

## The complaint

Mr H complains that ReAssure Limited shouldn't have allowed a bond he had placed in trust to be surrendered in 2018, as he says they didn't have proper authorisation to do so.

## What happened

In 2015, Mr H settled two bonds and a property into a trust, and appointed a company, who I'll call Company F, as professional trustees. One of the bonds was held at the time with Legal & General and ReAssure has since taken over responsibility for it – for ease, I'll primarily refer to ReAssure in this decision. In November 2018, Mr H met with Company F and remembers agreeing that the trustee on the trust should be changed to Company P.

In May 2022 Mr H got in touch with ReAssure to ask how he could go about removing the professional trustee from the bond. He was told that the bond had been surrendered in December 2018 for £86,966.27 and the proceeds were paid to Company F, and he was sent a copy of the surrender documents. They were signed by a Ms M on behalf of Company F, and by Mr H. Mr H complained, saying that he wasn't told he was agreeing to surrender the bond, and at the time the bond was performing well so he wouldn't have surrendered it.

He said ReAssure shouldn't have accepted Company F's instructions, as he'd already signed paperwork to change the trustee. He felt ReAssure had a duty to tell him as the settlor of the trust. In the alternative, he argued that ReAssure shouldn't have accepted the surrender request, as it had his signature on it, and he wouldn't have been authorised to sign as he wasn't a trustee.

I understand that the money from this surrender was later invested by Company P, and the investment didn't perform well, so there was little or no return. By 2024, Company P had gone into administration, and through those proceedings, Mr H has received the £86,966.27 back. However, he felt ReAssure ought to pay him the lost investment growth that he would have received had the bond remained in place.

ReAssure didn't uphold his complaint, saying that at the time of surrender, they hadn't been notified of any changes to the trustee. They said they'd have only needed Company F's authorisation to surrender, and the fact Mr H had also signed the form shows he was aware of it. Mr H remained unhappy, so he referred his complaint to our service.

An investigator at our service considered the complaint and found that there was no evidence ReAssure was aware of a change to the trustee at the time of the surrender and that it was reasonable for them to take instructions from Company F. Mr H disagreed, as he felt that no assets ought to have been changed during the trustee transfer. He asked that we request ReAssure's procedures that were in place in 2018, as he felt we hadn't properly considered the steps ReAssure took. The investigator wasn't persuaded to change his mind, so the complaint was passed to me for a final decision.

I requested further evidence from both parties. Mr H provided two letters received from Company P dated 8 November 2019 and 20 January 2020 – the latter confirmed the transfer from Company F to Company P had been completed. He also provided an email which he

said came from Ms M, who said she was not employed by Company F. ReAssure provided the following information, in summary:

- They couldn't confirm what processes and procedures Legal & General had in place in 2018 for the surrender of bonds held in trust.
- They provided the policy schedule and terms and conditions.
- I pointed to a letter Mr H had sent on 12 April 2018, in which he asked who had access to his bond, as he didn't want anyone to be able to access it. He'd become concerned due to an associate company of Company F no longer being in business. I asked whether a reply had been sent and ReAssure confirmed a reply was sent on 20 April 2018 and provided a screenshot of the contents of the letter. It set out that Company F was the sole trustee, and the bond couldn't be surrendered without their authority and directed Mr H to speak to Company F if he wanted more information.

I then issued a provisional decision on the complaint, in which I set out the following findings.

### **My provisional decision**

*"I'll first address Mr H's concerns about the change in trustee, before I go on to address the process followed by ReAssure in 2018.*

#### ***The change to trustee***

*I appreciate Mr H remembers signing to change the trustee on the trust in November 2018. Although I've not seen the paperwork, I've no reason to doubt that this was when he did sign the relevant document. Based on the letter dated 8 November 2019 from Company P to Mr H, this document was a 'Deed of Retirement and Appointment'. That letter asked Mr H to re-sign the Deed because Company F and Company P had both changed address.*

*This leads me to believe that the other parties who will have needed to sign the deed had not done so, prior to November 2019. At the very least, the new trustee will have needed to sign a Deed of Appointment to agree to be trustee, based on the normal operation of that type of legal document. Had Company P done so in 2018, I don't see why a later change in address would have required a new deed to be signed by Mr H.*

*So, while Mr H may have signed the Deed in November 2018, it wouldn't have been operational until signed by all necessary parties. The fact he was asked to sign a new copy in 2019 persuades me that it wasn't in force in December 2018, when the bond was surrendered.*

*In any event, ReAssure were not aware of the change to trustee when the surrender took place. Without being informed of a change of trustee, in my view, ReAssure was reasonably entitled to assume Company F remained the legal owner of the assets held in trust.*

