

## **The complaint**

Mr M complains that ReAssure Limited (ReAssure) gave him unsuitable advice regarding his pension funds, and as a result he has made a financial loss.

Mr M is represented in this complaint by a professional representative, but for clarity I'll refer to all actions and communications as being completed by Mr M himself.

## **What happened**

This complaint is regarding the actions of a financial adviser, who I'll refer to as DG, from a business called Kingsgate Law Limited (Kingsgate). Kingsgate were appointed representatives of Legal & General. Legal & General transferred its pension business to ReAssure, so ReAssure are the responsible entity and respondents to this complaint.

Mr M held personal pension plans with Legal and General. Mr M had an existing financial adviser relationship with Kingsgate in relation to other financial products, and in July 2014 DG visited Mr M at his home. This discussion was regarding Mr M's personal pensions. Mr M signed a letter of authority for Legal and General to release to Kingsgate details of these pensions.

In December 2014 an application for Mr M to open a Self-Invested Personal Pension (SIPP) with London & Colonial was received. This said that Mr M wished to transfer his personal pensions from Legal and General. The application form named his financial adviser as someone I'll refer to as HY. This application said his investments would be performed by a Discretionary Fund Manager, HS.

This transfer was completed in February 2015 and the funds were invested by HS. Unfortunately the investments chosen by HS failed and Mr M lost the majority of his pension funds.

On 26 February 2021 Mr M, via his representative, complained to ReAssure. He said that he was advised by DG, who was working as an agent of Legal & General under Kingsgate, to transfer his personal pensions into a SIPP, which had been arranged by HY. Mr M went on to say his investment portfolio via HS, which subsequently failed, had been recommended by DG. Mr M said the cause of his losses was DG's advice to switch his personal pensions held with Legal & General into a SIPP and subsequently invest with HS.

ReAssure replied that it believed the advice given to Mr M to transfer his pensions was given by an Independent Financial Adviser, so it was not responsible for this advice. Mr M sent ReAssure evidence which he thought supported his assertion that the transfer advice was given by DG whilst he was an agent of Legal & General, but ReAssure did not reply. So Mr M referred the complaint to our Service where it was considered by an Investigator.

And having considered everything, our Investigator, whilst he acknowledged that DG was involved in the process to some extent, didn't think there was evidence to show that DG, (whilst acting for Kingsgate, and so by extension, ReAssure) gave Mr M the advice to transfer his pensions into the SIPP and invest with HS. He thought the advice to open the

SIPP was given by HY.

But Mr M didn't agree. He provided samples of emails which he said evidenced that DG was acting for Kingsgate when he spoke to Mr M. And DG, whilst acting for Kingsgate, obtained the required information about Mr M's pension plans from Legal & General. Mr M also said all the documentation he signed was given to him by DG, and he provided testimony recalling the investment advice DG had given to him in July 2014.

But our Investigator didn't think this was enough to change his view. He said there was no evidence to show that DG gave Mr M the transfer advice, nor indeed the subsequent investment advice. He said that HY was named as Mr M's financial adviser on the SIPP application, and HY was named as Mr M's financial adviser on the HS application form. He thought that DG had probably introduced Mr M to HY, but his involvement was not much beyond this.

Mr M didn't agree. He said there was overwhelming evidence that the advice was given to him by DG whilst he was acting for Kingsgate. And as Kingsgate were appointed representatives of Legal & General at the time, ReAssure was now responsible.

As no agreement could be reached the complaint has come to me for a final 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.

The crux of this complaint is whether DG gave the transfer and investment advice to Mr M which resulted in Mr M transferring his personal pensions from Legal & General into a SIPP, and to then invest with HS. And if DG was responsible for this advice, whether he gave this advice in his capacity as Kingsgate Law Limited, an Approved Representative of ReAssure (Legal & General at the time).

Having considered all the evidence and submissions I am satisfied that Mr M first met DG whilst he was acting in his capacity as Kingsgate. I can see Mr M had an existing relationship with Kingsgate. And DG, who was described in a letter from Kingsgate to Mr M dated 27 June 2014 as "*...our Pension specialist...*" was offered to Mr M by Kingsgate to answer any questions he may have regarding his pension.

