

## **The complaint**

Mr H complains that Phoenix Life Limited hasn't fairly compensated him for the delays and poor service he experienced when he tried to get more information from them about how they'd calculated the sum assured following a claim on a life assurance policy.

## **What happened**

The background and circumstances leading up to this complaint are well-known to both parties and aren't disputed. So, I haven't set out everything here in detail. The following is a summary of what happened.

Mr H held a life assurance policy with Phoenix Life. The life assured of the policy was his wife, so in the event of her death it would pay out a lump sum to Mr H. At the outset, the sum assured was £100,000, which increased with the Retail Prices Index ('RPI') each year.

Following his wife's death, Mr H made a successful claim on the policy and on 15 November 2022 Phoenix Life made a payment to him of just over £188,800.

Shortly afterwards, Mr H contacted Phoenix Life to query the growth on the policy's sum assured. During November and December 2022, Mr H made several phone calls seeking the information he needed to understand how the RPI increases to the policy had been calculated.

On 29 December 2022, Phoenix Life received Mr H's letter of 6 December 2022 in which he requested a full breakdown of the calculations it had used to arrive at the sum assured paid out. At this point Phoenix Life actioned the request and referred the matter to its actuarial department.

Mr H complained to Phoenix Life about the service he'd received in early January 2023 because he still hadn't received the information he needed.

On 13 January 2023, Phoenix Life sent a letter to Mr H, which said it had identified errors in the application of the RPI rates and it enclosed a full breakdown / table of its calculations. And on 17 January 2023 it made an additional payment to him of just over £5,300, including interest to reflect the underpaid claim amount.

Following Mr H's referral of his complaint to us, Phoenix Life provided its response to his complaint. It apologised for the level of service Mr H had received and for the unreasonable amount of time he'd spent chasing the information he'd asked for.

It also apologised for the errors made throughout the duration of the policy, which led to it making a further payment. It offered Mr H £425 in compensation plus an amount of £81.54 representing late payment interest at 8%, which it said reflected the Financial Ombudsman Service's rate. It said this was in addition to the interest Mr H had already received.

Following further clarification of the calculations provided, Mr H said that, while he was now happy with the breakdown he'd received, he didn't think the compensation adequately

reflected the distress and inconvenience caused. He said he spent hours dealing with Phoenix Life, the nature of things meant it was a sensitive matter, he was accustomed to a daily rate of £350 for his time whilst in employment, and he was concerned that miscalculations were happening on a wider scale affecting more people. So he asked for our opinion of the compensation offered.

One of our Investigators considered things and they said Phoenix Life's offer was fair. They clarified that the role of the Financial Ombudsman Service is not to fine or punish firms, and that our consideration of things was no broader than Mr H's individual experience with Phoenix Life. They said it was clear Mr H had experienced distress and inconvenience as a result of Phoenix Life's actions, but an award of this nature wasn't designed to reflect units of time spent dealing with things or at a specific hourly rate.

Mr H disagreed. In summary he said the award was insulting. He said he had to employ a huge amount of time to resolve things at a time when he was completely overwhelmed. He was grieving and having to deal with Phoenix Life meant he couldn't concentrate on other important matters including his grieving son. He said whilst he understood the compensation wasn't related to earnings, he said the amount offered equates to half the minimum wage. He repeated the point about other people likely being misled by Phoenix Life. He said he was seeking £1,950 – 1% of the claim payment – which wouldn't be a punishment, but would act as a reminder to Phoenix that its customers should be treated with dignity and respect.

The Investigator wasn't persuaded to change their opinion, so the matter was referred 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.

I've taken into account relevant law and regulations, regulator's rules, guidance and standards and codes of practice, and what I consider to have been good industry practice at the time. And where the evidence is incomplete, inconclusive or contradictory, I reach my conclusions on the balance of probabilities – that is, what I think is more likely than not to have happened based on the available evidence and the wider surrounding circumstances.

It is clear here that Phoenix Life did something wrong. And Phoenix Life accepts this. Because there is no dispute about this, I will focus in this decision on the aspect of the complaint that remains unresolved, which is the amount of compensation Phoenix Life should pay Mr H to put things right.

