

The complaint

Mrs B has complained to Phoenix Life Limited about the delays incurred in paying out her pension policies as a lump sum.

What happened

Mrs B wrote to Phoenix on 2 January 2017 informing it that she'd moved overseas and needed to transfer her policies to a provider in that new country. She requested information on how to do this. Phoenix noted there was a discrepancy in her name, so requested a copy of her birth certificate. However, it didn't provide the information Mrs B had requested.

Mrs B wrote again on 26 March 2017 and raised a complaint. A final response was issued on 7 April 2017. Phoenix apologised for the delay in answering her questions. It said it had followed its correct process regarding the identification requirements, but should also have sent the transfer information. It also explained that it didn't have a correspondence email address for Mrs B at the time of this response. But it sent Mrs B £50 by way of compensation.

Phoenix also sent a letter on 20 April 2017 confirming that Mrs B could transfer her pensions to an approved pension administrator in her country of residence at any time. It said it could provide information on her pensions and she could speak with a financial adviser or a pension provider about transferring. Phoenix could then provide the appropriate discharge papers for Mrs B and her new provider to complete.

Mrs B replied to this on 18 May 2017, explaining she was happy for the pension benefits to stay in the UK until she retired, but went on to say the transfer "had to happen". Although it's since been clarified that this latter comment was in relation to her whole of life policy.

Mrs B then wrote to Phoenix on 30 December 2020 asking for her address to be changed and saying that she wanted to cash in her pension on maturity and transfer it to her country of residence. This was received by Phoenix on 19 January 2021 and a letter confirming her change of address was sent to her on 16 February 2021. Retirement options packs were also sent on 17 February 2021 and these were received by Mrs B. The packs included options about cashing in her pension and there was also an international phone number listed. However, no claim forms, international ID requirements or bank account requirements were included in these packs.

Letters regarding a discrepancy with Mrs B's name were sent on 3 and 23 March 2021. Mrs B's retirement date of 17 April 2021 then passed.

Mrs B wrote again to Phoenix on 22 July 2022 saying she needed to cash in her policy and transfer it to her country of residence. She said she'd heard nothing and had just received more "retirement options bump". Mrs B again requested the relevant paperwork to cash in her pension and asked that this be sent to her by email. That letter was received by Phoenix on 29 July 2022.

On 2 August 2022, Phoenix sent the retirement options packs for both of Mrs B's policies. She called Phoenix on 25 August 2022 and completed the "verbal journey" for both policies. The cash-in lump sum option forms for both policies were then sent to Mrs B.

Mrs B completed them on 28 October 2022 and posted them back to Phoenix, with them being received on 8 November 2022. Following this, there were delays processing these and also in calling Mrs B to confirm whether she still wanted to proceed, following a drop in the value of the policies. Mrs B confirmed that she wanted to continue on 4 January 2023.

The smaller of the two policies was paid out on 2 February 2023. However, there were then issues and further delays in paying the larger policy as information was repeatedly requested and there was significant back and forth over the following months. Phoenix then made a commercial decision to authorise the payment on 6 June 2023.

Mrs B had already referred her complaint to our service, but Phoenix issued its final response on 12 June 2023. It apologised to Mrs B for the experience she'd had. It further said that as it was aware she was overseas and wanted to claim her pension, all necessary documentation should have been sent to her following receipt of her letter on 29 July 2022.

It also said it should have emailed the documents to Mrs B, as per her request. From its investigation, it believed it should have been able to pay out both of the policies by 5 August 2022, had there been no delays. Phoenix established that Mrs B had suffered a financial loss, so it would make up the difference and apply 8% interest to that loss and would deduct tax as appropriate from the interest. It calculated that this came to £1,210.93 across the two plans. It also offered £500 compensation.

