

The complaint

Mr H complains about the delay and the level of income tax deducted by ReAssure Limited ("ReAssure") in connection with money withdrawn from his two personal pension plans ("PPPs"). He says that the delay and deduction of excessive income tax has caused him to suffer distress and a financial loss.

What happened

The events leading up to this complaint were set out in detail by our investigator in her assessment which she provided to both Mr H and ReAssure. I don't intend to repeat here what our investigator stated but will instead provide a summary.

Mr H had two PPPs with ReAssure. He contacted ReAssure on 7 February 2022 to discuss his retirement options as he approached his 55th birthday. He says that based on his discussions with ReAssure he decided to withdraw 25% tax-free cash and a taxable lump sum of £20,000 from each of his PPPs. He wanted those taxable lump sums to be paid separately during the 2021/22 and 2022/23 tax years to minimise his income tax liability.

Following the initial phone call, Mr H chased ReAssure for the forms required to complete his withdrawal request. On 8 March 2022, ReAssure paid tax-free cash to Mr H. Following this, it paid two taxable lump sums to him, as follows:

Date paid	Tax year	Gross amount	Income tax deducted	Net amount paid to Mr H
24 March 2022	2021/22	£20,000	£7,274.61	£12,725.39
16 March 2022	2022/23	£20,000	£2,802.70	£17,197.30

This complaint

Mr H was unhappy about the delay in processing his withdrawal request and the level of income tax of £7,274.61 deducted from the first taxable withdrawal paid on 24 March 2022. So he complained to ReAssure. He said that when discussing his retirement options in February 2022, ReAssure had told him over the phone that the taxable payments would be subject to income tax at the basic rate of 20% – so he expected income tax of about £4,000 to be deducted from each of the taxable payments. Therefore, he was shocked and upset when it deducted income tax of £7,274.61 from the first taxable payment.

ReAssure upheld Mr H's complaint. In its final response letter, it apologised for the delay in processing his withdrawal request and the distress this had caused. In recognition of this, it paid £125 compensation to Mr H and said that it would also carry out a loss assessment to determine if the delay had caused him to suffer a financial loss (with details to follow at a later date). ReAssure didn't confirm the outcome of its loss assessment or provide a response to Mr H's complaint point about the information he had been given over the phone about the level of income tax that would be deducted from the taxable payments.

Mr H wasn't satisfied with ReAssure's response and so referred the matter to this service. Our investigator thought that ReAssure's offer to remedy the matter was fair and reasonable

for the following reasons:

- **Delay:** She thought that ReAssure's offer to pay £125 compensation for the trouble and upset caused by its delay in processing his withdrawal request was fair in the circumstances. And she also thought that ReAssure's offer to carry out a loss assessment was fair but hadn't seen any evidence it had been carried out. Based on the available evidence, she expected the loss assessment to show that Mr H's loss was under £10. So, to resolve this complaint, she recommended that ReAssure pay Mr H £10 compensation in respect of this element of his complaint.
- **Income tax:** While she was unable to access the relevant call recordings, she noted that ReAssure had confirmed the tax position to Mr H in writing before he withdrew money from his PPPs. In that letter, ReAssure explained to Mr H that his first taxable withdrawal would be taxed by HMRC on the emergency rate basis and that this would mean he would pay either too little or too much tax. The information confirmed that any overpaid tax would need to be reclaimed separately from HMRC. So, regardless of what Mr H may have been told over the phone, she was satisfied that he was made aware of the income tax position before he instructed ReAssure to pay him the taxable lump sums.

ReAssure agreed to pay the recommended £10 compensation. However, Mr H didn't accept our investigator's assessment. He refused to believe that the call recordings weren't available and that ReAssure was unfairly withholding information to prevent this service from carrying out a thorough investigation. He said that ReAssure had provided a poor level of service throughout which had caused him to suffer a great deal of distress. He thought our investigator's assessment was inadequate and that he had been treated unfairly by both ReAssure and this service. Our investigator considered Mr H's additional comments but wasn't persuaded to change her view. Since agreement couldn't be reached, this complaint has been referred to me for 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.

Before I go any further, I want to address Mr H's comments about our investigator and this service's role. It's clear that he's unhappy with the outcome recommended by our investigator and feels that this service hasn't properly investigated his complaint. He said that using this service has been a waste of his time. I'm sorry he feels that way. It might be helpful if I clarify our role.

Firstly, we're not the financial services regulator. So we don't police the industry or ensure that financial businesses adhere to the relevant rules and regulations. That is the role of the Financial Conduct Authority. If ReAssure says that the relevant call recordings aren't available then we have to accept this at face value and base our decision on the other available evidence. Secondly, our role is to consider individual complaints and, in essence, to decide whether or not the financial business made an error or treated the consumer unfairly. Our aim in resolving the problem is to place the consumer, as close as possible, into the correct financial position had the error or unfair treatment not happened.

Having considered the evidence, I agree with the outcome recommended by our investigator for the following reasons:

- **ReAssure's role** – When Mr H contacted ReAssure in February 2022, its role, as the scheme administrator, was to provide accurate information so that he could make

an informed decision and to act on the instructions it received from him in a timely manner.

