

The complaint

Mr A has complained about the delays caused by Phoenix Life Limited when he was transferring his personal pension to a Self-Invested Personal Pension (SIPP) with another provider. He also believes that Phoenix Life Limited should have transferred £85,405 that he had been quoted rather than the lower figure actually transferred.

What happened

I issued my provisional decision on this complaint on 22 August 2022. The background and circumstances to the complaint and the reasons why I was minded to uphold it in part were set out in that decision. I have copied the relevant parts of it below and it forms part of this final decision.

Mr A's complaint was considered by one of our investigators. He sent his assessment of the complaint to both parties setting out the background and circumstances of the complaint. I haven't repeated it all here, but in brief, Mr A submitted a retirement pack request to Phoenix Life on 12 October 2019. The retirement pack was sent out to him a few days later. It showed a value for the pension of £78,846. There was further correspondence exchanged between Mr A, his financial advisers, and Phoenix Life through December to March 2020. This included further updated values for the pension of £79,447, £79,310, and £79,110 in January, February, and March 2020 respectively.

Phoenix Life sent Mr A's financial advisers another retirement pack on 5 May 2020. The pension was valued at £79,107. Mr A complained to Phoenix Life about the time taken to complete the transfer.

On 13 May 2020 Phoenix Life sent a letter to Mr A quoting the transfer value as £85,405. On 14 May 2020, Phoenix Life received the completed discharge form and pension advice declaration. Mr A raised another complaint on this date as he couldn't open an e-mail sent to him by Phoenix Life.

Phoenix Life sent Mr A another retirement quote on 16 May 2020. His pension was valued at £79,110.78.

Phoenix Life received the completed pension transfer request form on 20 May 2020. It sent Mr A a letter saying his pension transfer was completed on 1 June 2020. An amount of £79,117.26 was transferred.

Mr A's financial advisers made a complaint to Phoenix Life on Mr A's behalf on 4 June 2020.

Phoenix Life partially upheld the complaint. It didn't think it was responsible for the delays in the transfer. However it acknowledged the inconvenience caused to Mr A by the e-mail it had sent to him which he couldn't open. It also said the quote it had given him of £85,405 wasn't guaranteed and so it wasn't bound to honour that amount. It offered Mr A £75 for the inconvenience caused by him being unable to open the e-mail.

Phoenix Life subsequently wrote to Mr A again on 25 June 2020 explaining that the £85,405

figure quoted had been due to a system error. And it wrote to him again on 16 December 2020 explaining that it had underpaid the transfer value by £235.66, and so this would be transferred to the new provider.

Mr A didn't agree with Phoenix Life's findings and referred the complaint to us. Our investigator considered the sequence and timings of the events leading up to the transfer value being paid. He thought Phoenix Life had acted on correspondence it had received in a timely manner, and hadn't caused delays in the processing of the transfer.

He thought Phoenix Life had checked the correct value of the transfer with its actuaries and was satisfied that the value of £85,405 quoted had been a system error. He noted that the value transferred had been in line with the other figures that had been quoted to Mr A and he thought the sharp increase to £85,405 seemed like an anomaly. He said as this figure wasn't the true value of Mr A's pension, he didn't think Phoenix Life was obliged to honour it.

Overall the investigator didn't think that Phoenix Life had caused any delays in completing the transfer. And he thought the value transferred had, (ultimately) been correct. The investigator thought the £75 Phoenix Life had offered Mr A as compensation for the frustration caused by being unable to open the email was fair given the impact it would likely have had on Mr A.

As the parties couldn't come to an agreement, Mr A's complaint has been passed to me to decide.

What I've provisionally 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've come to the same conclusions as the investigator and for largely the same reasons about the merits of the complaint. However I've come to a slightly different conclusion about what's fair compensation.

An error or omission by a firm doesn't, in itself, create an entitlement to compensation. What needs to be decided is whether that error caused a financial loss or any material distress or inconvenience to the complainant.

I note that the transfer discharge form that was signed by Mr A and was dated 13 May 2020 said:

"I authorise Phoenix Life Limited to transfer the sum of" ...and a line was put through the amount in print (the figure isn't clear but appears to end 949 .11 – and isn't the £85,405.04). An amount of £79,107.08 was handwritten onto the form. This was signed by Mr A's adviser. There is also a copy of the adviser's "With Compliments" slip which I understand would have been sent with the relevant paperwork. There was a handwritten note saying:

"Please note the amount of Transfer on Transfer Discharge form is £79,107.08. Please effect transfer immediately." In brackets it said "(Client completed an earlier transfer form)."

The investigator will provide copies of any of the above documents to Mr A on request if he hasn't previously seen them.

This £79,107.08 figure is consistent with the value provided in the retirement pack sent out by Phoenix Life on 5 May 2020. This form was received by Phoenix Life Limited on 14 May 2020. A letter dated 1 June 2020 was sent to Mr A saying the value transferred had

been £79,117.26. Again this is similar to the value quoted on 5 May 2020.

