

## The complaint

Mr R is unhappy that the Guaranteed Minimum Pension (GMP) ReAssure Limited (ReAssure) has offered is lower than the GMP notified to him in 2017. Mr R wants ReAssure to honour the higher figure.

## What happened

Mr R has a Section 32 buy out plan with ReAssure. It started in 1988 with Legal & General (L&G). In 2020 there was a transfer of business from L&G to ReAssure and Mr R's policy is now with ReAssure.

Mr R received a letter (via his adviser) from L&G dated 27 October 2017 which said there was a GMP liability under the policy and a pension, at Mr R's retirement date – his 65<sup>th</sup> birthday in October 2023 – of at least £5,908.01 must be provided. ReAssure says that was an error and an illustration enclosed with the letter said there was a GMP liability on the plan and at least £5,333.04 pa had to be provided. Mr R says he didn't get the illustration.

ReAssure wrote to Mr R on 21 June 2023 setting out his retirement options. The letter said the policy had a valuable guarantee. The details enclosed showed Mr R's GMP was £5,333.12 pa. Mr R got in contact with ReAssure to query the position.

ReAssure wrote to him on 7 August 2023. ReAssure enclosed a full copy of the letter dated 27 October 2017 from L&G. A GMP of £5,908.01 was stated in the letter but there was also an illustration which said there was a GMP liability and at least £5,333.04 per year must be provided. ReAssure said its actuaries had double checked the amount of the GMP available at Mr R's 65<sup>th</sup> birthday and had confirmed a yearly GMP of £5,333.12. Based on the information ReAssure and HMRC held, a GMP of £5,908.01 at age 65 was incorrect and so ReAssure wouldn't provide a GMP at that level.

ReAssure apologised for the misleading information given in L&G's letter of 27 October 2017. ReAssure also apologised for any confusion arising from statements dated 13 January 2023 and 14 July 2023 which understated the GMP at age 65 at £5,250 and £5,300 respectively. To put things right and as Mr R had said he didn't want his GMP annuity provided by L&G (although it was ReAssure's process to refer former L&G policyholders back to L&G) ReAssure could pay Mr R's GMP annuity. And to say sorry for quoting incorrect GMPs ReAssure said it would like to arrange to send £500 to Mr R.

ReAssure issued a second final response letter to Mr R on 4 September 2023. ReAssure maintained that the GMP as at Mr R's 65<sup>th</sup> birthday was £5,333.12 pa and that the figure of £5,908.01 had been incorrectly quoted by L&G. ReAssure said compensation of £1,000 would be paid by cheque. That was a higher amount than the £500 previously offered as ReAssure accepted that the letter sent to Mr R on 7 August 2023 didn't explain things properly and had given incorrect information.

Mr R asked us to consider his complaint. On his complaint form he referred to the letter from L&G and which stated that a GMP pension of at least £5,908.01 must be provided. He said ReAssure was trying to pay him £5,333 which meant he'd lose £575 pa which would

severely affect him financially. He'd suffered stress by not knowing if he'd get his agreed pension in October 2023. He was also unhappy with how ReAssure had dealt with him.

One of our investigators looked into what had happened. She said ReAssure had provided evidence from HMRC (which the investigator shared with Mr R) which confirmed a GMP of £102.56 pw which was £5,333.04 pa. On balance, the investigator was satisfied that was the correct amount and that the figure quoted by L&G in 2017 had been a typing error. She said the £500 offered by ReAssure was in line with what we'd recommend for the inconvenience and loss of expectation Mr R had suffered.

Mr R didn't agree with the investigator's findings. And he was unhappy with the time taken since he'd first raised the issue with us. He referred to emails from the investigator apologising for delays. He queried, amongst other things, what the investigator had said about the figure in L&G's letter having been a 'typo'. He reiterated that he hadn't seen any illustration which gave a figure other than the £5,908.01 referred to in the letter. HMRC's GMP checker stated a figure of £102.56 pw but he said he'd been promised a GMP of £5,908.01 and ReAssure couldn't renege on that. The difference between the two figures was £574.97 pa. ReAssure's offer of £500 equated to 10.4 months of his 'real' GMP, whereas, if he lived for a further ten years, the difference would be £5,749.70. He asked for his complaint to be reinvestigated by another investigator.

The investigator replied and again apologised for the time it had taken for her to be able to give her opinion. She explained that ReAssure had sent HMRC's records on 7 February 2023 and she'd issued her opinion the following day. She said, from HMRC's records and the illustration sent with L&G's letter, she'd concluded, on the balance of probabilities, that the GMP value given in L&G's letter, had been an error. She hadn't seen any other evidence to support that higher figure. She explained that the next stage in our process, as Mr R hadn't accepted her opinion, was for the matter to be passed to an ombudsman.

