

## Ombudsman's Determination

Applicant	Mr S
Scheme	ReAssure Pension (Group Stakeholder Pension Plan) <b>(the Plan)</b>
Respondent	ReAssure ( <b>ReAssure</b> )

## Outcome

1. I partly uphold Mr S' complaint and ReAssure shall pay Mr S £500 for the significant distress and inconvenience he has experienced less the £200 it has already paid him.

## Complaint summary

2. Mr S has complained that ReAssure delayed the transfer of two personal pension policies to his Novia UK SIPP (**Novia SIPP**). He said:-
  - He telephoned ReAssure many times to explain that the urgency of his transfers was because from 1 January 2022 he would become a Spanish tax resident.
  - He had not yet taken any money from his Novia SIPP, but he now had an inherent tax liability because he lived in Spain. He wanted ReAssure to cover his future tax liability.

## Background information, including submissions from the parties

3. Mr S held two policies in the Plan, ER/1, and ER/2.
4. On 30 June 2021, ReAssure sent a transfer statement to Mr S for ER/1 and ER/2.
5. On 13 August 2021, ReAssure telephoned Mr S' adviser, Fusion Accountancy, as it needed to establish the firm's accountancy qualifications before accepting any Letter of Authority (**LOA**).
6. On 19 August 2021, Fusion Accountancy telephoned ReAssure who confirmed Mr S' ER/1 transfer value was £320,923.56. ReAssure said it would send Fusion Accountancy policy details and a transfer statement.
7. On 25 August 2021, Mr S telephoned ReAssure to ask it for a transfer statement. On the same day, he telephoned ReAssure again to ask it for details about a retirement

annuity. ReAssure told Mr S that he could administer an annuity as normal if he set one up before he moved abroad.

8. On 2 September 2021, ReAssure asked its fund manager for unit values for ER/1 and ER/2.
9. On 1 October 2021, Fusion Accountancy telephoned ReAssure to request further information.
10. On 15 October 2021, ReAssure sent a transfer statement, dated 22 September 2021, for policy ER/1 and transfer forms to Fusion Accountancy. It showed a transfer value of £318,534.55.
11. On 12 November 2021, Novia telephoned ReAssure regarding Mr S' transfers. On the same day, Novia confirmed that Mr S' transfers were overseas transfers.
12. On 15 November 2021, Mr S telephoned ReAssure to ask if it could email him the International Self Invested Personal Pension form (**the SIPP Form**) as he lived in Spain. He wanted ReAssure to complete his transfers as soon as possible to avoid him becoming liable for a large Spanish tax charge.
13. On 18 November 2021, Mr S telephoned ReAssure to ask it to send him the SIPP Form as quickly as possible. Mr S reiterated should ReAssure fail to complete his transfers before he became a Spanish tax resident on 1 January 2022, he would incur a large Spanish tax liability if he withdrew a cash lump sum. On the same day, Mr S telephoned ReAssure to question whether he needed to complete the SIPP Form as his transfer was not an international transfer. ReAssure told Mr S that it required the SIPP Form as he lived abroad. Mr S telephoned ReAssure a third time that day to query why ReAssure was sending the SIPP Form when the receiving scheme was in the UK. ReAssure confirmed that it needed the SIPP Form as Mr S was living abroad.
14. On 19 November 2021, Mr S telephoned ReAssure to chase the SIPP Form as he had not received it.
15. On 22 November 2021, Mr S telephoned ReAssure as he had still not received the SIPP Form and ReAssure had not telephoned him back as it had said it would. ReAssure told him it was still checking his transfer documentation. On the same day, Mr S telephoned ReAssure again as it had still not telephoned him.
16. On 23 November 2021, ReAssure telephoned Mr S to inform him that due to a technical issue, it was not able to email the SIPP Form that day.
17. On 24 November 2021, ReAssure emailed the SIPP Form to Mr S and telephoned him. Mr S told ReAssure that he thought he had already sent a completed SIPP Form to it.
18. On 25 November 2021, Mr S telephoned ReAssure to ask for details of its service level agreements (**SLA**) on transfers. ReAssure told him it was four weeks to

complete a transfer. It also said the lump sum payable on 30 June 2021 was £90,563.17, which was 29.05% of the total ER/1 Plan value of £311,747.29.

