

The complaint

Mr S's representative has complained, on his behalf, about the delays incurred by Phoenix Life Limited in providing requested information, and that this led to a delay in Mr S transferring his pension funds to Prudential.

What happened

On 18 October 2023, Mr S's representative requested information from Phoenix Life Limited. The information request was processed on 8 November 2023 and Phoenix Life Limited sent Mr S's representative an information pack.

This information pack didn't address the information request in full and Phoenix Life Limited has accepted it should have completed an internal request to its drawdown team to send the balance of the information requested.

Mr S's representative chased the requested information on 10 November 2023 and Phoenix Life Limited set up an internal request to the drawdown team for the remaining information needed by the representative on 15 November 2024.

Mr S's representative chased the outstanding information on 30 November 2023. On 5 December 2023, Mr S's representative chased again for the requested information.

Following a complaint made on 15 December 2023, the final piece of information was sent to Mr S's representative. On 18 December 2023, Phoenix Life Limited acknowledged the delay and offered £100 for the distress and inconvenience caused.

Further e-mail communication was entered into on 19 December 2023. Mr S's representative requested more information on 3 January 2024 and 15 January 2024.

Phoenix Life Limited received a transfer request on 16 January 2024. This transfer request was for "Pre" pension transfer. Because Mr S had "Pre" and "Post" pension benefits, the transfer application was rejected.

A further transfer request was received on 22 January 2024. This had the incorrect values and was rejected.

On 23 January 2024, Phoenix Life Limited responded to Mr S's complaint. It acknowledged that it didn't process the information requests within a reasonable timeframe and outside its normal timescales. It increased its compensation offer to £200 for the poor service.

A valid transfer request was received on 25 January 2024. Phoenix Life Limited placed the sell orders to release the funds to be transferred on 5 February 2024. On 9 February 2024, external fund managers returned cash to the platform. The first opportunity to transfer the cash after this was 12 February 2024. The cash was then transferred on 20 February 2024.

Having considered the matter, the investigator thought that the complaint should be upheld. She said the following in summary:

- The information request from Mr S's representative was dated 18 October 2023. But he didn't receive the information he asked for until 15 December 2023. It therefore took Phoenix Life Limited 42 working days to provide the information.
- Phoenix Life Limited accepted there was a delay in sending Mr S's representative the information he requested on 18 October 2023. Phoenix Life Limited said it was reasonable for Mr S to have this information to make an informed decision.
- Mr S's representative was given various service level agreement information when he chased the information he'd asked for – nine working days, ten working days and 20 working days. The final response letter dated 23 January 2024 from Phoenix Life Limited said that "Our standard turnaround times for providing this information is ten working days, which means that the request should have been picked up on 1 November". This was a reasonable timeframe.
- But instead, Mr S's representative didn't receive all the information asked for until 15 December 2023 – a delay of 32 working days.
- Once the information request of 18 October 2023 was addressed in full, Mr S's representative went on to request further information on 3 January 2024. However, this information wasn't needed to complete the transfer as the initial transfer instruction was received by Phoenix Life Limited on 16 January 2024, prior to Phoenix Life Limited sending the further information the representative requested.
- There was a direct impact arising from the delay in sending Mr S's representative the information Mr S needed to be able to make an informed decision about the transfer. Had it not been for Phoenix Life Limited's delay, the transfer would have happened sooner than it did.

To put matters right, the investigator recommended that Phoenix Life Limited undertake the following:

Loss in fund value

Any loss Mr S had suffered should be determined by obtaining the notional value (the amount the pension would now be worth if the transfer had happened on 5 January 2024) from the receiving pension provider and subtracting the current value of the pension from this notional value. If the answer was negative, there'd be a gain and no redress would be payable.

Any compensation amount should if possible be paid into Mr S's pension plan. The payment should allow for the effect of charges and any available tax relief. The compensation shouldn't be paid into the pension plan if it would conflict with any existing protection or allowance.

If a payment into the pension wasn't possible or had protection or allowance implications, it should be paid directly to Mr S as a lump sum after making a notional reduction to allow for future income tax that would otherwise have been paid.

If Mr S had remaining tax-free cash entitlement, 25% of the loss would be tax-free and 75% would have been taxed according to his likely income tax rate in retirement – presumed to be 20%. So making a notional reduction of 15% overall from the loss would adequately reflect this.

