

Ombudsman's Determination

Applicant	Mr N
Scheme	ReAssure Personal Pension Plan (the Plan) Policy Numbers UP2885827 & UP2885829
Respondent	ReAssure Ltd (ReAssure)

Outcome

1. Mr N's complaint against ReAssure is partly upheld.
2. To put matters right, ReAssure shall award Mr N £1,000 (inclusive of the £450 payment already made) in recognition of the serious non-financial injustice which he has suffered in connection with this matter.

Complaint summary

3. Mr N complained that ReAssure provided him with a substandard administrative service for the Plan. He said that ReAssure:
 - failed to comply with his request made in March 2021 to draw the remaining funds available from the Plan as income in a timely manner;
 - incorrectly applied income tax to the payment; and
 - failed to respond to his: (a) potential fraud alert in April 2021; (b) enquiries about the Plan; and (c) subsequent complaint without delay and within its timescales.

Background information, including submissions from the parties

4. On 22 March 2021, Mr N informed ReAssure that he wished to draw the remaining funds held in both policies of the Plan as income. He requested the necessary paperwork in order to do so.
5. On 21 April 2021, Mr N notified ReAssure that it had only sent him the paperwork for policy number UP2885827. He asked it to send him the relevant documentation for the other policy.
6. In his e-mail dated 26 April 2021 to ReAssure, Mr N said that:-

- He received a telephone call on 23 April 2021, from a lady who said that she was a representative of ReAssure and that she wished to assist him with his request so that it could be dealt with as swiftly as possible.
 - At her request he divulged personal information to her for security purposes, following which she said that she would send him some forms within 48 hours by e-mail. He had not yet received these forms¹.
 - He would like ReAssure to confirm that it had a record of this telephone call.
7. On 30 April 2021, Mr N informed ReAssure that he had not received a response to his e-mails. He complained that:
- “...as with my earlier drawdown with you a year ago, it appears that poor service, obfuscation and delay are the order of the day. This is totally unacceptable.
- Please could you address this without delay. I urgently need to know if there is any security risk to my account arising from the call...I need the forms to make the drawdown, I need to hear from you on these matters and...how you will compensate me for this appalling service and worry.”
8. ReAssure received the completed payment forms for both policies of the Plan from Mr N on 12 May 2021.
9. In his e-mail to ReAssure, dated 27 May 2021, Mr N said that:-
- He was still waiting for payment of the residual funds held in both policies.
 - It had not provided him with an update on his complaint.
 - He would like an explanation for the delayed payment; and its inaction dealing with his complaint.
10. After Mr N had complained again on 8 June 2021, ReAssure responded by letter on the same day as follows:
- “...we did delay your payment for the full lump sum on both your policies. Namely for policy number UP2885829 there was a delay in sending out the relevant forms in order to complete the requirements for payment as well as payment itself. For policy number UP2885827 there was a delay in payment following the receipt of the completed forms.
- We're currently experiencing very high customer demand and this has meant in some instances we've taken longer than we normally would to respond to customer requests. Please be assured we are working hard to resolve this.

¹ Mr N has said that he eventually received these forms in May 2021.

I can confirm...that payment has been made for the full pension lump sum for policy number UP2885827, this was authorised on 4 June 2021 and would take 3-5 working days in order to clear into your account. I have raised as a high priority with the payments team to make payment for your policy number UP2885829, this should be made very soon.

I would also like to take the opportunity to address your concern that there may have been a security breach surrounding your phone call on 23 April 2021. I can confirm that this was a legitimate call from one of ReAssure's servicing team. Please be rest assured that ReAssure takes policy holder security very seriously and I am sorry that this concern was not addressed sooner...

I realise our error has caused you inconvenience. So, to say sorry, I've arranged for £200 which includes £25 for late payment interest to be paid directly into your bank account. It should arrive within 10 working days. Finally, I've passed on your comments and the findings of your complaint to the relevant team managers to avoid this happening again in the future."

11. In his e-mail dated 16 June 2021 to ReAssure, Mr N said that:-

- He had received a partial payment of £4,388 from the Plan. It was paid late and not within its specified timescales.
- The payment could not have come from policy number UP2885827. As at 22 April 2021, there was only £873 in cash held in this policy.
- It also did not represent full payment from policy number UP2885829 which had a cash value of £5,570 as at 22 April 2021.
- He expected to receive a payment of around £6,443, that is £873 + £5,570, because he did not have to pay tax on his drawdown income from the Plan.
- The award of £200 in recognition of the distress and inconvenience caused by its mistakes was inadequate.

12. ReAssure responded to Mr N in its letter dated 18 June 2021 that:-

- The payment which Mr N received of £4,388 was for policy number UP2885829 only. Income tax of £1,180 had been deducted from the gross payment of £5,568.
- It had failed to provide him a confirmation letter with this payment and would arrange for one to be sent to him.
- As Mr N had not received a confirmation letter of payment for policy number UP2885827, it would arrange for this to be sent to him too.

