

The complaint

Miss D complains that ReAssure Limited unreasonably delayed the transfer of her pension. She says she lost out on opportunities to invest as a result.

What happened

Miss D held a personal pension with ReAssure. She contacted it about transferring her pension to a small self-administered pension scheme (SSAS).

ReAssure received a letter dated November 2020 from a firm of accountants acting for the SSAS' sponsoring employer confirming Miss D's employment status. They said she was employed as a consultant "*from time to time*". So, she received earnings when she worked for the company and dividends because she was also a shareholder. Although not clear when, it seems ReAssure asked for more information about Miss D's earnings.

The SSAS' administrators told ReAssure on a few occasions between about December 2020 and February 2021 that they'd already sent proof of earnings. They also chased ReAssure fairly regularly for updates on the pension transfer.

In September 2021, ReAssure sent a new transfer pack. It confirmed the value of Miss D's pension and enclosed a leaflet about pension scams.

The SSAS administrators returned the completed transfer forms to ReAssure on Miss D's behalf in late October 2021. They said that she was a member trustee of the SSAS and they were acting as both professional trustee and scheme administrators. They enclosed further information concerning the SSAS including its registration with HMRC in March 2015 and a copy of the trust deeds. They also provided a deed of appointment showing that Miss D became a trustee in July 2019.

ReAssure asked Miss D for a statement of dividends around November 2021.

During January and February 2022, the SSAS administrators again chased ReAssure for updates on the transfer on Miss D's behalf. They asked it to confirm what information it still needed to allow the transfer to go ahead. They then complained to ReAssure on Miss D's behalf in March 2022 about the time the transfer was taking to complete.

In a response dated 15 March 2022 ReAssure explained, amongst other things, that it hadn't yet received the earnings information it had asked Miss D for. Therefore, it couldn't proceed until it had all of the information needed to complete its checks. It gave a similar response a week or so later following further contact from the SSAS administrators.

In late March 2022, the SSAS administrators sent Miss D's payslips for the period August 2021 to March 2022 to ReAssure along with confirmation of the SSAS' registration with HMRC.

According to Miss D's timeline, there was some contact between the SSAS administrators and ReAssure during April and July 2022 surrounding evidence of dividends and ReAssure

needing a new transfer form to be completed (as the previous one was over six months old). It appears that ReAssure received an updated transfer form in late July 2022. According to Miss D's account, ReAssure indicated that it had everything it needed to consider the transfer.

ReAssure then asked Miss D to complete a pension transfer questionnaire in August 2022. Amongst the information she provided, she said she knew the name of the sponsoring employer and had worked for it continuously for at least three months. However, she said she hadn't earned at least the UK lower earnings limit each week for a three-month period and neither her or her employer had contributed to the pension scheme in the last three months. In response to a section about providing evidence of her employment and earnings, Miss D said *"all of this already provided"*.

Miss D complained to the Financial Ombudsman Service about the delay in processing the transfer.

ReAssure wrote to Miss D in October 2022 setting out the information it still needed:

- A letter from her employer
- A statement of contributions
- Copies of bank statements

It said it enclosed a letter previously sent on 9 August 2022.

In November 2022 ReAssure asked Miss D for her original birth certificate so it could correct her date of birth on its records. It said government guidelines indicated it could no longer accept certified copies of such documents. Miss D later explained that as she needed her birth certificate for official purposes (she was due to get married), she wouldn't be able to send it until after May 2023. According to Miss D's records, it appears this was something that ReAssure first asked for around August 2019.

Miss D made a further complaint to ReAssure during February 2023. She pointed out that she'd repeatedly tried to transfer her pension without success. She outlined the evidence she'd since provided in support of her application, including earnings information, some of which ReAssure had asked for again. She added that for the first time, ReAssure had asked for a schedule of contributions made along with bank statements when these hadn't been requested previously.

