

The complaint

Mr K complained that he has suffered a financial loss as a result of Standard Life Assurance Limited delaying the implementation of a court approved pension sharing order (PSO) issued as a result of his divorce.

The organisation ultimately responsible for Standard Life is Phoenix Life Limited (Phoenix), which acquired Standard Life Pensions. For simplicity, I shall refer to all correspondence as if it came from Phoenix.

Mr K would like to be compensated for any financial loss he has suffered as a result of the delays to implementing the PSO.

What happened

As a result of his divorce settlement, a court approved PSO was sent by Mr K's solicitor to Phoenix on 3 May 2023. The court directed that Mr K should pay his ex-wife the sum of £350 per month until the PSO took effect.

On 13 June 2023, Mr K's solicitor wrote to Phoenix to request a progress update on the implementation of the PSO but did not receive a reply. Mr K wrote to Phoenix on 1 August 2023 to make a complaint about the poor communication he had received and apparent lack of progress. Phoenix initiated the process of implementing the PSO on 19 August and wrote to Mr K three days later to confirm that it had all the information it required from him to implement the PSO. It also told him that it would contact his ex-wife to gain her instructions on how to make the necessary payments to her.

Mr K wrote to Phoenix again in early September to check on progress and to ask if there was anything he could do to help expedite the implementation of the PSO. He wrote again on 4 October 2023 to state that his pension had been paid in full, indicating that the PSO had not yet commenced.

Phoenix sent Mr K its response to his complaint on 13 October 2023. It upheld his complaint, acknowledging and apologising for the delay in beginning the process, which it attributed to a systems issue. It also, however, indicated that as it was still awaiting information from Mr K's ex-wife, it did not believe it was responsible for the ongoing delay in starting of the PSO. It said that because it was required to start the PSO within four months of receiving all the necessary information, it did not consider Mr K's PSO to be delayed, so did not accept responsibility for the £350 per month penalty payments Mr K had been ordered to pay by the court. It paid him £500 in respect of distress and inconvenience.

Our investigator reviewed all the evidence and came to the view that Phoenix was at fault for at least some of the delay Mr K had experienced. They concluded that if Phoenix had begun the process of implementing the PSO when it received the information in May, rather than waiting until August, the process would have been completed some 3 months earlier. They recommended that Phoenix should pay further compensation to Mr K in relation to the additional penalty payments he had made, together with an additional £75 to compensate

him for the poor level of communications he had received. Together with the £500 Phoenix had already paid him, this made a total of £1,100.

Phoenix accepted our investigators view, but increased its offer of compensation to £1,625 to Mr K, accepting responsibility for the full amount of three month's delay and consequent penalty payments he had incurred.

Mr K rejected the investigators view and Phoenix's increased offer of compensation. He felt that it should repay him the equivalent of four months penalty payments and was unhappy that he had received pension overpayments, which he was liable to repay to Phoenix. He was also unhappy that Phoenix had discovered it had calculated the value of the pension incorrectly and that he had been charged a fee of £1,250 by Phoenix to implement the PSO.

Phoenix subsequently increased its offer of compensation by a further £300, making a total of £1,925 including the £500 he had already received.

Mr K rejected this offer, and so this case has been passed to me to review the evidence again and make 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 reviewed all the evidence in this case, I agree with our investigator and uphold this complaint. I do, however, consider that the compensation Phoenix has offered to be fair and reasonable in the circumstances and will not be asking it to do more than it has already offered to resolve the complaint.

I can appreciate that this will be disappointing to Mr K, so I will explain my reasons.

Before I do this, I think it appropriate to reflect on the purpose of this service. It is not our role to punish a business for making mistakes, but to investigate complaints and decide whether a business has made errors in the way it has treated a customer. Where we find it has, we will seek to understand the effect of those errors on the customer and propose a level of redress that would put the customer back into the position they would have been in if it were not for those errors.

As Phoenix has already acknowledged that it made mistakes in how it implemented the PSO on Mr K's pension, the key issue for me to decide is whether the compensation that it has offered to Mr K is fair and reasonable in the circumstances.

The first issue I have to decide is on the extent of the delay in implementing the PSO that Phoenix is responsible for. Phoenix believes that it is responsible for a delay of three months to the process, which incurred a cost of £1,050 to Mr K in additional monthly penalties at £350 per month. Mr K contends that the delay is, in fact four months, so he incurred a loss of £1,400 in additional penalties.

Mr K's Solicitor passed the PSO documentation to Phoenix on 3 May 2023, but Phoenix failed to act upon this until 17 August 2023, over three months later owing to what it describes as 'systems issues'. I therefore find that the period of the delay caused by Phoenix is between three and four months. Phoenix initially paid Mr K £500 to apologise for the delay in beginning the process of implementing the PSO, and subsequently offered to pay him an additional £1,050 as full payment of three months' penalty payments. This makes a total of

£1,550 in respect of this delay, which is greater than four months' penalty payments, so I think this offer is fair and reasonable in this respect.

The delay in implementing the PSO has resulted in the overpayment of pension of c£3,400 to Mr K by Phoenix that will have to be repaid by him. Although this is correct as Mr K is not entitled to keep this money, Phoenix has offered him additional compensation of £300 in respect of the delay in implementing the PSO which contributed to the size of the overpayment he now has to repay. I again find this to be a fair and reasonable offer in the circumstances of this complaint.

Mr K also raised the point that he has paid a total charge of some £1,250 to Phoenix to implement the PSO, but feels like the poor service he has received should result in this fee being refunded to him. While I appreciate that the service he has received from Phoenix has fallen short of what both he, and it, would expect, I have to consider this in context of the overall level of compensation Phoenix has offered him. Having done this, I consider that the total of £1,925 compensation in respect of the delay it has caused is fair and reasonable in the circumstances.

The final point I have to consider is that Phoenix also made a mistake in calculating the cash equivalent value of Mr K's pension benefits, ownership of which have now been passed to his ex-wife. Phoenix has explained that this was because it made a mistake in the original calculation when it failed to recognise that his pension allowed for a surviving spouse to receive a pension. Phoenix has also explained that this mistake does not affect Mr K directly, as the implementation of the PSO means that it is his ex-wife, rather than him, that is affected by this. Although I can again understand Mr K wanting to understand this in more detail, this is also not a complaint point that Mr K has raised with Phoenix until now, so it has not had the opportunity to formally respond to him about this and so I cannot consider this in my decision.

Putting things right

For the reasons given, I'm satisfied that the complaint should be upheld. My aim is to put Mr K back in the position he would have been in, had Phoenix implemented the PSO without the delay its errors caused.

To do this, it should pay Mr K a total of £1,925, including the payments it has already paid to him:

- £500 already paid to him
- £1,050 in respect of 3 months' penalty payments Mr K incurred
- £300 in respect of the overpayment of pension benefits he received and will now have to repay to Phoenix
- £75 in respect of its poor communications to him.

My final decision

For the reasons explained above, I uphold Mr K's complaint.

My final decision is that Phoenix Life Limited should pay the amounts set out above to Mr K. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 18 April 2024.

Bill Catchpole
Ombudsman