Firstly, in terms of financial loss, Phoenix Life has offered to pay Mr H a sum of £81.54 reflecting late payment interest on the additional claim amount it paid in January 2023. This is because, if things had happened as they should have done, it should've paid this in November 2022. Phoenix Life has calculated this at a rate of 8% simple, which is in line with what I would award. So, in the circumstances I think this is fair.

The second aspect of fair compensation relates to the impact Phoenix Life's mistakes had on Mr H. And here I want to firstly repeat what the Investigator told him about our role and that it is not within our remit to fine or punish firms – that's the role of the regulator. So, my determination of what fair compensation is to reflect the distress and inconvenience caused to Mr H will be based on the impact Phoenix Life's actions had on him alone and nothing broader than that. It will not, as Mr H has asked, seek to influence Phoenix Life's behaviour

towards its wider customer base.

It is clear to me that Mr H was put to a considerable amount of distress and inconvenience following his request to Phoenix Life for more information about how the claim payment had been arrived at. Mr H made a total of four phone calls between November and December 2022, and while Phoenix Life did provide Mr H with some information, it wasn't what he was seeking. Mr H also wrote a letter in early December 2022 setting out what he needed, but it appears Phoenix Life didn't receive it until the end of the month – for what reason, isn't clear. And this was all taking place at what was clearly a stressful time for Mr H having recently lost his wife. Mr H's circumstances at this time were already difficult – I think Phoenix Life's actions added to that difficulty. So, I think Mr H suffered both distress and inconvenience as a result of Phoenix Life's failure during this period to provide him with the proper information he needed and in a timely manner.

It appears that it wasn't until receipt of Mr H's letter on 29 December 2022 that Phoenix Life properly actioned his request. I can understand that Mr H was frustrated by Phoenix Life's letter of 6 January 2023 telling him that there might be a delay in answering his query. I can see this prompted him to call Phoenix Life on two more occasions and that his expectation was that it should be able to provide him with the information instantly. But I don't think this was a reasonable expectation. I think it was appropriate for Phoenix Life to seek actuarial support to answer Mr H's query and provide him with what he was seeking. Phoenix Life provided Mr H with its answer on 13 January 2023, so around two weeks from actioning the request. In the circumstances I don't think this was an unreasonable delay. And when Phoenix Life discovered errors had been made in calculating the sum assured throughout the life of the policy, I'm mindful that it acted promptly in making the further payment to Mr H.

I can see Mr H says that he had many sleepless nights worrying about the unpaid claim and wasn't able to fully concentrate until the full amount was paid. I've thought carefully about this. As I've said, I accept Mr H was distressed by Phoenix Life's actions. But I'm also mindful that Mr H told both us and Phoenix Life that his concern wasn't that he believed the claim amount wasn't correct, it was that he couldn't work out how the figure had been arrived at. So, I'm not persuaded that Mr H reasonably understood that an amount of money was outstanding and was unpaid at the time. And if he did, I don't think he reasonably believed it was a substantial portion of the claim given the sum that had already been paid out.

So, taking all of this into account, overall I think the sum of £425 offered by Phoenix Life in recognition of the distress and inconvenience caused is fair in all the circumstances. It is in line with our approach to awards of this nature, and in my view it fairly reflects the considerable distress and inconvenience caused by Phoenix's actions over a number of weeks. I can see Mr H has said that, while he understands the concept of the compensation being unrelated to earnings, by his calculations the compensation amount equates to approximately half the minimum wage. I can also see that Mr H has previously referred to a daily rate of £350 in his previous professional capacity. But, as the Investigator explained, the award is not based on units of time. And we do not put a price on someone's time – one person's free time isn't worth more than another's for example. So while Mr H believes an amount of £1,950 is appropriate, I disagree. For the reasons above, I think an amount of £425 as offered by Phoenix Life is fair in the circumstances.

So, I uphold this complaint and award compensation.

### **Putting things right**

Phoenix Life should do the following:

- Pay Mr H £425 for the distress and inconvenience its errors caused.

- Pay Mr H £81.54 late payment interest.

**My final decision**

I've decided to uphold this complaint. Phoenix Life Limited should now put things right by paying Mr H fair compensation as set out above. I make no other award.

Under the rules of the Financial Ombudsman Service, I'm required to ask to accept or reject my decision before 6 March 2024.

Paul Featherstone

**Ombudsman**