

## The complaint

The executor of Mr F's estate has complained about the administration of a home reversion plan (HRP) by ReAssure Limited in 2023. The complaint relates to the following matters:

- Items were stolen from the property by contractors ReAssure sent to the property and it added a lock to an outbuilding, which he does not think was necessary.
- The declaration of trust and lease having Mr F's given names the wrong way around, and the issues this caused regarding removing the lease from the property title.
- ReAssure asking the Executor to sign a statement of truth confirming that the two names contained within the documentation were one and the same person.
- The estate not being kept up to date on what was happening with the property and not receiving the information it requested.
- The marketing of the property in relation to delays, the price and not involving the estate in decisions.
- ReAssure not exercising a clause in the lease that allows it to purchase the property at market value, and instead placing it on the open market, thereby reducing the amount the estate will receive from the property.
- ReAssure being 'extremely unhelpful' and unprofessional.

## What happened

Mr F took out a HRP in 2000 with G E Life Limited. The plan involved the ownership of the property being transferred to ReAssure, with Mr F retaining a 36% interest in the property. In exchange for 64% of the value of the property, Mr F was provided with a regular income and some cash lump sums.

The declaration of trust that Mr F signed as part of the documentation following is application being accepted stated:

### *'5. SALE OF PROPERTY*

*Following the death of the Annuitant or, if more than one, of the survivor of joint Annuitants, the Trustees*

- 5.1 shall use their best endeavours to arrange for the sale of the Property as soon as practicable after the date of the relevant death and*
- 5.2 take account of and distribute the Trust Fund in accordance with the provisions of this Declaration*
  - 5.2.1 The Annuitant hereby agrees ... that the Trustees may sell and the Company may purchase the Property following the death of the Annuitant or survivor of them for a consideration based upon an open market valuation of the Property with vacant possession made by an independent Chartered Surveyor appointed by the Trustees*
  - 5.2.2 If the Company wishes to effect such purchase it shall pay the Trustees an amount representing the Annuitants Proportion of the net sale price after deducting a proportion of the valuation, legal costs and disbursements relating to the sale*

*equivalent to the Annuitant's Proportion and the Trustees shall transfer the Property to the Company'*

Mr F died in the spring of 2023 and by that time the HRP was owned and administered by ReAssure. Shortly after Mr F's death a family member telephoned ReAssure to inform it.

On 3 May 2023 that family member complained about how their notification telephone call had been handled. This was because the family member got the impression that ReAssure was just interested in administration of the plan and did not want to discuss it or provide the information that was wanted by Mr F's family, as they had not previously been aware of the arrangement. They asked for a breakdown of the arrangement to be sent to them, and also asked for confirmation that ReAssure would not be rigid about the 21-day timescale for clearing the property, as they'd been told orally it would not.

On 14 May 2023 family members, one of whom subsequently became the Executor, emailed ReAssure again. They were chasing a response to the email of 3 May 2023.

ReAssure sent the Executor a letter on 23 May 2023 explaining the basics of how the HRP worked, including the retained interest and that there was a cash loan facility that would be deducted from the final settlement. ReAssure set out what the next steps were and gave the name of the solicitors that would be dealing with clearing the lease from the title. The Executor was told that the property needed to be cleared and that the lease gave 21 days for this to be done but ReAssure could extend that timescale if need be. A quick reference guidance document was provided along with a 'sold as seen' declaration that the representative of the estate would need to complete.

Over the following weeks the Executor asked for further information about the HRP, the payments that had been made to Mr F and settlement of the costs that would be incurred during the process of selling the property. The issue of Mr F's given names having been reversed on some of the documents was raised as was the issue of the clause that allowed ReAssure to buy the property, rather than it being sold on the open market. Various concerns were raised by the Executor as well.

ReAssure provided responses to the various letters, although not always in the timescales the Executor expected and often the responses and information provided was not to his satisfaction.

ReAssure received the sold as seen declaration and keys on 14 June 2023. It was signed by the Executor. It confirmed that:

*'I also understand that any removable items remaining on site at the property (including gardens and outbuildings) will be disposed of immediately and fully understand that I/We will be responsible for the costs of removal of these items.'*

On the same day ReAssure wrote to the Executor thanking him for returning the documents and keys. It told him that it had appointed a property management agent and that a survey and electrical report would be arranged. If no essential works were needed, the property would then be marketed.

On 5 July 2023 ReAssure's contractors attended the property and removed the garden items that the Executor has stated were stolen.

The grant of probate was issued on 7 November 2023. ReAssure was given the document and it returned it to the executor on 27 November 2023.