- It would like to again apologise for any inconvenience caused by its poor service.
13. On 19 June 2021, Mr N asked ReAssure why the gross payment of £5,568 had been taxed. He said that no income tax had been deducted from previous drawdown payments from the Plan because of “longstanding arrangements” with HM Revenue & Customs (**HMRC**).
 14. Mr N also said that:-
 - He had not yet received payment of either the remaining funds held in policy number UP2885827 or the goodwill award of £200.
 - It was unacceptable for ReAssure to attribute its poor service on “high customer demand”.
 - It should award him an extra £200 in recognition of its continuing errors and misleading correspondence and the considerable time which he had to spend dealing with this matter.
 15. In its letter dated 28 June 2021, ReAssure replied that:-
 - It had asked its payments team to telephone him and explain why tax had been deducted from the gross income payment of £5,568.
 - It had made an error which prevented payment of the remaining funds held in policy number UP2885827 from reaching his bank account. It would ensure that payment was now made as soon as possible.
 - It would arrange for an improved goodwill payment of £300 to be paid directly into his bank account within the next 10 working days.
 16. On 5 July 2021, Mr N notified ReAssure that he had not yet received any further payments, a telephone call to discuss the tax deduction, and details of the drawdown payments made from the Plan.
 17. On 16 July 2021, Mr N chased ReAssure for a reply to his e-mail of 5 July 2021. He said that its failure to send him information about his drawdown payments was hindering him from reclaiming the income tax paid in error to HMRC.
 18. In his e-mail dated 9 August 2021, Mr N informed ReAssure that he had still not yet received payment of the remaining funds held in policy number UP2885827, the improved goodwill award of £300, and a telephone call to discuss the tax deduction. He also said that ReAssure had only provided him with details of the tax deducted from the income drawdown payment but not explained why it was made.
 19. Mr N requested that ReAssure pay him the outstanding monies due to him immediately and an additional award of £250 for “the broken promises and delays when making payments and phone calls and remedying past mistakes.”

20. ReAssure responded in its letter dated 22 September 2021 that:-

- There had been a delay in rectifying the mistake previously identified for policy number UP2885827. It had now corrected the error and would like to apologise for the delay in putting matters right.
- It had asked its payments team to pay the residual funds held in policy UP2885827 and explain why tax was deducted from the payment of £5,568 for policy number UP2885829, as a matter of priority.
- The award of £300 had not yet been paid because of an administrative error on its part. As a gesture of goodwill, it would pay him an improved award of £450 in the next 10 working days.

21. In his e-mail dated 30 September 2021, Mr N informed ReAssure that he was dissatisfied with how it had tried to explain the tax deduction to him during a telephone call.

22. ReAssure replied in a letter dated 1 October 2021 as follows:

“I can confirm on the small pots form you ticked that you would like to take this payment under pension flexibility rules so this would have to be taxed based on the tax code 1257L. If you had ticked that you would like this payment under the small pots rules then the payment would have been taxed based on the tax code BR.

The reason this tax code (1257L) is used for surrender payments is to ensure we have covered all of the tax that could possibly be due. This can sometimes cause issues where policyholders feel they have been overly taxed.

We do this because we would prefer for us to cover all of the tax that could possibly be due on the payment rather than under taxing the payment and then HMRC sending you a tax bill at the end of the tax year.

I can confirm we have made your tax submission on this payment under PAYE reference number...If you supply this to HMRC they should be able to locate the tax submission we have made.

After next 5 April HMRC will check if you have paid the correct amount of tax, and if not they will contact you. But if you think you have paid too much tax you can ask HMRC for a tax refund now...

To claim a refund you can complete a form online without needing to contact HMRC directly. You should find this easier to do than completing the form manually...”

23. Mr N successfully applied for a tax refund from HMRC.

Mr N's position

24. The failure of ReAssure to deal with his potential fraud alert in a timely manner caused him “untold worry and distress”.
25. ReAssure broke “a succession of promises” to pay the residual funds held in the Plan and also the goodwill award to him within its timescales.
26. He had drawn income from the Plan a number of times since 2017. HMRC had exempted him from paying tax on these payments because he had not worked for over twenty years. Legal & General, the former administrator of the Plan, had paid his income without deduction for tax. Crucially, ReAssure also did so in an earlier income drawdown payment made in December 2020.
27. ReAssure awarded him £500 in recognition of the poor service it provided him when carrying out his previous drawdown request in 2020.
28. ReAssure should pay him an award of £2,500 in recognition of the “exceptional nature” of the non-financial injustice which it has inflicted upon him through its poor service dealing with a simple income drawdown request.

ReAssure’s position

29. It is willing to offer Mr N an improved award of £1,000 (inclusive of the £450 already paid) in recognition of the non-financial injustice which he has experienced dealing with this matter as a gesture of goodwill.
30. Mr N has not suffered any actual financial loss as a consequence of its poor service. HMRC has returned the tax incorrectly deducted from the income payment to him.

