DRN-4341265

The complaint

Ms G complains Phoenix Life Limited hasn't properly managed the investments in her stakeholder pension, causing her a financial loss.

What happened

In 2002, Ms G took out a stakeholder pension that Phoenix later became responsible for. The pension's 'Terms and Conditions' and 'Key Features' documents both explained how it would be invested – that in the five years before Ms G reached her chosen retirement age in 2025, an increasing proportion of her investment would be switched from the Pension Growth Fund ('PGF') to the Pension Income Protector Fund ('PIPF') with the aim of protecting against changes in annuity rates near to retirement. So Ms G's pension had a 'lifestyle' approach.

On 4 January 2023 Ms G called Phoenix for her pension's current value and was given a value lower than the previous year's. Ms G complained to Phoenix as she wanted to know if she'd been given an incorrect value, or whether her pension was incorrectly invested, as she thought half of it was invested in the PIPF and the UK stock market hadn't had a similar fall.

On 24 April 2023, Phoenix responded to Ms G's complaint, which it didn't uphold. It explained her pension was initially invested in mainly UK stocks and shares in the PGF, but in later years was gradually switched to mainly long gilts in the PIPF, to reduce the impact of market changes on the amount of annuity Ms G might want to buy. But her investments weren't guaranteed and the PIPF had been affected by increased interest and inflation, though these also increased the annuity Ms G's fund could buy. Phoenix said the Key Features document and later annual statements had outlined the risks to Ms G. And the annual statements recommended that she check her investments remained suitable for her and seek independent financial advice.

Ms G referred her complaint to our Service. She also said Phoenix had taken too long to answer her pension concerns and hadn't sent her a pension valuation for the past two years.

But our Investigator didn't uphold her complaint. She said Phoenix wasn't responsible for Ms G's pension falling in value, as unforeseeable political events had increased inflation and interest rates, affecting the value of gilts. And her pension remained invested, and investments can go down as well as up.

Ms G said Phoenix took 16 weeks to give its answer yet still hadn't answered her main concern, which was how the value could fall so much given it was invested in the PIPF. Ms G said she hadn't asked Phoenix to switch her pension investments to the PIPF, and the value wouldn't have fallen if they'd been left in the PGF. She thought Phoenix had either mismanaged her pension or not properly informed her of the risks to start with, because she wasn't told the PIPF still risked significant falls in value - if she'd been told this, she would've switched to a cash fund as she moved towards retirement rather than take the lifestyle approach. She said Phoenix had a duty of care and knew about the impact market conditions were having on investments in gilts. Yet it hadn't contacted her about that or considered whether its lifestyle approach was still suitable. So it left her worse off because what had previously looked like a good option was implemented automatically without consideration of today's circumstances.

Our Investigator said we couldn't consider how long Phoenix took to respond to Ms G's complaint, as complaint handling wasn't a regulated activity. And she still thought Phoenix had switched Ms G's investments in line with the terms and conditions of her pension.

As agreement couldn't be reached, Ms G's complaint came to me for a decision. On 28 July 2023, I issued my provisional decision in which I explained why I thought Phoenix hadn't made an error or treated Ms G unfairly.

Phoenix didn't provide any further comments for me to consider.

Ms G did provide further comments. In summary, she said she and other customers were left unprotected and abandoned. This was a workplace pension and she wasn't given any advice when it started, she was just given information that was supposed to let her make an informed choice and that information pointed to a lifestyle approach being in her best interests. And if she wasn't required to seek independent financial advice at the start of this pension, then it wasn't acceptable for her to be required to seek such advice later. It seemed firms had a duty of care at the start of a pension but not afterwards, so if Phoenix wasn't responsible for this later duty of care then the regulator the Financial Conduct Authority ('FCA'), was, but wasn't meeting it. And it wasn't good enough for Phoenix to hide behind the paperwork it sent her in 2018.

I'm now in a position to issue my 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.

I'm sorry to hear Ms G feels she and other customers have been left unprotected and abandoned. However, I should be clear that my role is to consider individual complaints made by consumers against financial businesses - in this case, what I am considering is the individual complaint made by Ms G against Phoenix. So I'm not considering how Phoenix has treated a wider group of its customers, or commenting on the regulator.

The crux of Ms G's complaint is about her pension investments.

Ms G says she took this pension through her employer, and it may be that a lifestyle approach was the default profile. A lifestyle approach is used to manage investment risks as a customer's retirement age approaches. Over a number of years, they gradually move investments out of equity type assets and into cash and fixed interest assets, such as gilts – because, generally speaking, investments like this are less volatile and lower risk over the long term than equity assets. And Ms G's pension started prior to 'pension freedoms' being introduced in 2015 when other flexible options weren't available. So the lifestyle approach's goal was to invest for an annuity purchase, as gilts have an inverse relationship with annuities - when interest rates increase, the value of gilts go down and annuity rates go up.

I'm satisfied Phoenix made reasonably clear how Ms G's pension would be invested under the lifestyle approach, because the Key Features document Ms G would likely have been given at the start of her pension explained what the PGF and the PIPF were, and that in the five years before her chosen retirement age, her pension investments would increasingly switch from the PGF to the PIPF.

Ms G says Phoenix didn't properly inform her about the risks or contact her about them, or consider whether its lifestyle approach was still suitable. So I've thought about this. But Phoenix wasn't responsible for monitoring Ms G's investments on her behalf and warning her about changes, as Ms G suggests. Instead, Phoenix was responsible for administering Ms G's pension in line with the chosen approach. It was for Ms G to monitor her investments to make sure they remain suitable for her in her particular circumstances, and I think Phoenix took reasonable steps to draw Ms G's attention to this and to the investment risk.

