

#### The complaint

Mr T complains that ReAssure Life Limited (ReAssure) caused him delays in processing then refunding a pension contribution and transferring his personal pension to a new provider. As a result his money was out of the market for longer than necessary, causing him to miss out on fund growth and income. He would like to have these losses reinstated and to be compensated for the significant time taken and inconvenience of resolving the issue.

#### What happened

Mr T and his wife both had Old Mutual Wealth personal pensions which were later taken on by ReAssure. In May 2022 they wanted to make contributions to their pensions. To test ReAssure's systems they sent £1,000 each on 24 May. Once they knew that had been successful they would pay the rest of the amount.

Mr T called a week or so later to check the payment had been received and was told it had but could take up to 10 working days to show up on ReAssure's systems. By 29 June the contribution had still to be invested. Having now lost confidence in ReAssure, Mr T asked for the contribution to be refunded. He also wanted to transfer his personal pension to a new provider, Hargreaves Lansdown (HL).

ReAssure said they would use the electronic Origo transfer system which would be the quickest method. That would minimise the time Mr T's pension would be uninvested, which was what he wanted.

The refunded contributions were received in Mr and Mrs T's bank on 19 and 20 July.

Mr T's transferred funds were received by HL and available to invest on 5 August.

In the meantime, markets had risen, watched by Mr T who saw the value of his ReAssure pension increase throughout July when it still showed as 'active' on their online system.

When Mr T complained to ReAssure, they said that they would backdate the sale of his investments to 30 June so that he would not lose out. ReAssure also offered £250 by way of apology.

Mr T felt that this did not accurately reflect the investment growth he had missed out on, so brought his complaint to this service.

Since ReAssure had already accepted responsibility for the delay, our investigator made a recommendation on how that should be rectified. Ultimately neither party fully accepted what the investigator said so the case was referred to me for a decision.

I issued my provisional decision on 7 June 2023. It said:

#### What I've provisionally 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.

*I am providing this provisional decision as, based on everything I have seen thus far, I intend to depart from the investigator's recommendation in some respects.* 

Although both sides have agreed that ReAssure are responsible for delays, they do not agree on the extent of those delays. There is also some common ground on how to put things right. But there is insufficient agreement to end the dispute so this decision is needed.

There are many similarities with Mrs T's case, although there are also some differences. For example, Mrs T's transfer did not take as long as Mr T's and ReAssure had already paid some redress into Mrs T's new pension. However, it is my view that the underlying issues, and therefore a fair resolution, should be broadly similar for both cases.

ReAssure's position is that a 10 working day service standard is reasonable for all tasks. They say that this caters for the various steps in their processes and allows for fluctuating volumes of work, rather than representing the specific time any task ought to take. Where a task ends with money sent elsewhere (like a transfer or a refund) they add another 5 working days for the payment to clear. This step is outside their control. Where they fail to meet this standard they are prepared to compensate.

But 10 working days was agreed as reasonable by an industry body in 2006, and in relation to pension transfers. But things have changed. Whereas in 2006 a pension transfer was largely paper-based, now there is much greater use of faster, electronic methods of exchanging information. And new systems have been introduced including Origo for pension transfers and Faster Payments which can transfer money from one bank to another in a matter of hours.

Furthermore, some transactions are much simpler than others and will have many fewer steps. In order to treat their customers fairly, businesses should aim to complete requests as quickly as possible, with the necessary safeguards in place for all parties. So I don't agree that it is fair to allow every operation to take 10 working days plus another 5 for payment clearing times. I think we need to look at what is reasonable in the circumstances of each case.

In doing so I think we need to be careful about trying to be too precise. In this case we cannot know what exactly would have happened if not for any errors. But I can decide what is a reasonable time for a business to take, and what is reasonable for their customers to expect, in the specific circumstances of the case. I think that should give an outcome that is fair to both parties.

#### Contribution/refund delay

*Mr* T paid the contribution on 24 May. This should be a fairly simple transaction with few steps. Although funds would arrive at ReAssure's bank sooner, there were also other tasks to carry out to allocate the contribution to Mr T's pension and invest it. I think that it was reasonable for Mr T to expect the contribution to be cleared and available for investment within a week, or five working days.

