

The complaint

Mr S complained that ReAssure Life Limited (ReAssure), used the wrong date to value his pension benefits when they were transferred to a Self Invested Personal Pension (SIPP).

He would like to be compensated for any financial loss he has suffered as a result and for the distress and inconvenience he has been caused.

Mr S has been assisted in this process by an Independent Financial Adviser (IFA). For the sake of simplicity, I shall refer to all communications as having been from Mr S.

What happened

I issued my provisional decision March 2024, the relevant parts of which are reproduced below and forms part of my decision:

Mr S is a UK citizen but a long term resident of another country. In late 2022, he sought help and advice from an IFA registered in the UK to review his financial situation, receiving a recommendation report from the IFA on 14 November 2022.

As a result of the advice he was given, he decided to transfer two UK based pension policies he held with ReAssure to a SIPP, together with two other pension policies held with other providers. A transfer request was sent to ReAssure via origo on 18 November 2022. On 21 November, ReAssure wrote back to Mr S, asking him to complete a further transfer form as it required some more information before it could transfer his benefits to the SIPP.

ReAssure explained that as he was not resident in the UK it needed to ensure that the transfer request would not result in him losing money to a pension scam, which were often associated with the transfer of UK pension benefits to international SIPP products. The letter went on to explain that the additional information was required before it could begin to process his transfer request, and that failure to provide the information could result in the transfer being refused. Mr S completed and returned this form to ReAssure on 23 November

Following the submission of this form and report, ReAssure wrote to Mr S once more on 2 December 2022. It explained that he was required to have an appointment with the MoneyHelper service, to ensure that he was aware of all the information he would need to understand the risks associated with the proposed transfer. The letter stated:

Once you have attended your appointment, you should think about whether you want to continue with the transfer. If you want to continue....please let us know in writing by completing the enclosed discharge form and sending us a copy of the MoneyHelper summary document and unique reference number given to you by MoneyHelper. If you do not take the required guidanceyou will not have a statutory right to transfer to this scheme and we will not transfer your pension.

Mr S contacted MoneyHelper on 5 December 2022 to make an appointment. He also made a complaint to ReAssure about the need to make this appointment, given that he had

already received financial advice from an FCA registered IFA. The earliest appointment he could make was on 12 January 2023, and the meeting took place on that date.

ReAssure responded to Mr S's complaint on 4 January 2023. It did not uphold his complaint but explained that:

Due to government guidance ReAssure feel this approach is appropriate to ensure our customers investments are protected from potential pension scams.

ReAssure also told Mr S that if he wished to bring his complaint to this service that he should do so before 24 July 2023

Following the MoneyHelper meeting, Mr S contacted ReAssure to inform it that the meeting had taken place and that he wished for the transfer to proceed. ReAssure then processed the transfer, which completed on 3 February 2023.

Once the transfer was complete, Mr S noticed that the value of the funds transferred was lower than he was expecting. When he queried this with ReAssure, it informed him that the price of the units used in his transfer was based on the date the original origo request was received in November 2022, rather than when the transfer was completed in February 2023. Mr S was unhappy with this and made a further complaint on 24 February 2023.

ReAssure issued its final response to this complaint on 26 April 2023, rejecting Mr S's complaint. It maintained that it had acted correctly, and stated that:

Funds were not sold until 03 February 2023, as had Mr S decided to change his mind, and the transfer process hadn't been completed, his funds should have remained. The value of those funds was honoured at 18 November 2022.

It further explained that its policy was to value all transfers as at the date at which the original request was received, rather than when the transfer actually took place. It wrote again to Mr S on 28 April, when it explained the calculations in more detail. It also explained that transaction histories it had provided for Mr S's two policies showing sale of assets taking place on 19 November 2022 were

hypothetical and assumed the transfer would continue

It also repeated that he would need to bring his complaint to this service before 24 July 2023.

Unhappy with this response, Mr S brought his complaint to this service.

Our investigator reviewed all the evidence and formed the view that the complaint should be upheld and that ReAssure should have used the price when the transfer actually took place rather than when the first origo request was received.

Mr S agreed with their view but ReAssure did not respond.