Past income loss

The evidence suggested Mr S was receiving income from his pension. It wasn't clear from the available information whether this income would have been a different amount but for Phoenix Life Limited's delay. If withdrawals would have been different, Phoenix Life Limited would need to calculate the following:

- A) The total of all the notional payments which Mr S should have received from his pension, net of their marginal rate of tax, from the date of Phoenix Life Limited's error up to the date of settlement.
- B) The total of all the actual payments which Mr S had received from his pension, net of his marginal rate of tax, from the date of Phoenix Life Limited's error up to the date of settlement.
- C) The past loss would be $A - B$. If the answer was negative, there'd be a past gain and no redress would be payable.

Future payment loss

It wasn't clear from the available information whether the future income payable to Mr S (if any) would have been a different amount but for Phoenix Life Limited's delay. If the withdrawals would have been different but for Phoenix Life Limited's delay, Phoenix Life Limited would need to calculate the following:

- D) The notional gross pension per year which Mr S should have been receiving from the date of settlement onwards.
- E) The actual gross pension per year Mr S currently would receive from the date of settlement onwards.
- F) The future gross loss per year would equal $D - E$. If the answer was negative, there'd be a future gain and no redress would be payable.
- G) Phoenix Life Limited should then calculate what it would cost to replace any lost income in (F) by buying an annuity on the open market with those same features. It would need to refer to published annuity rate tables and obtain a quote from a competitive provider.
- H) The purchase price of the annuity found in (G) would be Mr S's gross future loss. This should be paid directly to him as a lump sum after making a notional reduction to allow for income tax that would otherwise have been paid at their likely rate on the income in F – presumed to be 20%.

Emotional and practical impact because of the delay

Phoenix Life Limited had acknowledged the distress and inconvenience caused to Mr S and offered £200 compensation. The investigator thought that this was fair and reasonable and in line with what our service would recommend.

Mr S's representative accepted the investigator's recommendation, but Phoenix Life Limited didn't, saying the following in summary:

- The initial request for information was received on 18 October 2023. This was a standard pack which the representative would request for all clients when the

representative was making a recommendation to transfer. It would therefore be reasonable to assume that it was always going to be the representative's recommendation to transfer away and the delay in providing that information wouldn't have impacted that process.

- Its standard information pack, which included the charges, was issued to the representative on 8 November 2023. It had already apologised for that 22 day delay. The further request was for information it had already provided, but the representative also asked for the Government Actuary Department (GAD) rate and GAD review date.
- This information would remain unchanged, even if the pension was transferred, and it was reasonable to assume that the representative would be aware of this if it was making a recommendation to transfer. It would therefore be a reasonable question as to why this would have prevented the client's new provider from submitting a transfer request.
- Similarly, the investigator seemed to have also assumed the information requested in January (which had already been provided), wasn't needed and didn't prevent the transfer – presumably on the basis that it was always the intention to transfer.
- Based on the evidence and the standardised request, it was reasonable to assume that it was always going to be Mr S's intention to transfer away, irrespective of any delay in providing information.
- However, if the investigator disagreed, it was fair to ask why this information was imperative specifically in relation to the transfer and why the representative hadn't explained that this missing information was preventing the client from transferring.
- As the investigator's timeline confirmed, there were also delays caused by the new provider not submitting a valid transfer request on two occasions. This had clearly also impacted the timeline and so it was reasonable to expect that any liability arising from delays would be shared between the parties.

The investigator wasn't persuaded to change her view on the matter, however, saying the following in summary:

- Phoenix Life Limited's stated view that the requested information wouldn't have made a difference to the decision to transfer was different to its previously expressed opinion that it was reasonable for Mr S to have the requested information to make an informed decision.
- It wasn't for Phoenix Life Limited to decide what information a consumer may or may not need before making a decision about whether to transfer their pension funds. It was reasonable for a consumer to expect to receive the information they felt they needed to make a decision about whether to transfer within a reasonable timeframe.
- Phoenix Life Limited hadn't explained why Mr S didn't need the information requested in October 2024. But the investigator had asked Mr S's representative about this, and they had said that "the decision on whether a client should or should not transfer a pension scheme can only be made once ALL the relevant information has been received and assessed. The points missed by Phoenix (which were asked for in the original request) could have potentially stopped the transfer in its tracks, depending on the reply".