This allows for bank clearing times plus additional time for any work required by ReAssure. But by 29 June the contribution was still not invested, and Mr T asked for his money back. I don't think that 10 working days is reasonable for a refund of this nature. ReAssure had already been at fault and not invested the money for a month, so I don't think another ten days to get the money back is reasonable. It is possible to pay a refund much quicker and I think ReAssure should have done so in the circumstances. I cannot see that there are any steps required other than authorisation of the payment and bank clearing times. So I think a total of 5 working days would be reasonable to process the refund. So the contribution could reasonably have been invested on 31 May; from then until 29 June when Mr T requested the refund was a period of 29 days when he had no use of this money.

Once he requested the refund, it arrived in his bank account on 20 July. But as I have explained, since a refund is a relatively simple task with few steps, I think that a reasonable timescale for this would be 5 working days or 6 July for funds to arrive in Mr T's bank account. This was a further delay of 14 days.

So in total I find that ReAssure had Mr T's money for 43 more days than what would have been reasonable in the circumstances.

#### Transfer delay

*Mr* T made the request to transfer his pension to HL on 29 June. ReAssure said that they would use the Origo electronic system as this would be the quickest.

I think that 10 working days is reasonable for the transfer from start to finish using the Origo system. Most of the exchange of information happens electronically. Although Origo transfers can be as quick as a few days, some will take longer so I think 10 working days is reasonable.

So ReAssure began the process on 30 June (using Origo funds are automatically sold on day one). Adding ten working days to that gets to 14 July, which I think is when the funds should have arrived with HL and been available to invest. In fact funds were available to invest on 5 August, which is a delay of 22 days.

Once the transfer was completed, Mr T took a further six days to make his first investments, with the remainder invested by the end of August. We cannot know for certain when Mr T would have invested his funds if not for the delay, so I think that it is reasonable to assume that he would have taken a similar amount of time.

I accept that there are many unknowns in terms of what would have happened if not for the delays, but I think taking the 22 days' delay caused by ReAssure off the actual investment dates and amounts should give a fair and reasonable outcome to both parties. This is intended to replicate what actually happened, less the unreasonable delays.

Having decided on the length of delay, I then considered how best to put Mr T back into the position he would most likely be in if not for the delays.

*Mr* T said that he might have invested differently and for that reason I might normally recommend the use of a benchmark. I would use one that closely reflected the level of risk he wanted to take. But both parties have agreed to use the actual investments Mr T bought, but with an earlier investment date. And I think that will give a fair outcome so I see no reason to propose anything different in this case.

*Mr* T has also had to spend some considerable time in resolving this issue, and given the sums involved the matter has clearly been the cause of some concern.

So I am intending to uphold Mr T's complaint against ReAssure. I also intend to award redress based on the rationale explained above.

#### Response to my provisional decision

Both parties have responded to my provisional decision.

Mr T broadly agreed with the decision but wanted some clarity on the method of redress. He was keen that the redress was based on actual losses and was concerned about when the calculation would be carried out, and the effect that might have on the amount of redress.

Our intention in awarding redress is to put investors back into the position they would most likely have been in if not for the business's error. I note that Mr T agrees with the extent of the delays I assessed as having been caused. The redress methodology effectively takes the actual number of shares/units in the funds he bought at the dates they were bought and compares this with the number of units/shares in those funds that could have been purchased at the earlier, hypothetical 'no-delay' date. Where fund prices rose over that period, he will have bought fewer units than he could have if not for the delay and these missing units – if there are any – form the basis of the redress.

Mr T is correct in pointing out that the amount of redress would depend, in part, on the investment performance of his funds up to the date redress is calculated. But that's fair. If the transfer had gone ahead as planned then the 'missing' units would have been transferred as planned and would have then been subject to the same investment performance from the date of the transfer to the present day. I'd only be able to come to a different conclusion if Mr T had, for instance, chosen different investments at a later date and those investments had done better than the ones used for the redress calculation. Clearly in that situation, assuming the missing units would have been invested in the same way all along wouldn't be fair. I've taken on board what Mr T has said, including the fact that he said he left his investments alone whilst his complaint was being dealt with. But I don't think I can reasonably say that Mr T did take, or would have taken, significantly different investment decisions following the transfer.

Mr T also commented that he would have lost out on dividend income generated from any 'missing' units from the date the transfer should have happened until the date of calculation. He thinks that the redress should include this amount, not just any rise or fall in the capital value. I agree. If my decision had been to use a benchmark, then that would have been a Total Return benchmark, which would include reinvested income. But both Mr T and ReAssure agreed to use the actual funds, so the final calculation of redress will need to include the income earned on those funds. With Mr T's permission, HL will be able to provide the necessary information to carry out the calculation.

