

The complaint

The trustees of a Discretionary Trust have complained that their Discounted Gift Scheme held within a Discretionary Trust in 2005, has been set up incorrectly. They have complained about ReAssure Limited's (ReAssure) role in that and the subsequent poor service they say they have received.

What happened

This Discretionary Trust was set up upon the advice of a third-party advisory firm, with a predecessor firm of ReAssure in 2005.

The settlor of the Trust – Mr K – had wanted his children to benefit from the Trust assets upon his death as opposed to his grandchildren.

A partial surrender of the Trust for £70,000 was made in January 2013. In 2021 the trustees discovered that the Trust wasn't set up in accordance with the original instructions. The Trust would only be paid out on the death of the beneficiaries who were Mr K's children – who were the showing as the lives assured – so his children wouldn't benefit after his death.

The trustees complained to the advisory firm and also to ReAssure. ReAssure responded to say that the Trust had been set up as requested by the adviser and they had made no error there. However, they did acknowledge that there had been delays in responding to the trustee's information requests and that some incorrect information had been given. They offered a total of £500 compensation for the inconvenience that this caused.

The case was brought to our service for an independent review and our investigator felt this offer was fair in the circumstances. The trustees remained unhappy, they said ReAssure still weren't being clear enough in their responses to information requests.

As no agreement was reached the case has been passed to me for a decision.

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 have reached the same conclusion as the investigator, that the offer made by ReAssure in the circumstances is fair. I'll explain why.

Mr K initially complained about delays and poor service he received from ReAssure between October and December 2022. In particular, there was a delay in responding to two letters he sent requesting more information. I can see that ReAssure offered £100 for the impact of this and I think that is fair.

ReAssure have subsequently increased their offer by a further £400, to £500. This is to take

account of what they accept is not being able to detail to Mr K sooner, how the trust was set up, on what basis and why they felt they had acted fairly. This includes initially informing Mr K that the bond could not be surrendered until the last beneficiary (his children) had died. Considering this went on from the initial queries in October 2022 until ReAssure provided their explanation in January 2023, I think this increased offer is fair but also fairly compensates Mr K for the impact of this.

ReAssure have now provided their confirmation as to the structure of the trust. I am satisfied that they have done what is required regarding this. I understand that Mr K has ongoing concerns regarding the set up of the trust with the advisory firm and is also questioning a previous withdrawal. However, they are being considered separate to this complaint.

I have also considered ReAssure's role in the setting up of the trust. Mr K has complained that the trust was set up incorrectly. This is because he wanted it to pay out to his children on his death. The trust lists Mr K's children (his beneficiaries) as the lives assured. The trust is set up that after Mr K's death (as the settlor of the trust), the trustees can decide to leave the bond invested if at least one of the lives assured is alive. They can also choose to fully or part encash and pay to the beneficiaries too. However, I haven't been provided with anything to conclude that ReAssure made an error here. The documentation explains it and I have a copy of the trust application form and I am satisfied that the trust was set up in accordance with the instruction.

In summary, I think the offer made by ReAssure to compensate Mr K for the distress and inconvenience caused is fair. There were clearly delays in responding and answering the questions. However, I am satisfied from the information provided that the trust was set up in accordance with the instruction ReAssure received.

My final decision

My final decision, for the reasons set out above, is that the offer from ReAssure Limited of a total of £500 to put things right, is a fair one. ReAssure Limited should pay the £500 if they haven't already done so.

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

Yoni Smith
Ombudsman