*It's not clear to me why Company F made the surrender request when they were aware of the conversations that had been held with Mr H about changing the trustee. But that issue is not part of this complaint as I have no jurisdiction to consider any complaint about the acts of Company F or Company P. This complaint relates to whether ReAssure acted fairly and reasonably when administering the surrender of the policy, based on the knowledge they did have. And from the information presented to me, I haven't been given any evidence to show ReAssure was aware that new trustees had been appointed, or were in the process of being appointed.*

*Even if my above findings are wrong, there's no dispute that the money eventually was passed to the control of Company P after they were appointed. Had ReAssure known and*

*insisted on waiting for Company P's appointment, then it appears Company P was happy with the surrender, so I find it likely it would have happened on their instruction anyway.*

### ***The process followed***

*I've started with the terms and conditions of the bond, as these set out what the requirements would be on surrender at section 8(c), which says:*

*"To Claim the surrender value or to take a partial surrender, the following will be required:*

- i) *Clear written instructions from the Policyholder. If there is more than one Policyholder, all Policyholders must sign and date.*
- ii) *The policy document, consisting of all schedules and these provisions.*
- iii) *Proof of title if the Policyholder is other than as stated on the schedule."*

*Mr H originally took out the bond in 2003 and so the Trust Deed and Deed of Assignment from 2015 would have represented the proof of title. I can see these were sent in by Company F on 29 December 2015, so they were already on file and didn't need to be resent in 2018.*

*There are commonly security procedures in place to support any requirements set out in the terms. ReAssure hasn't been able to provide me with the security procedures that were in place at the time, so I've first thought about what information they reasonably ought to have considered. The general purpose of asking questions when someone surrenders an investment, is to prevent the investment being fraudulently surrendered. With that in mind, I'd have expected the procedure to allow the business to confirm:*

- *That the person making the request is the policy holder, or authorised by them.*
- *That the identity of the person requesting the surrender was proven.*
- *The bank account for payment was in the name of the policy holder.*

*ReAssure has submitted the following evidence that was sent them when the surrender was requested:*

- *A cover letter dated 4 December 2018 from Company F enclosing the surrender request, which set out a registered office address and a correspondence address.*
- *The surrender form itself, which contained the following information:*
  - *It had both Mr H and Company F listed as policy holder and trustee.*
  - *Company F's correspondence address from the cover letter was written as the contact address.*
  - *Company F's account details for payment.*
  - *A declaration that said "I authorise Legal & General to cash in my bond as described in my instructions within this form" signed by Mr H on 22 November 2018 and by Ms M on 4 December 2018.*
- *A print out from Companies House dated 7 July 2018 showing there were two directors of Company F, Mr W and Mr G. The address listed matched the registered office address shown on the 4 December 2018 cover letter.*
- *A document signed by a director of Company F, Mr W, which set out that a resolution had been passed by the directors of the company on 28 November 2018, that they would create a Specific Power of Attorney ("SPOA") to authorise certain people to*

*sign documents that are necessary for the efficient administration of trusts, on behalf of Company F.*

- *The SPOA document itself, signed on 28 November 2018 by Mr W appointing several people to act on Company F's behalf, including Ms M.*
- *Ms M's driving license, which was in date.*
- *Mr H's travel pass, and a bill.*
- *Company F's bank statement for the account they had requested payment be made to in the surrender form, dated 16 November 2018, which showed their registered office address as the same as that listed on Companies House.*

*Generally, when businesses are looking at documents to prove identity, those documents should not be expired. If it's a bank statement or similar, they usually require that the document was produced within the last three months. Most of the documents met those requirements, except the Companies House print out – so I'd have expected a check to be made on Companies House to confirm the information was still correct. I don't know if that check was completed, so I've looked at what information would have been available.*

*Based on the history listed under 'People' on Companies House for Company F, in December 2018 Mr G was no longer a director, having resigned on 16 July 2018. Mr W was the sole director in December 2018, so he was the person who controlled Company F. As such, he was the appropriate person to either surrender the bond, or to give authority to someone else to surrender the bond.*

*In my view, the SPOA was sufficient to show that authority had been delegated to Ms M by Mr W. Mr H has submitted an email which he says is from Ms M, saying she wasn't employed by Company F – and I note that the SPOA refers to delegating power to people employed by Company F. However, I don't have evidence that the email provided was from the same Ms M, as the one who signed the surrender form.*

*I've considered what I would do even if I had such evidence, which meant ReAssure ought not to have allowed her to surrender the bond. From his submissions, I understand Mr H believes the bond wouldn't have been surrendered at all, if the SPOA had been questioned. But that isn't a forgone conclusion. I must consider what likely would have happened if more questions had been asked and whether Company F would have been able to comply with more rigorous checks.*

*An important consideration here is the fact Company F were happy to receive the money and there's no question that they agreed to the surrender request. It follows that I would naturally conclude that if more requests had been made by ReAssure, I'm satisfied Company F would have complied. So, Mr H would be in the same position now, because that would have led to his bond being surrendered.*