In short, my intention is to put Mr T back into the position he would have been in if not for the delay, and not to impose a penalty on ReAssure, which is not the role of this service. And I am satisfied that my method of redress achieves this.

ReAssure also responded. They restated their position of 10 working days plus an additional 5 for bank clearing times.

In relation to the contribution refund, ReAssure say that interest should only be awarded from ten days after the date the refund was requested. This is because, they say, until that date Mr T wanted the money to be invested.

Although he wanted to invest his money he was unable to. His money was with ReAssure from 24 May and he had no use of it. So I still think that it is fair to require ReAssure to compensate Mr T for not having use of his funds over this time as set out in my provisional decision.

For the transfer, ReAssure have accepted that they should have carried out a loss assessment, but would wish to do so based on a turnaround time of ten working days plus bank clearing times.

As I explained, the timings in my provisional decision were based on what I thought was fair and reasonable in the specific circumstances of Mr T's complaint. Rather than relying on a standard turnaround time which is the same for every task, in order to treat their customers fairly a business like ReAssure should try to carry out tasks as quickly as reasonably possible.

I therefore see no reason to change my provisional decision in this respect.

ReAssure have also told us that they tried to obtain from HL the information they needed to carry out Mr T's loss assessment. HL were not able to provide that information without Mr T's permission. Mr T should give HL permission to share that information with ReAssure so the loss assessment can be carried out.

## 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.

I have carefully considered the responses to my provisional decision, and for the reasons already given I remain of the view I set out in my provisional decision and explained further above.

## Putting things right

In assessing what would be fair compensation, my aim is to put Mr T as close as possible to the position he would probably now be in if not for the delay.

## What must ReAssure do?

To compensate Mr T fairly ReAssure must:

- As explained above, ReAssure's delays in first processing and then refunding the £1000 contribution meant that he didn't have use of the £1000 and so he should be compensated accordingly by adding 8% simple interest for the 43 days described above.
- For the transfer to HL, ReAssure must compare the performance of Mr T's investment with that of the benchmark shown below. If the fair value is greater than the actual value, there is a loss and compensation is payable. If the actual value is greater than the fair value, no compensation is payable.
- ReAssure should also add any interest set out below to the compensation payable.
- If there is a loss, this should be paid into Mr T'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. ReAssure shouldn't pay the compensation into the pension plan if it would conflict with any existing protection or allowance.
- If ReAssure are unable to pay the compensation into Mr T's pension plan, they should
  pay that amount direct to him. But had it been possible to pay into the plan, it would have
  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 T
  won't be able to reclaim any of the reduction after compensation is paid.
- The notional allowance should be calculated using Mr T's actual or expected

marginal rate of tax at his selected retirement age.

- It's reasonable to assume that Mr T is likely to be a basic rate taxpayer at the selected retirement age, so the reduction would equal 20%. However, if Mr T would have 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 to Mr T a total of £350 (£100 on top of the offer already made by ReAssure) in compensation for the distress and inconvenience caused. This is to reflect that it took Mr T some considerable time and effort over a protracted period of time and takes into account both the refund and transfer issues.
- Provide the details of the calculation to Mr T in a clear, simple format.

Portfolio name	Status	Benchmark	Start date	End date	Additional interest
Mr T's Personal pension	Still exists and liquid	Actual funds purchased via HL with income reinvested	Same funds as benchmark purchased 22 days earlier	Date of calculation	None

# Actual value

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

## Fair value

This is what Mr T's personal pension would have been worth at the end date had he been able to purchase his funds with HL 22 days earlier than he did and those funds produced a return using the benchmark.

Any additional sum that Mr T paid into the investment should be added to the fair value calculation at the point it was actually paid in.

Any withdrawal or transfer from the HL SIPP 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 you total all those payments and deduct that figure at the end to determine the fair value instead of deducting periodically.

## Why is this remedy suitable?

I've chosen this method of compensation because I think this most closely reflects what Mr T would have done and will provide an outcome that is fair to both parties.

## My final decision

For the reasons given above, I uphold this complaint. I require ReAssure Life Limited to take the actions detailed in the "Putting things right" section above and provide Mr T with their calculations in a clear and simple format.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 19 October 2023.

Martin Catherwood **Ombudsman**