ReAssure issued several responses to the Executor about his concerns:

### 21 July 2023

ReAssure gave the Executor an update on what actions it had taken with the property since receiving the keys. It also confirmed that it had noted his comments on the statement of truth and its solicitors were working on the matter, but ReAssure didn't have a timescale for the issue to be rectified. It was confirmed that the property would not be marketed until a way forward had been established. ReAssure disagreed that there had been a lack of action on its part since the keys had been received, and asked if the Executor wanted his concerns to be raised as a formal complaint.

The Executor confirmed his complaint points on 24 July 2023.

### 22 August 2023

Reassure explained that it had not been its intention to cause Mr F's family further distress at what it knew was a difficult time. It also explained what it had done in relation to the discrepancy in Mr F's name and why. ReAssure assured the Executor it was not trivialising the issue, rather it had just confirmed that it didn't affect the validity of the HRP. It said that when it had asked Mr F's family to complete the statement of truth it had not been asking them to lie, and when they had not been willing to complete such a statement, ReAssure's solicitors had contacted the Land Registry for guidance. In relation to the Executor being kept up to date on what was happening with the property, ReAssure confirmed that once it had received the keys to the property, it had confirmed that it would be instructing a survey and electrical inspection. Mr F's family was also told what the process would be and at what stages of the sale process ReAssure would be in contact again. ReAssure apologised for any initial delays in responding to the Executor's queries, but it assured the Executor it had followed the correct procedures.

### 18 September 2023

ReAssure explained that it had dealt with the Executor's concerns as a complaint because he had expressed disappointment and had alleged that it had intentionally caused distress. Also, as the complaint was complex, ReAssure had considered it would be better to deal with the issues in writing. It also confirmed that it had moved dealing with Mr F's property forward and had followed the legal advice it had received, which it had told the Executor it would when the issue about the incorrect name was raised. As such, the statement of truth had been requested to confirm that the person who had the lease registered to them was the same person as the person who had taken out the HRP; not that Mr F had lived under a different name. ReAssure stated that it had not asked the Executor to make a false statement and was asking for assistance in removing the lease from Mr F's property title. In addition, it reiterated what was happening with the property and that it was working on the problem with the lease while the property was being marketed. As for provision of information about the HRP and the payments that had been made, ReAssure considered it had provided information in a timely manner, given that much of it needed to be manually created. In relation to the removal of items from the garden, ReAssure confirmed that the executor had been told that any items remaining at the property would be removed. ReAssure referred the Executor back to its letter of 22 August 2023 for referral rights to this Service.

### 18 January 2024

ReAssure reiterated its comments about why it had dealt with the Executor's concerns as a complaint and that it considered it had answered all of his queries. As such, it didn't consider there was anything more it could add and reminded the Executor of the estate's right to refer the complaint to this Service. An update was also provided about what was happening with

the sale of the property. ReAssure also confirmed that as the legal owner of the property, it was not obliged to liaise with the estate regarding the sale of the property and highlighted that it had kept the Executor informed of what was going on.

#### 23 January 2024

ReAssure said that it had already addressed all of the matters raised by the Executor or they had no bearing on the outcome of the complaint. As such it didn't provide any further comment on the merits of the complaint. ReAssure reminded the Executor that the estate had the right to refer the complaint to this Service and had to do so within six months of its letter of 18 January 2024.

#### 7 February 2024

ReAssure said that it felt the complaint was handled with compassion and that the Executor was kept informed of what was happening along the way. It didn't feel that there was anything further it could add to its previous responses to the complaint. ReAssure reminded the Executor the complaint could be referred to this Service within six months of its final response of 18 January 2024.

#### 14 February 2024

ReAssure restated the answers it had previously given to the Executor and told him that it would not be reopening the complaint. It also confirmed that the Executor would have been sent a copy of the complaints procedure when the initial complaint was acknowledged. It provided a further copy.

The executor referred the complaint to us on 3 March 2024 as he was not satisfied with ReAssure's response. While many of the complaint issues were referred to us outside of the time limit contained in our rules, and therefore would usually be considered not to be within our jurisdiction, ReAssure has consented to us considering the whole complaint.

One of our Investigators considered the complaint, but he didn't recommend that it be upheld. He did, however, recommend that the parties discuss the statement of truth further to see if agreement on its content could be reached and the matter of removing the lease moved forward.

The Executor didn't accept the Investigator's conclusions and set out why he thought they were wrong. He also asked that the complaint be referred to an Ombudsman.

I issued a provisional decision on 12 November 2024 setting out my conclusions and reasons for reaching them. Below is an excerpt.

