

## The complaint

Mr C's Personal Pension ('PP') is provided by Phoenix Life CA Limited ('Phoenix'), formerly Sun Life Assurance Company of Canada (UK) Limited ('SLOC'). He says Phoenix gave him conflicting and misleading information, between 2019 and 2023, in response to his ongoing enquiries about the PP's investment in the SLOC Individual Managed Pension Fund ('IMPF') – mainly enquiries about how the IMPF is invested and the charges/fees associated with the IMPF holding; some secondary enquiries about the IMPF were also raised but they were addressed between Phoenix and our service, and were not in dispute.

## What happened

One of our investigators looked into the matter and concluded that the complaint should not be upheld.

He mainly said – Mr C's enquiries are fairly straightforward; it appears that Phoenix initially did a poor job of answering them, possibly because they were not properly understood; but it eventually provided him with the correct information; the IMPF's official factsheet he was given confirmed its top 10 holdings as of 29 February 2024; the factsheet confirmed the fund's components and associated fees/charges; his confusion about Phoenix's reference to investments in 'markets, asset splits, sub-funds or sub-sub-funds' appears to have been misunderstood; these are different categories describing different things and it is possible to be invested in all four at the same time; as Phoenix has confirmed, it is obliged to average the costs of its main fund's sub funds (and any sub-funds within those sub-funds) in a synthetic Total Expense Ratio ('TER'), so these costs are reflected in the single synthetic TER stated in the factsheet; and, overall, there has been no financial impact in the matter.

Mr C disagreed with this outcome and asked for an Ombudsman's decision. There were developments thereafter, which led him to consider, and declare, that the matter of how the IMPF was/is invested is, on the face of it, now settled. However, he maintains his request for an Ombudsman's decision for the matter of the fees associated with the IMPF holding.

Mr C initially addressed the findings in two submissions he made around the time the investigator was sharing his views on the case. Overall, and in the main, he said –

- Phoenix has twice confirmed to him, on the telephone and within its complaint response, information about the IMPF's investments that directly conflicts with information about those investments in the IMPF's factsheet. Phoenix twice confirmed that the top 10 holdings listed in the factsheet do not apply to the fund, but the factsheet states that they do. On both occasions its confirmations were backed by reference to its technical team. In the absence of its resolution of this conflict he does not consider that the factsheet holds weight as evidence of the IMPF's contents, so doubt over its veracity remains at the root of his complaint.
- With regards to the IMPF's charges, fund management annual fees are commonly between 0.5% and 1.5%. The associated fund managers will likely be meaningfully compensated for their work and role. For example, and if the factsheet is reliable, the Blackrock World Bond Fund ('BWBF') is one of the IMPF's top 10 holdings, it has an

Annual Management Charge ('AMC') of 1%, and based on the factsheet 5.5% of the IMPF is held in this sub-fund, so that would mean a sub-fund cost of 0.055% per year based on its AMC. Comparable calculations will apply to the remaining nine holdings, because they too are managed funds. The result will be additional and seemingly concealed layers of costs in the IMPF holding that are not reflected in the TER stated in the factsheet – and that have not been fully disclosed and explained by Phoenix. The result will also conflict with the '*Investment Management Charges*'/'*Other fund charges*' that Phoenix and the factsheet have presented as being between 0.06% and 0.074%. On its own, the holding of BWBF leads to a sub-fund charge (0.055%) that is almost 0.06%, so it is implausible that the sum of sub-fund charges for the remaining nine holdings (based on their individual AMCs) exists, in addition, within the same 0.06% to 0.074% allowance for fund charges. Based on his calculations, there could potentially be an understatement of the TER of between 27% and 91%.

The investigator then shared with Mr C Phoenix's written confirmation that the top 10 holdings listed in the IMPF's factsheet are indeed held within the IMPF. In addition, Phoenix wrote to him directly to confirm the same, including a list of the top 10 holdings in the IMPF as of 31 May 2024. On this basis he said – "*Taking this new evidence at face value the only matter outstanding is that of my funds TER ...*".

### **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 understand Mr C's previously held concerns about the components of the IMPF. Phoenix created a confusion by stating twice to him, formally and on the standing of its technical team, that the top 10 holdings listed in the factsheet were unrelated to the IMPF, despite the factsheet clearly describing the IMPF as having those top 10 holdings.

It is unclear to me why Phoenix did not avoid this confusion by simply maintaining consistency between its answer to Mr C and the contents of the IMPF's factsheet (which exists for the very purpose of describing the fund and its characteristics, and exists for investors to reasonably rely on). However, the matter has now been resolved, and the factsheet's description of the IMPF's holdings has been affirmed by Phoenix, on record, to our service and directly to Mr C. It is also noteworthy that the top 10 holdings, in total, account for around 95% of the IMPF's contents, so this essentially gives him the meaningful picture of how the IMPF in his pension is invested, which is what he wants and is entitled to.

