

The complaint

Mr G complains that ReAssure Limited mis-sold his personal pension and didn't treat him fairly in connection with a review it subsequently carried out. He's also unhappy about the time taken to pay his pension benefits when he opted to cash his policies in.

Mr G's personal pension was initially taken out with another company before being transferred to ReAssure. As ReAssure is responsible for the administration of the policy and any complaints arising from it, I'll refer to ReAssure throughout this decision

What happened

Mr G was a member of his former employer's pension scheme. Having taken professional advice, he subsequently transferred his occupational pension to a personal pension with effect from 17 February 1994. As indicated above, Mr G's policy was later transferred to ReAssure.

ReAssure invited Mr G to have his policy reviewed as part of an industry wide review of certain pension sales (otherwise known as the pensions review) that was instigated by the regulator at the time. Mr G appears to have responded to the invitation for ReAssure to review the sale of his personal pension.

It carried out a review and concluded that Mr G may have lost out as a result of the transfer advice he received. It then made an offer of redress of £1,278.96 in February 2002.

ReAssure sent Mr G an acceptance form/form of discharge that said "*I understand the offer made in our letter issued on 22 February 2002 during our review into your pension. I accept ReAssure's offer as a result of this review and authorise ReAssure to proceed on that basis. I understand that by accepting this offer from ReAssure I do so in full and final settlement of any claim I may have against ReAssure or its agents in connection with, or arising out of, the advice which I received to purchase my ReAssure personal pension.*"

ReAssure's records show that Mr G got in touch in May 2002 regarding the offer letter. Apparently he'd been away and the offer had expired in the meantime. ReAssure's notes show it told Mr G to return the forms in any event with a covering letter. It doesn't appear that Mr G returned the forms at the time.

ReAssure wrote to Mr G on 26 November 2002 further to his "*acceptance*" of its redress offer. It told him that it had set up a new pension policy (I'll refer to this as policy two) into which it had paid a single "*augmentation*" premium of £1,278.96. This was to reflect the amount of compensation it thought Mr G was due following the pensions review. It added that the policy didn't allow for other contributions to be paid in and was intended to provide redress only. The policy carried no penalty if Mr G wanted to retire early. This letter was sent to Mr G's address at the time. As was a statement sent in April 2004.

Mr G called ReAssure in December 2022 having apparently located his policies through a pensions tracing service. ReAssure updated his address on its systems and sent Mr G policy information shortly after.

In January 2023 Mr G contacted ReAssure again as he wanted to know the value of his pension pot. He said he was interested in cashing in the whole amount. ReAssure sent him some forms to fill in.

Mr G contacted ReAssure again towards the end of January 2023. He wanted to know why he'd been able to cash his main policy in, but policy two was still active. He said ReAssure had received forms for both policies sometime around 20 January 2023. Mr G continued to chase things up during February 2023.

ReAssure wrote to Mr G on 21 February 2023 and said it needed him to sign an acceptance before it could release the funds from policy two. It again explained the background to this policy being set up, which, as far as possible, was intended to put Mr G back into the position he would have been in if he hadn't been advised to take out a personal pension. It thought Mr G would likely have received regular statements since then showing the current values of his plan.

Mr G signed the acceptance form soon after. It included a declaration similar to that set out in the acceptance form I've referred to earlier. ReAssure also mentioned that a copy of its original acceptance form from 2002 was no longer available.

Mr G complained to ReAssure on 24 February 2023 about the delay in cashing in policy two. He said he'd been assured a few days earlier that a payment would be sent without delay, but he was still waiting for the funds to be received. It seems the funds were sent around late February/early March 2023.

He contacted ReAssure again on 26 February 2023. Amongst other things, he said he thought there had been fraudulent activity on his account concerning the handling of his pension funds as far back as 2002. This belief seemed to stem from the fact that Mr G wasn't aware of ReAssure's redress offer in 2002 and hadn't 'accepted' it as ReAssure had indicated. And he didn't accept that ReAssure wouldn't have retained a copy of the letter it sent him. He also wasn't happy that it hadn't tried to trace his up to date address over the years that followed.

