

## **The complaint**

Mr B complains that a business which is now part of ReAssure Limited (ReAssure) gave him unsuitable advice to transfer from his Occupational Pension Scheme (OPS) to a personal pension. ReAssure is responsible for this complaint. And I'll only refer to it in my decision.

Mr B is represented in his complaint by a Claims Management Company (CMC). But I'll only refer to him in my decision.

## **What happened**

Mr B said that he had conversations with ReAssure after it approached him about his pension. He said that at the time of the advice he was employed. And that he was 38 years old and married.

Mr B said he wasn't told that he'd lose any benefits by transferring out of his OPS. And that if he had been, he wouldn't have proceeded with the advice. He said he'd been advised that he would achieve a better pension by transferring away from his OPS. So in late 1991, Mr B transferred the deferred benefits from his OPS to a personal pension with ReAssure. The transfer took place on 3 December 1991. The transfer amount was £10,252.20.

I understand that Mr B had two other personal pension plans with ReAssure at the time of the transfer. And that these had been set up to contract out of the State Earnings Related Pension Scheme (SERPS). The plans both started in September 1987.

In October 1994 an industry-wide review was established by the then regulator, the Securities and Investment Board. This was known as the Pensions Review. It aimed to avoid future complaints from customers, as the regulator was aware of the potential mis-selling of pensions on a large scale. The Pensions Review targeted some pensions that were sold between 29 April 1988 and 30 June 1994.

In 1995, Mr B's personal pension was selected for the first phase of the Pension Review. ReAssure sent him a questionnaire. This was completed and signed by Mr B on 20 October 1995. ReAssure said it received the questionnaire on 25 October 1995. It recorded that Mr B's transfer was carried out on a non-advised basis. And that he'd made his own decision to transfer.

Mr B complained to ReAssure through his CMC in November 2022. It said that the advice to transfer his OPS to a personal pension had been negligent and not in Mr B's best interests. It said that if the OPS had remained in place and was still in force as of 29 September 2022, it would've been worth £89,189.12. It asked ReAssure to restore Mr B to the position he would've been in but for the negligent advice.

Mr B's CMC also said that Mr B's transfer should've been reviewed as part of the industry-wide Pension Review, but it hadn't been. It felt that ReAssure would argue that a Pension Review did take place. It said that the Pension Review form which had been date stamped 25 October 1995 did appear to have been completed, but that Mr B didn't remember doing so. It said that in any event, there was no evidence to suggest that a Pension Review had

taken place. It said no outcome was ever reached or communicated to Mr B. So he'd had no reason to consider he might've received unsuitable advice to transfer.

Mr B's CMC also said that there were industry-wide concerns when a personal pension was sold, or a transfer recommended, on a commission-led basis.

ReAssure issued its final response to the complaint on 22 December 2022. It said the evidence available showed that the personal pension had been sold on a non-advised basis. As such, it didn't uphold the complaint. It said it'd been Mr B's decision alone to proceed with the transfer.

ReAssure said that Mr B had confirmed in the 1995 Pension Review questionnaire that he hadn't received any advice. It also said that there was no evidence of a Fact Find having been completed, and this would've been a requirement at the time if advice had been provided. And that the documentation completed when the transfer took place showed that no commission was paid to an agent, which would've been the case if no advice had been given. But it said that if Mr B could provide any further evidence, it would be happy to review it further.

Mr B was unhappy with ReAssure's response. So he brought his complaint to this service.

Given how long ago the event being complained about took place, our investigator asked ReAssure if it gave this service its consent to consider the merits of the complaint. ReAssure provided that consent.

Our investigator didn't think that the complaint should be upheld. He said the evidence showed that Mr B didn't consider he'd received any advice for the transfer in 1995, when he'd completed the Pension Review questionnaire. And that he hadn't received any other evidence that suggested Mr B had received transfer advice. He asked all parties to submit further evidence for his review if it was available.

I've not been provided with any further evidence.

