

The complaint

The complaint relates to the decision made by ReAssure regarding the pension benefits of the late Mr M.

Whilst completing the process of allocating Mr M's pension funds, Mrs R (Mr M's sister) also sadly passed away.

ReAssure concluded that Mr M's pension should be split equally between three parties – Mrs B, Mr R and Mrs W.

Mrs R's executors (Mrs B and Mr R) have complained that had ReAssure not caused unnecessary delays, the decision regarding Mr M's pension funds would have been made prior to Mrs R's death, and she would therefore have received a proportion of the pension monies.

Mrs B and Mr R state that the decision made by ReAssure goes against the will and expression of wish form completed by Mr M prior to his death.

ReAssure have accepted that there were delays in the process of issuing paperwork to Mr M's estate and offered redress to the estate of Mr M by way of compensation for the delay.

The additional complaint regarding the decision made by ReAssure has been dealt with separately here, as it relates to the issues and potential losses faced separately by the estate of Mrs R.

What happened

Mr M sadly passed away on 15 August 2021. ReAssure received notification of this on 9 September 2021.

A claim form for Mr M's ReAssure pension was issued to the executors of his estate on 15 October 2021 and was subsequently received back by ReAssure on 10 December 2021.

On 5 January 2022 ReAssure issued a letter stating that the death benefit form had not been completed correctly with beneficiaries' section not being fully completed. In addition, the letter stated (incorrectly) that the death certificate supplied was not sufficient.

There was further contact between ReAssure and the executors of Mr M's estate on 12 January 2022, where the issue around the death certificate was discussed and resolved, with the completed death benefit form re-submitted.

Subsequently a complaint was made regarding the delays suffered.

ReAssure issued their response to this on 9 March 2022. Within this ReAssure accepted the time taken to issue the death benefit claim forms was outside their normal servicing timescales and accepted they had incorrectly rejected the death certificate which had been supplied. As such a payment of redress was offered to the estate of Mr M.

On 4 April 2022 ReAssure wrote to the estate of Mr M's solicitors and explained that they needed information regarding his relationships to inform their decision.

This letter asked for information and commentary from four parties (Mrs SB, Mrs B, Mr R and Mrs W). In addition, ReAssure expressed condolences following the passing of Mrs R and asked for a copy of her death certificate so that she could be removed as a potential beneficiary.

The late Mrs R's death certificate was provided to ReAssure on 12 April 2022. An accompanying letter asked for her not to be disregarded as a potential beneficiary as she was alive at the date of Mr M's death.

Further information was provided about the relationships between the late Mr M and Mrs R, Mrs B and Mr R on 22 April 2022.

Mrs W wrote to ReAssure on 20 May 2022 explaining her relationship with the late Mr M. At this time ReAssure also received a letter from Mrs B as she had been informed of a 10% bequeathment from the policies.

On 27 June 2022 ReAssure reached their decision and split policy into equal thirds between Mr R, Mrs B and Mrs W – who alongside the late Mrs R were the three other beneficiaries noted on the expression of wish form attached to the pension.

On 20 July 2022, following ReAssure's decision on how the policy should be split, questions were raised by Mrs B and Mr R. It was questioned why the late Mrs R had been removed as a beneficiary given she had been alive at the time of Mr M's passing and had been his closest living relative at that time of his death. The letter noted ReAssure's decision was delayed due to their own error and as such requested the decision be reconsidered.

On 8 August 2022 ReAssure issued a response to the complaint made by the late Mrs R's beneficiaries stating that having reviewed the timeline of events even if they had not caused a delay in dealing with the late Mr M's pension documentation, settlement of the pension would not have occurred before Mrs R's death and as such the funds would be split among the other beneficiaries as per his will.

ReAssure provided a further response on 19 August 2022. Here it was explained that the pension was not an asset of the estate of Mr M and as such the decision was based on the circumstances at the date of the decision, and not the circumstances at the date of death. The letter also explained that the decision was entirely at the discretion of the trustees with the nomination form being considered but not binding.

Not agreeing with the decision made by ReAssure, the complaint was registered with this service in September 2022.

Our investigator looked into things but ultimately concluded that they did not believe anything further was required of ReAssure. Whilst there had been delays to the claim process our investigator noted that even without these delays, payment would still not have been made prior to Mrs R's passing. In addition, the investigator stated that the decision on who to pay benefits to rests solely with ReAssure as the pension's trustees.

Overall, it was concluded ReAssure had completed a thorough investigation before deciding on who should receive the pension funds.

Mrs B and Mr R did not agree stating that ReAssure had caused delays and that the decision went against the expression of wish form and will completed Mr M.

