

The complaint

Mr B complains that Phoenix Life Limited (“Phoenix”) has failed to manage his pension investments in a professional manner. In particular he complains about the charges that have been applied to his pension investments, the lack of regular statements received, the poor investment performance of the with-profits fund, and the lack of online servicing available to his pension arrangement.

What happened

Mr B holds pension savings with Phoenix. His pension was originally started with another firm, however responsibility for its management has now moved to Phoenix. In this decision, for ease, I will simply refer to Phoenix as the business Mr B dealt with, both before and after the management of his pension savings was transferred.

Mr B’s pension savings are invested in a with-profits arrangement. The specific with-profits fund only holds investments arising from the previous firm’s customers. Phoenix operates other with-profits arrangements in relation to other pension schemes. Mr B’s pension savings are invested in a unitised fund. Essentially that means that he is guaranteed to receive his original investment at his selected retirement date. But Phoenix will also add bonuses that are reflected by an increase in the unit price of his investments.

Mr B is unhappy with the value of his pension savings, and in particular that they haven’t grown as he would expect in more recent years. He thinks that has arisen due to the nature of Phoenix’s investment decisions on the fund. Phoenix accepts that for a period of time it failed to send annual statements to Mr B setting out the value of his pension savings. It says it has now corrected that error and annual statements have restarted.

Mr B has also complained about the charges that are being deducted from his pension savings. He says that before 2024 Phoenix provided little explanation about any charges and simply showed an overall deduction on any statements. More recently Phoenix has provided greater detail about the relevant charges. But Mr B says those charges exceed what Phoenix is allowed to deduct under the Pensions Act 2014.

Phoenix has responded to Mr B’s complaint over three final response letters. It explained that it had operated the with-profits fund in line with the Principles and Practices of Financial Management (“PPFM”) document that its regulator requires it to publish. And more recently it has told Mr B that its charges haven’t changed over the years – it now simply provides greater transparency over those charges in line with the regulator’s expectations.

Phoenix explained to Mr B that it is working hard to ensure improvements were made to its online portal. But it apologised that not all policies could currently be accessed in that way. And Phoenix told Mr B that it accepted that he hadn’t been sent statements on his pension investments for the past few years since its administration system had been updated. It said that had now been corrected and paid Mr B £300 compensation for the inconvenience he’d been caused. And Phoenix paid a further £150 to Mr B as an apology for the time it had taken to answer his complaint. Unhappy with that response Mr B brought his complaint to us.

Mr B's complaint has been assessed by one of our investigators. She didn't think there was any evidence that Phoenix had mismanaged the with-profits fund. She thought that charges that had been deducted were reasonable, and in line with the relevant terms and conditions. And she thought that the compensation Phoenix had paid to Mr B for its failure to send him regular annual statements was reasonable. So the investigator didn't think Phoenix needed to do anything more in relation to this complaint.

Mr B didn't agree with that assessment. So, as the complaint hasn't been resolved informally, it has been passed to me, an ombudsman, to decide. This is the last stage of our process.

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 deciding this complaint I've taken into account the law, any relevant regulatory rules and good industry practice at the time. I have also carefully considered the submissions that have been made by Mr B and by Phoenix. Where the evidence is unclear, or there are conflicts, I have made my decision based on the balance of probabilities. In other words I have looked at what evidence we do have, and the surrounding circumstances, to help me decide what I think is more likely to, or should, have happened.

At the outset I think it is useful to reflect on the role of this service. This service isn't intended to regulate or punish businesses for their conduct – that is the role of the Financial Conduct Authority. Instead this service looks to resolve individual complaints between a consumer and a business. Should we decide that something has gone wrong we would ask the business to put things right by placing the consumer, as far as is possible, in the position they would have been if the problem hadn't occurred.

Some parts of Mr B's complaint relate to how Phoenix has operated the with-profits fund in general rather than any specific complaint about his investments. Those are not matters that it would be appropriate for me to deal with here. Phoenix regularly publishes its PPFM in regard to this fund. And it is responsible for ensuring that its investment and administration activities (including charges) align with what is set out in the relevant PPFM document. Should Phoenix fail to meet those obligations that would be a matter for its regulator.

It is disappointing that Phoenix failed to issue annual statements to Mr B for a number of years. But I need to consider whether the information that those statements would have shown to Mr B would have caused him to act differently.

Mr B has told us that he would be reluctant to move his pension savings from the with-profits fund due to the market value reductions ("MVR") that Phoenix would be likely to apply. I'm not aware of anything in the statements that Phoenix should have issued that would have been of such concern to Mr B that he might have thought it prudent to pay the MVR and move his pension savings to an alternative investment. And I haven't seen that Mr B raised the issue of the missing statements with Phoenix at the time – something I think he might have done had he been awaiting critical information to inform any decision about changing his pension investments that he might have been thinking of taking.

So although I agree with Mr B that it is disappointing that Phoenix did not issue the annual statements I don't think it has caused him to make any different decisions about his pension savings, or more importantly to lose out. I think the compensation Phoenix has paid to Mr B for the inconvenience he has been caused here is fair and reasonable.

The PPFM sets out in some detail how, and what, charges will be taken from the investment returns in relation to the fund. I accept that in previous years the statements that Phoenix had sent Mr B didn't show a great deal of detail about the charges that were being deducted from his pension investments. But more recently, and in line with a change in the regulator's expectations, his statement does show full details of all the charges.

I think it is important here to echo what Phoenix has said to Mr B. It wasn't previously required to provide the level of detail about the charges that it is now showing. But that doesn't mean those charges were not being applied – they were simply absorbed into the unit prices of the with-profits fund. So I'm not persuaded that Phoenix has done anything wrong either in terms of the way it provided information in the past, or in the charges it is now detailing.

Mr B has said that he considers the charges Phoenix is deducting to be in breach of the requirements set out for an occupational scheme in the 2014 Pensions Act. I'm not persuaded that those requirements are applicable here, and that the pension he holds with Phoenix is covered by those regulations. Those regulations are applicable to workplace pensions into which consumers are defaulted as a result of auto-enrolment activities. In other words, pension schemes that consumers do not have control over whether or not to join if they wish to receive employer contributions. I don't think that is the case with Mr B's pension plan.

As I said earlier, Phoenix has taken over the operation of Mr B's pension plan from another firm. When the plan was first opened, online access was not a consideration, so there is no provision for it to be required in the relevant terms and conditions. It seems that Phoenix has made a commercial decision to not add these pension plans to its online platform at this stage. That is a decision that Phoenix is free to make, and not something that would suggest Mr B was not being treated fairly.

Ultimately Mr B is free to manage his pension investments as he sees fit. He is able to transfer his pension savings to another provider if he is unhappy with the way in which the with-profits fund is being managed by Phoenix. I accept that will have implications in terms of any MVR that might be applied. But an MVR simply ensures that a leaving investor receives a fair share of the assets in the fund, meaning that those members remaining are not disadvantaged.

I appreciate that this decision will be disappointing for Mr B. I agree that Phoenix should have sent him more regular statements in the past. But I am satisfied that those statements being missed has not caused Mr B to lose out, and that the compensation Phoenix has paid Mr B for his inconvenience is fair. I don't think that Phoenix has acted unfairly either in the way it has made information available to Mr B, or in the charges it has deducted for its expenses in operating the fund.

My final decision

For the reasons given above, I don't uphold the complaint or make any award against Phoenix Life Limited

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 1 January 2025.

Paul Reilly
Ombudsman