Mr G was in touch with ReAssure again during March 2023 to raise further concerns.

ReAssure wrote to him during April 2023. It acknowledged its delay in releasing the funds from policy two. To ensure that Mr G didn't lose out, it said it had revalued his pension as at 6 February 2023, which was when it would have expected to release his funds. It had paid him an additional £277, which included £66 to reflect what the pension would have been worth on 6 February 2023 and £11 in loss of interest. The other £200 was to reflect the inconvenience Mr G had suffered due to ReAssure's delays. As far as Mr G's comments about tracing him were concerned, ReAssure said it had written to him at the address held and as letters weren't returned, it had no reason to search for a new address.

Mr G wrote to ReAssure again on 24 April 2023. He said he still needed further information in order to understand what had happened to his pension since it had been transferred from his former employer's occupational pension scheme. Based on professional advice he'd received, Mr G thought it likely that the value of his pension would have been considerably more if it had remained where it was. Therefore, he believed he'd been wrongly advised to transfer his pension. And whilst he acknowledged that ReAssure had since made an offer of redress, he said he didn't accept it because there was "*a lot that does not add up*", including that ReAssure suggested he'd previously accepted its offer when Mr G disputed that.

Mr G complained to the Financial Ombudsman Service as he wasn't happy with ReAssure's handling of things. He raised similar concerns to those raised with ReAssure and also told us

about the delays in ReAssure paying his pension.

One of our Investigators reviewed Mr G's complaint. She noted that his concerns regarding the pensions review redress were only raised around the time that Mr G opted to take his pension benefits, despite the events taking place many years before. She asked ReAssure if it agreed to us looking into the wider concerns as part of our investigation given the passage of time. ReAssure didn't initially respond to that question, but it provided background information about the pensions review and gave us information relating to Mr G's particular case.

Our Investigator then issued her assessment addressing both aspects of Mr G's complaint. She was satisfied that ReAssure had already recognised the delays in paying Mr G's pension benefits by paying him £200 compensation in respect of the inconvenience caused and an additional amount to reflect the difference in value and added interest. As far as the pensions review was concerned, the Investigator said there was evidence to suggest Mr G had received ReAssure's offer letter as it was sent to the address he was living at and he'd contacted ReAssure in May 2002 to discuss it. But there was no evidence of ReAssure receiving his acceptance since. Despite that, ReAssure set up a new policy in Mr G's name, to make sure he didn't lose out. In conclusion, the Investigator was satisfied that ReAssure had reviewed the potential mis-sale of Mr G's pension and she noted there was no requirement for it to repeat the exercise.

Mr G didn't agree and made a number of comments in response. He was adamant that he wasn't aware of ReAssure's redress offer. He says if he had been, he'd have insisted that ReAssure pay the redress into his existing policy rather than setting up a new one, into which no further contributions could be made. Mr G felt that as ReAssure couldn't produce a copy of the original redress letter, he should have been entitled to another pensions review. To further support his position, Mr G said that if he'd received ReAssure's letters, he'd have known where his pension was held and it wouldn't have been necessary to use a tracing service.

ReAssure didn't consent to us considering the complaint about the mis-sale of the pension and subsequent pensions review. Its reasons included:

- Mr G telephoned ReAssure in May 2002 to confirm he'd received its offer letter. But as he'd been away, he wasn't able to respond sooner.
- Mr G didn't return the acceptance offer but ReAssure set up a policy in any event to stop him from losing out.

It felt Mr G would have been fully aware of its offer, especially due to a conversation he'd had with it some years ago.

The Investigator considered the matter further and decided that our rules allowed us to look into the complaint to do with the pensions review. That said, her opinion regarding the merits of the complaint remained largely unchanged and she was still of the opinion that ReAssure hadn't done anything wrong. The Investigator said she wouldn't be asking ReAssure to complete another pensions review calculation.

Mr G still didn't agree and questioned some of the evidence ReAssure had supplied. He asked an Ombudsman to consider the matter afresh. It's been passed to me to decide.

