

## Ombudsman's Determination

Applicant	Ms DN and Ms YEN
Scheme	ReAssure Number One Personal Pension Scheme ( <b>the Scheme</b> )
Respondents	ReAssure Limited ( <b>ReAssure</b> )

## Outcome

1. I do not uphold Ms DN and Ms YEN's complaints, and no further action is required by ReAssure Limited.

## Complaint summary

2. Ms DN and Ms YEN have complained that ReAssure failed to consider all relevant information when awarding death benefits from the Scheme following the death of their father, including the fact that they were nominated beneficiaries. Ms DN and Ms YEN disagree with ReAssure's decision not to pay them any benefits from the Scheme. Ms DN and Ms YEN have also complained that ReAssure provided misleading information and inadequately dealt with their subsequent complaint.

## Background information, including submissions from the parties

3. The sequence of events is not in dispute, so I have only set out the key points. I acknowledge there were other exchanges of information between all the parties.
4. On 31 January 1985, Mr N and Mrs N divorced. They had two daughters Ms DN and Ms YEN
5. In 1985, Mr N began a relationship with Ms YN.
6. In 1989, Mr N set up the Scheme, which consisted of two policies, a protected rights policy and a non-protected rights policy. Mr N completed a Financial Planning Analysis Form (**the Form**) in relation to the protected rights policy as part of the application process. On the Form he listed Ms DN and Ms YEN as his children and dependents. In the 'Future Planning' section of the Form, under the option 'Principle [sic] beneficiaries whether or not you have made a will' Mr N wrote 'Daughters'.
7. On 29 November 1995, Mr N and Ms YN's son Mr NN was born.

8. On 23 June 1999, Mr N and Ms YN's daughter Ms EN was born.
9. In 2012, all protected rights pension plans were abolished, and all protected rights were treated as ordinary rights. Mr N did not complete an Expression of Wish (**EOW**) form for how he wished the death benefits from the Scheme to be paid upon his death.
10. On 23 December 2018, Mr N died intestate.
11. On 3 January 2019, Mr NN telephoned ReAssure to inform it that Mr N had died.
12. On 10 January 2019, ReAssure wrote to Mr NN. It sent him a death benefit beneficiary form (**DBBF**) to complete for potential beneficiaries of the Scheme death benefits.
13. On 6 February 2019, Mr NN responded and identified himself, Ms YN and Ms EN as beneficiaries. He listed them all as financially dependent upon Mr N.
14. On 25 February 2019, ReAssure contacted Mr NN as it had identified Ms DN and Ms YEN as potential beneficiaries from the Form Mr N completed in 1989. ReAssure asked Mr NN if he had any details for Ms DN and Ms YEN and it also asked him how they could be contacted. Mr NN said that he did not have any contact details for them.
15. On 27 February 2019, ReAssure contacted Mr NN. It again asked him if he had any way of contacting Ms DN and Ms YEN and confirmed that it needed to contact them to ask if they wished to be considered as beneficiaries. Mr NN asked ReAssure if the death benefits would automatically go to Ms DN and Ms YEN. It confirmed that this was not necessarily the case, but it needed to ask them if they wished to be considered as beneficiaries of the death benefits from the Scheme. Mr NN provided Ms DN's telephone number to ReAssure to enable it to contact her.
16. On 27 February 2019, ReAssure telephoned Ms DN to ask if she and Ms YEN wished to be considered as beneficiaries of the death benefits from the Scheme. Ms DN advised that they both wished to be considered, and that she would provide details of her address.
17. On 27 February 2019, ReAssure wrote to Ms DN. It asked her to complete a DBBF as a potential beneficiary of the death benefits in the Scheme.
18. On 18 March 2019, Ms DN responded. She listed herself and Ms YEN as potential beneficiaries of the death benefits in the Scheme. On the DBBF she selected the option to state that they were not financially dependent upon Mr N. She also added a covering note which stated that she did not have the details for Mr N's siblings so she could not provide them, but that she expected Mr NN would be able to provide this information.
19. On 4 April 2019, ReAssure wrote to Ms YN. It asked her to state in writing if she wished to be considered a beneficiary of the death benefits in the Scheme.

