DRN-4066542

The complaint

Mr N complains about delays in transferring his pension from ReAssure Limited (ReAssure) to a new provider. Mr N says he suffered financial loss in consequence of the delays.

What happened

I don't think what happened is disputed. Mr N wanted to transfer his pension plan with ReAssure to a new provider. The necessary completed paperwork was received by ReAssure on 12 August 2021. When Mr N's new provider contacted ReAssure for an update on 18 August 2021 ReAssure said there was a 25 day turnaround for processing the transfer. When the new provider called again on 21 September 2021 ReAssure said payment was awaiting authorisation and once that had been done the payment would take 3 to 5 working days to clear with ReAssure.

The new provider chased again on 30 September 2021. ReAssure said payment had been authorised on 26 September 2021 and it would be 3 to 5 working days for the payment to clear. But the new provider didn't receive the payment and called again on 21 October 2021.

Initially ReAssure said the payment had been made on 26 September 2021. But it was then established that the payment hadn't been sent. ReAssure called the new provider the same day to explain, due to the size of the transfer payment, two authorised signatories at ReAssure were required. The second signature was missing which was the reason for the delay. That was to be done that day so the money would be with the new provider within 3 to 5 working days. The new provider received the funds on 26 October 2021. The money was invested by the new provider on 11 November 2021.

Mr N complained to ReAssure in January 2022 about the delay. Mr N said he'd suffered a loss of about £28,900 (based on buying 18,314 units less in the new fund). In their final response letter ReAssure accepted they'd been responsible for delays and offered £200 for distress and inconvenience. ReAssure also said it would carry out a loss assessment to ensure Mr N hadn't been financially disadvantaged. The loss assessment was completed on 26 September 2022. ReAssure calculated that Mr N had suffered a loss of £23,173.92, based on 17,064.743 less units in the new provider's fund.

The complaint was referred to us and one of our investigators looked into what had happened and, in particular, given that ReAssure and Mr N's new provider didn't agree as to what the loss was, how Mr N's loss should be fairly calculated.

The investigator said the difference in the calculations was mainly due to using different investment dates. The starting point was to determine what would've happened if there'd been no delay. The completed transfer forms were received on the 12 August 2021 and ReAssure said there'd be a 25 day turnaround. So the transfer payment should've been sent on 17 September 2021. Payments can take 3 to 5 working days. The money was actually sent on 21 October 2021 and received by the new provider on 26 October 2021 which was 3 working days. If the money had been sent on 17 September 2021 it would've been received on 22 September 2021.

As to when it would've been invested, the new provider had suggested 8 working days. But, looking at what actually happened, the new provider received the money on 26 October 2021 and the funds were invested 12 working days later. Using the time actually taken meant, if the money was received on 22 September 2021, it would've been invested 12 working days thereafter, so on 8 October 2021. As that date differed from the one used by either ReAssure or the new provider the investigator set out how ReAssure should calculate Mr N's losses. The investigator also said ReAssure should pay a further £100 (in addition to the £200 ReAssure had already paid) for distress and inconvenience due to the time it had taken ReAssure to complete the loss calculations.

ReAssure didn't accept the investigator's view. ReAssure set out how their loss calculation had been carried out and the dates used. ReAssure said the payment was released by BACS on 21 October 2021 and invested on 12 November 2021. Using a 10 working day service standard between receipt of the transfer request and releasing the funds meant the payment should've been released on 26 August 2021. Using the actual time taken to invest (16 working days) meant the money would've been invested on 20 September 2021. So that date had been used for calculating Mr N's loss. ReAssure also didn't accept that a further payment of £100 should be made. Amongst other things ReAssure said it was dependent on information from the new provider.

The investigator replied saying that during the call on 18 August 2021 the new provider was told there was a 25 working day turnaround. The investigator also maintained the further payment of £100 (so £300 in all) was justified. The new provider had sent the necessary information to ReAssure on 12 July 2022. The loss assessment wasn't complete until 26 September 2022, nearly 11 weeks later, which delay had caused further distress to Mr N.

ReAssure replied saying the normal service standard was 10 working days. But that could be affected by external events, such as the pandemic, or unexpected rises in requests received. The 25 working day turnaround was quoted in the midst of the pandemic and so timeframes were extended. ReAssure uses a ten working day service standard as a baseline for all loss assessments so that all policyholders are treated fairly. ReAssure confirmed that, after further consideration, it was now prepared to pay the additional £100.

The investigator noted what ReAssure had said about using a ten working day turnaround. But he said his investigation was based on the facts at the time. Mr N had been told by ReAssure that the turnaround time was 25 working days. The investigator had reached his view based on what would've happened had there been no delay in making the transfer payment. If the signatures hadn't been missed, the payment would've been sent (using the latest date) 25 working days after receipt of the transfer paperwork. The investigator maintained the dates he'd used should stand.

ReAssure replied saying each company within the industry will have its own service standards, as multiple adjudications and final decisions received from this service had confirmed. And where the 10 working day service standards had been questioned, the final decisions we've issued normally quote the June 2006 Association of British Insurers (ABI) statement of good practice which says requests relating to transfers should be completed within 10 working days.

The investigator maintained that using a 25 working days turnaround was reasonable as that was the service level agreement at the time of the transfer.