As ReAssure did not respond to the view this case has been passed to me to review the evidence again and make a final decision.

ReAssure replied to my provisional decision to accept it. Mr S replied to request that a simplified redress calculation be used, as the investment and movement of this funds would be complicated and time consuming to calculate. ReAssure has agreed to this, so I will issue my final decision now.

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.

In my provisional decision, I stated:

Having reviewed all the evidence in this case, I agree with our investigator and intend to uphold this complaint. I have, however, reached the same conclusion for some different reasons, so I think it is appropriate to give both parties the opportunity to comment before I issue my final decision.

I will now explain my reasons.

The first issue I would like to address is whether Mr S brought his complaint to this service in time. I note that ReAssure maintained its view that he should have brought it by 24 July 2023, six months after its response to his initial complaint. Mr S is not, however, seeking to bring that element of his complaint to this service. The substance of this complaint is the date at which the transfer of his pension benefits should have been priced and Mr S did not complain about this until February 2023, receiving a response on 26 April 2023. I find that this element of his complaint was not concluded until 24 May 2023, when ReAssure wrote to say

There will be no further response in relation to this complaint or the request for an assessment of financial loss, and this remains our final position regarding your complaint.

Consequently, I find that Mr S had until 24 November 2023 to bring his complaint to this service, and so I can consider it.

Moving on to the substance of Mr S's complaint, the key point I need to decide is whether ReAssure acted correctly in the way it has treated Mr S's pension transfer, and specifically if it was right to price his benefits as if the transfer occurred when he first requested it (18 November 2022) or when it actually took place (3 February 2023).

As a first step, I have considered the reasons why the transfer took so long to complete, and whether either Mr S or ReAssure caused any undue delays to the process. I've looked at the correspondence that has been provided, and find that neither party caused any significant delay – communications were generally quickly responded to by both parties, so I can't see that ReAssure has done anything wrong here. I agree with what both parties have stated; that their belief is that the reason for the relatively long period between the transfer originally being requested and being completed is because of the regulatory requirements that had to be completed before ReAssure authorised the payment. These requirements were greater because Mr S is not a UK resident and the receiving scheme was a Self Invested Personal Pension (SIPP) which has the ability to invest in overseas assets.

Having established that the gap between the transfer request and its completion was not due to any undue delay, I'll now look at the issue of whether ReAssure was correct to use the date of the request as the date at which the assets were valued for the transfer.

ReAssure has provided evidence that it followed its own internal procedure when pricing the assets using the date it received the transfer request.

In a letter to Mr S on 5 April 2023, it said:

Our procedure dictates valuation takes effect at completion of the application; although in some cases this is not always the final requirement to proceed with a transfer. The final requirement related to the appointment and declaration regarding MoneyHelper guidance.

It also referred to this process in its final response to Mr S's complaint on 26 April 2023, when it stated:

When treating customers fairly our procedure cannot be fluid, so it was decided a number of years ago that if a full application has been received on Date X, but additional requirements are needed, and are subsequently received on Date Y, we use Date X to value the fund. This is in place to protect customers should the value of their pension fall.

From this, I am satisfied that ReAssure has followed its own internal process when pricing the assets for transfer. I cannot comment on whether this is made explicit in the terms and conditions of its policies as I have not had sight of these from either party.

ReAssure also explains, as shown above, that it believes that this process protects customers from a fall in the value of their assets prior to transfer. The reverse is, of course, also true, so customers do not benefit from any rise in the value of their assets prior to transfer. But I think the broad principle isn't unfair – transferring members are assured of a transfer value as close as reasonably possible to the date their transfer request was made. And in circumstances when the transfer happens quickly, with no delay, the effect of this approach is unlikely to be significant anyway.