20. On 25 April 2019, Ms YN responded. She stated, in writing, that she wished to be considered as a beneficiary.
21. Between April 2019 and August 2019, ReAssure was in correspondence with Ms YN as a potential beneficiary of the Scheme. She provided documents to ReAssure showing that she and Mr N had a joint mortgage and as of January 2019, there was £10,000 left to pay on it. Ms YN provided a council tax bill in their joint names, and bank statements which showed the payment of utilities. She also provided a further statement which showed a payment was made from her bank account on 26 January 2019 for a funeral service.
22. Between April 2019 and October 2019, Ms DN contacted ReAssure by telephone on at least six occasions to check on the progress of the claim.
23. On 12 August 2019, Ms DN wrote to ReAssure to provide further information on behalf of herself and Ms YEN. She also enclosed the title registration document for Mr N and Ms YN's property and a number of social media messages between herself and Mr N. In summary she said:-
  - Mr N had declined to pay maintenance for her and Ms YEN following her parent's divorce and he later expressed regret about this to her in a number of social media messages.
  - Mr N had ensured Ms YN, Mr NN and Ms EN were already provided for by leaving the property to Ms YN.
  - Mr N was highly likely to have been reminded numerous times about death benefit nominations for the Scheme, particularly during his terminal illness. Therefore, his action or omission to act in leaving her and Ms YEN as sole joint beneficiaries of the Scheme, could reasonably be construed as deliberate.
  - For these reasons, she stated that ReAssure should treat Mr N's expressed wishes as current at the time of his death and distribute the benefits of the Scheme accordingly.
24. On 22 August 2019, ReAssure responded to Ms DN to acknowledge receipt of her recent correspondence. It stated that it would take all information into consideration when making its decision to pay the death benefits.
25. On 6 November 2019, ReAssure wrote to Ms YN. It advised her that it had decided to pay the death benefits from the Scheme to her and attached a payment release form for her to complete.
26. On 12 November 2019, Ms YN completed the payment release form.
27. On 25 November 2019, ReAssure wrote to Ms YN advising her that it had paid the death benefits from the Scheme into her bank account.

28. On 28 November 2019, Ms DN contacted ReAssure. During the call, it advised her that the claim had been settled in favour of Ms YN. As a result, Ms DN requested full details of the decision made by ReAssure and the documents it had considered including the Form and the Scheme Rules (**the Rules**).
29. On 29 November 2019, Ms DN wrote to ReAssure asking for information regarding its complaint's procedure. She informed it that she was unhappy with how ReAssure had made its decision to pay the death benefits to Ms YN, and the fact that she and Ms YEN had not been kept updated.
30. On 5 December 2019, ReAssure contacted Ms DN by telephone in response to her and Ms YEN's complaint. In summary it said:-
- When it assessed a complaint, it had to look at the evidence presented for the payment of benefits and be satisfied that it was the correct decision. In this instance, when it looked at everything from the application to the evidence provided, it was satisfied that the right decision had been made.
  - It acknowledged that Mr N remained their father; however, since his relationship with their mother broke down, he went on to build a relationship with someone else and have children with that person.
  - Despite the instructions on the Form which listed them as beneficiaries, it could not ignore what had happened since then, as Mr N had two more children and legally, they had a right to be considered.
  - When it looked at the evidence presented by Ms YN it was correct to pay her the death benefits. Ms YN and Mr N lived together before he died, and they shared financial responsibilities. This meant she qualified to receive the death benefits.
  - It did not agree with their complaint in terms of its decision to pay the death benefits to Ms YN, but it agreed that it had not treated Ms DN well when keeping her up to date with what was happening and it had failed to inform her of its decision to pay another beneficiary. It apologised for this and understood her upset.
  - It advised it would provide feedback to the manager about the lack of communication she and Ms YEN had received and offered them £100 each as an apology for the distress and inconvenience caused by its failure to communicate with them.
31. On the same day, ReAssure wrote to Ms DN. In the letter, it reiterated what it had said to her during the telephone call. ReAssure also wrote to Ms YEN to advise her that the death benefits from the Scheme had been paid to Ms YN. In both letters, ReAssure reiterated its offer to pay £100 each to Ms DN and Ms YEN in respect of its lack of communication between August 2019 and November 2019, and for its failure to inform them of the settlement of the claim.