The only other matter to address is that of the charges/fees associated with the IMPF in his pension.

I return to the factsheet, because, on balance, I consider it reliable. Phoenix's previous expressions in conflict with its contents have since been corrected. The correction was applied to those previous expressions (which have essentially been withdrawn), not to the factsheet, so there is no implication arising from the correction that the factsheet is wrong. Plus, as I said above, the factsheet is the document investors are reasonably entitled to rely on in terms of its description of a fund's characteristics (including its costs). The factsheet includes the following –

<i>"Annual Management Charge</i>	<i>1.500%</i>
<i>Annual Investment Charge</i>	<i>N/A</i>
<i>Other fund charge</i>	<i>0.074%</i>

*Additional expenses* N/A

*Total Expense Ratio* 1.574%

*Transaction Costs* 0.175%

*Notes about charges*

*The Total Expense Ratio (TER) shows the annual cost of investing in a fund. This includes the Annual Management Charge (AMC) plus any other charges deducted from the fund and is updated quarterly in arrears. Transaction costs show the cost of investing in markets. This is updated annually in arrears. For more information. please call us.* [my emphasis]

The above essentially commits Phoenix to applying no more than updated/current TER to the IMPF, and the TER is defined as covering the AMC and 'any other charges deducted from the fund'.

The source of concern for Mr C is the following sentence in the "Potential risks" section of the factsheet – *"This fund invests in other funds, and as such may be subject to higher costs due to charges within each underlying fund as well as for charges of the fund itself."* It is in this regard that he believes there could be hidden costs and that he has conducted the aforementioned analysis of potential understatement in the TER.

The investigator looked into this. As Mr C acknowledged in his submissions, the investigator put the following enquiries to Phoenix –

*"Does your stated TER include all the costs of the subfunds in the fund?"*

*"I have done some additional research and the FCA handbook states that firms should use a synthetic TER if the fund contains more than 10% in sub-funds. Therefore your stated TER should include the sub funds in this case. So can you just confirm by close of play Friday the TER has been calculated on this basis."*

Phoenix responded as follows –

*"Our actuarial team have confirmed that The TER in the fund fact sheets is the cost of investing in the fund, therefore does reflect any sub-fund costs. The fund fact sheets do comply with FCA guidance, having been checked within our actuarial team and subject to review and approval by other relevant parties as part of Sun Life of Canada's communications and publications approval procedure".*

On face value, the investigator was satisfied with the above confirmation. However, Mr C remains unconvinced, and he retains his doubt that the TER covers all the costs (including all the sub-fund costs) associated with the IMPF. In particular, he finds it unlikely that the costs to the IMPF of each sub-fund's AMC would be low enough to produce, in total, a total annual fund charge within the 0.074% allowance.

I can understand the logic behind his concern and analysis. He has suggested that the investigator ought to have probed further and requested sight of Phoenix' TER calculation. On balance, I am not persuaded this is presently necessary.

Ultimately, the harm Mr C seeks to avoid is the application of charges to his pension's IMPF holding that sit outside the implicitly agreed TER (as revised/updated quarterly) and/or that are undisclosed and unagreed. This is a reasonable pursuit. Fundamentally, he/his pension

should not be subjected to charges that have not been disclosed and agreed beforehand.

However, as things stand, there is no available evidence that his pension/IMPF holding has been subjected to undisclosed and unagreed charges. Furthermore, and as quoted above, Phoenix has affirmed, on record, that the TER stated in the factsheet covers all costs associated with the IMPF, including the sub-fund costs.

There is disclosure and notice on the fact that the TER is updated quarterly, so it follows that the current TER is not permanent. Therefore, there appears to be an ongoing need for monitoring on Mr C's part to keep up to date with future TERs and with periodic pension statements (which should give information on the deduction of charges/fees). If relevant, the same could be applied to a review of past TERs and pension statements. The point being that unless and until he can refer to evidence of a conflict between a stated TER and the charges deducted from his pension, Phoenix's statement above can reasonably be taken as reliable confirmation that the TER covers all charges.

Irrespective of his doubts about how all the sub-fund costs can fit in the 0.074% annual allowance, which I understand, without evidence that undisclosed and unagreed charges have been applied to his pension it might be said that those doubts serve no more than a moot purpose. Or, to put it another way, such doubts could potentially have more meaning for his complaint if they relate to existing evidence of sub-fund charges applied to his pension beyond the 0.074% annual allowance. At present, there does not appear to be such evidence.

On the above basis, I consider that Mr C's enquiry about the TER has been answered.

### **My final decision**

For the above reasons, I do not uphold Mr C's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 21 April 2025.

Roy Kuku  
**Ombudsman**