The investigator conveyed this offer to Mrs B for her to consider. Mrs B didn't accept that offer, so the investigator assessed the matter and set out his findings as follows:

- He didn't think that we were able to consider the matters which Phoenix had covered in its final response letter of 2017, as this gave Mrs B six months in which to refer any outstanding concerns to this service – and that had expired by the time she actually referred her complaint to this service.
- In terms of the delays incurred more recently, the investigator considered these and the manner in which Phoenix proposed to remedy the situation.
- He noted that Mrs B's request in July 2022 was essentially the same as that submitted in December 2020, and as Phoenix had conceded that it should have sent Mrs B all the relevant documentation in July 2022, he'd enquired of it as to whether it thought it should have in 2020 as well. But Phoenix hadn't responded on this point.
- Had Phoenix sent the relevant forms in 2020 by email, Mrs B could have completed and returned them within five working days and it would have been possible to pay Mrs B's claim on her retirement date – 17 April 2021.
- In terms of redressing Mrs B for this, the investigator said that Phoenix should undertake the same loss calculation, but using the date of 17 April 2021 as the date when the payments from the policies should have been made. If Mrs B would have received more than she actually did, the investigator said that she should be paid the difference, with 8% simple interest added from that date to the actual payment dates. But if Mrs B was now in a better position because of the delays, then the growth in income could be used to offset the interest.

- The investigator also said that Phoenix should pay Mrs B £500 in respect of what he considered to have been the considerable distress and inconvenience she would have suffered in trying to claim her pension.

Mrs B acknowledged the investigator's conclusions and recommendations, with no further comments. Phoenix said that, whilst it agreed with the overall decision, it was unclear as to why the investigator had backdated the proposed redress to Mrs B's retirement date. It made the following points in summary:

- It had written to Mrs B on 20 April 2017 confirming that her pension plans could be transferred to her new country of residence at any time and confirmed that there were two ways of achieving this. It asked Mrs B to contact it if she required any further information.
- Mrs B replied on 26 May 2017 saying that she was happy for her pension plans to remain in the UK until retirement but that she needed to transfer her whole of life plan.
- It received Mrs B's letter of 30 December 2020 on 18 January 2021 and in this she'd said that, as the plans matured in April 2021 and she was unable to take any of the options previously set out, she would like her plans transferred to her country of residence.
- It did issue retirement follow up packs on 17 February 2021 for both plans which confirmed all the available options, including that of transferring, but didn't include the claim forms. The pack also asked Mrs B to call Phoenix once she'd decided which option she wished to take, so that she could complete the verbal journey.
- But it didn't hear from Mrs B again until July 2022, following which the forms were issued and the verbal journey completed. The plans were then taken as a cash lump sum.
- It therefore didn't agree that the redress calculation should be backdated to Mrs B's retirement date as no contact was made following the pack it sent in February 2021 until the following year.

The investigator considered these points, but noted that Phoenix had itself conceded in its final response letter that it should have sent all the necessary documentation in response to Mrs B's contact in July 2022, and that this should have been sent by email. But this, he reiterated, was exactly the same request as Mrs B had made in December 2020.

Therefore, although Mrs B may not have contacted Phoenix again until 2022, if she'd been sent all the relevant documentation it would have been clearer to her that she'd started the claim process rather than, as she believed, having been sent general information.

The investigator therefore remained of the view that Phoenix should backdate the redress calculation to April 2021.

As agreement couldn't be reached, it was referred to me for review.

I issued a provisional decision on the matter on 6 September 2023, in which I set out my findings. The following is an extract from that decision.

"I've considered all the available evidence and arguments to decide what's fair and

reasonable in the circumstances of this complaint.

I'd firstly say that I agree that there doesn't seem to be any dispute that Phoenix could have handled things better, and I note that it has itself broadly agreed with the investigator's overall conclusions.

And although Phoenix hadn't answered the investigator's point relating to whether it should have sent all the information it said it should have sent in July 2022 in December 2020 instead, I agree with the investigator in that it follows that it should have done.

But I've reached slightly different conclusions from the investigator as to how the matter should be resolved.

To explain, I think I do need to also take into account that there was then a gap of over a year before Mrs B then contacted Phoenix again after the last contact in February 2021. And Phoenix has made what I think are valid points about the information it did send to Mrs B at that point.

I acknowledge that Mrs B may have just thought that she was being sent general information, but the driver behind the claims process needed to be Mrs B, not Phoenix, as was then the case in 2022.