ReAssure didn't agree. ReAssure referred to customers choosing the date on which they wanted their benefits to be calculated which could be considered to be playing the market. ReAssure asked that the matter be referred to an ombudsman.

The investigator said that it wasn't the consumer who'd picked the date but rather the date had been suggested by this service. He confirmed the matter would be referred to an ombudsman.

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.

ReAssure accepts there were delays in processing Mr N's transfer and has offered compensation. ReAssure is prepared to pay in total £300 for distress and inconvenience suffered by Mr N which includes the additional payment in respect of the time taken by ReAssure to complete the loss assessment. I think the sum of £300 for distress and inconvenience is fair and reasonable in the circumstances of this case. The issue that's left is how Mr N's financial loss should be calculated and, in particular, the dates that should be used in looking at when, but for ReAssure's delays, the transfer payment would've been sent to Mr N's new provider and then invested.

ReAssure has argued very strongly that a 10 working day turnaround time should be used. I agree that we'd often have regard, in considering whether there'd been any delay, to industry standards and guidelines. I have to determine a complaint by reference to what is, in my opinion, fair and reasonable in all the circumstances of the case. And, in considering that, I'm required to take into account relevant law and regulations; regulators' rules, guidance and standards, codes of practice; and (where appropriate) what I consider to have been good industry practice at the relevant time.

So, where there's an issue about whether a switch to another provider has taken too long, we might refer, for example, to the best practice guidelines issued by the Transfers and Re-registration Industry Group (TRIG) published in 2018 to help us decide how long things should've taken. But we decide cases on their individual facts and merits. Here ReAssure quoted a 25 working day turnaround time to Mr N's new provider who accepted that. Mr N's expectations were set on the basis of the 25 working day turnaround notified and the process managed by the new provider accordingly. If ReAssure was actually working to a 10 day timeframe then I think ReAssure should've said that.

ReAssure has said the pandemic meant it had to allow more time. So ReAssure seems to be saying, although a 10 day window would normally apply, ReAssure gave itself extra time because of difficulties caused by the pandemic. I'm not sure I entirely agree with ReAssure when it says that Mr N's transfer request came in the midst of the pandemic. I think by August 2021 things – in terms of how business were coping during the pandemic and the different arrangements or processes that had to be put in place to ensure business as usual – were more settled. But I don't think ReAssure can in effect have it both ways – that is quote a 25 working day turnaround and then say, when that wasn't met, that it should've done things quicker and by reference to its usual service standard and not adjusted because of the prevailing circumstances.

All in all I think the approach taken by the investigator in using the 25 working day turnaround ReAssure said would apply is fair and reasonable. In saying that I'd point out that different scenarios might dictate a different approach. And there may be other solutions, any of which might properly be regarded as fair and reasonable.

Against that background I think the redress the investigator suggested is fair and reasonable in the circumstances of this case. It aims to put Mr N in the position he'd be in now if the transfer had proceeded as ReAssure set out and allowing for the time it would've taken for the money to reach the new provider and be invested, based on how long the new provider actually took and which was a little longer than might normally apply.

Putting things right

To compensate Mr N fairly ReAssure Limited must:

- Compare the performance of Mr N's investment with that of the fund below. If the *fair* value is greater than the *actual* value, there's a loss and compensation is payable. If the actual value is greater than the fair value, no compensation is payable.
- Add any interest set out below to the compensation payable.
- If there's a loss, ReAssure Limited should pay into Mr N's pension plan, to increase its value by the amount of the compensation and any interest. The payment should allow for the effect of charges and any available tax relief. The compensation shouldn't be paid into the pension plan if it would conflict with any existing protection or allowance.
- If ReAssure Limited is unable to pay the compensation into Mr N's pension plan, it should pay that amount direct to him. But had it been possible to pay into the plan, it would've provided a taxable income. Therefore the compensation should be reduced to notionally allow for any income tax that would otherwise have been paid. This is an adjustment to ensure the compensation is a fair amount – it isn't a payment of tax to HMRC, so Mr N won't be able to reclaim any of the reduction after compensation is paid.
- The notional allowance should be calculated using Mr N's actual or expected marginal rate of tax at his selected retirement age. It's reasonable to assume he'll likely be a basic rate taxpayer at the selected retirement age, so the reduction would equal 20%. However, if Mr N would've been able to take a tax free lump sum, the reduction should be applied to 75% of the compensation, resulting in an overall reduction of 15%.
- Pay Mr N in total £300 for the distress and inconvenience he's suffered.
- Provide details of the calculations to Mr N in a clear and simple format.

Portfolio name	Status	Fund	From ("start date")	To ("end date")	Additional interest
Mattioli Woods	Still exists and liquid	FP Mattioli Wood Adventurous B Inc	8 October 2021	Date of settlement	Not applicable

Actual value

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

Fair value

This is what the investment would've been worth at the end date had it been invested from the '*start date'*.

Any additional sum paid into the investment should be added to the fair value calculation from the point in time when it was actually paid in. Any withdrawal should be deducted from the fair 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 all those payments are totalled and that figure deducted at the end to determine the fair value instead of deducting periodically.

My final decision

I uphold the complaint. ReAssure Limited must redress Mr N as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or reject my decision before 15 May 2023.

Lesley Stead
Ombudsman