

The complaint

Mr and Mrs C's complaint is about a flexible mortgage plan they had with ReAssure. They believe that at the end of the term, the plan terms and conditions allowed them to leave the maturity value invested, but ReAssure didn't call them when it should have and encashed the plan without giving them any other options.

What happened

Mr and Mrs C had a flexible mortgage plan which consisted of twin individual savings accounts (ISA) in each of their names to build up a capital sum to repay their mortgage. There were protection benefits linked to the plan. The target value for each of the ISAs was £40,000 over a term of 25 years. The plan was arranged in 1997 and had a maturity date of 28 June 2022.

The policy terms and conditions associated with the Plan state:

'On survival to the expiry date no benefit will be payable under this policy but the value of the Plan Investments will remain invested unless we receive instructions to the contrary.'

ReAssure wrote to Mr and Mrs C separately just over a month before the expiry date of the flexible mortgage plan. It said:

'As you know, your Flexible Mortgage ISA is split into two parts – an ISA which builds up a savings pot designed to pay off your mortgage, and an insurance part which provides you with insurance cover. The ISA part is administered by [F], and the insurance part is administered by ReAssure.'

The insurance part of your Flexible Mortgage ISA is coming to an end which means you can do one of two things:

- 1. Continue your ISA investment with [F] until you need it, or*
- 2. Take the value of your ISA now, for example if you need this money to pay off your mortgage (the current estimate is £38,923.99 although this is not guaranteed and will be revalued when the payment is made to you).*

What do I need to do?

If you want your ISA to continue, you don't need to do anything: your cover will end on the date above and [F] will be in touch with you soon after.'

The letter then went on to explain what Mr and Mrs C needed to do if they wanted to take the money from the plan at the term expiry. This involved returning the payment release form and providing identification documentation.

Mrs C telephoned ReAssure on 9 June 2022 to discuss the ISAs. It is clear from this conversation that Mr and Mrs C's priority was to repay their mortgage when it was due on 7 July 2022. At that point the value of the ISAs were sufficient to do so and Mrs C asked

about being able to take the majority of the money out before the maturity date to ensure that they had the amount they needed if the values dipped. It was confirmed that if Mr and Mrs C wanted to do that, they should complete the forms they'd been sent and include a covering letter explaining what they wanted to do and how much they wanted to take out. Unfortunately, Mrs C was also given incorrect information during this call, in that she was told that the ISAs wouldn't remain invested beyond the end of the plan term, and the amount they would receive wouldn't change after that date.

On the same day Mr and Mrs C each signed a maturity payment release form for the ISA held in their name. However, it doesn't appear that they posted the forms back to ReAssure at that point.

Mrs C called ReAssure again on 13 June 2022. The maturity process was discussed, and Mrs C confirmed that they'd decided to wait for the plan to mature before taking any funds. Concern about the amount of time for the maturity to be processed was raised, as Mrs C believed that it would have been done faster with the original provider. ReAssure agreed to call her on the maturity date and to make the payment via faster payment, to speed up the payment process.

The payment release form was received by ReAssure on 16 June 2022. No covering letter or note was attached. The ISAs were encashed on the maturity date for less than their target values.

Mrs C called ReAssure again on 29 June 2022 – the day after the maturity date. She complained that she hadn't been called the previous day as she had been expecting. She explained that the reason for the call was to be told what the maturity value of the plan was, and for her to be able to confirm whether or not she and Mr C were happy with that value and for the ISAs to be encashed. She went on to say that she wouldn't have agreed to the ISAs being encashed as she and Mr C hadn't wanted this to happen until the value was equal to the amount they needed to pay the mortgage off.

ReAssure discussed Mr and Mrs C's concerns with Mrs C on 4 July 2022. It was agreed in this call that the complaint would be closed. It followed this up with confirmation that the discussion had happened and it provided referral rights to the Financial Ombudsman Service.

ReAssure subsequently responded to Mr and Mrs C's complaint in writing. It said that their priority at the time was to access the funds from their plan in order to pay their mortgage on time. It went on to say that it had explored options to allow Mr and Mrs C to access their funds before the maturity date and made every effort to get the money to them as soon as possible after that. In relation to the potential to do something other than a full encashment at maturity, ReAssure said that it had explained they would need to write a covering letter explaining what they wanted to do, and it would do its best to accommodate the request. In addition, it acknowledged that it had failed to call Mr and Mrs C on the maturity date to tell them the value, it apologised for this omission and offered £150 compensation.

Following a response from Mr and Mrs C, ReAssure sent a further letter on 15 July 2022. It confirmed that there was no option for them to return the maturity value and the plan to be treated as though it had not been encashed at the maturity date. ReAssure also said that Mrs C had not made it clear that there was potentially the intention to leave the funds invested to await a higher value. It said it had followed the instructions it had been given and didn't uphold the complaint.

