawdown” option whenever his pension benefits were available. And his subsequent actions in 2021 would support this idea. But when ReAssure did eventually issue Mr C with a “retirement pack” one of the alternatives was that he could “*leave your pension pot invested and make withdrawals when you can.*” That would suggest a flexible drawdown type solution along the lines of what Mr C preferred. However, due to changes that occurred during the Brexit transitional period, it would seem that Mr C didn’t qualify to transfer his PPP benefits into a ReAssure drawdown plan due to him being a non-resident of the UK.

This was supported by a letter ReAssure produced on 23 December 2020 which said - about the option to leave the money invested, “*if you live in the UK you can do this with ReAssure by transferring to our retirement account.*” But this was further complicated by a “Retirement Account” product booklet dated December 2020 which noted, “*you need to have a UK bank account and be a UK resident to take out a Retirement Account. Residency rules are complicated, but you’re normally considered resident in the UK if you spend at least half of the year in the UK. If you think that you may not be a UK resident you can find further details about residency at www.gov.uk.*”

So this means that Mr C may have had two options open to him depending on when ReAssure introduced the ruling around non UK residents. So what I’ve set out below is what I think would have happened based on two scenarios Mr M would have had if he’d applied to take his pension benefits so they would have been payable on his original NRD.

Mr C’s suggestions regarding redress

Mr C made a number of points relating to the level of redress he thought he should receive. He provided a number of documents which showed the performance of his SIPP and he also thought we should use a better performing SIPP as a benchmark for the calculation. He said that’s because, given an extended length of time to consider his options in 2020, he would have carried out more extensive research and chosen a top performing fund. Mr C has also questioned the wisdom of allowing ReAssure – who he has lost faith in – to perform the redress calculation. He wants us to appoint an independent firm to do the calculation using SIPP performance charts taken from independent information sources.

I have some sympathy for Mr C’s position here as he has quite clearly lost confidence in ReAssure’s ability to administer his plan, and I can understand why he would want an independent organisation to carry out the calculation. I can also appreciate why he would want the comparison of funds to be with a better performing fund/portfolio.

But we don’t have the resources to carry out these calculations ourselves or to appoint and pay for an independent source to do so. We haven’t been given those powers from the regulator under our remit. However, we would expect a large organisation like ReAssure, with the systems it has in place, to be able to perform such calculations. There’s no evidence to support the claim it would act any way other than fairly in such a situation. However, I’ve instructed ReAssure to provide Mr C with details of its calculation in a simple, clear format. That means that if he believes it’s made an error in the calculation, he can appoint and pay for his own independent firm to check its accuracy.

I have also considered Mr C’s point about which funds to use as a comparison in the calculation, but I can’t support his request to compare against the best performing funds at the time he transferred – nor for the losses he’s suffered within his SIPP. We wouldn’t normally consider upholding a claim for investment losses unless it was as a result of the

suitability of investment advice, or as a result of poor administration. In this case Mr C made his own investment decision regarding the SIPP funds, so any losses need to be looked at as simply the usual falls and rises that happen to all investments. And I don't think it would be fair for me to tell ReAssure to carry out the calculation using the best performing funds from 2020 as a benchmark.

It's not possible, without hindsight, to know what Mr C might have done in February 2020 given his circumstances at the time. So I've had to take into account what Mr C actually did in 2021 when he was given the same opportunity to choose which funds he wanted to invest in within his new SIPP.

I appreciate this isn't a perfect situation and I can't discount Mr C doing something different when confronted with the same situation some months earlier. But my role here is to put Mr C as close as possible to the position he'd now be in had ReAssure taken reasonable steps to trace his whereabouts and provided him with his pre-retirement pack and options to draw his pension benefits – before his original NRD. What I've set out below, in my view, achieves that outcome as far as possible.

Putting things right

I asked ReAssure to confirm whether the rules that prevented it being able to provide Mr C with a flexible drawdown solution in 2021 were already in place at the earlier time when he was eligible to draw his benefits and would have done had he been aware. But it hasn't provided that answer. So I've had to set out the two scenarios that might have occurred in February 2020 when Mr C turned 65.

That's because I can't be sure what Mr C would have done in each situation. It's my view that, if ReAssure was able to offer a flexible drawdown plan in 2020, Mr C would more likely than not have agreed to go ahead investing into funds in line with his attitude to risk. I say that because Mr C has told us that the costs and charges involved in seeking advice to transfer to another provider for a non UK resident were prohibitive, and he was unwilling to pay them when he did transfer and take out a SIPP in 2021.