ReAssure wrote to Miss D on 20 April 2023. It said that having completed its checks concerning the scheme Miss D wished to transfer to, it was concerned she might be putting her pension fund at risk. It explained that the regulations -The Occupational and Personal Pension Schemes (Conditions for Transfers) Regulations 2021 - require certain conditions to be met in order for a transfer to go ahead. And where certain factors raised a warning, MoneyHelper guidance needed to be sought. Those factors included high fees or unusual investments or being unable to establish a sufficient employment link. In Miss D's case, it said it wasn't clear if the receiving scheme allowed access to high risk or overseas investments. Also, Miss D had confirmed that neither her or her employer had contributed to the pension scheme in the last three months, so she wasn't able to provide a schedule of pension contributions. Given all of this, ReAssure felt Miss D should seek MoneyHelper guidance.

One of our Investigators looked into the complaint. In general, he didn't find ReAssure's information requests to be excessive given what was prescribed within the regulations. However, he wasn't satisfied that ReAssure had always responded to communication in a timely way – particularly towards the end of 2021 and early in 2022 – including when Miss D sought confirmation that ReAssure had everything it needed to complete the transfer. The Investigator also felt that ReAssure could have clarified sooner whether Miss D did actually

receive dividend income, seeing as that appeared to have become a barrier to things progressing. The Investigator recommended ReAssure pay Miss D £250 compensation in light of the inconvenience caused by its delays.

ReAssure accepted the Investigator's assessment but Miss D didn't respond. So, the matter was referred to me to decide.

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.

Miss D's complaint to this Service centres around what she sees as ReAssure's unreasonable delays. It's clear that Miss D thinks ReAssure stood in the way of the transfer progressing and caused her to miss out on investment opportunities.

I can understand why Miss D feels strongly about all of this, especially as she said a family member's transfer went ahead without a hitch. It's not for me to comment on what happened in Miss D's relative's situation. But I will say, based on the evidence I've seen, whether ReAssure acted fairly and reasonably overall in Miss D's particular case.

An important backdrop here is that Miss D's transfer request was made to ReAssure in the wake of increasing scams concerning pension transfers. Over time, updated guidance has been developed by The Pensions Regulator (TPR) and other bodies, the purpose of which was to highlight factors that might indicate a member's pension was at risk of a scam. One such piece of guidance was the Code of Good Practice "*Combating Pension Scams*" produced by the Pensions Scams Industry Group (PSIG). The Code is voluntary and is intended for use by providers and others by suggesting the type of due diligence to follow when considering a transfer request.

More recently The Pensions Schemes Act 2021 was introduced along with regulations I've referred to above - The Occupational and Personal Pension Schemes (Conditions for Transfers) Regulations 2021. Those gave providers additional responsibilities to ensure that certain conditions were met in order for a transfer to go ahead. Where a statutory right to transfer exists, businesses are generally expected to complete the process within six months where possible.

In practical terms the guidance and regulations I've referred to above meant that businesses like ReAssure were expected to carry out due diligence in order to assess whether the receiving scheme might be operating as part of a scam. If it identified a risk, it was meant to respond to it. The guidance and regulations weren't intended to impose additional burdens on businesses, or to impact on standard business practices. And whilst any additional steps taken were expected to be reasonable and proportionate, the additional measures were also intended to act as an important safeguard.

I've carefully considered what all of this means as far as Miss D's complaint is concerned.

Based on everything I've seen, I think it was reasonable for ReAssure to ask Miss D for the information it did. That was important if it was able to demonstrate it had fairly assessed her transfer request in light of the guidance and transfer regulations.

However, the problem as I see it, was more to do with the fact that ReAssure didn't always follow things up in a timely way. That meant it didn't confirm whether the information Miss D had provided was sufficient for its purposes. Following periods of delay, it then asked for

more information. I can see why in those circumstances Miss D might have thought it was asking for information it already had. I'll give some examples to illustrate my point here.

Miss D was looking to transfer her ReAssure pension to a SSAS – a type of occupational pension scheme. The guidance said that providers should check (amongst other things) that there was an employment link between the receiving scheme and the scheme member. This was something that was reinforced in the 2021 regulations.

The evidence ReAssure initially held was a letter from an accountant connected with the sponsoring employer. It said Miss D only worked for the SSAS' sponsoring employer "*from time to time*", but also received dividends as a shareholder. This suggested that Miss D's employment wasn't continuous but was much more casual in nature.

Given the expectations set out within the guidance (and later the regulations) ReAssure needed to fully understand the nature of Miss D's employment. Given the limited evidence it had, I think ReAssure should have followed this up sooner. And assuming it didn't think the accountant's letter was enough for the purposes of completing its checks, I think it should have explained that.

