

The complaint

Mr R complains that a company which is now part of ReAssure Limited (ReAssure) sent him a pension payment in error in 2017. But then told him in 2020 that the money wasn't his. ReAssure asked Mr R to repay the money in September 2020. But after his solicitor sent ReAssure a letter in October 2020, Mr R didn't hear about the repayment request again until February 2023. At this point he received a letter from a third party which stated it'd been instructed to recover the debt.

Mr R accepts that the money was paid in error. And is willing to come to further arrangements with ReAssure to pay off more of the outstanding debt. But feels that ReAssure hasn't done what it should to resolve the matter. Mr R would like ReAssure to accept the payments he can reasonably afford to make and then write off the remaining debt.

What happened

Mr R said that in 2017, a company which is now part of ReAssure contacted him about a pension it said belonged to him. He said he didn't recognise the company name connected to the pension, but that he'd worked for many employers over the years. Mr R provided the identification ReAssure requested and the pension was paid to him in March 2017.

Mr R said that he took some of the pension as tax-free cash. And that he invested some of the money into a drawdown Self-Invested Personal Pension (SIPP), where it has remained since. And used some of it to pay off debts and cover his day to day living costs.

Mr R said that ReAssure contacted him again in 2019 to tell him it'd found a further pension in his name. He said that when he tried to access that money, ReAssure told him that it had offered him the funds in error. It paid him £100 for the inconvenience it'd caused him. But it didn't realise at this point that the first pension had also been offered in error in 2017.

In September 2020, Mr R said that ReAssure contacted both him and his financial advisor to tell them that it'd paid the first pension to Mr R in error. And that it wanted the £88,225.49 it'd paid Mr R to be repaid. It became apparent that the error had occurred because Mr R had the same name and date of birth as the actual owner of the pensions. But ReAssure hadn't identified that their National Insurance numbers were different.

Mr R said that his family arranged for a solicitor's letter to be sent to ReAssure in October 2020. The letter said that Mr R hadn't at any point known that the funds weren't rightfully his. And said he wanted to know how best to move forwards, given he couldn't pay ReAssure back in full. But I've seen no evidence that ReAssure made any further direct contact with Mr R. It did write once to Mr R's solicitor on 7 December 2020, to ask for an update, but I've not seen evidence of any reply, or any further chasers from ReAssure to the solicitor.

Mr R said that as he heard nothing further from ReAssure, he'd assumed it wasn't looking to pursue repayment of the funds. But in February 2023, a third party wrote to Mr R to tell him that it'd been instructed to recover the debt. Mr R asked for a copy of the paperwork connected with the debt as he didn't recognise the name of the claimant. This confirmed that

the letter related to the incorrect pension payment from ReAssure in 2017.

Mr R said he tried to explain his situation to the debt collectors. And he also contacted ReAssure on 24 February 2023 about the situation. He said he'd sought advice from the citizens advice bureau and the national debt advice agency. And that they'd suggested he contact ReAssure to register a complaint.

I understand that Mr R made an initial payment of £20,000 to ReAssure. And offered to transfer the money in his SIPP back to it. He said this was currently worth around £31K. He said he wasn't in a position to pay back the debt in full. And that he'd told ReAssure this. And that although ReAssure has apologised and said it would pay him compensation, it couldn't tell him what this would be.

ReAssure issued its final response letter to the complaint on 28 April 2023. It said that although it had made the payment in error, the funds didn't belong to Mr R. So it was entitled to ask for the money to be repaid.

ReAssure acknowledged that it had been a difficult and long process which had caused Mr R inconvenience and upset. And said that it would consider compensation, which it would use to offset the outstanding debt. But that it didn't know what the compensation would be until all of the legal aspects had been addressed.

ReAssure said it would contact Mr R when it could confirm the level of compensation it would offer. But it didn't give him any indication of when that might be.