Mr and Mrs C again responded to this letter and highlighted that the terms and conditions of the plan said that at maturity they had the option to leave the ISAs invested. They

complained that ReAssure had taken this option away from them. Due to this, Mr and Mrs C said they had a shortfall in the amount needed to repay their mortgage of around £3,500, which wouldn't have been the case had they been able to leave the investment in place for another six weeks. Mr and Mrs C said that had they been called on the maturity date, they would have told ReAssure not to surrender the plan.

Mr and Mrs C weren't satisfied with ReAssure's responses and asked us to look into their complaint. One of our investigators did so but he didn't recommend that it be upheld. He endorsed the offer of compensation that had been made.

Mr and Mrs C didn't accept the investigator's conclusions and asked that the complaint be passed to an ombudsman for consideration. They said they thought their evidence had been disregarded and questioned the interpretation of part of the plan terms and conditions they had highlighted.

As our investigator wasn't persuaded to change his conclusions, the complaint was referred for review by an ombudsman.

I issued a provisional decision on 5 June 2023, in which I set out my conclusions and reasons for reaching them. Below is an excerpt.

'There is no question that the information Mr and Mrs C were given in Mrs C's conversations with ReAssure was wrong in relation to what would happen to the ISAs at the plan maturity date. However, ReAssure had already given them the correct information about this issue in the maturity letter previously sent. As such, it is possible that the oral representations caused Mr and Mrs C some confusion. However, Mr and Mrs C's comments during the course of this complaint would indicate that any confusion was short-lived, and they were aware that they'd been given incorrect information.'

ReAssure has acknowledged that it should have called Mr and Mrs C on the maturity date, as it said it would. Mr and Mrs C have said that had they been called, they would have told ReAssure not to encash the ISAs and to leave them in place. They would have then monitored the value of the accounts and surrendered them once they had a value that was sufficient to clear their mortgage. They believe that this would have meant delaying the surrender of the ISAs until August 2022.

Mr and Mrs C were told that if they wanted to do something other than a full surrender of the plan, they needed to set that out to ReAssure when they returned the payment release forms. They didn't do so – they simply signed and returned the forms. In addition, Mrs C had made it very clear in the conversations she had with ReAssure before the maturity date that receiving the funds from the plan before the expiry of their mortgage nine days later was their priority.

I have carefully considered what Mr and Mrs C have said about their intentions for the telephone call on the maturity date. When determining the outcome of a complaint, we will consider what would likely have happened if the error on the part of the financial business hadn't occurred. In this case, that would have been for ReAssure to have called Mr and Mrs C on the maturity date to tell them what the plan value was. Mrs C would have been told that the value of the plan had dropped further since the conversations earlier in the month. She would have been made aware that the value was less than needed to completely clear the mortgage debt. Mr and Mrs C would then have been placed in the position that they could either:

- *accept the plan value as it was, and find a way to pay the small shortfall that would create on their mortgage or ask their lender to make an arrangement to repay the*

- shortfall over a period of time; or*
- leave the ISAs invested, hope that the values wouldn't deteriorate much more, and wait for them to recover, but without knowing how long this would take. This would also have involved them having to ask their mortgage lender to extend the term of their mortgage to allow them to wait for the recovery and would have required them to continue to pay monthly interest.*

Mr and Mrs C have said they would have taken the second option as it would have been around six weeks later that they could have encashed the ISAs for a value equal to their mortgage. However, they wouldn't have known that it would only take six weeks for the value of the plan to recover - they wouldn't have known whether the value would continue to reduce, and if, or when it would recover. It would also have been at their lender's discretion as to whether it would allow an extension to the mortgage term in the circumstances. I also have to take into account what Mrs C said throughout the conversations with ReAssure – how important it was to have funds by the expiry date of their mortgage.

It isn't possible to determine for certain what Mr and Mrs C would have decided if they had been called on the maturity date. I cannot use hindsight when making a decision. In order to uphold the complaint that has been made, I need to be persuaded that it is more likely than not that Mr and Mrs C would have chosen the second option above. However, given what Mrs C said to ReAssure about how important it was to have funds at the expiry date of their mortgage, and the uncertainty associated with the option of leaving the ISAs invested, I am not persuaded they would have most likely selected that option. As such, while Reassure made a mistake, I am not persuaded that had it not been made, Mr and Mrs C would have been in a different financial position.

I now turn to the service issues, in the form of Mr and Mrs C being given incorrect information by ReAssure when they called it and the lack of the promised call. ReAssure offered £150 compensation for the latter issue. In the circumstances, I consider that it should increase the compensation to £250 to take account of the additional error of providing incorrect information to Mr and Mrs C during the telephone calls. I consider this increase is the appropriate amount, given that I am not persuaded that the confusion it may have caused had a material effect on the situation they found themselves in.'

