

The complaint

The complaint in this case relates to the delay in transferring Ms R's pension from Phoenix Life Limited (Phoenix) to Elevate. Ms R has stated that during these delays investment market movements have caused a financial loss.

What happened

Below I have detailed the chain of events as evidenced by the documentation and commentary provided by Phoenix, Ms R, and her IFA. Please note that the below only contains a summary of the key dates in relation to this complaint. Whilst not all contact points between the parties have been detailed, I would like to reassure both Ms R and Phoenix that all information and evidence has been fully considered including copies of documents, email correspondence, and the timelines of events provided.

On 4 May 2022 Ms R (through her IFA) requested information from Phoenix regarding her pension.

Information was received on 17 May 2022 however this was incorrect. Ms R's IFA contacted Phoenix over the phone on 20 May 2022 to question the information provided and request an explanation. The correct information was provided by Phoenix on 7 July 2022.

Given the delays suffered in getting the correct information, a complaint was registered with Phoenix.

The transfer forms were signed on 4 August 2022 and the request to transfer the funds was made via the online Origo system.

Given the policy had variable guarantees further documentation was required before the policy could be transferred. These documents included a proof of advice certificate. Phoenix sent these documents to Ms R and her IFA on 15 August 2022 but were not received until 22 August 2022.

The information required by Phoenix to complete the transfer was received on 23 September 2022 with the transfer then being actioned on 5 October 2022 using the investment value as of 23 September 2022. An amount of around £74,000 was received and invested.

Having not had a final response to her complaint within the regulatory eight-week timeframe, Ms R referred her complaint to this service on 20 September 2022.

Phoenix issued their response to the complaint on 7 December 2022. This accepted that the transfer process had taken too long. Having looked at the timeline of events Phoenix stated that were it not for their delays the transfer would have taken place on 15 August 2022. As such they would contact Elevate (the new pension provider) to gather information on the new investments made and undertake a redress calculation to assess any financial loss based on this earlier transfer date. In addition, amounts of £30 and £170 were offered to cover the cost of the additional phone calls made by Ms R, and to compensate for the distress and

inconvenience suffered.

Our investigator explained that the size of the delay accepted by Phoenix was considered reasonable and that some of the delay's suffered could not be considered Phoenix's fault.

Additionally, the offers made by Phoenix in respect of the cost of phone calls and the award for the distress caused were in line with what we would expect.

This response was initially accepted by Ms R.

On 24 February 2023 Phoenix contacted Ms R to explain that based on a transfer date of 15 August 2022 there had in fact been no financial loss suffered. Whilst the Phoenix pension would have had a higher value of around £79,000 on 15 August 2022, unit price information for the investments bought within the new Elevate pension showed that this higher value would have bought fewer units in the new investments in August 2022 than were actually purchased in October 2022. Essentially, whilst the existing Phoenix investments had lost money during the delay period, the new Elevate investments would have lost even more and as such Ms R had not suffered a loss because of the delay.

Following receipt of this outcome Ms R, with help from her IFA, concluded Phoenix's assessment of the delays was not correct. Ms R noted that had the transfer been completed in June her pension would now have a higher value.

Our investigator remained of the opinion that the offer made by Phoenix was reasonable, and as no agreement could be reached the case was passed to me.

Having considered all of the evidence available I issued a provision decision on 26 August 2023.

Within this I stated:

"I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I would firstly like to note that the transfer of the pension was unduly delayed, Phoenix have already accepted this and stated that were it not for the delays they caused, the transfer would have been completed on 15 August 2022.

The first thing I have considered is whether I agree with this date.

It is impossible for me to know exactly what would have occurred had Phoenix acted differently at specific points during the chain of events above. As such I have considered whether the 15 August 2022 date proposed by Phoenix is reasonable based on the weight of evidence above and the principle of fairness.

It is clear that the initial request for information should have been dealt with more quickly.

Within the response to the complaint Phoenix have accepted that they took too long in providing the correct information to Ms R's IFA and stated that the query made on 20 May 2022 should have been responded to the following working day – 23 May 2022. This information was not actually provided until 7 July 2022.

The delay period between these dates, and the removal of this delay from the chain of events above is the basis for the hypothetical earlier transfer date of 15 August 2022 and the subsequent redress calculation performed by Phoenix.

Within the timeline above there are some events which delayed the process which I do not believe it is reasonable to hold Phoenix accountable for.

All the required information was available to Ms R's IFA on 7 July 2022, however the application to transfer was not completed until 4 August 2022. Whilst the information from Phoenix was delayed, I do not consider it reasonable to hold them accountable for this time.

Phoenix had at this point provided everything required of them, with action only being required of Ms R and her IFA between 7 July 2022 and 4 August 2022.