A meeting was held between DG and Mr M on 21 July 2014. At this meeting Mr M hand wrote (dated 20 July 2014 but this may have been an error) a letter of authority for Legal & General to provide Kingsgate with details of all his pension plans. So this confirms that DG was, at this point, acting for Kingsgate, and by extension, Legal & General (ReAssure). But also at this meeting, Mr M signed a letter which, for accuracy, I have reproduced below:

*"Dear [Mr M],*

*As a Chartered Financial Planner, representing Legal & General Network, I provide a comprehensive Financial Planning and Advice service on a range of life assurance, pensions, investments, mortgages and general insurance products. Legal & General Network does not offer advice on products or investments through Alternative Investments within any Self Invested Pension Plan (SIPP).*

*However, I can arrange services relating to non-Legal & General Network activity eg. alternative investments such as overseas property, farmland, gold, renewable energy and commercial property, etc. I will not give you any advice regarding such products nor indeed offer any advice regarding any investment or pension transfer into these areas.*

*As I am not acting on behalf of Legal & General Network in arranging this business, Legal & General Network does not accept any responsibility for such activity.*

*Both myself and Legal & General Network will not be liable for any loss (financial or otherwise) you may suffer..."*

I find this letter persuasive evidence that the discussion held during the meeting on 21 July 2014 between Mr M and DG, in addition to how his pension plans were performing in their current form, included options that Mr M had with his pension plans outside of what was provided by Legal & General. And this is supported by the testimony from Mr M and his partner who was also present. So I am satisfied that there was most likely a discussion as to alternative options away from that provided by Legal & General.

So, whilst being satisfied that DG was acting for Kingsgate at this meeting, other than a discussion about alternatives, there is no evidence that DG provided any advice to Mr M at this meeting either about where he ought to place his pension funds, or where they should be invested.

On 12 September 2014 Mr M wrote to HY. This letter asked HY to recommend a suitable SIPP for him and to arrange the transfer of his existing Legal & General plan. The letter goes on to state that Mr M has a separate investment adviser who would be arranging the investments, and therefore did not require advice from HY about the investments or the suitability of a SIPP platform. I have seen evidence that there was an 'introducer' agreement between HY and DG, but the copy I have seen was dated 1 January 2015, which is after the date of this letter. But I think it more likely than not that Mr M was introduced to HY by DG as someone who could advise on and recommend a suitable SIPP. And this is supported by an email I have seen from the Senior Administrator at the business that HY was the Director of, which was sent along with Mr M's SIPP suitability report from HY. This email said:

"...I have attached the suitability report and signed page from the back. This case was referred to us by [DG] whom we have an introducers agreement with..."

So I'm satisfied that DG probably introduced Mr M to HY for HY to advise on a suitable SIPP. But although the advice on the actual SIPP was not DG's responsibility, I still need to decide if there is sufficient evidence to show that DG was responsible for the original advice to open a SIPP, and the subsequent placing of Mr M's funds with HS. And I don't. I've not seen any evidence which suggests that DG was involved in either of these elements. I'll explain.

The letter dated 21 July 2014 which Mr M signed makes it clear that DG would not be offering any advice outside the products that Legal & General provided. And that whilst he could arrange such products he would not offer any advice. So I can see this was probably

how the introduction to HY occurred. But there is no evidence that DG provided any advice at this meeting. And indeed in Mr M's testimony he confirms that the 21 July 2014 meeting was the first and last time he met DG. So I'm not persuaded that any investment advice was given here.

There is nothing to suggest Mr M was anything other than a very inexperienced investor. And I cannot see he would have anything more than basic knowledge around SIPP's and investments. So there is little doubt he was advised to open a SIPP by someone, but Mr M must have been introduced to HS also, as the services it offered couldn't be considered mainstream. But there is no evidence to say DG did this. Both the SIPP application form and the HS application form name HY as Mr M's financial adviser. Other than DG signing to say he'd witnessed Mr M's signature on a Power of Attorney document dated 16 February 2015 there is no mention of DG at all following the initial meeting on 21 July 2014.

As I've said there is no evidence of DG's involvement in the advice process, and HY is named as Mr M's financial adviser on both the SIPP and HS application forms. And there is no evidence of any fees being paid to any adviser other than by the SIPP provider to HY for arranging its setup. Mr M has suggested that DG may have received substantial 'Marketing Fees' from HS which would not show on the SIPP statements, but there is no evidence to support this, so I do not find it persuasive.

So whilst I'm satisfied DG, acting for Kingsgate, was involved in the initial stage of obtaining information about Mr M's pension plans, there is no evidence he provided any advice. The evidence suggests he then only acted as an Introducer for HY, and this was in a personal capacity, outside of his role as Kingsgate.

So it follows that as there is no evidence that it was DG who provided Mr M pension transfer or investment advice, it would not be fair or reasonable to hold ReAssure, as the principle business, responsible for this advice.

### **My final decision**

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 8 September 2023.

Chris Riggs  
**Ombudsman**