

The complaint

Mr F complains that Phoenix Life Limited (Phoenix) mis-sold him a number of personal pension policies.

What happened

In 1988, Mr F opened a personal pension with a business that Phoenix is now responsible for. He was employed at the time and his employer didn't offer him a pension. Between 1991 and 1996, Mr F increased the amount he was paying into his pension with Phoenix. However, rather than the initial policy premium being increased, Phoenix set up a new policy to receive the additional premiums. This meant that upon retirement, Mr F in effect had six pension policies.

Mr F took the benefits from the pension in 2007. He took tax free cash and an annuity from each of the pension policies at this time. Each one paid out a separate tax-free cash sum and was paid as a separate income payment.

In 2022, Mr F complained about the sale of his pensions. He said he wasn't unhappy with the initial policy, but was unhappy that by setting up separate policies, rather than simply increasing the contributions to the initial policy, he's incurred higher charges. Mr F is also unhappy that since purchasing annuities with each pension policy, he now receives his income as a number of payments, rather than one payment.

One of our Investigators looked into this complaint. Initially, Phoenix didn't respond to our Investigator's request for further information, so she thought the complaint should be upheld. However, following submissions by Phoenix, she changed her opinion and didn't uphold the complaint.

Mr F didn't accept this and asked for the complaint to be reviewed by an Ombudsman. So, it's been passed to me to consider and make 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.

Mr F has complained many years after the pension was original set up and after he used it to purchase a number of annuities. This might normally mean that time limits within our rules may apply. However, Phoenix has consented to us looking into this complaint. So I haven't needed to consider whether this complaint was brought in time or not.

When Mr F took the initial pension, he was employed with no access to a company pension. He later became self-employed. So, on the face of it, he needed to plan for his retirement, and I've seen no reasons why this particular pension wasn't suitable for him. And Mr F has confirmed the key reason he's unhappy is that Phoenix set up a new policy each time he increased his contributions, rather than simply amending the contribution to the initial pension policy. And that he then had to purchase individual annuities with each policy. Mr F

believes he's financially worse off as a result of this. So that's what I've focussed this decision on.

Phoenix has explained to us that the company that previously administered Mr F's pension facilitated monthly contribution increases by setting up what appeared to be a new policy but was essentially an extension of the initial policy. This meant that whilst it would show under a new (sequential) policy number, it was essentially the same policy and linked via Mr F's customer number. And the monthly premium for all the policies was taken by one single direct debit.

Typically, our Service wouldn't interfere with a decision a business makes in how it operates if we are satisfied it's a legitimate exercise of its commercial discretion. And in this case, I'm satisfied it was a legitimate use of commercial judgement. Phoenix has shown us evidence that the additional policies set up for each contribution increase didn't incur any additional policy charges other than for the increased amount of life cover the policy provided – which would've been charged even if the contribution had simply been changed. So, Mr F is no worse off due to increased charges as a result of the pension being set up in this way.

Mr F has also indicated a belief that his pension fund would be higher had it been one policy, rather than multiple ones. But I've seen nothing to suggest this is the case. The same amount would've still been going into the same pension, it was just split into different "pots" – but it ultimately would be worth the same.

I understand Mr F is also frustrated that he had to take separate annuity payments rather than one single income. Again, this was Phoenix's process at the time, and a decision it was entitled to make. Whilst I can see why it's frustrating for Mr F, he's no worse off because of this. Furthermore, Mr F was under no obligation to take his annuity with Phoenix, he could've chosen to seek advice and move to another provider, but he didn't.

Overall, I don't think Phoenix has made a mistake in its setting up of Mr F's pension policies or his annuities. Furthermore, I've not seen anything that makes me think Mr F is financially worse off as a result of the way in which Phoenix set up his pension policies or his annuities. So I'm not going to ask it to take any action.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 10 October 2023.

Rob Deadman
Ombudsman