### **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'm sorry that our investigation took longer than we'd have liked. I note there was some delay in ReAssure providing information we'd requested. It didn't help that HMRC's GMP Calculator Service was unavailable during early February 2023.

I'm satisfied that Mr R's GMP entitlement at his 65<sup>th</sup> birthday was £102.56 pw as notified by HMRC. That's based on a GMP of £4.62 pw at 21 April 1984 which was Mr R's date of leaving and then revalued to his 65<sup>th</sup> birthday for each complete tax year in the period from leaving pensionable service to retirement age. There are different ways of revaluing the GMP. Here fixed rate revaluation has been applied. For leavers after 5 April 1978 but before 6 April 1988 (which is Mr R's position) the increase is 8.5% pa.

I'd tend to regard what HMRC's records show and HMRC's GMP Calculator as fairly conclusive unless there's anything to indicate that the GMP information HMRC holds for an individual is incorrect. There's no suggestion that's the case here – Mr R's claim that his GMP should be higher is based solely on the letter he got from L&G in 2017.

I understand Mr R's disappointment, having been told in 2017 that his GMP was £5,908.01, to learn, some years later when he reached retirement age, that it was less – only £5,333.04. But, where incorrect information is given, that won't usually and of itself create any entitlement to any higher amounts quoted in error. Generally, if there's been a mistake in an illustration, it can be corrected. So I don't agree with Mr R that ReAssure is bound to honour

the higher figure. Mr R has highlighted that the October 2017 letter says a pension of at least £5,908.01 **must** [my emphasis] be provided. But if that statement is based on a mistake then there's no obligation to pay a pension in that amount, notwithstanding the language used.

I know Mr R's position is that no mistake was made. But, as I've said, HMRC's records indicate differently. Although it wasn't supplied to Mr R at the time, the illustration is consistent with Mr R's GMP being £5,333.04 and not £5,908.01. I think the illustration showing the lower and correct GMP was produced at the time although it wasn't, for some reason, forwarded to Mr R. In any event, HMRC's records indicate that Mr R's GMP is £102.56 pw or £5,333.04 pa. And ReAssure's actuaries have also checked the position and agree that's the correct GMP. I think that's what ReAssure has to pay Mr R.

Mr R has said he didn't get any other information about his GMP, aside from the figure notified by L&G in 2017. But that's not unusual with this type of policy. Looking at the statements (pension bonus statements or with profits bonus declarations) Mr R received, their form and the information provided hasn't changed much over the years. Amongst other things, bonuses added and fund values are shown but there's no projected pension figures. When the policyholder approaches retirement the GMP will be checked and verified with HMRC and the cost of providing the GMP will be ascertained. The fund value may be insufficient to meet the GMP but the provider will have to pay the GMP because that's what was promised when the policy was taken out. I'm satisfied Mr R's entitlement is to a GMP of £102.56 pw or £5,333.04 pa.

I know Mr R is likely to remain unhappy – his expectations have been raised by the information he got from L&G in 2017 and so finding out that his GMP entitlement is lower will have come as a disappointment. I note his comments about why he considers £500 isn't enough compensation for the distress and inconvenience (including loss of expectation). I'd point out that, in their second final response letter of 4 September 2023, ReAssure increased their offer to £1,000.

Mr R may still regard that as inadequate. He's referred to how the difference between £5,908.01 and £5,333.04 will add up over the years. That's the same even if the compensation is £1,000 and not £500 – the higher figure won't even make up for two years payments at the higher rate. But I consider £1,000 is fair and reasonable to reflect the impact on Mr R, including his substantial disappointment in finding out that his GMP is over 10% pa less than indicated in 2017.

And I take into account that there were other issues too. For example, ReAssure accepts its letter of 7 August 2023 was deficient and incorrect GMP figures were quoted in January and July 2023. On our website we give some examples of the level of awards we might make for distress and inconvenience. We say an award of over £750 and up to around £1,500 could be fair where the impact of a business's mistake has caused substantial distress, upset and worry. I think what's happened here has had that sort of impact.

My understanding is that the payment of £1,000 was sent to Mr R by cheque. I assume he received it safely and cashed it – ReAssure explained that paying in the cheque wouldn't affect Mr R's right to refer his complaint to this service. But, if for any reason the cheque hasn't been cashed, ReAssure will need to make arrangements to pay the £1,000 to Mr R.

### **My final decision**

ReAssure Limited has already offered to pay compensation for distress and inconvenience of £1,000. I think that's fair in all the circumstances.

So my decision is that ReAssure Limited should pay Mr R £1,000.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 2 April 2024.

Lesley Stead  
**Ombudsman**