32. On 30 January 2020, Ms DN responded. In her letter, which she wrote on behalf of herself and Ms YEN, she stated that she believed ReAssure's failures went further than merely failing to keep her and Ms YEN informed. In summary, she said:-
- ReAssure provided them with misleading information, failed to respond adequately to information provided, did not provide information which she had asked it to provide, and failed to provide reasonable updates with the progress of the claim including its conclusion.
  - It placed undue emphasis on her and Ms YEN's 'estranged' relationship with Mr N, which was not accurate and this could have been evidenced if it had contacted other family members.
  - It should adequately consider the Form which she believed showed Mr N's wishes for the death benefits to be paid to her and Ms YEN.
  - It should provide copies of the Rules and the Form, which she had asked for on several occasions.
  - It should clarify what it meant by financial dependency and financial interdependency, terms which it used interchangeably.
  - Finally, she asked it to provide a full explanation for its entire decision-making process to pay the death benefits to Ms YN.
33. On 19 February 2020, ReAssure responded to Ms DN and Ms YEN. It stated that the decision was made to pay Mr NN and Miss EN and not Ms YN as it had previously advised. It stated that this was due in part, to their financial dependence on Mr N. It provided details for the Financial Ombudsman Service (**FOS**) if they remained unhappy with the outcome.
34. On 13 March 2020, Ms DN contacted ReAssure and asked it to provide a copy of its Internal Dispute Resolution Procedure (**IDRP**). In response, ReAssure stated it did not have an IDRP process. It again referred her to the FOS.
35. On 16 March 2020, Ms DN wrote to the Data Protection Officer (**DPO**) at ReAssure to obtain information about its decision to pay the death benefits to Ms YN. She applied for a Subject Access Request (**SAR**) to receive all personal data held about her under the provisions of the Data Protection Act 2018 (**DPA**).
36. On 17 March 2020, Ms YEN also wrote to the DPO and applied for a SAR to receive all personal data held about her under the provisions of the DPA.
37. On 14 April 2020, the deadline for ReAssure to provide information to Ms DN and Ms YEN regarding their SARs expired. No information was provided by ReAssure.
38. On 20 April 2020, Ms DN and Ms YEN raised a complaint with the Information Commissioners Office (**ICO**), as they had not received any acknowledgment or response from ReAssure relating to their SARs.