Mr R was unhappy with ReAssure's response. So he brought his complaint to this service in May 2023. Mr R said that all his savings had gone. And he was still waiting to hear what would happen to his SIPP, including how much would be available towards repaying the debt. He said he was also continuing to consider if he should appoint representation in case it went to court. He said this worried him as he couldn't afford the additional costs. Mr R also explained to this service that he had mental health issues and had suffered a devastating personal loss around the time ReAssure had first tried to get the money repaid.

Mr R said that in trying to work out how to resolve the situation, he'd spent hours of research looking for help. And that the issue had caused stress and anxiety and affected his mental health. He also said he feared for his financial future. And that as he'd previously thought he was financially stable, he'd spent money that he wouldn't normally have done. He wanted ReAssure to accept what he could afford to pay it. And then write off the rest of the debt so that he could get on with his life without this hanging over his head.

Mr R confirmed to this service that he hadn't paid any fees for the October 2020 solicitor's letter. But he didn't know whether or not the debt collectors were still pursuing him.

ReAssure told this service that the complaint was still with its legal department. It acknowledged that it had made the initial error. And that it would be looking to compensate Mr R, and then use this to offset the remaining funds owed. It later provided an update on 5 July 2023 that its legal department had said: *"the [SIPP] money should be able to be moved over from the current holder to us without Mr R withdrawing and taking a tax penalty, and they will work with Mr R to come to an agreement"*.

Our investigator asked Mr R to provide a rough estimate of how much he felt he could afford to repay to ReAssure. He felt that around £20 each month might be affordable, although he had concerns about the cost-of-living crisis and because his fixed rate mortgage was about to expire.

Our investigator also spoke to ReAssure to work out whether it would be possible to mediate an acceptable resolution to this case without issuing a formal view. ReAssure told this service it was open to mediation. Our investigator made ReAssure aware of Mr R's vulnerabilities, which it confirmed it hadn't previously been aware of. And asked ReAssure to provide confirmation that the debt collectors had been called off. She also asked if it would consider writing off the remainder of the debt given Mr R's circumstances – after the funds in Mr R's SIPP had been paid back to it.

ReAssure indicated that it was willing to consider this, but that it would need to liaise with its legal department. It said it would get back to our investigator by the end of July 2023.

Our investigator issued her view on the complaint on 4 August 2023. She upheld the complaint. She felt that ReAssure should take a number of steps to put things right, including considering writing off the remaining debt, calling off the debt collectors and paying Mr R £4,000 for the distress and inconvenience caused. She said that this money shouldn't be used to offset any outstanding debt.

Mr R accepted our investigator's recommendations. He told this service that he was waiting to have surgery. And therefore wanted his complaint to be settled as soon as possible.

Given the difficult and stressful position Mr R had been left in, our investigator gave ReAssure a deadline of 28 August 2023 to suggest a resolution to the complaint. As it has yet to respond, the complaint came to me for a review.

I issued my provisional decision on the complaint on 8 September 2023. It said:

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Having done so, I intend to uphold it. I agree with our investigator that ReAssure should take a number of actions to put things right. However, I'm issuing a provisional decision with a short deadline to give ReAssure one final opportunity to tell this service what it intends to do next. If it intends to set up a payment plan for the outstanding amount (after the SIPP funds have been returned to it) with Mr R, I consider he will be caused further distress and inconvenience. Therefore I may need to increase the amount suggested below. I'll explain the reasons for my decision.

ReAssure accepts that it made an error in 2017. Mr R accepts that the money ReAssure paid him in 2017 wasn't his. And understands that the funds are due back to ReAssure. What remains to be resolved is what ReAssure should do to put things right.

I understand that Mr R has already paid ReAssure around £20,000 of the debt back. And that he intends for the funds within his SIPP to be used as further part payment of the debt. I also understand that ReAssure will deal with any related consequences and administration of the transfer of these funds. However, as this won't be enough to cover the debt in full, Mr R wants to come to a reasonable arrangement with ReAssure.

Our investigator seemed to make excellent progress in mediating a mutually acceptable resolution to the case between ReAssure and Mr R. But although ReAssure agreed to provide an update by 28 July 2023, this service hasn't heard from it.