My provisional findings

I sent Mr G and ReAssure my provisional findings on 26 January 2024. I've included the relevant extracts below:

“Where a business like ReAssure doesn’t consent to us looking into some or all of the complaint because it believes it’s been made too late (as is the case here) I first have to decide whether we have the authority to consider the complaint. If we don’t, my consideration of the matter must end here. The particular rule I must have regard to is DISP 2.8.2 within the FCA Handbook. It says:

The Ombudsman cannot consider a complaint if the complainant refers it to the Financial Ombudsman Service:

(2) more than:

(a) six years after the event complained of, or (if later)

(b) three years from the date on which the complainant became aware (or ought reasonably to have become aware) of a cause for complaint;

Unless the complainant referred the complaint to the respondent or to the Ombudsman within that period and has a written acknowledgement or some other record of the complaint having been received;

unless:

(3) in the view of the Ombudsman the failure to comply with the time limits in DISP 2.8.2 was as a result of exceptional circumstances.

I’ve thought about what this means as far as Mr G’s particular complaint is concerned. And having done so, I’m intending to reach a different outcome to our Investigator concerning the part of the complaint to do with the mis-sale of the pension and subsequent pensions review. On balance, I’m intending to say that part of the complaint has been made too late.

The original event complained of here is the advice given to Mr G to transfer his occupational pension to a personal pension. That happened many years ago. I haven’t been given the paperwork relating to the sale of the pension, but I understand Mr G’s personal pension was first taken out around February 1994. So, I’m satisfied the advice was given sometime before then.

In order to satisfy the first part of the rule, Mr G needed to raise any concerns about the suitability of the advice to transfer within six years of it being given – so by 2000 at the latest. The evidence shows that Mr G didn’t raise any concerns until 2023, so I’m satisfied he hasn’t complained within six years of the event.

The second question I have to consider is whether Mr G made his complaint within three years of when he became aware, or ought reasonably to have become aware, of a cause for complaint.

ReAssure’s position is that Mr G ought to have known of a potential problem regarding the suitability of the advice to transfer his pension as long ago as 2002. That’s because, having reviewed the sale of the pension as part of the pensions review, it made an offer of redress to Mr G on the basis that the transfer advice might not have been suitable for him. And as Mr G didn’t complain within three years of that point, ReAssure thinks he’s made his complaint too late.

In direct contrast, Mr G’s position is that he knew nothing about the pensions review or the offer of redress that ReAssure made in 2002. He says had he known, he’d have insisted ReAssure pay the redress into his existing policy rather than setting up a new one, into

which no further contributions could be made. He seems to be suggesting that concerns about the transfer advice came to light more recently. And he's now of the opinion that the advice was unsuitable and he'd have been better off had he left his pension where it was.

It's worth saying upfront that the pensions review was intended to address exactly the type of concerns that Mr G is referring to now. I don't think it's wholly unusual that Mr G says he has no knowledge of a review and offer of redress made over twenty years ago. It's equally possible that Mr G knew of the offer at the time but has forgotten in the years that have passed. But the fact that Mr G can't recall such events isn't reason alone for me to conclude that we have the authority to look into the complaint or direct ReAssure to carry out another review now.

Rather, when determining whether Mr G has made his complaint about a mis-sold pension on time, the test I have to apply is whether he made his complaint within three years of when he became aware, or ought reasonably to have become aware, of a cause for complaint. This is where my opinion differs.

As I've mentioned, ReAssure's account is that it made an offer of redress to Mr G sometime around February 2002. It hasn't retained all of the evidence I'd typically expect to see here which naturally makes it more difficult to say exactly what happened and when.

However, it's given me an extract from its systems from May 2002. This shows that Mr G called to discuss a letter and form he'd received about a redress payment that ReAssure had offered. As far as I can gather, the letter included a deadline for Mr G to respond and he was concerned that he'd missed the deadline as he'd been away. According to ReAssure's note, it told Mr G to return the form in any event, but there's no evidence to suggest he did. The record clearly shows Mr G's name and address in 2002.

Given that the call record relates to Mr G apparently querying the redress letter he'd received, it does seem more likely than not that the letter was sent as ReAssure has suggested. Even though I appreciate Mr G may be a little more sceptical about that – especially as ReAssure hasn't been able to supply a copy.