39. On 2 October 2020, ReAssure wrote to Ms DN and Ms YEN. It apologised for the delay in responding to their SARs and increased the offer of compensation to £200 each. It enclosed a copy of the Form and advised that the further information they had requested would be provided shortly.
40. On 10 October 2020, ReAssure wrote to Ms DN and Ms YEN. It provided copies of letters and emails sent by them to ReAssure and vice versa.
41. Between October 2020 and February 2021, Ms DN and Ms YEN contacted ReAssure to obtain information regarding its decision. Ms DN and Ms YEN informed it that they did not accept the amount of compensation offered and repeatedly asked for information they had requested which related to their complaint.
42. On 16 March 2021, Mr P, a representative of Ms DN and Ms YEN, wrote to ReAssure to ask it to provide further information as to how the decision to pay the death benefits to Ms YN had been made.
43. On 8 May 2021, Mr P contacted ReAssure again requesting information relating to Ms DN and Ms YEN's complaint. He asked for a copy of all the call recordings made between ReAssure and the potential beneficiaries of the death benefits in the Scheme.
44. On 3 August 2021, Ms DN and Ms YEN wrote to ReAssure to give permission for their representative Mr P, to deal with the complaint on their behalf.
45. On 9 August 2021, Mr P wrote to ReAssure and raised a complaint on behalf of Ms DN and Ms YEN. In summary he said:-
  - ReAssure's decision making with regards to the payment of death benefits from the Scheme was flawed. This was because it accepted false statements made by Mr NN and Ms YN, it failed to gather basic information, it accepted evidence of low evidential quality, it failed to obtain details of other potential beneficiaries including Mr N's siblings, it incorrectly evaluated information relating to Mr N's nomination of beneficiaries and it failed to make enquiries of Ms DN and Ms YEN.
  - It failed to keep Ms DN and Ms YEN updated with the progress of their claim despite its promises to do so, and did not provide any coherent explanation for its decision to award the death benefits from the Scheme to Ms YN.
  - It failed to provide information requested in a timely manner or within prescribed time limits. This included information regarding IDRPs, the Rules, and the SARs.
  - The decision to pay the death benefits to Ms YN should be struck out. This was because the decision was based on bad faith and dishonesty from Ms YN and Mr NN and ReAssure's negligence and prejudice. As a result, Ms YN and Mr NN should be removed from consideration as beneficiaries.
  - The entirety of the death benefits should be paid to Ms DN and Ms YEN, subject to any consideration that the death benefits may be paid to Mr N's siblings.

- ReAssure's conduct was deplorable from the beginning and an appropriate level of redress for non-financial injustice would be for it to pay a sum not less than £5,000 each to Ms DN and Ms YEN.
46. On 12 August 2021, ReAssure responded to Mr P. It apologised that it had failed to respond to his initial letter of 16 March 2021, and referred to his email sent on 8 May 2021, regarding his request for information. It stated that this information would be provided and enclosed a copy of the call recordings and other documents relating to Ms DN and Ms YEN's complaints.
47. On 30 September 2021, Mr P responded. He stated that some of the information provided by ReAssure did not appear to relate to the Scheme. He advised that he previously asked for copies of all the enquiries made by ReAssure to relevant parties and the responses it received. He asked it to confirm if it had provided all this information and if there was a formal record of the decision made which could be provided. Finally, he asked ReAssure if a committee was appointed for the purposes of making decisions regarding the payment of death benefits arising under a discretionary trust and, if so, if it could provide a copy of the appointment of the committee. He said that if there was no committee, it should explain how the decisions were made and by whom.
48. On 5 October 2021, ReAssure responded to the complaint. In summary it said:-
- It had fully reviewed its decision to pay the death benefits to Ms YN and in doing so, it concluded that she was the correct beneficiary to receive the full death benefits from the Scheme.
  - The alleged lack of integrity by other beneficiaries or potentially misleading commentary it received was not a determining factor in its decision, which was based on the material and supported facts it was presented with.
  - It sought information from Ms DN and Ms YEN regarding the family set-up and it was not reliant on the information provided by any other party.
  - It acknowledged that during the whole process and in its response dated 5 December 2019, incorrect information was provided to Ms DN and Ms YEN, which suggested that they were nominated as beneficiaries.
  - It explained that the Form was completed when Mr N took out the policies which made up the Scheme, one of which was a protected rights policy. It was part of a financial planning document which was completed to understand the financial needs of Mr N at that time, and it did not form part of his application. Therefore, the details provided were never intended to be a nomination. If it had been a nomination for the death benefits, it would clearly show Mr N's wishes to the trustees in the event of his death, of who he would like to benefit and typically in what percentage.