As Mr R continues to suffer distress with the uncertainty of his financial future while the case is still waiting to be resolved, the case has come to me for review.

I first considered how ReAssure handled its request for the repayment of the incorrectly paid

funds in 2020 and 2023.

September 2020 letter

The letter ReAssure sent in September 2020 came out of the blue to Mr R. He'd heard nothing from ReAssure about the pension payment for three years. And he had no idea that he'd been paid funds that weren't rightfully his. So he'd spent some of the money in good faith.

Mr R had also acted in a financially different way than he would've done if the money hadn't been paid to him, as he felt more financially stable after the payment was made to him than he'd felt before. I've not seen any evidence that Mr R acted unreasonably, or financially irresponsibly, after the payment was made to him.

Although ReAssure did briefly apologise for the error it had made, it asked Mr R to make the repayment in full within the next 21 days. It must've been shocking to receive such a blunt request for more than £88K to be repaid so quickly. Especially as ReAssure had demanded repayment three years after its error. This was a significant period of time for Mr R to have been under the impression that the money was rightfully his, and to spend accordingly.

February 2023 letter

Almost two and a half years after Mr R had last heard from ReAssure about the debt, he received a "Letter of Claim pursuant to the Pre-Action Protocol for debt claims" from a third party which was representing a business he'd never heard of. So he asked for a copy of the paperwork connected with the debt. This confirmed the letter was in relation to ReAssure's 2017 payment to him.

The letter gave Mr R around a month to fully repay the over £88K debt. It made no reference to the fact that Mr R's solicitor had told ReAssure that he wasn't able to pay the debt in full. But did state that if Mr R wasn't able to make full payment, he should forward his repayment proposals in writing. Or he could call to discuss affordable repayment.

The letter also threatened Mr R with legal action if he didn't take any action. And said that if it took him to court, court fees and legal fees would be added to his debt.

I agree with our investigator that in situations like these, where a large payment has been made in error, we'd at least expect a business to engage pragmatically with the consumer from the start. We'd reasonably expect a business to at least offer and arrange a repayment plan with the consumer, taking into account what they could reasonably afford to pay back each month.

It's clear that ReAssure didn't meet this minimum level of service in this case. Instead, with no warning, and with no apparent recognition of the bomb it had just dropped into Mr R's life, ReAssure requested in 2020 that he paid all of the money back within 21 days. I consider that this would've been a terrible shock to anyone. And given Mr R's mental health issues, and the devastating personal events that he endured around the time ReAssure sent the letter, I can't imagine how awful it must've been to receive it.

Then, almost two and a half years later, and without any intervening follow-up, ReAssure arranged for debt collectors to write to Mr R. They threatened him with court action if he didn't arrange to pay back the debt in some way.

I'm not persuaded that ReAssure acted fairly when it instructed debt collectors before it had tried to properly engage with Mr R. I consider that it was completely unreasonable to have

contacted Mr R in this way two and a half years after the last previous contact with him.

I say this because I don't think ReAssure gave Mr R the chance to fully engage with it about what he owed them, and how he could start to repay the debt.

I've not received confirmation from ReAssure, despite this service asking for it, that it has asked its debt collectors to stand down following Mr R's complaint. If it hasn't already instructed them to cease, ReAssure should immediately do so.

Overall, I don't consider that ReAssure acted reasonably when it tried to get Mr R to repay the debt the way it did. I'll consider the distress and inconvenience this caused him later in my decision.

I next considered the current outstanding debt.

The outstanding debt

I noted earlier that Mr R has already taken steps to return part of the debt. But what hasn't been agreed with ReAssure is how the remaining debt will be paid off.

I agree with our investigator that, under the specific circumstances of this case – in particular: the time that has passed since the incorrect payment was made; Mr R's age; unemployment; ability to pay the remaining debt and his vulnerabilities – that ideally, ReAssure should consider writing off the remaining amount. However, it is of course ReAssure's decision to make about whether it is willing to write off the remainder, or to arrange an affordable repayment plan with Mr R.