Overall, I think if Mrs B had been sufficiently keen to access her pension funds in 2021, it might be expected that, notwithstanding Phoenix's shortcomings in not providing all of the relevant documentation, she would have chased this. Mrs B did then restart the process in 2022, but this is something that was also open to Mrs B to do at any point between February 2021 and July 2022.

And so I don't think it would be fair or reasonable to require Phoenix to backdate the payments to April 2021 and pay 8% interest on them for that extended period of time.

But I do think it's proposal to backdate the payments to 5 August 2022 to account for the unnecessary delays is fair. The difference in the payment Mrs B did eventually receive and that which she should have received as at 5 August 2022 should therefore be paid to Mrs B.

To the entirety of the payment which would have been made on 5 August 2022 should be added 8% simple interest from that date to the dates that the payments were actually made.

And then from those dates, the same rate of interest should be applied to the difference between the amounts Mrs B should have received and actually did receive, up to the date of settlement.

Although, for the reasons given, I don't think that the redress calculation should be backdated to 2021, I do agree that the prolonged delays incurred and the failure to send all the necessary information when it should, along with the failure to correspond by email, will have caused Mrs B not inconsiderable distress and inconvenience. And so I agree that Phoenix should pay Mrs B £500 in respect of this."

Phoenix accepted my provisional findings. But Mrs B said that she wasn't happy with the outcome, saying that the main issue she had was that the matter had begun before 2021 and so predated the "start" date which seemed to be accepted by other parties in this matter.

Mrs B also accepted that she should have chased matters sooner, but at the time she was working full time and caring for her elderly mother who had dementia amongst other issues, which required hospitalisation. She also had her own health issues.

Mrs B added that, at the end of 2019, her mother died and she needed to deal with renovating and selling her house, finding somewhere for her and her husband to live, whilst still working full time during the Covid pandemic.

Mrs B said that she would see if she could find copies of the earlier letters from before 2021 and forward them.

Mrs B then wrote to the investigator saying that she'd searched for the letters in question, but she and her husband had got rid of a lot of their older letters assuming that they still had copies on their computer. But their computer was no longer functional and they'd been unable to transfer them to a new computer.

Mrs B said that she would accept the provisional findings, but in retrospect she considered that she should have accepted Phoenix's offer as she would have been better off.

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.

I've carefully noted what Mrs B has said about the process having begun before 2021, but in the absence of documentary evidence that there was any contact between May 2017 and December 2020, it would be difficult to reasonably conclude that Phoenix had made further errors in not actioning her requests before then.

I do also acknowledge Mrs B's comments relating to her life up to the end of 2019, and what she and her husband then needed to do following her mother's death at that time.

But where my findings differed from those of the investigator was on the matter of whether the redress should be backdated to April 2021, and so I think what Mrs B has described, whilst sounding like a very challenging period, predates the timeline in question by some margin.

As such, and on the basis that I remain of the view that, had Mrs B been intent on receiving her pension fund as a lump sum in 2021, she would likely have chased matters as she then did in 2022, I think my proposal as set out in the provisional decision – to backdate the payments to 5 August 2022 as offered by Phoenix, is still reasonable.

I've further noted what Mrs B has said about her likely being financially better off if she'd accepted Phoenix's offer. I don't think that will necessarily be the case, but I leave it to Phoenix to decide whether, if the ultimate redress sum as calculated below is lower than that which it originally offered, it wishes to maintain that higher offer as a gesture of goodwill.

Putting things right

Phoenix Life Limited should pay to Mrs B the difference in the payment Mrs B did eventually receive and that which she should have received as at 5 August 2022.

To the entirety of the payment which would have been made on 5 August 2022 should be added 8% simple interest from that date to the dates that the payments were actually made.

And then from those dates, the same rate of interest should be applied to the difference between the amounts Mrs B should have received and actually did receive, up to the date of settlement.

As set out in the provisional decision, although I don't think that the redress calculation should be backdated to 2021, I do agree that the prolonged delays incurred and the failure to send all the necessary information when it should, along with the failure to correspond by email, will have caused Mrs B not inconsiderable distress and inconvenience. And so Phoenix Life Limited should also pay Mrs B £500 in respect of this.

My final decision

My final decision is that Phoenix Life Limited should undertake the above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 9 November 2023.

Philip Miller
Ombudsman