- Further, until 2012, the main policy of the Scheme was a protected rights policy, and death benefits had to be paid out in a strict manner. As such, if a correct nomination had been made, it would not have been able to follow the nomination anyway.
- It did not receive any nomination from Mr N after protected rights policies were abolished in 2012.
- All parties agreed that Mr N was in a long-term relationship of approximately 30 years with Ms YN, they shared a mortgage and jointly owned a property. In many ways they were financially mutually dependent in a manner the same as a married couple. It deemed Ms YN as a dependent as set out in the Finance Act 2004 (**FA 2004**), so she was within scope as an eligible recipient.
- Due to a lack of evidence regarding Mr N's wishes, and based on the long term interdependent financial relationship, it concluded that the individual Mr N would have most wished to benefit was Ms YN.
- It apologised for the confusion caused to Ms DN and Ms YEN throughout the process and in its letter sent on 5 December 2019, with regards to the nomination of death benefits when a nomination was not in place.
- It apologised for the fact that Ms DN and Ms YEN felt their claim had not been taken seriously and advised that this was not the case. It reiterated that its decision was based on the material and supported facts which were presented. It acknowledged that it had failed to keep them informed during the process of the claim, which is why it offered £100 each in its response dated 5 December 2019.
- It acknowledged that in its letter of 19 February 2020, it suggested that the beneficiaries who received the death benefits were Mr NN and Ms EN. This was incorrect and it apologised for any confusion caused.
- It acknowledged that a further complaint was raised in August 2020, as it had not responded to the SARs. Therefore, it offered an extra £100 each to Ms DN and Ms YEN as redress for the inconvenience caused.
- It apologised that it had still not provided a copy of the Rules and enclosed them with the letter. It advised that Rule 16 covered the payment of death benefits and set out the complete discretion it had in its decision to pay death benefits to a potential beneficiary [see Appendix].
- It stated that details relating to IDRP was not provided as where there was dissatisfaction regarding a personal pension plan, a formal complaint would be raised. This was how it decided to treat Ms DN's email of 29 November 2019. On 5 December 2019, it sent two letters to Ms DN. The first letter was an acknowledgement of her complaint and enclosed a leaflet explaining how her complaint would be investigated. In the correspondence, it listed the organisations she could approach to refer her complaint if she was unhappy with the outcome.



- It apologised again for the poor service Ms DN and Ms YEN received. In view of this it decided to increase the amount of redress offered to them to £500 each.
49. In October 2021, Mr P wrote to ReAssure to inform it that Ms DN and Ms YEN did not accept ReAssure's response to their complaint and that they wished to invoke the next step in the complaints process.
50. Following the complaint being referred to The Pensions Ombudsman (**TPO**) the following submissions were made.

### **ReAssure's position**

51. It had looked at information which was provided both before and after its initial decision and reiterated the points it had made on 5 October 2021. It also added that:-
- The commentary from Mr NN was not a determining factor of how the death benefits should be paid and additional counter arguments to his commentary would not have changed the decision.
  - At the point when it decided to award the benefits to Ms YN, a number of letters and a completed DBBF had been provided by Ms DN and Ms YEN and importantly, both confirmed that they were not financially dependent upon Mr N.
  - Documents it received from Ms YN demonstrated the significant long-term financial commitment whereby she and Mr N were both interdependent on each other. Although the mortgage was subsequently settled, they were in a relationship of mutual financial dependency prior to his death.
  - It did not consider that further investigation regarding Mr N's siblings was necessary as his children and long term-partner were the primary points of contact, and primary considerations for the payment of the death benefits. It did not feel that further delays for further commentary from other parties would add further value to the assessment.
  - It did not consider how an estate was managed as a principal point of concern when deciding who Mr N would have wished to benefit. It advised that if an individual acting for an estate acted fraudulently, then it was in the interests of those who had otherwise lost out to take action.
  - The title registration document provided by Ms DN and Ms YEN showed the title of the property passed to Ms YN and Mr N in 2006. Both were jointly owning a property from at least 2006 until 2018 when Mr N died, and both were jointly liable to repay the mortgage. This established a long term financially dependent relationship between the two.
  - It reiterated that it never received a nomination as to how Mr N wished the death benefits to be paid, either on the Form or subsequently. Further, there was no supporting Will to indicate his wishes.