The date on the discharge form was 13 May 2020. It's possible the '13' was altered, and that Mr A had actually signed it earlier and the date had been amended. However, I think what's relevant is that it appears Mr A had agreed to the transfer of his pension based on the lower value and accepted a value of approximately £79,107. And that this was likely before he received the letter dated 13 May 2020 (by post) from the firm quoting a value of £85,405. I don't think Mr A or the adviser would have signed the form quoting the £79,107 transfer value if Mr A had understood the value was £85,405 at the time of signing.

So I don't think it follows that Mr A specifically decided to transfer because he understood the transfer value was around the higher figure of £85,405. In other words, I don't think the incorrect transfer value affected his decision to transfer, or that he would likely have made a different decision about the transfer had the firm not provided him with an incorrect figure.

Mr A was invested in a with profits plan, and given the structure of the plan its value wasn't subject to the same fluctuations as direct investments in equities. In my view, the actual value transferred was consistent with all the other transfer value figures that Mr A had been provided with over a several month period, and I've seen no persuasive evidence that the higher value was the correct one.

So on the one hand, I don't think Mr A was entitled to the higher transfer value of £85,405. And I don't think he was misled into making a decision that he would otherwise not have made.

However on the other, I accept that, even after the transfer was being processed, on receiving the higher transfer value Mr A's expectations would have risen. Mr A has said that letters sent by post from Phoenix Life often took several days to arrive. But even on this basis, there was only a relatively short period of time where Mr A would have expected to receive the higher transfer value before he was alerted to the error.

So in my view Mr A's loss is one of expectation - he was led to believe he'd receive a higher transfer value and understood this to be the case for a few days, even though in reality this wasn't the case.

I also think by initially telling Mr A that the change in the quote was because it wasn't guaranteed (rather than it being a system error) would have added to Mr A's mistrust in Phoenix Life. And this mistrust added too further when it subsequently told Mr A that the original transfer value had been underpaid by £235.

So in summary, although I think Phoenix Life did make a genuine error in quoting the higher transfer value, I think this caused a loss of expectation to Mr A as he wasn't entitled to that higher value. And he hadn't based his decision to transfer on it. However I do think the error caused a degree of distress and inconvenience to Mr A, which was exacerbated by its subsequent explanation and underpayment. In my view the e-mail episode may have caused a degree of inconvenience but, in itself, I think this would have been limited.

Taking all the above into account, I'm intending on awarding Mr A £300 for the distress and inconvenience reasonably caused by all of the above.

Accordingly, I said my provisional decision was to uphold Mr A's complaint in part, and I intended to award him £300.

I asked Mr A and Phoenix Life to send me any further evidence or arguments that they wanted me to consider before I made my final decision.

Mr A didn't accept my provisional decision. In brief, he referred back to his previous submissions and re-iterated his sense of exasperation with Phoenix. He said he understood that the principles of good complaint handling were to provide fair and proportionate remedies to put things right, and to compensate complainants in a customer focussed manner. He said Phoenix hadn't engaged with him leading to a long drawn out process.

Mr A said he'd had no meaningful apology or explanation. He said he'd been given conflicting excuses for the lower transfer value which he had been given both verbally and confirmed in writing, and which he relied on. He provided another example of Phoenix's late and poor service. He didn't think the compensation offered by the investigator was fair or enough at all.

Phoenix Life said it accepted my provisional 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've seen no reason to depart from the findings set out in my provisional decision as above.

For the reasons explained in my provisional decision, I don't think Mr A made his decision to transfer because he understood the transfer value was around the higher figure of £85,405. I don't think he would likely have made a different decision about the transfer had the firm not provided him with an incorrect figure.

I'm not persuaded the £85,405 was the correct figure. It was materially inconsistent with all the other values that Mr A had been given. And I'm satisfied that Mr A received the transfer value he was entitled to – ultimately; albeit that the additional payment of £235 led to further suspicion on Mr A's part.

I accept that Mr A was given conflicting information, in particular about the reasons for the change in value. But as I said in my provisional decision, although Phoenix Life made an error in quoting the higher transfer value, I think this caused a loss of expectation to Mr A as he wasn't entitled to that higher value. But that the firm's actions – its error, and then in how it dealt with the error which exacerbated the situation, caused distress and inconvenience to Mr A.

Mr A has said that he doesn't think the compensation fair or enough at all. He referred to the investigator and £100, so it's not entirely clear to me whether he meant the £300 I said I was minded to award in my provisional decision.

But in any event, I think the £300 I said I was intending to award is fair in all the circumstances, and consistent with the awards we make on other cases that are similar in nature.

Putting things right

Phoenix Life Limited should pay Mr A £300 for the distress and inconvenience caused by the matter.

My final decision

My final decision is that I uphold Mr A's complaint in part. I order Phoenix Life Limited to pay Mr A compensation as I have set out under 'Putting things right' above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 14 October 2022.

David Ashley
Ombudsman