Mr R has told this service that the most he can reasonably afford to pay each month is £20, although he is concerned that given the cost-of-living crisis and his mortgage deal coming to an end soon, even this amount may prove difficult for him. Taking everything into account, I agree with our investigator that it's unlikely ReAssure would ever receive the full remaining amount owed back from Mr R.

I'm also of the view that since it's been almost six years since ReAssure made the incorrect payment to Mr R, it would be unfair and unreasonable for ReAssure to pursue repayment of 100% of the original payment. I'm satisfied that Mr R has genuinely paid everything he can afford to pay back already. So I agree with our investigator that the most reasonable course of action would be for ReAssure to take ownership of Mr R's SIPP funds and then write off any remaining debt after that.

I say this not only because of the time that has passed since the error - which in my opinion has led to Mr R reasonably spending some money that he can't now afford to pay back - but because he is only in this situation because of ReAssure's original mistake. ReAssure has acknowledged that the error occurred because it wasn't at that time its standard practice to review National Insurance numbers. But if it had included this as part of its identity checks at the time of the error, the mistake wouldn't have taken place. Royal London almost made the same mistake again in 2019. But even though that potential error was corrected relatively early on, with no funds being incorrectly transferred, it took several further months before ReAssure identified its original error. I can't reasonably say that Mr R bears any responsibility for the situation he now finds himself in.

For the avoidance of doubt, while I agree with our investigator that this service doesn't have the power to direct ReAssure to write off any outstanding debt, I would strongly recommend it to. I say this having taken into account all the specific circumstances of this case.

However, if ReAssure does decide to agree an affordable repayment plan with Mr R, I agree with our investigator that this would prolong the distress and inconvenience it has caused Mr R. I'll next consider the distress and inconvenience ReAssure's error has already caused him since 2017.

Distress and inconvenience

ReAssure has acknowledged that Mr R is due some compensation from it. It said in its final response letter that it would contact him once it could confirm the level of compensation it would offer. But it gave no indication of when that might be. It's been over four months since ReAssure made this offer. While Mr R's has been waiting, he's still under the stress of the debt collectors, and his financial future is still completely uncertain.

The February 2023 letter has also led to Mr R worrying about whether he should appoint legal representation for a court case he can't afford.

I appreciate that ReAssure only found out about Mr R's vulnerabilities after his complaint was brought to this service. But I've seen no evidence that this knowledge has caused ReAssure to prioritise or expedite the resolution of this issue, despite the high levels of stress it must be causing Mr R.

Mr R has told this service that the incorrect payment from ReAssure has changed his whole future. He made decisions about his spending and his retirement plans based on the amount of money he thought he had, which has now significantly changed. The loss of expectation here is not only significant due to the size of the incorrect payment, but the length of time Mr R thought the money was his.

Mr R has been unemployed for some time. Despite the fact that he's well into his 60s and has health issues, he's been trying to get another job given the unstable financial situation he now finds himself in. Mr R said that all his savings have gone.

Our investigator listed the reasons she felt ReAssure should pay Mr R compensation for the ongoing distress and inconvenience it had caused him. I agree with her. And have listed those I've not already covered below:

- The impact of the original error in 2017 on Mr R, including the loss of expectation when Mr R found out the money wasn't his.*
- Taking three years to identify the error.*
- Then failing to reasonably engage with Mr R once the error had been found.*
- And failing to reasonably engage with Mr R's solicitor's letter apart from one brief follow up in 2020.*
- Failing to contact Mr R again for two and a half years between 2020 and 2023.*
- Taking the unreasonable step to instruct debt collectors before attempting to properly engage Mr R.*
- Failing to immediately call off the debt collectors after Mr R raised a complaint. And then failing to let him know whether or not the debt collectors had been asked to stand down.*
- Creating a situation in which Mr R made significant life decisions such as paying off*

debts and opening a SIPP.