- The frequency of Ms DN and Ms YEN's contact with their father was not a determining factor when it made its decision.
- It had absolute discretion to pay the death benefits to any eligible recipient. Due to a lack of any evidence of Mr N's wishes and based on the dependency and long term interdependent financial relationship, it concluded that the individual that Mr N would have most wished to benefit was his long-term partner, Ms YN.
- It was comfortable with its decision to pay the death benefits to Ms YN, and it did not consider on review that it would have come to any other conclusion.

### **Ms DN's and Ms YEN's position**

52. Mr P responded on behalf of Ms DN and Ms YEN. In summary he said:-

- ReAssure did not contact Ms DN and Ms YEN on a number of occasions to obtain explanations of their relationship with Mr N. It sent only one letter, which was itself only a basic acknowledgement and did not request any information. Further, he stated that no telephone calls were received by Ms DN or Ms YEN during the relevant period.
- Its response ignored the fact that the documentation demonstrated that the great majority of correspondence regarding Ms YN's claim came via Mr NN. Hence Mr NN's serial dishonesty did affect the 'evidence' supporting Ms YN's claim.
- It's assertion that at the point it made its decision 'a number of letters' had been provided to Ms DN and Ms YEN was a gross distortion. Between the submission of the DBBF and the decision being made, only one letter was sent by ReAssure.
- Its assertion that the details provided by Mr N on the Form were never intended to be a nomination was unsubstantiated. It could not know what Mr N's intentions were when he completed the Form. The wording on the Form could reasonably have led him to believe that he had made a nomination.
- It failed to acknowledge its maladministration in its response. In particular, with respect to the asymmetry of information gathered for each potential beneficiary.
- It failed to proactively request a nomination for the Scheme at any stage and ignored requests for it to provide any records relating to this issue. This appeared to be, at the very least, poor practice.
- It failed to pursue 'good evidence' from Ms YN or Mr NN in respect of Ms YN's claim and failed to utilise alternative sources in the absence of cooperation from Mr NN and Ms YN.
- For 5 years it had dealt with this matter in an incoherent, obstructive and at times dishonest manner.

## Adjudicator's Opinion

53. Ms DN and YEN's complaint was considered by one of our Adjudicators who concluded that no further action was required by ReAssure. The Adjudicator's findings are summarised below:-

- Under Rule 16.1 of the Scheme Rules, ReAssure, as scheme administrator, had full discretion regarding the payment of death benefits upon the death of a member.
- The Form was completed by Mr N in 1989 to assess his financial needs prior to his application to set up the Scheme. Therefore, it did not form part of his application, and it was not an EOW. If it had been an EOW, it would have clearly demonstrated Mr N's wishes in the event of his death, that is who he wished to benefit and in what percentage.
- ReAssure considered the information contained within the Form, as this was how it identified Ms DN and Ms YEN as potential beneficiaries. It subsequently contacted them to ascertain if they wished to be considered as beneficiaries of the Scheme. ReAssure acknowledged that it had caused some confusion regarding whether this amounted to an EOW or not. It eventually clarified that it was not an EOW and apologised for causing this confusion.
- Neither the Form nor the social media messages were strong evidence that Mr N wished to make financial provision for Ms DN and Ms YEN. Mr NN and Ms EN had not been born at the time he completed the Form, and he made no reference to making financial provision to Ms DN and Ms YEN within the social media messages.
- It was not ReAssure's duty to carry the sole responsibility of obtaining Mr N's wishes. Mr N did not complete a Will or contact ReAssure to express his wishes despite the fact he was aware he was critically ill. Therefore, in the Adjudicator's view, it was impossible to argue with any certainty what Mr N's wishes were.
- ReAssure was correct to identify Ms YN, Mr NN, Ms EN, Ms DN and Ms YEN as potential beneficiaries. As his partner and children, they would always take primacy over any of Mr N's other relations. Once these potential beneficiaries were identified, there was no need for ReAssure to contact Mr N's siblings, either to consider them as beneficiaries or to obtain information from them.
- The DBBF completed by Ms DN on her and Ms YEN's behalf made it clear that they wished to be considered as beneficiaries, but that they were not financially dependent upon Mr N. Therefore, ReAssure did not need to obtain any further information from them in this regard. In contrast, the DBBF completed by Mr NN indicated that he, Ms YN, and Ms EN were financially dependent upon Mr N. As such, ReAssure contacted Mr NN and Ms YN to provide evidence of their financial dependency upon Mr N.