19. On 26 November 2021, Mr S telephoned ReAssure to obtain the email address to send the SIPP Form to. ReAssure provided this information and it said he should make it clear in the subject line that the SIPP Form was for the Escalation Team. On the same day, ReAssure received Mr S' completed SIPP Form.
20. On 30 November and 7 December 2021, Mr S telephoned ReAssure to chase the completion of the transfers. ReAssure said they would be urgently allocated so the transfers could be progressed.
21. On 14 December 2021, Mr S telephoned ReAssure for an update on his transfers. It advised Mr S that that they were "in progress". On the same day, ReAssure responded to Mr S' concerns about his transfers. ReAssure said:-
  - It had reviewed its records, and it had provided a service to Mr S which had fallen short of the high standards it tried to provide to customers and a delay had occurred.
  - It was sorry it had let Mr S down, but it had experienced extremely high customer demand which had sometimes led to unfortunate delays.
  - It said Mr S' transfers would complete soon.
  - It would look to see if Mr S had suffered a financial loss, and it would update him.
  - It would send Mr S an award of £200 and it would give feedback to its team managers to try to avoid similar delays occurring for other customers in the future.
22. On 16 December 2021, Mr S telephoned ReAssure who advised him that a manager would telephone him that day. Later that day, Mr S telephoned ReAssure to complain that he had not spoken to a manager.
23. On 21 December 2021, a ReAssure manager left Mr S a message telling him that his ER/1 transfer payment had been authorised before 11.00 am that day, so it would be with Novia by close of business.
24. On 31 January 2022, Mr S telephoned ReAssure to complain about the way it had processed his transfers. He complained it had not telephoned him back when it said it would and the delays he had suffered would cause him a financial loss of £25,000.
25. On 17 February 2022, Mr S telephoned ReAssure to complain that he thought it was unacceptable for ReAssure to have eight weeks to respond to his complaint. Mr S said he had put his pension planning "on hold" until he knew whether ReAssure would compensate him.
26. On 28 February 2022, Mr S telephoned ReAssure about his complaint. He said he thought that three months to transfer his ReAssure pensions was too long. In

response, ReAssure promised Mr S that it would telephone him about his complaint within three days.

27. On 4 March 2022, Mr S telephoned ReAssure as it had not telephoned him back. ReAssure said a member of its complaints team would call him back as soon as possible. On the same day, ReAssure tried to telephone Mr R. Mr R called back and explained his complaint was about a Spanish tax liability and he would send proof of this liability.
28. On 14 March 2022, Mr S spoke to ReAssure to explain again that his complaint was about his Spanish tax liability. He also said he would re-send proof of his liability.
29. On 26 March 2022, ReAssure contacted Novia, the receiving scheme.
30. On 29 March 2022, Mr S telephoned ReAssure because it had not telephoned him back.
31. On 6 April 2022, Novia emailed ReAssure to inform it that Mr S' transfer money remained uninvested in its cash account.
32. On 12, 25 and 28 April 2022, Mr S telephoned ReAssure who told him it was completing a loss assessment.
33. Throughout May 2022, Mr S telephoned ReAssure about his complaint.
34. On 9 June 2022, Mr S spoke to ReAssure who said it would telephone him back in three to five days.
35. On 10 and 14 June 2022, a ReAssure analyst telephoned Mr S to discuss his complaint.
36. On 16 June 2022, Mr S emailed ReAssure his financial adviser's comments. This confirmed:-
  - Novia received the transfer value for ER/1 on 22 December 2021 and it confirmed receipt the following day.
  - Novia received the transfer value for ER/2 on 20 January 2022.
  - ReAssure said several times that it would transfer the funds but when chased it said it had not yet made the transfers, or that Mr S needed to supply another document.
37. On 26 and 29 June and 5 July 2022, Mr S telephoned ReAssure who told him the person assigned to work on his case was on sickness absence. It promised him a telephone call back within three days. Mr S emailed ReAssure the same day.
38. On 5 July 2022, Mr S brought his complaint to The Pension Ombudsman (**TPO**).
39. On 7 and 14 July 2022, Mr S telephoned ReAssure about his complaint.

40. On 25 July 2022, ReAssure provided its response to Mr R's complaint. It said:-

- ER/1: its delays meant it transferred £326,518.20 to Novia on 22 December 2021, rather than £317,666.20 on 29 September 2021.
- ER/2: its delays caused it to transfer £30,605.38 to Novia on 20 January 2022, rather than £31,240.16 on 29 September 2021.
- It would have been possible for Novia to pay Mr S 25% of the ER/1 cash transfer on, or before, 31 December 2021. However, it remitted the second amount for ER/2 after his deadline for tax residency purposes.
- ReAssure apologised for it making the second transfer after Mr S' deadline for Spanish tax residency.
- To consider Mr S' claim that when he withdrew an amount up to £7,810.04 from his Novia SIPP he had incurred an additional loss due to Spanish taxes, it required him to provide substantiated evidence of the tax charge incurred.

