

The complaint

X complains that ReAssure Limited did not act fairly in relation to a pension withdrawal. He says that ReAssure advised him to delay the withdrawal until the following tax year so that he would pay less tax. When he later came to take the pension, it had risen in value and he was unable to make the withdrawal without taking financial advice. He also complains that he was given false or misleading information about the requirement to take financial advice. He felt that ReAssure were preventing him from accessing his money.

What happened

In early 2021 X contacted ReAssure Limited to ask about drawing his pension as a lump sum. On 23 March the fund value was £29,270.89 and the pension had a Guaranteed Annuity Rate (GAR) which was higher than would be available on the open market at that time.

X said ReAssure advised him to delay the withdrawal until the new tax year in order to reduce his tax charge.

On 8 April 2022 X contacted ReAssure again to withdraw his pension as a lump sum. A retirement options pack was produced on 13 April but not issued until 27 April. On 4 May he was told incorrectly that he did not have to take advice to access his pension as a lump sum.

X complained to ReAssure because he was unhappy that he had to take advice to access his fund as a lump sum. ReAssure explained to him that this was a legal requirement that they were unable to waive. But they did accept that they had been too slow in sending out the options pack, so offered £100 by way of apology.

Having taken advice and provided the necessary proof to ReAssure, X received his pension fund as a lump sum. But he was still unhappy so he brought his complaint to this service.

His main concern was that in March 2021 he says ReAssure advised him to wait until the new tax year because that would reduce the amount of tax he would have to pay. By the time he came to take the pension the value was over the £30,000 limit at which he would have to take advice. And ReAssure were not authorised to give advice.

Our investigator agreed that ReAssure had caused a delay in sending out the options pack, and also made a mistake in telling him he didn't need advice. But because the incorrect information was corrected (and was a legal requirement in any case) the investigator felt that the compensation already offered was a fair outcome.

X disagreed with the investigator's opinion. The dispute was referred to me for a final decision.

I issued my provisional decision on 21 August 2023. I've corrected two typographical errors but otherwise it said:

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. I have had the benefit of listening to the call recordings, as well as all the other evidence provided by both parties.

I initially asked ReAssure to provide recordings of all phone calls with X between January and April of 2021, because it was in early 2021 when X said he was advised to delay drawing the pension. Because of the volume of calls ReAssure was unable to provide recordings of all of them. But I am satisfied that I have listened to enough calls to make a decision on the two main issues in question.

In the interests of avoiding further delay, and to give X the decision he needs I thought this would be a proportionate way to proceed. I accept that X may have some misgivings that we do not have all the call recordings. But he has also said that he has some call recordings but was not willing to provide them. If he changes his mind on this point, I am willing to listen to any recordings he provides. So this provisional decision is based on what I believe to be fair and reasonable based on the evidence I have available.

Since this is a provisional decision, both parties will have the opportunity to provide any further evidence or arguments before I give my final decision.

The requirement to take advice

X was told, correctly, that he had to take regulated financial advice in order to access his pension as a lump sum because it had a GAR and the value was over £30,000. He was told this in his retirement options letter of 23 March 2021 and on the phone.

But he was also told that PensionWise was an alternative to taking regulated financial advice. PensionWise is a service set up by the government that gives over 50s some information to help them choose what to do with their pensions. While possibly helpful for those (unlike X) who did not know what they wanted to do, PensionWise could not have met the requirement for regulated financial advice.

However, in one of the call recordings X and the ReAssure representative discussed the possibility of waiving the requirement to take advice. And in another call the representative said that she would be in trouble if she released money without this requirement being met. Both of these would suggest that it was ReAssure's decision or policy to require policyholders to take advice, which is incorrect.

In fact, the requirement to take advice was a legislative requirement (Pension Schemes Act 2015). In order to meet the requirement, a regulated financial adviser would need to sign a form declaring that they had given advice on the pension in question. This was not sufficiently explained to X until 19 May 2022. I think that if X had known this earlier on, then although he still may not have liked it, he would have found it easier to accept.

In providing the conflicting and incorrect information, particularly the indication that it might be possible to waive the requirement, I think that ReAssure caused X to believe that ReAssure was preventing him from accessing his own money. And I can see why this was a cause of some frustration. ReAssure should pay X compensation to reflect this, a point I will return to later.

Did ReAssure advise him to delay?

X says that ReAssure advised him to delay taking the withdrawal in order to reduce the tax

he would need to pay.

I have listened to X and the ReAssure representatives discuss the taxation of the withdrawal – 25% tax free with the rest taxable and the ability to reclaim any overpayment of tax. The information given is accurate. In none of the calls does the representative advise X to delay taking the withdrawal, or even discuss that the tax might be lower if he was to wait. And one of the call handlers explicitly tells X that “We can’t give advice” or a personal recommendation.

So, in the absence of any other evidence, I am unable to find that ReAssure gave X any advice. Where there was information provided on tax it was accurate. So I find that ReAssure acted fairly in this respect.

Even if X was told that waiting until the new tax year would reduce the rate of tax he paid, then that amounts to no more than factual information rather than advice.

If X’s concern is whether ReAssure acted outside of their regulatory permissions then that is a matter for the Financial Conduct Authority, who regulate ReAssure. And I understand that X has already been in touch with the FCA. It is not the function of this service to punish regulated businesses, but to resolve disputes and, where we think detriment has been caused, to try to rectify that.

So in summary I intend to uphold X’s complaint in respect of the conflicting information ReAssure provided, but not in respect of whether ReAssure advised him to delay.

Putting things right

X says that ReAssure caused him some distress and anxiety. I have already explained why I think that the different explanations over time and particularly the suggestion that the requirement could be waived would have led him to think that ReAssure were preventing him from accessing his money without good reason. And I think this would have made the process more stressful than it would otherwise have been.

X says that ReAssure have paid him a total of £200 by way of redress and/or compensation. I agree that £100 is a fair sum in relation to the delay as detailed in the letter dated 9 May 2022.

But having listened to the phone calls I think that the conflicting/incorrect information and the time taken to resolve the whole issue merit an additional award of £400, making a total payment of £500 for that element of the dispute.

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 has responded to my provisional decision and has accepted what I said. X has not responded.

Since no new arguments or evidence have been offered, I remain of the view I set out in my provisional decision.

Putting things right

ReAssure must pay X an additional £400, on top of what it has already paid, for the

inconvenience and distress caused by their delays and conflicting/incorrect information. The payment must be made within 28 days of the date of this final decision.

My final decision

For the reasons given above I uphold X's complaint against ReAssure Limited. I require ReAssure Limited to make a payment to X as described in the "Putting things right" section above.

Under the rules of the Financial Ombudsman Service, I'm required to ask X to accept or reject my decision before 19 October 2023.

Martin Catherwood
Ombudsman