- It was clear from the evidence and agreed by all parties, that Ms YN and Mr N had a joint mortgage. This demonstrated a significant long-term financial commitment whereby they were both mutually dependent upon each other irrespective of the fact that the mortgage was settled shortly after Mr N's death. The council tax notice was addressed to Ms YN and Mr N, which was further evidence that they were financially interdependent. Under the Rules, and as specified in the FA 2004, it was reasonable for ReAssure to decide that the evidence and supporting commentary it received meant that Ms YN and Mr N were financially interdependent, and therefore Ms YN was entitled to be considered to receive the death benefits.
  - In the Adjudicator's view, ReAssure made a decision to pay the death benefits based on the material facts and evidence it received relating to financial dependency. ReAssure was required to consider relevant information relating to potential beneficiaries of the Scheme, without having any indication of Mr N's wishes.
  - Contrary to Ms DN and Ms YEN's view, there was no requirement that ReAssure should provide a detailed analysis of its decision-making process to any potential beneficiary, nor was it obliged to inform them of who it had decided to pay the death benefits to.
  - In the Adjudicator's view, there was no evidence that ReAssure was intentionally obstructive or dishonest in how it had reached its decision to pay the death benefits to Ms YN. However, there was maladministration in how ReAssure dealt with Ms DN and Ms YEN's complaints. ReAssure failed to notify them of its decision in November 2019, and subsequently provided misleading information regarding this decision. As a result, it apologised to Ms DN and Ms YEN and offered to pay them £100 each for distress and inconvenience. Following this, ReAssure failed to competently handle their further complaints and SARs.
  - ReAssure accepted responsibility for its maladministration and offered to pay £500 each to Ms DN and Ms YEN. In the Adjudicator's view this was reasonable and in line with the Ombudsman's guidance on non-financial injustice. She said it was a matter for Ms DN and Ms YEN to decide whether to accept ReAssure's offer.
  - The Adjudicator acknowledged that this was an emotive case, and that she had a great deal of sympathy for Ms DN and Ms YEN's position. However, in her view, no further action was required by ReAssure.
54. Ms DN and Ms YEN accepted the Adjudicator's Opinion with regard to ReAssure's decision on the distribution of the death benefits. However, they did not accept the level of redress offered by ReAssure for its maladministration, as they believed the Adjudicator did not adequately consider the level of distress, frustration and inconvenience that it generated.

55. Mr P, on behalf of Ms DN and Ms YEN, said that ReAssure's maladministration took place on multiple occasions and that it took a long time to correct. He went on to say that ReAssure handled their complaint and the dispute procedures badly. As such, Ms DN and Ms YEN asked the Adjudicator to re-consider the level of compensation for non-financial injustice.
56. The Adjudicator declined for the reasons she had previously detailed, and the complaint was passed to me to consider.