41. On 26 July 2022, ReAssure wrote to Mr S regarding the financial loss for ER/1. It referred to its 14 December 2021 complaint response letter and said that there had been no financial loss, as on 21 December 2021 it had transferred £326,518.20, instead of £317,666.20 if it had made the transfer on 26 September 2021.

42. On 8 August 2022, ReAssure sent Mr S a letter setting out its loss assessment on ER/1 and ER/2 again. It said it needed Mr S to provide evidence to substantiate any Spanish tax charges.

43. On the same day, Mr S telephoned ReAssure about his complaint.

44. On 26 July 2023, TPO asked ReAssure for its formal response on Mr S' complaint.

45. On 27 July 2023, ReAssure sent TPO its formal response to Mr S' complaint along with copies of its complaint file. The response confirmed:-

- It had conducted a loss assessment in July 2022 and sent Mr S a loss assessment letter to confirm its findings. ReAssure attached a copy of the loss assessment.
- On 8 August 2022, it had asked Mr S to send it substantiated evidence of his additional loss caused by him incurring a Spanish tax charge when he had withdrawn up to £7,810.04 from his Novia SIPP.
- Mr S had not sent ReAssure any new information after his 18 August 2022 email that said that Novia had disagreed that it could have processed his ER/1 pension payment by the end of 2021.

46. On 22 September 2023, Mr S commented on ReAssure's formal response. He said:-

- It was an unsatisfactory response and only referred to ER/2.

- His complaint was also about ER/1 which ReAssure had valued at £326,518.00. ReAssure transferred it too late in 2021 for his new provider, Novia, to process the tax-free element of £81,629.00 before his Spanish tax residency began. As a result, if he withdrew that money now, he would have to pay the top Spanish tax bracket of 45% that would cause him a financial loss of £36,733.05.
  - He had not yet drawn down any of his pension pots, so he had not included this in his Spanish tax return. But, if he drew down from ER/2 now, his tax liability would be £3,443.10.
  - His tax loss is persistent insomuch that when he drew down money in the future, he would have to pay Spanish tax on the withdrawal. Whereas, if he had held the money in his bank account before he became a Spanish tax resident, he would not have paid tax in the UK, or Spain, and he could have reinvested it.
  - He has provided a compensation tax table showing the 45% Spanish tax he would pay on any compensation on ER/1. This totalled £66,674.97 in tax.
47. On the same day, Mr S emailed TPO to confirm that what he was seeking was compensation from ReAssure for the inherent tax liability he had in his pension fund without him needing to provide proof that he had actually paid tax. He sent a compensation tax table for ER/2 showing the Spanish tax he would pay on ER/2. This totalled £13,796.02.
48. On 29 September 2023, TPO asked ReAssure if it wanted to comment on Mr S' additional points regarding ER/1.
49. On 2 October 2023, ReAssure told TPO that its April 2022 loss assessment letter covered only ER/1 and its July 2022 loss assessment letter covered both his policies (ER/1 and ER/2). It said both these letters confirmed there had been no actual financial loss.

### **Summary of Mr S' Position**

50. Mr S submits:-

- He is unhappy with ReAssure's customer service and administration.
- He has suffered a financial loss because his Novia SIPP now has an inherent Spanish tax liability because he lives and works in Spain.
- Mr S' Spanish tax adviser told him that any compensation payment would be liable to tax too, so he wants ReAssure to give him a guarantee that it will pay any future Spanish tax he incurs.
- His ReAssure pension money remains uninvested and he has not drawn any of it down to take as cash.
- Novia has said that it would not have been able to process the transfer it received on ER/1 before the end of December 2021.

## Summary of ReAssure's Position

### 51. ReAssure submits:-

- It has apologised and paid £200 to Mr S for its delays in December 2021.
- The loss assessment it sent Mr S on 8 August 2022 showed he has not suffered a loss because of the delays in transferring his funds, as the combined amount it transferred was £357,123.58 compared to £348,906.36 if it had made the transfers on 29 September 2021.
- In its 8 August 2022 email to Mr S, it asked him for evidence to substantiate his claim for additional loss caused by Spanish taxes. It has received none.