*'The Executor has mentioned several times in correspondence that he was not provided with a copy of ReAssure's complaint procedure. I would explain that we can only consider complaints about certain activities, or ones that are ancillary to them. Complaint handling is not one of those activities. I have considered whether it is ancillary to one and I am satisfied that it is – to the administration of the HRP.'*

*ReAssure has said that it provided the complaint procedure when it initially acknowledged the complaint. That would be standard practice. ReAssure also provided a further copy in February 2024, around six months later. I haven't seen the initial acknowledgement letter from July 2023, but even if the complaint procedure was not attached when it was sent to the Executor, I am not persuaded the estate would have been prejudiced or suffered a loss by its omission.'*

*I will firstly address the matter of the clause within the declaration of trust that the Executor has raised. I have detailed the wording of the relevant clause above. It states that the Company – currently ReAssure – has the right to buy the property at market value. I can understand why the Executor would like ReAssure to exercise this option, as it would mean that some of the costs associated with selling the property would not be incurred and the estate would receive more money. However, it is only an option available to ReAssure and it is not obliged to exercise that option. As such, I can't find that ReAssure has done anything wrong in placing the property on the open market for sale, rather than purchasing it itself.*

*I now turn to the matter of the items removed from the garden. The Executor has said that he considers they were integral to the garden and were stolen because they had monetary value. In support of this belief, he has said that if all objects were meant to be removed from the house and garden, the potted plants would have been removed too.*

*ReAssure explained to the Executor at the beginning of the process that Mr F's family had to arrange to clear the property, including the garden, and if items were left, they would be disposed of. While plants, whether potted or otherwise, would generally be considered to be part of the garden, furniture and garden ornaments would not. As these were the type of items ReAssure disposed of, it would simply appear that it did what it said it would and cleared chattels from the house and the garden. As for ReAssure securing the garden buildings, an empty property is at a higher risk of damage and vandalism than one that is occupied. As such, it was not unreasonable for ReAssure to add additional security to the property.*

*I now turn to the matter of Mr F's given names being reversed on some of the documentation. It isn't clear how this happened, but given that the names are reversed on the property title as well, that may be the reason, as the trust document and lease are linked to the title. That said, it is clear a mistake happened when the HRP was set up and ReAssure is responsible for that and is responsible for remedying the problem.*

*The Executor highlighted this problem to ReAssure at an early stage and he looked into the problem and what could be done about it. At the same time that the Executor did what he did, ReAssure also raised the issue with its solicitors. The solicitors informed ReAssure that it had experience of dealing with such discrepancies. It appears that the normal process was to have a declaration signed by the representatives of the estate to confirm that the estate was satisfied the two names were synonymous.*

*I note that the Executor has said he thinks that ReAssure was asking that he confirm that Mr F was known by both his first and middle given names. As Mr F was not so known, the Executor believes that ReAssure was asking him to lie. The relevant part of the statement of truth says:*

*'I hereby declare that [Mr F's correct name] and [Mr F's name with the given names reversed] are one and the same person.'*

*I can't agree that ReAssure was asking the Executor to confirm that Mr F used both his given names as his first name in normal life or that the Executor knew him by both names. Rather it asks the Executor to confirm that he believed that the person being referred to in the various documents was one and the same person, despite Mr F's given names having been reversed. I don't consider that ReAssure did anything wrong in what it asked of the Executor, which should not be interpreted as any criticism of the Executor.*

*When the Executor declined to sign the statement of truth ReAssure informed its solicitors that was the case and an alternative way of addressing the matter was looked for. A way forward was decided upon, but then ReAssure didn't move forward with it. It has confirmed*

*that it was decided that it would be left until the property had sold before resolution to the matter was sought. I am not satisfied that was a reasonable decision for ReAssure to have made. Based on what it has said about the alternative way forward, it is not clear that it will result in the required outcome. In light of this, I think ReAssure should have moved forward with attempting to resolve the issue when the alternative method was decided upon and it should do so now, so as not to risk any future sale of the property.*

*I note the Executor's comments about the language ReAssure used in relation to this matter both before and following him confirming that he was not willing to sign the statement of truth. It would not be appropriate for me to make a judgement on how the Executor perceived the language ReAssure used. However, I think that in the circumstances, ReAssure could have been more careful about the language it used, given the Executor was already dissatisfied with how the plan was being administered and the responses ReAssure had given. That said, I am not persuaded its intent was to be dismissive of the issue or to be rude or critical of the Executor when he declined to sign the statement.*

*I also note that the Executor has said that he doesn't believe that ReAssure looked into remedying the issue of Mr F's names having been reversed on some of the documentation. Hence he felt obliged to make efforts of his own. I can understand why the Executor felt the need to look into the issue himself, but I am also satisfied that ReAssure referred the matter to its solicitors at an early stage. While the solicitors didn't make the same enquiries as the Executor did at the same time, this was because it had experience of dealing with such issues and didn't need to. I am satisfied that ReAssure did have the matter looked into when the Executor highlighted it. I am also satisfied that ReAssure would have become aware of the issue itself, even had the Executor not highlighted it, as its solicitors had been instructed to remove the lease from the property title, thereby making the title ready for the property to be sold.*