*Similarly, Mr H signing of the form – which wasn't necessary – doesn't impact the outcome. It doesn't invalidate the request from the trustee. The issue here is whether Company F's actions demonstrated a clear and unambiguous intention to surrender the bond. I'm satisfied the completion and submission of the form was evidence of Company F's true intent and the fact that it included Mr H's details unnecessarily, doesn't nullify Company F's intention to surrender.*

*Mr H has complained that ReAssure ought to have written to him to let him know about the surrender. That wasn't necessary – they had written to the legal owner. Even if they ought to have considered his information needs as settlor, they would have seen his signature on the form and his identity documents. In my view against that background, ReAssure would have reasonably concluded that he was already aware of the surrender.*

*Ultimately my view is formed by the fact that there is no evidence of misapplication of the money received from surrender, or of any fraud on the part of Ms M. Ultimately, ReAssure correctly paid the surrender proceeds to Company F, who was the legal owner of the funds in accordance with the records at the time. I am satisfied that Company F was aware that the surrender had been instructed and wanted it to proceed. All in all, the surrender proceeded exactly as the legal owner intended it to – ReAssure did not, for instance, pay the money directly to Ms M or to anyone other than the legal owner.*

*In summary, I find that ReAssure has not done anything wrong in processing the surrender request received and paying the proceeds to Company F."*

### **Replies to my provisional decision**

ReAssure confirmed they accepted the provisional decision and had nothing further to add. Mr H didn't accept the decision, in summary because:

- By not being able to provide details of the 2018 surrender procedures, ReAssure is showing proof of their own negligence.
- The surrender proceeds of the bond ought to have been paid to a bank account in the name of his specific trust, not into Company F's bank account.
- He provided further evidence from Ms M to prove she wasn't employed by Company F, but rather by Company P.
- Under section 25 of the Trustee Act 1925, the SPOA ought to have been a bespoke one to his trust, rather than a blanket one for the whole of Company F.
- He was deceived into signing the surrender documents, believing they were the documents to change the trustee.

### **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.

Having done so, I've not been persuaded to depart from the findings set out in my provisional decision, which form part of this final decision. I appreciate it's very frustrating for Mr H that ReAssure hasn't provided the details of the surrender procedure that were in place, when I requested them. However, I'm satisfied that I can still reach a fair and reasonable decision without that evidence. That's because even if the surrender process was available, I'd need to consider whether it was a reasonable process for the business to follow, based on the rules, guidance and best practice in the industry at the time.

So, I'm able to determine what should have been considered in 2018, even without the specific details of the business's internal procedure at that time. Where details like this are unavailable, I need to make a finding based on the balance of probabilities, to decide what is more likely than not to have happened. That was the basis of my provisional findings on what should have been included in the surrender process. I note Mr H hasn't disputed my findings on the purpose of surrender procedures being to prevent fraud, and that Company F was aware of and agreed to surrender the bond.

Generally, the structure of a trust means that the trustees – in this case Company F and later Company P – are the legal owners of any of the assets held in the trust and must hold the assets for the benefit of the beneficiaries of the trust. It's common practice that proceeds of investments held in trust can either be paid to an account in the name of the trustee, or an account in the trust's name itself, or to a beneficiary's account. So, the fact the proceeds were paid to an account in Company F's name was not unusual or unreasonable.

I'd like to thank Mr H for providing the full email chain with Ms M, this has been helpful to show her relationship with Company F and Company P. Based on what I've seen, when the surrender documents were received, no questions were asked about the SPOA, either in relation to the fact it isn't specific to Mr H's trust or about Ms M employment status. In my view it's likely that those elements were not fully considered by ReAssure – or if they were considered, there's no record of the decision made.

So, I've gone on to decide what likely would have happened, if ReAssure had rejected the surrender request due to the SPOA. For clarity, I'm not saying ReAssure ought to have rejected it, rather I've concluded that I don't need to make a definitive finding about that, because even if ReAssure did make an error by not asking further questions, I don't believe the surrender would have been prevented. I am satisfied that had they been asked, Company F would have had the surrender documents signed by someone else, as there's no evidence that they didn't want the surrender to happen.

It's clear Mr H is very unhappy with what Company F and Company P did with the money received from the bond and he does not recall signing the surrender form or otherwise agreeing to surrender. I have no power to investigate the actions of those two companies. While I have a great deal of sympathy for Mr H, I can't escape the fact that to ReAssure's knowledge, Company F was the trustee and the legal owner of the bond at the time and had the ability to surrender the bond.

Ultimately, there's no evidence that the surrender wasn't authorised by Company F. In these circumstances, I wouldn't consider it fair to say ReAssure caused Mr H's losses.

### **My final decision**

For the reasons set out above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 2 February 2026.

Katie Haywood  
**Ombudsman**