## Adjudicator's Opinion

### 52. Mr S' complaint was considered by one of our Adjudicators who concluded that the complaint should be partly upheld. The Adjudicator's findings are summarised below:-

- For Mr S' complaint to succeed, it had to be established that maladministration had occurred resulting in a reasonable and foreseeable loss. In cases where maladministration had been identified, the normal approach would be to try and put the applicant back in the position they would have been in had the maladministration not occurred.
- ReAssure had acknowledged that there were delays in its administration and processing of Mr S' transfers. To remedy the situation, ReAssure had conducted a loss assessment to determine whether the delays had caused Mr S a financial loss. It determined that while the transfer value paid on ER/2 was lower because of its delays, this loss was offset by the higher transfer value it paid on ER/1.
- In view of this, the Adjudicator did not consider that Mr S had suffered a financial loss because the total combined transfer values of ER/1 and ER/2 had increased as a result of the delay and the corresponding market fluctuations. After Novia received the transferred funds, Mr S subsequently had the opportunity to invest his money in a Novia investment fund.
- Mr S' claim for his Spanish tax liability was speculative and the potential amount was yet unknown. Mr S had been unable to provide evidence to support this part of his complaint. So, the Pensions Ombudsman (**the PO**) could not direct ReAssure to make good an unknown future tax liability. The PO would only look to remedy any justifiable loss that an applicant had already suffered.
- The Adjudicator recognised that Mr S had suffered some distress and inconvenience in dealing with this matter. However, he also recognised that ReAssure had already apologised and paid Mr S £200 compensation. The PO's awards for non-financial injustice started at £500 for significant distress and inconvenience. In the Adjudicator's opinion, the degree of non-financial injustice

that Mr S had suffered due to ReAssure's maladministration was significant because of ReAssure's poor level of service throughout the transfer process and the high number of telephone calls Mr S felt he needed to make to ReAssure before, and after his transfer.

- The Adjudicator considered that ReAssure should pay Mr S £500 for the significant distress and inconvenience its maladministration had caused him less the £200 it had already paid him.

53. Mr S did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr S provided his further comments which include:-

- ReAssure has not recognised the tax loss on ER/1.
- The Adjudicator's Opinion does not comment on whether it is reasonable to accept ReAssure's view that it transferred ER/1 in good time for Novia to pay out a tax-free cash lump sum. This was relevant especially in light of Novia providing an opinion that ReAssure transferred ER/1 too late for him to complete a drawdown before he became a Spanish tax resident.
- ReAssure has not provided a clear instruction on the evidence it required from him to claim the compensation on ER/2, nor an assurance that it was committed to providing compensation to him when he did submit that evidence.

54. I note the additional points raised by Mr S but they do not change the outcome. I agree with the Adjudicator's Opinion.

### **Ombudsman's decision**

55. I find that ReAssure did not have a duty to protect Mr S from tax losses arising from him becoming a Spanish tax resident although he had made ReAssure aware of the issue he might have to address.

56. A pension scheme manager's scope of duty excludes protecting a member from taxes incurred because of a change in their tax residency. Mr S' claim for a future, unknown tax charge is, in effect, a claim for damages for pure economic loss.

57. If there has been maladministration, for a claim to succeed, a claimant has to show that they suffered a financial loss because of that maladministration. ReAssure has acknowledged that there were unfortunate delays in transferring Mr S' policies ER/1 and ER/2. It conducted a loss assessment that showed that while there was a financial loss because of the delayed transfer of ER/2, the transfer value of ER/1 was higher due to the delays. The combined transfer values were higher than those payable in September 2021.

58. So, I find that Mr S has not suffered a financial loss because of the delays in transferring policy ER/1 and policy ER/2.



59. ReAssure did not have a duty under either statutory or contractual transfer provisions, or their duty to exercise skill and care implementing a transfer, to protect Mr S from taxes caused by his residency in Spain.
60. I have seen no evidence to show that ReAssure agreed to assume a specific duty to protect Mr S from foreign tax losses. It agreed to look at evidence to corroborate a Spanish tax loss, but Mr S has not provided evidence to show that he has incurred a loss to-date.
61. I find that ReAssure's maladministration and poor service caused Mr S significant distress and inconvenience. I note the number of telephone calls he made to ReAssure before and after the transfers of his policies. ReAssure has apologised and paid him £200 but I find that an award of £500 is appropriate recognition of the distress and inconvenience Mr S has suffered.
62. Therefore, I partly uphold Mr S' complaint.

## **Directions**

63. Within 28 days of the date of this Determination, ReAssure shall pay £500 to Mr S less the £200 it has already paid him.

**Camilla Barry**

Deputy Pensions Ombudsman  
16 June 2025