However, in order to decide whether I think ReAssure has treated Mr S fairly in the circumstances of this particular complaint, I have referred to the FCA's Principles for Businesses. I believe that the following principle is most applicable to this complaint:

Communications with clients: A firm must pay due regard to the information needs of its clients, and communicate information to them in a way which is clear, fair and not misleading. (Principle 7)

In terms of this principle, I find that ReAssure should have told Mr S in a clear way how it intended to price his transfer, but I cannot see that it sought to make him aware of the process in any of the communications it had with him. As Mr S was an overseas resident, I find that ReAssure should have reasonably been able to foresee that the process would have taken longer than if he were a UK resident. Given this, the probability of a change in the asset value between the date the transfer was requested and when it was likely to be completed was foreseeably higher than for the majority of transfer requests it receives. This would have been made clear in this case once it was informed by Mr S that the earliest MoneyHelper appointment he could make was over one month away. I think it reasonable, therefore, to consider that ReAssure should have made Mr S aware of the valuation process in this instance. If it had, when considering the length of time the process took, on balance, I find it likely that Mr S would have chosen to withdraw his transfer request and resubmit it at a time when all the requirements of the transfer were met, in this case the required MoneyHelper appointment.

I also note that Mr S had asked for compensation for the distress and inconvenience he has suffered. Although the transfer took time to be completed, neither Mr S nor ReAssure consider that there was any unavoidable delay to the process, so this complaint did not arise until Mr S noticed the lower transfer value. I've also taken into account that although this decision is written in a way that describes all correspondence was with Mr S, in practice almost all correspondence was between ReAssure and Mr S's IFA. Consequently, I do not feel it is appropriate to make such an award in the circumstances of this case.

I have considered Mr S's request to use the alternative, index based formula for calculating his financial loss given the information he provided to substantiate the complexity of his investments. ReAssure has agreed to this approach. I have also awarded interest at 8% simple per annum to be added to the loss amount from the date of my decision to the date of settlement.

Putting things right

My aim is that Mr S be put back as closely as possible into the position he would have been had ReAssure transferred the full value realised by the sale of his pension assets and transferred that amount to his SIPP.

To do this, it must carry out the following:

- *Compare the actual value transferred to Mr S's SIPP with the notional value assuming that the assets were priced as at 3 February 2023 rather than at 19 November 2022. To do this, it should apply the change in value of the FTSE All Share Index for the period in question. This should be accomplished by dividing the level of the FTSE All share index at the date of my final decision by the level of the same index on 3 February 2023. It should then multiply the result by the difference in the transfer values from 18 November 2022 and 3 February 2023.*
- *If the notional value of the pension benefits is higher than the actual value of the pension, then a loss has occurred and redress is payable to Mr S.*
- *If the actual value of the pension benefits transferred is higher than the notional value, then no loss has occurred.*
- *If a loss has occurred An amount of redress able to purchase the same number of those additional units as at the date of my final decision should be transferred to Mr S's SIPP. The amount paid should allow for the effect of charges and any available tax relief. Compensation should not be paid into the pension plan if it would conflict with any existing protection or allowance.*
- *If ReAssure is unable to pay the compensation into Mr S's pension plan, it should pay that amount direct to him. But had it been possible to pay into the plan, it would have provided a taxable income. Therefore the compensation should be reduced to notionally allow for any income tax that would otherwise have been paid. This is an adjustment to ensure the compensation is a fair amount – it isn't a payment of tax to HMRC, so Mr S won't be able to reclaim any of the reduction after compensation is paid.*
- *The notional allowance should be calculated using Mr S's actual or expected marginal rate of tax at his selected retirement age.*
- *If it is assumed that Mr S is likely to be a basic rate taxpayer at the selected retirement age, so the reduction would equal 20%. However, if Mr S would have been able to take a tax free lump sum, the reduction should be applied to 75% of the compensation, resulting in an overall reduction of 15%.*
- *If either ReAssure or Mr S dispute that this is a reasonable assumption, they must let us know as soon as possible so that the assumption can be clarified and Mr S receives appropriate compensation. It won't be possible for us to amend this assumption once any final decision has been issued on the complaint.*
- *The redress calculation should be provided to Mr S in a clear, simple format*
- *Interest at 8% simple per annum be added to this amount from the date of this decision until the date of settlement.*

Why is this remedy suitable?

I've decided on this method of compensation because the use of the FTSE All Share Index should provide a reasonable proxy to what Mr S actually did.

My final decision

I uphold the complaint.

ReAssure Life Limited should pay the amount calculated as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 19 June 2024.

Bill Catchpole
Ombudsman