Additionally, a delay in the transfer occurred because the paperwork submitted to Phoenix by Ms R and her IFA was incomplete. The paperwork was sent by Phoenix on 15 August 2022 (although I accept this was not received until 22 August 2022) however elements of this were not completed.

Ms R has accepted a box on the transfer discharge form was not completed. I have carefully considered the point that at the time this form was being completed Ms R had already lodged a complaint about the transfer process, and as such did not tick the relevant box on this form as she was awaiting the outcome of her complaint, expecting that this would deal with any issues regarding the transfer value of her pension.

Whilst I can appreciate this point of view, it is reasonable for Phoenix to require the correct paperwork and confirmations to be provided before a transfer is actioned, regardless of whether a complaint investigation process is being undertaken or not.

Given it was Ms R's decision to not tick the relevant box, I do not believe it is reasonable to hold Phoenix responsible for this period of time.

Overall, having looked at the chain of events there are times throughout the transfer process where each party could have responded slightly quicker in either responding to requests for updates, or forwarding on the relevant documentation. However, I consider the three time periods above to be the key areas where significant delay occurred. As detailed above, I believe Phoenix can only be held accountable for one of these.

I would like to repeat here it is impossible for me to know exactly what would have happened if Phoenix had acted differently in May 2022 and provided the requested information earlier.

Each subsequent event may have been conducted either more quickly or indeed taken more time in this new hypothetical timeline, with each party to the process being able to propose a different date each of which is theoretically possible.

Overall, I have considered whether the date proposed by Phoenix is reasonable based on the evidence available and I have reached the same conclusion as our investigator. In reaching this conclusion I appreciate that this will disappoint Ms R, who believes that the transfer should have happened earlier however I believe the 15 August 2022 date is not unreasonable or unfair.

The evidence on file shows that had the transfer been completed on this earlier date, Ms R would not have been financially disadvantaged. Whilst the transfer value would have been higher at around £79,000 rather than £74,000, the unit prices of the investments to be purchased within the Elevate pension were also higher on 15 August 2022. As such, whilst the lower amount of £74,000 was eventually transferred, this lower amount was able to purchase a higher number of units in the new investment funds than the £79,000 would have been able to on 15 August 2022.

The purpose of any redress instructions I give to a business is to put that consumer as close as possible to the position they would have been in had that business not made an error. In cases such as this where a transfer of pension funds has been delayed there are generally two steps to completing the redress calculation.

Firstly, the encashment value of the existing investments at the hypothetical earlier date needs to be calculated. In this instance the earlier encashment value has been calculated as around £79,000 compared to the actual encashment value of around £74,000.

However, this does not mean a £5,000 loss has been suffered, as step two of the redress calculation considers the new investments which were to be purchased within the receiving pension scheme. These investments would also have been changing in value over the delay period and as such, to best put a consumer into the position they would have most likely been in, the changes in value of the new investments must also be considered.

In this case Elevate have confirmed that the £74,000 transferred purchased around 48,800 units in the new investment funds on 12 October 2022. Had the £79,000 been transferred on 15 August 2022, this higher value would have purchased around 47,400 units – less than were actually purchased in October 2022.

As such, the delay resulted in Ms R being able to purchase more units in the new investment funds and therefore no financial loss occurred.

Whilst the delayed transfer has not resulted in a financial loss being incurred by Ms R, the complaint response from Phoenix did acknowledge that the transfer process did cause distress and inconvenience. Additionally, Ms R did have to spend time and money on extended phone calls to Phoenix to try and resolve the situation.

For these issues Phoenix offered £30 to cover the cost of the additional phone calls and £170 to cover the distress and inconvenience their errors had caused.

When discussing the offer with Ms R, our investigator confirmed that it was considered reasonable, and I have reached the same conclusion.

It is clear that Phoenix made errors during the transfer of Ms R's pension and as such I am upholding this complaint. However, as per the rationale above I have concluded that the delays did not result in a financial loss being incurred by Ms R. As such I am not asking Phoenix to take any further action."

When issuing the provision decision, I asked all parties to the complaint to provide any further evidence or commentary they wished me to consider by 23 September 2023, after which I would 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.

In response to the provisional decision issued neither Ms R nor Phoenix have provided any further evidence or commentary that requires further assessment. As such I am of the opinion that the rationale above remains fair and reasonable, as such I see no reason to change it.

Putting things right

As per the redress instructions detailed in the provisional decision if the £170 / £30 offered to

cover distress and inconvenience and the cost of additional telephone calls has already been paid to Ms R, then no further action is required. If these payments remain outstanding, then Phoenix Life Limited should take steps to pay these amounts as soon as possible.

My final decision

I am upholding this complaint against Phoenix Life Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms R to accept or reject my decision before 24 October 2023.

John Rogowski
Ombudsman