Mr B didn't agree with our investigator. He made the following points through his CMC:

- there was a lack of evidence from ReAssure to prove why the Pension Review correspondence, including the questionnaire, had been sent to Mr B if it already knew no adviser was involved in the transfer. It said that although ReAssure said that its system showed no commission had been paid, it wanted to know why the Pension Review correspondence had been sent to Mr B.
- It felt that ReAssure had a responsibility to its customers to ensure a good outcome was provided for all. And that it should've noted that, as alleged, no adviser was involved and therefore Mr B wasn't in a position to know and understand the higher risks attached to the new pension/transfer out. He felt ReAssure should've pointed out any detriment or issues to Mr B and therefore reviewed the transfer regardless of an adviser being involved or not.
- It also said that Mr B maintained that he did receive advice and that any documentation completed was prompted.

As agreement couldn't 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.

Having done so, I'm not going to uphold it. I agree with our investigator that there's no evidence that ReAssure advised Mr B to transfer. I'll explain the reasons for my decision.

There's very little documentary evidence available from the time of the transfer. But I've seen a 16 December 1991 one-page letter from ReAssure to Mr B's OPS about the transfer. In the letter, ReAssure acknowledged that a cheque for £10,252.20 had been received in respect of the transfer. And that the money would be applied to a personal pension scheme for Mr B.

I consider that this letter shows that the benefits from the OPS were transferred to the personal pension with ReAssure. But it doesn't indicate whether any advice was given or not. The application form for the transfer also has no indication that Mr B was advised on the transfer. So I went on to consider the other available documentary evidence

I mentioned the Pensions Review earlier. Where mis-selling was identified, the regulator set out the method and assumptions that firms had to use to determine if any redress was due.

I've been provided with a copy of the Pension Review questionnaire Mr B completed and signed in October 1995, around four years after the transfer. Questions 14, 15 and 16 are particularly relevant to his complaint.

Under question 14: *"How did you make the decision not to join or leave that employer's pension scheme?"*, Mr B answered, *"I made my own decision"*. And under question 15: *"Did anyone give you advice when you took out your personal pension plan?"*, Mr B answered *"No"*. Mr B left question 16: *"If someone did give you advice, please tick the box or boxes below to tell us who it was"* unanswered.

I'm satisfied that Mr B's answers to the questionnaire show that almost four years after it'd taken place, Mr B didn't think he'd received any advice for the transfer of his OPS benefits. I agree with our investigator that, on balance of probability, Mr B's recollection of events would've been much clearer after only four years had passed than they would be over 25 further years later, when he made his complaint. So although I don't doubt that Mr B does now consider that he did receive advice to transfer, I'm more persuaded by his recollection of events in 1995.

I acknowledge that Mr B's CMC said that ReAssure hadn't shown why it'd sent Mr B the Pension Review correspondence, if it'd known that no adviser was involved in the transfer.

ReAssure told this service that at the start of the Pension Review, all applicable policy types were identified and mailed with a Pension Review Questionnaire. And that any filters about what might in the end be reviewable wasn't carried out. It said the fact that a Pension Review questionnaire was issued didn't mean it hadn't been appropriate to formally exclude a case from the Pension Review later on. And that the issue of the questionnaire was a requirement to help identify the actual reviewable population and complete an initial data gathering exercise.

ReAssure also said that Mr B had set up a regular premium and rebate-only policy before transferring his deferred benefits from his OPS. It felt there was every reason to suspect that Mr B had wanted all his pension elements under one roof. And said he could easily have transferred the deferred benefits remaining without financial advice. It also said that Mr B

had confirmed he'd received no advice on the Pension Review Questionnaire. And that the application form for the transfer also showed that no advice had been provided. ReAssure felt that if Mr B had taken advice, it would've been more likely that he would've transferred his OPS benefits at the same time as he took out the regular premium and rebate-only plans.

I'm satisfied that it was reasonable for ReAssure to have sent the Pension Review questionnaires to all potential policy types. And that it fairly excluded Mr B's transfer from that Review once he'd told it that he hadn't received any advice. I say this because I've seen no documentary evidence that ReAssure provided Mr B with any advice to transfer. And because Mr B himself didn't think he'd been advised at the time that he completed the Pension Review questionnaire.

I also acknowledge that Mr B's CMC felt that ReAssure had a responsibility to its customers to ensure good outcomes. But I don't agree that it had such a responsibility unless it provided advice. And I've seen no evidence that it did so.

Without any documentary evidence that ReAssure provided Mr B with advice to transfer, I can't fairly or reasonably uphold the complaint.

### **My final decision**

For the reasons I've given above, I don't uphold Mr B's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 21 November 2023.

Jo Occleshaw  
**Ombudsman**