### **Ombudsman's decision**

57. I empathise with Ms DN and Ms YEN's position and the additional comments Mr P made on their behalf, which do not change the outcome.
58. I agree with the Adjudicator's Opinion that some of ReAssure's actions while dealing with Ms DN and Ms YEN's claim and subsequent complaint amount to maladministration. However, in order for me to determine an award higher than £500 for the distress and inconvenience they suffered, I would need to see evidence that errors were 'serious' and that they materially affected Ms DN and Ms YEN. Although errors did occur on several occasions, they did not have a lasting effect because the decision ReAssure made to award the death benefits to Ms YN was reasonable. Further, ReAssure was quick to put matters right by offering redress to Ms DN and Ms YEN at the time it made the errors.
59. In my view, the distress and inconvenience suffered by Ms DN and Ms YEN falls into the 'significant' category. Therefore, the offer of £500 already made by ReAssure fits with the award that I would have made. If Ms DN and Ms YEN wish to accept this award, they should contact ReAssure directly.
60. I do not uphold Ms DN and Ms YEN's complaint.

### **Dominic Harris**

Pensions Ombudsman  
19 December 2024

## Appendix

### 16. BENEFITS FOLLOWING DEATH OF MEMBER

16.1 On the death of a Member or a Survivor the Provider shall apply the Member's or Survivor's Individual Fund for the benefit of such one or more of his Eligible Recipients and in such proportions and at such time or times and in such one or more of the ways set out in Rule 16.2 as the Provider in its absolute discretion may determine (subject to Rule 17.1 and any other restrictions imposed by or under the Rules).

16.2 The ways referred to in Rule 16.1 are:

16.2.1 payment of a lump sum death benefit to the Eligible Recipient or to the trustees of any trust (including any other pension scheme or any discretionary trust) for the benefit of persons including that Eligible Recipient;

16.2.2 designation as available for the payment of Drawdown (but only for an Eligible Recipient to whom the Act permits Drawdown to be paid on that occasion);

16.2.3 purchase of an Annuity payable to the Eligible Recipient (but only for an Eligible Recipient for whom the Act permits an Annuity to be purchased on that occasion); and

16.2.4 (if the Eligible Recipient is unconnected) reallocation within the Scheme to any new or existing Individual Funds held in respect of that Eligible Recipient in their capacity as a Member.

16.3 The Provider shall have power at any time:

16.3.1 to declare or otherwise establish any trusts for the purposes of Rule 16.2.1 on such terms as the Provider in its absolute discretion may consider appropriate (and for the avoidance of doubt Rule 7.4 shall apply to any costs, charges or expenses incurred in doing so); and

16.3.2 to admit any individual as a Member for the purposes of a reallocation within Rule 16.2.4

16.4 For the purposes of Rule 16.2.4, an Eligible Recipient is unconnected if, immediately before the death of any individual to which the reallocation is attributable, he was not connected with that individual for the purposes of section 1728 of the Act.

16.5 Any nomination of an individual by the Provider in connection with Drawdown (including any designation of funds or any other selection or determination or other act which in the opinion of the Provider amounts to or implies such nomination) shall

count as a nomination by it as Scheme Administrator for the purposes of the Act.

16.6 If a Dependant, for whom Drawdown was being provided following the death of a Member, ceases to be a Dependant, the Provider shall apply the Dependant's Individual Fund in accordance with this Rule 16 as if it were the Member's Individual Fund being applied on the death of the Member (but not in accordance with Rule 16.2.1 unless payment of a lump sum death benefit is permitted by the Act).

16.7 A dependant's annuity purchased in the Dependant's name shall provide a pension for the Dependant on such terms as the Dependant shall decide. Where the Dependant does not select the insurance company to provide the Dependant's Annuity the Provider shall do so, such annuity providing such benefits as the Provider in its absolute discretion decides.

16.8 Neither the Provider nor the Scheme Administrator shall be obliged to consider for the purposes of this Rule 16 any Eligible Recipient of whose eligibility it is unaware having made reasonable enquiries.

16.9 To the extent that the Provider is unable to apply any Individual Fund which the preceding provisions of this Rule 16 require it to apply, it shall allocate it to the General Fund.