So I can't reasonably say that he would have paid them in 2020 either and so, whether ReAssure was able to give him advice or not at the time, it would only have been to proceed with its own drawdown plan and invest in funds which I think would have been similarly to the ones Mr C eventually ended up invested into with his new SIPP.

Fair compensation

My aim is that Mr C should be put as closely as possible into the position he would probably now be in if ReAssure had traced his whereabouts after 2015 and provided him with the appropriate pre-retirement information prior to the original maturity date of his PPP, which was February 2020.

Scenario A – Mr C would have been able to transfer into a drawdown plan with ReAssure

Had this been an option for him at the time, I think Mr C would have remained with ReAssure and taken out a flexible drawdown plan with it.

But I also need to take into account what Mr C actually did once he'd become aware of the fact that he could have converted his benefits earlier – which was to transfer out of ReAssure entirely and invest into a new fund with a new provider.

I think he would have invested into funds within ReAssure which had a similar risk profile to those he was then invested into within the SIPP. And I think this period of loss assessment should run from the date at which Mr C would reasonably have transferred into that ReAssure drawdown plan until the date at which he then transferred to the SIPP. I am satisfied what I have set out below is fair and reasonable, taking this into account and given Mr C's circumstances and objectives at the time.

What must ReAssure do?

To compensate Mr C fairly, ReAssure must:

Compare the actual value of Mr C's pension plan at the date of the transfer to the SIPP with the notional value if it had remained with ReAssure, but had been invested in the similar fund with ReAssure – to that date of transfer to the SIPP. If the actual value is greater than the notional value, no compensation is payable.

If the notional value is greater than the actual value there is a loss and compensation is payable.

ReAssure should pay into Mr C's pension plan to increase its value by the total amount of the compensation and any interest. 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 C's pension plan, it should pay that amount direct to him. But if compensation is to be paid directly to Mr C, there should be no reduction to notionally allow for income tax. That's because, based on what Mr C has told me about his tax position, I accept that it's more likely than not he need never pay tax on this income. In other words, for any loss identified, ReAssure should pay Mr C the full amount, with no notional deduction being made, as I don't believe he would incur tax liabilities on this income due to his financial circumstances going forward.

Portfolio name	Status	Benchmark	From ("start date")	To ("end date")
SIPP	Still exists and liquid	Flexible drawdown plan with ReAssure invested as follows: Whatever ReAssure fund would have closely matched the SIPP fund	Date of maturity of PPP (February 2020)	Date of the transfer to the SIPP.

Additional investment growth

In order to ensure any losses are brought up to date ReAssure should apply the same percentage of loss that Mr C may have suffered at the date of transfer to the current value of his SIPP as at the date of settlement.

I think the payment of £200 that ReAssure made to Mr C for not responding to him when he first made contact in November 2020, and its failure to provide illustrations on request – is fair and reasonable.

Actual value

This means the actual amount payable from the investment at the end date.

Notional value

This is the value of Mr C's investment had it been invested into a drawdown plan with ReAssure.

Any additional sum paid into the investment should be added to the *notional value* calculation from the point in time when it was actually paid in.

Any withdrawal from the SIPP should be deducted from the notional value calculation at the point it was actually paid so it ceases to accrue any return in the calculation from that point on. If there is a large number of regular payments, to keep calculations simpler, I'll accept if ReAssure totals all those payments and deducts that figure at the end to determine the notional value instead of deducting periodically.

Why is this remedy suitable?

I've decided on this method of compensation because:

Mr C would have invested in a fund similar to that which he invested in within the subsequent SIPP.

Scenario B – Mr C wouldn't have been able to transfer into a ReAssure drawdown plan

However, if Mr C wouldn't have been able to invest into any kind of flexible drawdown plan with ReAssure before the PPP matured, then Mr C would have had to transfer and take out a similar product with another provider in the way that he did. In that case, the comparison should be the notional value of the new SIPP had it been started one week after the PPP matured against the actual value of that plan as at the date of any final decision along these lines. If there is a loss the previous explanation of how the compensation should be paid should be followed.

My final decision

I uphold Mr C's complaint against ReAssure Limited. My decision is that ReAssure Limited should pay the amount calculated as set out above and should provide details of its calculation to Mr C in a clear, simple format. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 27 April 2023.

Keith Lawrence
Ombudsman