Following a subsequent information request, ReAssure have confirmed that the decision on who should receive the pension funds was based on the expression of wish form held on file for the policy in question (and not Mr M's will as previously stated). This decision was reached after considering all those individuals named in both the expression of wish form and the will.

As no agreement could be reached the case has been passed to me.

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.

Firstly, I would like to express my condolences to the families of both Mr M and Mrs R in what must be stressful and upsetting times.

In issuing this decision I would like to be clear that both trust law and the terms and conditions of the late Mr M's pension policy are clear that the decision as to who receives the funds from the pension rests solely with the trustees of the pension – ReAssure in this case.

The pension policy sat outside of Mr M's estate and as such any instructions given in his will are not in any way binding on the trustees.

To better inform who may benefit from a pension in the event of a policyholder's death most providers ask the policy holder to complete an expression of wish form, indicating who the policyholder would want to receive the funds in the event of their death. Whilst I don't have a copy of the form in this case ReAssure have confirmed the people named in this case. Additionally, experience tells me that expression of wish forms clearly state that the trustees (ReAssure) retain absolute discretion over who receives the funds, with the people nominated by the policyholder not automatically being entitled to any element of the policy.

What I would expect however is for the trustees to undertake a thorough investigation into who they believe should benefit from a policy in the event of the policyholder's death, with this investigation taking into consideration both the content of the will and any expression of wish form that may have been completed. These investigations are also often informed by the claim forms sent to executors once a business has been informed of a policyholder's death.

It is also important to note that even in cases where I consider a trustee's investigation to have been flawed, it is not for me to substitute my opinion on who should benefit for theirs. Given the trustees absolute right to make the decision, I am limited to asking them to revisit their outcome, giving further consideration to any evidence I believe they may have overlooked. This process might not necessarily lead to any change to the eventual decision made or beneficiaries chosen.

Having looked at the investigation carried out by ReAssure in this case, I can see that all those named in both Mr M's will, and expression of wish form, were considered as potential beneficiaries of the pension.

One of the issues raised here is that the decision was delayed, and that without those delays Mrs R would have been selected and received the funds prior to her death.

Having looked at the timeline of events above I do not believe this would have been the case.

ReAssure received the notification of Mr M's death on 9 September 2021. Claim forms for his pension were not issued until 15 October 2021. ReAssure have already accepted (as part of a separate complaint) that this took too long. Allowing five working days to issue the relevant forms this equates to a delay of around three weeks.

The relevant forms were received back by ReAssure on 10 December 2021. ReAssure could do nothing until these forms were returned and as such are not responsible for the time between 15 October 2021 and 10 December 2021.

These forms were returned to the executors as incorrect on 5 January 2022.

ReAssure (incorrectly) stated that there was an issue with the death certificate however in addition to this, two sections of the claim form had not been completed correctly. As such, even without the death certificate issue there would still have been a delay after 10 December 2021 whilst these sections of the claim forms were completed correctly.

Once the completed forms had been received, they would have had to be checked and assessed. From there, all potential beneficiaries would have to be written to for further information about their relationship with the late Mr M.

Following receipt of all this additional information from each party, this would then also need to be assessed before any decision could be made.

Even in accepting that there were delays to the process caused by ReAssure, I do not believe these are significant enough to allow all the above work to have been completed prior to Mrs R's death on 13 January 2022.

Additional points made by Mrs R's estate note that they believe the beneficiary decision should be made based on the circumstances at the time of Mr M's death and that upon Mrs R's death her share should have been split in line with the wishes laid out in Mr M's will – namely split equally between Mrs B and Mr R.

However, as I have detailed above, the decision as to who receives pension benefits is at the sole discretion of the pension trustees – ReAssure. To make such a decision an investigation is often required, it is the circumstances uncovered as part of that investigation which informs the decision, as such it is based on circumstances at that time, rather than the circumstances at the time of death.

In addition, as above, the pension sits outside of the policyholder's estate and is not covered by any instructions given in any will that a policyholder may have made.

I fully appreciate Mrs B and Mr R's objections to the decision made by ReAssure, however I have concluded that whilst there were delays in the process, these delays were not sufficient to mean the investigation could have been concluded prior to Mrs R's death.

A full and thorough investigation was undertaken before ReAssure made their decision as to who should receive Mr M's pension funds with no potential beneficiary excluded from that investigation. As such I see no reason to instruct ReAssure to re-open or reconsider their decision in this matter, and given this I am not upholding this complaint.

My final decision

For the reasons detailed above I am not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mrs R

to accept or reject my decision before 15 August 2023.

John Rogowski
Ombudsman