Had ReAssure taken additional steps sooner, it might also have avoided the SSAS administrators saying on a few different occasions that they'd already sent proof of Miss D's earnings. I've seen nothing persuasive to show that ReAssure had received the type of information it needed. But, rather than explain that, from what I can tell, around November 2021, ReAssure only asked for dividends information. It didn't address the matter of whether it had or hadn't received the right employment information as Miss D thought. And the lack of response either way caused the SSAS administrators to chase ReAssure again during January and February 2022 to ask what information was outstanding. I can appreciate why Miss D would have found things frustrating.

Following a complaint made on Miss D's behalf around March 2022, ReAssure explained that it still needed earnings information from her. It then received payslips for Miss D for a period of about six months between around August 2021 and March 2022. Bearing in mind what the accountant's letter said about the nature of her employment, I don't know if that meant Miss D's circumstances had changed since the accountant's letter was drafted. Or it could suggest there was a contradiction in the information supplied. And it doesn't appear that ReAssure had some of the other information stipulated within the 2021 regulations either - such as a letter from the employer and a schedule of contributions. According to the regulations, not establishing a sufficient employment link is an amber flag that might warrant the member being referred to MoneyHelper for guidance.

Again, I've seen no evidence that ReAssure followed these things up in a timely way. Whilst it seems there was some correspondence between Miss D and ReAssure between about April and July 2022, I can't see that ReAssure asked Miss D to fill in a questionnaire before about August 2022. Miss D also complained about the delay in asking for the additional information. And whilst she subsequently annotated the questionnaire with "*all of this already provided*", I've seen no evidence that's the case.

Having assessed Miss D's responses, ReAssure clearly didn't feel able to process the transfer, as it was concerned she might be putting her pension fund at risk. It therefore suggested she approach MoneyHelper for guidance. Again, I can appreciate that this might have caused Miss D further disappointment.

It's important to say though that it's not for me to tell ReAssure to complete the transfer.

The question I have to consider here is, had it not been for ReAssure's delays, would the transfer likely have gone ahead by the time Miss D complained to us. And on balance, I can't safely say that it would have done.

I say that largely because some of the answers Miss D gave in response to the questionnaire from ReAssure seemed likely to warrant further investigation or action.

In particular, the fact that neither Miss D or her employer had made contributions into her pension within the last three months is something that ReAssure needed to take account of. I say that because that in itself might make it more difficult to establish a sufficient employment link. As I've touched on earlier, the 2021 regulations state that if, based on the information it receives, the provider has reason to believe there is no employment link, that's an amber flag. And in those circumstances, it can direct the member to seek MoneyHelper guidance. That's what ReAssure did in Miss D's case and, based on the evidence I've seen, I didn't find that unreasonable.

I can also see that in response to a specific question about how her money would be invested, Miss D gave the name of the platform that would be used to make the investments. I can't see that she specified the type of investments that would be made. The 2021 regulations state that an unclear or unorthodox investment structure might constitute an amber flag also meaning that the member might be required to seek MoneyHelper guidance. Therefore, again, based on the evidence I've referred to here, I don't think it was unreasonable for ReAssure to cite a lack of clarity surrounding the investments as another reason why it felt Miss D should seek MoneyHelper guidance.

As I've touched on earlier, there's no doubt that ReAssure did cause some avoidable delays along the way. I've considered whether the delays are likely to have caused Miss D a financial loss. It's not clear if the transfer has gone ahead yet. And as I've indicated, it's also not clear what Miss D's intended investments were. I'm also mindful that throughout the period of delay Miss D's ReAssure pension remained invested. Taking those factors into account, I don't think it's fair to conclude that Miss D has suffered a financial loss.

Putting things right

However, ReAssure's actions clearly caused Miss D some inconvenience and frustration. To recognise that, I'm directing ReAssure to pay £250 compensation if it hasn't already done so. I'm satisfied that fairly reflects the impact of its delays on Miss D.

My final decision

I uphold this complaint in part. And I direct ReAssure Limited to settle it as I've set out above if it hasn't already done so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss D to accept or reject my decision before 15 April 2024.

Amanda Scott
Ombudsman