*I now turn to the matter of the information provision following Mr F's death. I would firstly explain that following the death of a policyholder a financial business would usually only provide very limited information – that needed for the estate to apply for grant of probate or letters of administration. In this case the Executor, before his appointment was confirmed, asked for a lot of information about the plan. The first two emails were not responded to in a timely manner and ReAssure has acknowledged its mistake in this regard. However, following that, it appears that ReAssure tried to answer the questions and provide the information requested, although not always in the format that the Executor expected or wanted. I am not persuaded that, other than a delay initially, ReAssure did anything wrong in this regard.*

*As for the estate being kept up to date on what was happening, ReAssure explained what the process would be following the property being cleared. It also confirmed that the estate would be updated at key milestones. This is normal in such situations and I can't find ReAssure at fault for taking that approach or for not involving the estate in any decisions being made in relation to the sale. That is not something we would expect.*

*ReAssure provided the Executor with a copy of the valuations that had been obtained and confirmed the property was being marketed in September 2023. It was also confirmed that ReAssure would be in touch at the key milestones of the sale; the next being when an offer was accepted on the property. While the Executor may have wanted more involvement and communication, I can't find ReAssure at fault for following its normal processes and providing updates when it said it would.*

*As for how and when the property was marketed and the amount, following the property being cleared and the locks changed, ReAssure arranged for a survey to be completed on the property and an electrical assessment. Once it was determined that no works needed to*

*be done to the property, three estate agents were invited to value the property. The valuations were done between 25 and 31 August 2023 and the property was put on the market shortly after they were received, as I would have expected it to be. I have seen nothing that indicates ReAssure delayed the process. While it took slightly over two months for the property to be put on the market following ReAssure receiving the keys and information from the Executor, I haven't seen any evidence that there were any significant delays caused by ReAssure in this process. It must, when reviewing such matters, be taken into account that contractors and experts need to be commissioned and it will not always be possible for them to attend or provide their reports immediately.*

*As for the price that the property was marketed at, this was based on the recommendations from the three estate agents, as I would expect. While the asking price was reduced around a year after the property first started being marketed, this was done based on the advice of the estate agents, there having been no offers on the property at the higher asking price. Again I would expect ReAssure to follow the recommendations of the estate agents, as they are the property experts, not ReAssure. That said, I note that ReAssure has admitted that it delayed agreeing to reduce the asking price out of deference to the Executor not wanting the price reduced. While as I have said above, ReAssure doesn't need to discuss such matters with the Executor, where it chooses to do so, I can't fault it for taking the estate's opinions into account.*

*Overall, I am satisfied that ReAssure has done what it should have, other than in one regard. Given ReAssure is going to pursue a non-standard approach to having the lease removed from the property title, which is necessary before any sale can proceed, I don't consider it is reasonable for that to be left until an offer has been accepted on the property. This is because it would appear that it is not an approach that ReAssure's solicitors have taken before and so it is unknown if it will be successful or if alternative action will be needed. If further action was needed, it is plausible the time needed for that action would jeopardise any sale that had been agreed. As such, I consider ReAssure should instruct its solicitors to move forward with the work necessary to enable the lease to be removed from the property title.'*

ReAssure accepted my provisional decision. The estate of Mr F didn't. The executor reiterated its comments about the events and the service it had received. He also said that he believed my findings were not reasonable or fair, and that the benefit of the doubt and favour had been shown towards ReAssure, despite the evidence he had provided on behalf of the estate.

### **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 am sorry if the Executor believes that my decision is biased toward ReAssure. However, I would confirm this service is impartial between, and independent from, consumers and businesses. What this means is that we don't represent either party and we look at things independently without taking sides.

I understand my findings were disappointing. It's the nature of what we do that we generally have to find in favour of one party or the other. Our findings are based on consideration of all the facts and all the submissions made by both parties. We look at what happened and decide whether, bearing in mind any relevant law, regulations, and good industry practice, the lender acted fairly and reasonably.

The Executor has also asked for confirmation of when ReAssure referred the matter of Mr F's given names being reversed on some of the documentation. I can confirm ReAssure's first email to its solicitors about the matter was on 25 May 2023. The email confirmed that the matter had been raised with it on that day in a telephone call with the Executor's wife.

I have reviewed the file again in its entirety and I have revisited my provisional decision. Having done so, I am satisfied that I considered all of the matters the Executor raised in response to the provisional decision before I issued that document. Nothing that has been said has changed my conclusions.

### **My final decision**

My decision is that I uphold this complaint in part. In full and final settlement of the complaint I require ReAssure to take action to remove the lease from the property title immediately following the estate of Mr F accepting the decision, if it does.

Under the rules of the Financial Ombudsman Service, I am required to ask the estate of Mr F to accept or reject my decision before 31 December 2024.

Derry Baxter  
**Ombudsman**