- Any continued distress caused if ReAssure isn't willing to write off the remaining debt. And prolonged continued distress if ReAssure seeks to arrange an ongoing repayment plan with Mr R over many years in the future

Based on everything I've seen, I agree with our investigator's conclusion that ReAssure should pay Mr R £4,000 for the distress and inconvenience caused. I say this because of the high level of distress ReAssure's error has caused Mr R over a prolonged period of time. And the huge financial impact the error has had on him. This money should not be used to offset any outstanding debt.

I say this because I consider that if ReAssure had engaged properly with the debt repayment process in a timely fashion, and not almost six years after the event, Mr R wouldn't have been put through such a terrible ordeal. Therefore, regardless of whether any outstanding debt is written off or not, the compensation payment made in respect of distress and inconvenience should benefit Mr R directly, as it should in some way compensate him for the ordeal he's been put through.

However, as I noted earlier in my decision, if ReAssure decides to pursue further debt repayment, after the SIPP funds have been transferred to it, I may need to review the amount of distress and inconvenience that should be paid depending on the terms of that payment plan. I say this because I consider that any further payment plan will further prolong the distress and inconvenience Mr R has been caused. And will not allow him to get on with his life without the shadow of this debt hanging over him.

I also agree with our investigator that ReAssure needs to take further steps to put things right, as follows. I've summarised these actions below.

What I intend to ask ReAssure Limited to do

I intend to require ReAssure Limited to take the following steps to put things right:

- Consider immediately writing off the remainder of the debt. Then promptly provide Mr R with a letter confirming this.
- If ReAssure don't want to write off the outstanding debt, it should promptly and pragmatically engage with Mr R to draw up a monthly repayment plan for the remaining amount based on what he can reasonably afford to pay back each month. I expect this to be no more than £20 each month.
- Take ownership of Mr R's SIPP and promptly liaise with any third parties about this. Mr R should be kept updated. ReAssure should then decide what to do with the SIPP funds once it has taken ownership and should deal with any related consequences and administration of those funds. The amount realised from the SIPP should be taken as payment towards the outstanding debt. ReAssure should ensure that this will not result in a tax bill or similar to Mr R.
- Instruct its debt collectors to immediately cease all action in relation to the debt if this hasn't already been done. Confirm in writing to Mr R when this has been done. It should also ensure that the involvement of debt collectors hasn't affected Mr R's credit file in any way and if it has, it should promptly take action to rectify this.
- Pay Mr R £4,000 for the distress and inconvenience caused. This money should not be used to offset any outstanding debt.

Response to my provisional decision

ReAssure said that under the circumstances of this case, it was prepared to agree with my provisional decision. It said it was willing to pay Mr R £4,000 compensation for trouble and upset, take ownership of the SIPP and write off the remaining debt. And that it had told its legal department to stop all debt recovery.

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.

As no new information has come to light, I remain of the view I set out in my provisional decision.

Putting things right

What I require ReAssure Limited to do

I require ReAssure Limited to take the following steps to put things right:

- Write off the remainder of the debt as it has agreed. Then promptly provide Mr R with a letter confirming this.
- Take ownership of Mr R's SIPP and promptly liaise with any third parties about this. Mr R should be kept updated. ReAssure should then decide what to do with the SIPP funds once it has taken ownership and should deal with any related consequences and administration of those funds. The amount realised from the SIPP should be taken as payment towards the outstanding debt. ReAssure should ensure that this will not result in a tax bill or similar to Mr R.
- Instruct its debt collectors to immediately cease all action in relation to the debt if this hasn't already been done. Confirm in writing to Mr R when this has been done. It should also ensure that the involvement of debt collectors hasn't affected Mr R's credit file in any way and if it has, it should promptly take action to rectify this.
- Pay Mr R £4,000 for the distress and inconvenience caused. This money should not be used to offset any outstanding debt.

My final decision

For the reasons given above, I uphold this complaint. ReAssure Limited must take the actions listed in the "Putting things right" section above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 11 October 2023.

Jo Occleshaw
Ombudsman