In addition to this I've seen a copy of the letter that ReAssure sent to Mr G in November 2002. In it ReAssure referred to its earlier redress offer and the fact it had opened a policy in Mr G's name "solely to provide redress as described in our previous letter". The policy schedule attached to the letter refers to the policy as an "augmentation" policy. This letter was addressed to Mr G at the address he's confirmed he was living at at the time. I've seen no evidence that the policy letter or ReAssure's earlier redress offer were returned undelivered. So, as they appear to have been correctly addressed, on balance, it seems likely they'd also have been received. That also appears to be the case for a policy statement sent in 2004.

Notwithstanding Mr G's position that he knew nothing about the policy, I still have to carefully weigh up the evidence before me. And, on balance, I think Mr G ought to have known of a cause for complaint in 2002. I'll explain why.

Even if Mr G couldn't recall receiving a previous redress offer, the fact that ReAssure's November 2002 letter also mentioned "redress" clearly indicates that something had gone wrong. And the fact that ReAssure had set up a policy in Mr G's name of its own volition ought, in my opinion, to have alerted Mr G to a problem. It's also worth saying that Mr G didn't need to know exactly what had gone wrong. Had he contacted ReAssure on receipt of the policy letter I've referred to, it seems likely it would have explained that it had paid redress on the basis that it believed his personal pension may have been mis-sold. And Mr G would then have had three years to make his complaint about that if he'd wanted to.

Taking all of the above factors together, I'm satisfied that Mr G ought to have been aware of a cause for complaint from at least 2002 and certainly by about 2004 when he was sent a statement about a policy set up from a redress award. So, he'd have had until 2007 at the latest to make a complaint (three years from 2004). There's no evidence he did so. So, I'm intending to say this part of his complaint has been made too late. I've also seen no evidence that there were exceptional circumstances preventing Mr G from making his complaint sooner.

Turning to Mr G's complaint about the delay in cashing his pension in. According to the evidence, Mr G first asked to cash his policies in around mid January 2023. And in line with the normal process, ReAssure had to send him the relevant forms to fill in. That appears to have happened shortly after and according to Mr G's account, ReAssure received both completed forms around 20 January 2023. Whilst things seemed to go fairly smoothly as far as the first policy was concerned, that clearly wasn't the case for policy two. And I can see that caused Mr G to chase things up on a few different occasions.

From what I can gather, part of the hold up related to the fact that ReAssure realised Mr G still needed to sign a declaration concerning the redress paid some years before. And whilst that doesn't seem unreasonable, I can appreciate why it would have caused Mr G frustration, particularly when he expected to receive his pension funds sooner – around the same time he received the funds from the first policy.

ReAssure itself recognised that it took too long to send Mr G the forms necessary for him to cash in his pension. And it offered a total payment of £277 for that. This included £66 to reflect the difference in value compared to when it thought the policy should have been cashed in - around 6 February 2023 - and £11 in interest. Given that ReAssure received the completed forms around 20 January 2023, it seems reasonable to conclude that had it taken swifter action, it would have been able to cash Mr G's policy in within about ten days or so. Therefore, I agree it's reasonable for ReAssure to work out the policy value on 6 February 2023 – which is roughly ten days after it received Mr G's forms and pay him the difference in value plus interest. In addition, it's paid £200 for the inconvenience Mr G suffered. Taking those things together as well as ReAssure's apology, I'm satisfied it's given an appropriate response in relation to this aspect of the complaint. So, I'm not intending to direct ReAssure to do anything else.

My provisional decision

I'm intending to say that we have no authority to consider the part of Mr G's complaint concerning the mis-sold pension and pensions review. And in relation to the part of the complaint that we do have authority to look into, I'm satisfied that ReAssure has already taken reasonable steps to put things right”.

Responses to my provisional decision

ReAssure didn't respond.

Mr G's made a number of comments for me to consider. Those include:

- I appear to have accepted everything ReAssure says without having concrete evidence.
- His pension had transferred between companies and he hadn't heard anything about it until he traced it on a government website around 2022/23.
- He's adamant ReAssure didn't invite him to take part in a pensions review, neither had he responded to say he'd take part.