I say that because I've seen that the first page of the Key Features document has a section titled 'risk factors' which says *"Investment growth is not guaranteed and the value of the investment can fall as well as rise."*

And while I appreciate Ms G thinks Phoenix is hiding behind what it sent her, I've seen that Phoenix wrote to her specifically about lifestyle switching in the run up to it starting. On 11 October 2018 it sent her a letter entitled *"Reminder about Lifestyle Switching…IMPORTANT – action required. Is your investment strategy right for you?"* The letter went on to explain what lifestyle switching was, when it would start for Ms G, and that Ms G should consider whether lifestyle switching was still right for her. It set out the risks and benefits of lifestyle switching. It provided Ms G with a link to more information about lifestyle switching on its website. And it recommended Ms G speak to a financial adviser in order to make an informed decision, and set out how she could find an adviser as well as giving details of a free and impartial pension guidance service.

Further, on 9 July 2020 Phoenix wrote again to Ms G to say her pension's lifestyle switching was due to start soon, and that Ms G could find more information about lifestyle switching and her investment choices on its website by using the link provided or by contacting it. The letter said *"**What do you need to do?** You should review your plans for retirement and fund choices and consider whether lifestyle switching is right for you. The attached factsheet provides more information on the benefits and risks of lifestyle switching in general. If you decide that you do not want lifestyle switching to be applied, please let us know, within 4 weeks of the date of this letter, by calling [us]. You can also contact us if you want to switch the funds your pension savings are invested in."*

The letter also said ***"Help with your decision.** It is very important that you regularly review your pension plan(s) and fund choices and consider if they remain suitable for your financial needs".* The letter went on to recommend that Ms G speak to a financial adviser in order to make an informed decision and set out how she could find an adviser as well as giving details of a free and impartial pension guidance service. The letter also enclosed a page setting out the benefits and risks of lifestyle switching.

In addition, Phoenix sent Ms G annual statements. These included the following information:

- The value of her pension plan can go down as well as up, and that the values shown were not guaranteed and may change.
- Her plan included lifestyle switching, where her pension was automatically moved out of funds that invest mainly in stocks and shares and into funds that invest in gilts as she approaches her retirement date.
- That lifestyle switching aimed to reduce the impact of changing financial markets on annuities, but changes to pension rules meant lifestyle switching might no longer be appropriate for Ms G. And Ms G could find more information in the 'What is the lifestyle switch option?' section of the enclosed leaflet and through the link provided to the lifestyle switching section of Phoenix's website.
- Additionally, the 2020 annual statement said *"Your chosen retirement date is [day month] 2025. We shall therefore start to move your units into the Pension Income Protector Fund from [day month] 2020."*

I know Ms G says she hasn't received annual statements for the last two years. Phoenix has provided me with copies of the annual statements it sent to Ms G in 2019, 2020, 2021, 2022 and 2023, and I've seen they were addressed correctly. So I'm satisfied Phoenix sent these annual statements correctly..

Ms G also says she wasn't given any independent financial advice when her pension started so it's not acceptable she should be required to seek such advice later. For clarity, I've seen nothing to make me think Phoenix should have given Ms G independent financial advice at the start of her pension. And I've not seen that Phoenix later told Ms G she was *required* to seek independent financial advice – based on what I've seen, Phoenix instead suggested Ms G seek such advice as one way for her to be sure she was making informed decisions about her pension. I note Phoenix also suggested Ms G contact a free and impartial pension guidance service, which it gave her details for.

Taking all this into account, I'm satisfied that Phoenix took reasonable steps to draw Ms G's attention to the need for her to monitor her investments to make sure they remain suitable for her in her particular circumstances, and to the investment risk.

But Ms G is concerned that Phoenix has mismanaged her pension, so I've considered this.

Ms G reached the point at which the lifestyle switches would start in 2020, five years before her chosen retirement age. Based on the annual statements Phoenix sent Ms G, I can see Phoenix switched Ms G's investments from the PGF to PIPF in line with the lifestyle profile fund switches it set out in the Key Features document at the start of her plan. So I'm satisfied Phoenix followed the fund switches called for by Ms G's lifestyle profile.

As I've said, the lifestyle approach is used to manage investment risks as a customer's chosen retirement age approaches. But even then, risk is not eliminated. In certain situations, fixed interest investments can fall in value sharply. Unforeseeable global and political events in 2022 meant that the value of gilts fell, and by that point a very significant proportion of Ms G's pension fund was invested in gilts in line with her chosen lifestyle approach. It seems Ms G thinks Phoenix or the regulator should have warned her about this.

But as I've explained, it's for Ms G to monitor her investments to make sure they remain suitable for her in her particular circumstances, and I think Phoenix took reasonable steps to draw her attention to this. I note the PIPF appears to have achieved broadly similar returns to the appropriate benchmark indices. So I'm satisfied that the fall in value Ms G unfortunately suffered wasn't due to an error by Phoenix.

In summary then, I can't agree that Phoenix treated Ms G unfairly when it followed the lifestyle approach. I'm satisfied it did enough to make Ms G aware that her pension investments would be treated in this way, and that she was responsible for monitoring them and making any changes. And I'm satisfied Phoenix followed the fund switches called for by Ms G's chosen lifestyle approach. So, I don't think Phoenix has made an error or treated Ms G unfairly. As such I am not asking Phoenix to do anything here, though I know this isn't the answer Ms G hoped for.

My final decision

For the reasons set out above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Ms G to accept or reject my decision before 6 October 2023.

Ailsa Wiltshire
Ombudsman