ReAssure acknowledged receipt of the provisional decision and confirmed that it agreed to the increased compensation payment.

Mr and Mrs C asked that I document in my final decision exactly what ReAssure should have worded what they told them about their plan to make it 'Not Wrong' and what process it has put in place to stop such an event occurring again. They said that the importance of the mortgage being repaid on time didn't evolve until after they had been told their only option was to encash the plan. In addition, they said they had contacted their lender before the maturity date of the policy and had arranged an extension to their mortgage repayment date, and so there had been no hindsight used when they had said they would have left the ISAs invested. Mr and Mrs C expressed dissatisfaction with the amount of compensation I had proposed, but didn't confirm what they thought would be a reasonable sum.

Given that Mr and Mrs C had said they'd already arranged an extension to their mortgage term before the plan maturity date, we asked them for evidence of this. They provided recordings of a two-part call they'd made to their lender. The call is not dated, but Mr and Mrs C have said it was made on 14 June 2022, which its content would support.

The call opened with Mrs C explaining she was enquiring what the options were for the mortgage, given the plan value had dropped – it had gone down £4,000 in the previous four days. She was told the options were either:

- a term extension, or
- to pay off the value of the ISAs and then do what they could to pay off the remaining balance. A formal term extension would not be necessary, but the lender would monitor the balance of the account thereafter.

The lender highlighted the potential consequences of the term extension option – that if it was granted Mr and Mrs C would need to continue to pay interest on the entire balance in a situation where the value of the ISAs could continue to fall.

While the lender didn't give Mrs C advice about what option they should take, its focus was on the latter option of the ISA values being used to clear as much of the mortgage as possible. It was also recommended Mr and Mrs C seek independent financial advice about the viability of a term extension in the hope the value of the ISAs would increase enough to repay the whole of the outstanding balance. Mrs C also confirmed that they had sufficient funds to pay off the shortfall if they chose to take the value of the ISAs on the maturity date. No decision about what Mr and Mrs C would be doing was communicated to the lender. While it was confirmed that if Mr and Mrs C paid the ISA values off the mortgage, they would be allowed some time to deal with the shortfall, it was made clear that if they wanted to leave them invested, they needed to apply for a term extension. No comment was made on whether such an application would be accepted.

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.

We're not the regulator of financial businesses, and we cannot interfere with their internal processes or how they operate generally. That's the job of the Financial Conduct Authority. We deal with individual disputes between businesses and their customers. I can understand that Mr and Mrs C want changes to ReAssure's processes that would prevent a similar mistake happening again to another consumer but ensuring that is done is not something that falls within our remit.

Having listened to the recording of the conversation between Mrs C and the lender, I am also not persuaded that anything Mrs C said would reasonably be interpreted as a final decision about what course of action would be taken in relation to the ISAs. A reasonable summary of the conversation would be that Mrs C was investigating what options were available in relation to the mortgage. In relation to a term extension, all that had been confirmed is that Mr and Mrs C could apply for one – one had not been agreed – if they decided they wanted to see if the ISA values would increase. As such, the content of the call indicated that any confusion Mrs C had from being given incorrect information by ReAssure in her conversations with it didn't last long.

That said, it is clear Mr and Mrs C knew weeks before the plan maturity and end date of their mortgage (which was about a week later) that if they wanted to keep the ISAs they had to apply formally to extend the term of the mortgage. There is no indication they started an application process. While this is again not definitive evidence Mr and Mrs C had decided to take the value of the plan at its maturity date, it also shows that they hadn't decided not to do so.

As I said in my provisional decision, it is not possible to determine for certain what Mr and Mrs C would have decided if they had been called on the maturity date. Their further comments and the contents of the call with their lender don't persuade me that they would have left the ISAs in place had the call happened. Indeed, given they knew they needed to apply for a term extension to make it possible for them to leave the ISAs in place, and they

hadn't done that by the maturity date, that could indicate that they may well have decided against that option because of the uncertainties highlighted by the lender.

I have reviewed the file again in its entirety, including Mr and Mrs C's recent submissions, and I have revisited my provisional decision. Having done so, I am still not persuaded that I can conclude that the evidence supports it being likely that they would have chosen to leave the ISAs involved. As such, I can't conclude that Mr and Mrs C would have been in a different financial position had ReAssure not made the mistake it did.

Mr and Mrs C have indicated the amount of compensation I have suggested be paid isn't enough, but they haven't said what they believe would be. As such I have considered the amount again, but I remain satisfied £250 is appropriate in the circumstances.

My final decision

My decision is that I uphold this complaint in part. I require ReAssure Limited to pay Mr and Mrs C compensation totalling £250, including the amount it previously offered.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr and Mrs C to accept or reject my decision before 15 August 2023.

Derry Baxter

Ombudsman