Adjudicator’s Opinion

31. Mr N’s complaint was considered by one of our Adjudicators who concluded that further action was required by ReAssure. The Adjudicator’s findings are summarised in paragraphs 32 to 42 below.
32. There was no doubt from the evidence presented that ReAssure had provided Mr N with a substandard level of service for the Plan policies and made a catalogue of errors while administering them including:
 - failing to explain in good time to Mr N that the telephone call on 23 April 2021 was genuine;
 - originally sending him the relevant payment forms for just one of the two policies;
 - failing to pay the remaining funds held in both policies of the Plan and also its goodwill award to him within the timescales specified in its letters;
 - applying income tax unnecessarily to the residual payment from the Plan; and

- generally failing to satisfactorily deal with Mr N's enquiries about the Plan and his subsequent complaint in a timely manner.
33. In the Adjudicator's view, the errors identified above constituted clear maladministration on the part of ReAssure.
 34. Indeed, ReAssure accepted that it should have provided Mr N with a better service and had sincerely apologised to him for its shortcomings on numerous occasions.
 35. The Pensions Ombudsman's role is to put Mr N, as near as possible, in the position he would have been in had the maladministration not taken place.
 36. When Mr N brought the mistakes to the attention of ReAssure, it tried to take the appropriate action in order to put matters right for him. However, the Adjudicator considered that ReAssure had failed to do this in an efficient and timely manner.
 37. In particular, ReAssure notified Mr N on a number of occasions that it would pay the remaining funds available to him from the Plan and also the goodwill award within specific timescales. Regrettably, again and again, this transpired not to be the case. In the Adjudicator's view, it was reasonable to expect that ReAssure should have paid Mr N these monies without requiring multiple attempts to do so.
 38. The Adjudicator noted that Mr N had now successfully reclaimed from HMRC the income tax which was deducted unnecessarily from his residual payment by ReAssure. He had consequently not suffered any actual financial loss because of this mistake.
 39. The manner in which ReAssure had handled Mr N's case was bound to have caused him serious distress and inconvenience.
 40. During the Adjudicator's investigation, ReAssure offered Mr N an improved goodwill award of £1,000 (inclusive of the £450 already paid to him) in order to try resolving his complaint amicably.
 41. Mr N considered that ReAssure should award him £2,500 for the exceptional nature of the distress and inconvenience which it inflicted upon him through its poor service.
 42. However, in the Adjudicator's view, the improved award of £1,000 was commensurate with the degree of non-financial injustice which Mr N had experienced in dealing with this matter, and in line with what the Pensions Ombudsman would likely direct ReAssure to pay him if his formal involvement is required.
 43. Mr N did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr N provided his further comments which do not change the outcome.
 44. Mr N says that:

"This case has now taken years...Throughout the process, it has been clear that not only does this delay suit ReAssure's commercial imperative, but that they care little for either the client or the detail: their written responses...have

been all of threadbare, sloppy and misleading; and disrespectful if not insulting to both my legitimate concerns and the office of the Ombudsman.

The distress, the nature of that distress, and the tactics of protracted delay employed at every opportunity by ReAssure are plain to see. I do understand that the purpose of an Ombudsman's award is not to punish the pension provider (I am hoping the Financial Conduct Authority will do just that) but £1,000 does not even approach the expense of my simply seeking the payment of monies that belonged to me and for which I saved many years for, much less progressing this complaint and the distress ReAssure have so recklessly and heedlessly caused.

I very much believe that the serious distress brought out by ReAssure ought to warrant an award of £2,500..."

45. I note the additional points raised by Mr N but I agree with the Adjudicator's Opinion.

Ombudsman's decision

46. Mr N considers that the level of maladministration attributable to ReAssure is "exceptional" when applying the criteria shown on The Pensions Ombudsman's (TPO) factsheet entitled "Redress for Non-Financial Injustice".
47. The conditions shown in TPO factsheet for the various categories of distress and inconvenience are, however, for guidance purposes only. The facts of many complaints will often straddle the criteria between different categories of distress and inconvenience such as is the case here.
48. When deciding whether to direct an award for distress and inconvenience, I assess each case on its facts and merits. Similar complaints should, however, result in consistent and broadly comparable awards.
49. Furthermore, my awards for non-financial injustice are modest and not intended to punish a respondent.
50. Having carefully considered the submissions and evidence, I find that the degree of non-financial injustice which Mr N has suffered because of the maladministration identified above is serious enough to warrant an award of £1,000 from ReAssure (inclusive of the £450 already paid to him).
51. I consider the sincere apology that Mr N has received and the additional goodwill award of £550 offered by ReAssure during the Adjudicator's investigation to be sufficient.
52. I partly uphold Mr N's complaint.

Directions

53. Within 21 days of the date of this Determination, ReAssure shall pay Mr N £1,000 (inclusive of the £450 payment already made) in recognition of the serious non-financial injustice which he has suffered in connection with this matter.

Anthony Arter CBE

Deputy Pensions Ombudsman
23 August 2023