

The complaint

Mr T complains that Phoenix Life Limited (Phoenix) caused unnecessary delays in processing his application to take his pension benefits.

What happened

Mr T had a pension plan with Phoenix. In November 2021, as he had passed his normal retirement age, he contacted Phoenix and asked for a retirement pack as he wanted to take his benefits.

He completed the form and asked Phoenix to ascertain if he'd be entitled to an enhanced level of tax-free cash (TFC). These forms were received by Phoenix but due to an error, this was only progressed when Mr T contacted it on 9 February 2022 asking for an update.

Phoenix wrote to Mr T asking for some further information, which he obtained. But when he tried to email this to Phoenix on 21 March 2022 and again on 30 March 2022 Phoenix were unable to open this. So, he was asked to send the information by post. He did so by recorded delivery and received confirmation that it had been signed for on 1 April 2022.

Mr T called on 12 April 2022 for an update, but Phoenix were unable to find the document. It was only found and scanned into its systems on 21 April 2022. So Mr T complained to Phoenix about the delays and the fact that the letter he'd sent by recorded delivery couldn't be found.

Phoenix called Mr T on 22 April 2022 and told him he was entitled to 25% of the fund value as TFC. Phoenix explained the plan would have to be revalued, and he agreed he wished to cash in the plan.

On 27 May 2022 Phoenix responded to Mr T's complaint. It apologised that his recorded delivery letter had gone missing. It confirmed his cash-in forms had been received on 19 May 2022 and said it was calculating an up-to-date value. It agreed it had caused unnecessary delays between 31 December 2021 and 9 February 2022, and again between 1 April 2022 and 21 April 2022. It offered to pay Mr T £10 to cover the cost of the recorded delivery, and £200 for the trouble and upset it had caused. It also said it would consider the impact of the delays it had caused and would send Mr T details of its calculation once it had been completed.

On 2 June 2022 Phoenix paid £21,637.40 to Mr T to reflect the value of his pension plan, including his entitlement to 25% TFC.

On 24 June 2022 Mr T brought his complaint to our Service. He said he was unhappy with how Phoenix handled his pension cash-in. He also questioned whether he'd lost out from the delays Phoenix had caused, as the amount he had been paid was the same as the figure quoted in November 2021.

Our Investigator asked Phoenix to show how it had calculated the cost to Mr T caused by the delays, and whether any interest had been offered to him to reflect the time he'd been

without the funds he was due. But Phoenix didn't respond, despite being chased.

On 20 January 2023 our Investigator wrote to Mr T and Phoenix with the outcome of his investigation. He thought Mr T's complaint should be upheld. He agreed with the periods of delay Phoenix had identified and calculated that this amounted to a total of 41 working days, meaning that Mr T had received the value of his pension later than he should've.

In order to put Mr T back into the position he would've been had the delays not occurred, our Investigator set out what he thought Phoenix should do.

But Phoenix didn't respond to this, so as no agreement could be reached the complaint has come to me for 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.

Having done so I agree with the investigator. I think this complaint should be upheld and Phoenix should undertake a calculation to establish if Mr T has suffered a financial loss as a result of its delays. And if a loss is identified, it should pay him compensation to reflect this. I'll explain.

Phoenix has looked at what happened and identified two periods when it caused avoidable delays. These were between 31 December 2021 and 9 February 2022, and again between 1 April 2022 and 21 April 2022. And having looked closely at the timeline of events, I agree with this assessment. These dates amounted to a total of 41 working days. So in effect Mr T received the value of his pension 41 working days later than he should've.

When Phoenix wrote to Mr T on 10 November 2021, it said his pension had an estimated value of £30,055.91, but this value was not guaranteed. In this letter it also said that this value meant Mr T would be entitled to a net cash-in value of £21,637.40.

But I can see this was an estimated value, which was a reflection of the value of Mr T's pension at that time. These values vary in response to fluctuations in the financial markets, which is why they can't be guaranteed.

Given the effect market fluctuations usually have on pension funds, it would've been fair to obtain an up-to-date valuation once Phoenix had received all the information it required to complete the cash-in request. This would mean Mr T would receive a payment which reflected the value of his fund at that time, and this may have been higher or lower than the estimated value he'd received in November 2021.

Phoenix received Mr T's cash-in application on 19 May 2022. This was the final instruction to Phoenix from Mr T and confirmed that he wanted to receive the full value of his pension, minus any tax that needed to be deducted. So, I would've expected Phoenix to obtain a value on this, or more likely the following working day. And this would be the value that would be used to establish what should be paid to Mr T.

But I can't see that this happened. I say this because the amount Mr T actually received in June 2022 was exactly the same amount that Phoenix had estimated in November 2021. And given his pension fund was exposed to market fluctuations during this time, I find it unlikely that the two values would've been exactly the same. I think it's more likely that a new calculation wasn't carried out, and I think it should've been.

Putting things right

Phoenix has offered Mr T £210 compensation for the trouble and upset its delays caused him. This included £10 to refund the cost of Mr T sending information by recorded delivery. In terms of compensation for the impact of Phoenix's delays and service issues, I agree with the investigator that this is fair and reasonable in the circumstances. I can see Mr T was frustrated with his experiences with Phoenix, but this level of compensation is broadly in line with the approach taken by our service.

However, to settle this complaint fairly I want to ensure Mr T is in the position he ought to have been in had the delays not occurred. And to do this Phoenix needs to recalculate the value of Mr T's pension fund. I'll explain how I want it to do this.

As I've said above, Phoenix ought to have calculated the value of Mr T's pension fund, at the latest, on the day after it received his final instruction. So, this would've been 20 May 2022. But as has been accepted, Phoenix caused delays of 41 working days up to this point. So, if the delays hadn't occurred, it is a fair assumption that Mr T would've been able to send, and Phoenix receive, the final cash-in application 41 working days earlier, 21 March 2021.

So, to put things right, Phoenix should do the following:

- Calculate what the value Mr T's pension fund would've been on 21 March 2022. (Value A)
- Compare this value to what it said Mr T's pension was worth (Value B), which resulted in a net payment to Mr T on 2 June 2022 of £21,637.40.
- If Value A is greater than Value B, then the difference (Value C) is what Mr T has lost, and appropriate compensation is due.
- Mr T would've been entitled to receive 25% of Value C as TFC, with the remainder being taxed at his marginal rate, 20%. This tax calculation should be carried out and the appropriate deduction made (Value D).
- If a loss is identified Mr T has been unfairly deprived of these funds, so 8% simple interest should be added to Value D, calculated from 21 March 2022 to the date of settlement. This is the amount to be paid to Mr T.
- In addition to the calculation above, pay Mr T £210, if it hasn't already done so, to reflect the distress, inconvenience and expense he's been caused.

My final decision

I uphold this complaint. I require Phoenix Life Limited to settle the complaint in the manner directed, and pay the amount calculated as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 6 April 2023.

Chris Riggs
Ombudsman