- He'd never contacted ReAssure in 2002 – or at any other time.
- Again, had he received a letter in 2002 saying he'd accepted its proposal to set up a new policy, he'd have got in touch. That's because he wouldn't have agreed to compensation being set up as a new policy – he'd have insisted it was paid into his existing one.
- He'd lived at two other addresses. He said he wasn't in control of other people returning letters saying "*no longer at the address*".

In summing up, Mr G believes I've clearly made my mind up and no amount of evidence was going to change that. He said he had nothing to gain by complaining and wasn't looking for compensation. He was simply looking for ReAssure to be held to account.

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 don't propose to address each individual comment that Mr G has made, although I can assure him I've considered everything that he's said. Instead, I'll refer to those that go to the heart of the main issue I'm considering here – whether Mr G has made his complaint in time.

As I see it, the crux of the dispute between ReAssure and Mr G rests on whether or not Mr G knew about the redress offer that ReAssure made in 2002. Because if he did, he'd have known that his personal pension was likely mis-sold and he'd have had three years from that point to make a complaint.

Mr G is adamant he didn't know about it until about 2022/23. He's placed great emphasis on the fact that ReAssure has retained some correspondence from around the time of the pensions review, but not all of it. I accept that's far from ideal.

But it's not necessarily unusual that with the passage of time, some evidence is no longer available. In these circumstances I have to decide things on the balance of probabilities – that is what I think is most likely to have happened. That's exactly what I've done here.

Whilst ReAssure hasn't provided a recording of the telephone conversation with Mr G that reportedly took place in May 2002, it has given me a screenshot and a brief summary of what was apparently discussed. The screenshot clearly shows Mr G's name and address and references that a redress letter was discussed. Again, I appreciate that Mr G says he had no knowledge of a pensions review. But the fact that a redress letter was discussed, does add weight to the fact that ReAssure had carried out a review.

Amongst the other evidence that is available is a copy of a letter from ReAssure to Mr G from November 2002 in respect of redress it had paid him by setting up another policy. As I said in my provisional decision, it would be unusual for a provider to set up a policy for a consumer of its own volition, unless there was something that prompted it to. In other words, it adds further weight to the fact that ReAssure had carried out some form of review and, having decided that something had likely gone wrong, had taken steps to put it right.

Mr G's made the point that he's changed address over the years and has suggested that other tenants may not have forwarded on correspondence addressed to him. But I'd already taken that into account when reaching my provisional findings. And I'm satisfied that, based on what he told us about where he was living at the time, even if Mr G didn't know about the pensions review invitation, the November 2002 policy letter was correctly addressed. Therefore, I don't think it was a question of another tenant having returned ReAssure's letter

stating “*no longer at the address*” as Mr G is suggesting now. It seems likely, on balance, that Mr G would have received the letter even if he doesn't remember doing so. And on top of that, the evidence shows that a policy statement was sent to the correct address in 2004. So, even if Mr G hadn't received the 2002 correspondence, he ought to have been aware in 2004 that a new policy had been set up. He could have queried that at the time if he didn't know what prompted it.

Taking all of these factors together, I remain of the opinion that, on balance, Mr G ought to have known of a problem concerning the original advice he received in at least 2002 and certainly by 2004 when he received a policy statement. So, at the latest he'd have had until 2007 (three years from 2004) to make a complaint. As he didn't do that it follows that I think this part of the complaint has been made too late.

Mr G hasn't given me any comments or new evidence to consider concerning the part of the complaint to do with ReAssure's delays. So, I see no reason to change what I said about that in my provisional decision. I'm satisfied therefore that it's given an appropriate response in relation to this aspect of the complaint. So, I'm not intending to direct ReAssure to do anything else.

My final decision

ReAssure has already taken reasonable steps to address the complaint concerning its delays in paying the pension. So, I'm not directing it to do anything else.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 5 April 2024.

The part of the complaint to do with the mis-sold policy has been made too late meaning we have no authority to consider it.

Amanda Scott
Ombudsman