- **Delay** – The earliest date Mr H could access his benefits was at age 55 at the end of February 2022. There's no dispute that ReAssure was responsible for a delay of a few weeks in processing Mr H's withdrawal request. ReAssure has already accepted this and previously paid him £125 compensation for the trouble and upset caused by the delay. I think this level of compensation is fair and reasonable in the circumstances bearing in mind the length of the delay.
- **Loss assessment** – As for the loss assessment calculation in connection with the delayed withdrawal, ReAssure has confirmed to this service that, as at 16 February 2023, the financial loss was £2.78. This is in line with our investigator's expectation. Therefore, I think our investigator's recommendation that ReAssure pay Mr H £10 compensation in respect of the loss assessment is fair. ReAssure previously confirmed to this service that it agreed with this outcome.
- **Income tax position** – Before March 2022, Mr H hadn't previously taken a taxable withdrawal from his ReAssure PPPs. As a result, it didn't hold an up to date tax code for him to apply to the first taxable withdrawal. HMRC has previously specified that where a scheme administrator doesn't hold an up to date tax code then lump sum withdrawals must be subject to income tax on the emergency tax basis. This usually results in an overpayment of tax for most individuals taking their first taxable withdrawal from their PPP. The overpaid tax can be reclaimed from HMRC. Therefore, in my view, ReAssure acted in accordance with HMRC requirements when it applied the emergency tax rate and deducted £7,274.61 in income tax to Mr H's first taxable withdrawal of £20,000 on 24 March 2022. As a result, I don't think ReAssure made any error on this point in terms of deducting and remitting to HMRC the correct level of tax at that time.
- **Tax information** – Mr H says that ReAssure told him over the phone that taxable payments would be subject to income tax at the basic rate of 20% – therefore he expected income tax of about £4,000 to be deducted on that first taxable withdrawal. As noted by our investigator, the relevant call recordings aren't available – so I cannot be sure what ReAssure told Mr H over the phone. But even if I did have access to the calls and it was established that Mr H had been incorrectly told the payments would be subject to income tax at the basic rate of 20%, it wouldn't change the outcome of this complaint. This is because, based on the information held by ReAssure, it wouldn't have been able to apply the basic rate of tax to his first withdrawal, for the reasons explained above. Notwithstanding what ReAssure may have told Mr H over the phone, it later confirmed the correct tax position to him in writing. Below is an excerpt from the relevant letter:

If this is your first taxable withdrawal from your policy, HMRC will tax your payment at the emergency rate. This doesn't take into account your personal circumstances, so you may pay too much or too little tax. Once HMRC have told us your correct tax-code, further payments will be taxed based on your personal circumstances. The tax-code we receive from HMRC should take into account any overpaid or underpaid tax.

Shortly after the end of the tax year we'll send you a P60 which will show a total of all taxable withdrawals and all of the tax that you've paid.

HMRC will check whether you have paid the correct amount of tax after 2021/22, and they'll contact you if you haven't. As this can take a few months, if you think you have paid too much tax, you don't have to wait for HMRC to contact you - you can ask them for a tax refund straight away.

To apply for a refund now, you should call your local HMRC office. You can find contact details on the "contact us" pages of the HMRC website at www.gov.uk. It helps if you have your National Insurance number when you call. You can also download the form direct from www.gov.uk/government/collections/income-tax-forms.

Based on this, I'm satisfied that ReAssure ultimately provided accurate information to Mr H so that he could make an informed decision regarding the income tax position before he withdrew taxable money from his PPPs.

I understand that Mr H was shocked and distressed by the level of income tax of £7,274.61 deducted from his first taxable withdrawal. But, as I've explained above, ReAssure taxed that payment in accordance with HMRC requirements. I think Mr H suffered a loss of expectation rather than an actual financial loss. If he thinks he paid too much income tax on his taxable withdrawals then he's entitled to claim a refund from HMRC to place him into the correct financial position – details on how to claim a refund can be found on HMRC's website. It's Mr H's responsibility to organise his personal tax affairs including claiming a tax refund. This isn't something that ReAssure would get involved with.

- **Tax years** – One of the points Mr H mentioned in making this complaint was his desire for the two taxable lump sums to be paid separately during the 2021/22 and 2022/23 tax years to minimise his income tax liability. I can see that this happened, so I cannot find ReAssure at fault on this point.

Conclusion

For the reasons explained above, it's my view that ReAssure has paid adequate compensation in respect of the trouble and upset caused by the delay. As for the loss assessment for the delay, ReAssure has agreed to pay £10 which I think is fair and reasonable based on the loss position as at 16 February 2023. Finally, I don't think ReAssure made an error regarding the level of income tax deducted from the taxable withdrawals paid to Mr H or that he's suffered a financial loss on this point – so I don't think it would be fair or reasonable to award compensation in connection with this element of his complaint.

Putting things right

To resolve this complaint, it's my view that ReAssure must pay Mr H £10 compensation, as previously recommended by our investigator.

My final decision

I uphold this complaint. I direct ReAssure Limited to settle this complaint as I've set out above. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 4 April 2023.

Clint Penfold
Ombudsman