- In response to Phoenix Life Limited's assertion that the investigator had also concluded that the transfer would have proceeded in the absence of the information requested on 3 January 2024, this was a misreading of her comment. She hadn't assumed that the information requested on 3 January 2024 wasn't needed on the basis that it had always been Mr S's intention to transfer. Rather, the transfer instruction was received prior to Phoenix Life Limited's response to Mr S's representative's request for information on 3 January 2024.
- Therefore Mr S decided, after receiving the information he requested in October 2024, that he didn't need the information requested in January 2024 to transfer his pension.
- The fact remained, however, that Phoenix Life Limited (by its own admission) delayed sending information that Mr S felt he needed to decide whether to transfer his pension funds. And Phoenix Life Limited had previously acknowledged that it was reasonable for Mr S to have this information.
- In terms of sharing any liability with another party, the delay for which Phoenix Life Limited was responsible was that in sending information following the request in October 2024 – a delay of 32 days. There had been no apportionment of liability for other delays to Phoenix Life Limited, as was reflected in the recommended redress proposal.

Phoenix Life Limited didn't reply further. However, as agreement wasn't reached on the matter, it was referred to me for review.

Having noted what the investigator had said about the Mr S's income situation, at my request she enquired of Mr S's representative as to whether Mr S had been withdrawing income and how this may have been impacted by the delays incurred here.

In response, Mr S's representative said that Mr S's pension was previously set up as an income drawdown pension, as was his new scheme with Prudential. The funds were invested with Prudential as soon as they were received, and an income payment request was processed at the first opportunity.

Mr S's last payment received from Phoenix was on 6 February 2024 for £3,000 gross, £2,706.73 net.

The first income payment possible from the new Prudential pension was paid on 13 March 2024 for £2,500 gross, £2,334.80 net. This was two weeks after the funds were sent.

But due to the loss in value, Mr S has felt the need to reduce the income payment he receives from £3,000 pm gross to £2,500 pm gross to try and ensure the funds last long enough to meet his retirement needs, the representative said. This has impacted on Mr S's retirement plans as he has needed to scale back what he had been hoping to do in retirement, the representative added.

I issued a provisional decision on the matter on 12 February 2025, in which I set out my reasons for upholding the complaint. The following is an extract from that decision.

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

And having done so, I've reached broadly the same conclusions as the investigator, and for similar reasons, although as the parties will note, on the basis of what Mr S's representative has said about the way in which Mr S has withdrawn income, I've amended the proposed redress format below.

But to firstly address the merits, although I accept that the request for the transfer pack was indicative of the intention to transfer, I don't agree that, in the absence of the requested information this was a foregone conclusion and that the requested information ought to have made no difference. I agree with the investigator's conclusion that Mr S was entitled to expect to receive the information his representative had requested before the decision to transfer was made.

I also don't think that the investigator indicated her agreement with the position that the fact that the representative didn't wait for the receipt of the information requested in January 2024 meant that it had always been the intention to transfer, irrespective of the information which was received. Mr S's representative initiated the transfer once the information request from October 2023 was addressed in December 2023.

But the further information request in January is in any case a moot point. The investigator calculated the number of days' delay up to the actual transfer request, without factoring in any delay in receiving the information requested two days earlier.

And so my conclusion mirrors that of the investigator – I think Phoenix Life Limited unnecessarily delayed Mr S's transfer of his pension funds.

Putting things right

As with the investigator, my aim in recommending fair compensation is to put Mr S back into the position he would likely have been in, had it not been for Phoenix Life Limited's error.

Loss in fund value

Any loss Mr S had suffered should be determined by obtaining the notional value (the amount the pension would now be worth if the transfer had happened on 5 January 2024, taking into account actual withdrawals), as at the date of any final decision along these lines, from the receiving pension provider and subtracting the current value of the pension, at the same date, from this notional value.

If there's a loss, any compensation amount should if possible be paid into Mr S's pension plan. The payment should allow for the effect of charges and any available tax relief. The compensation shouldn't be paid into the pension plan if it would conflict with any existing protection or allowance.

If a payment into the pension isn't possible or has protection or allowance implications, it should be paid directly to Mr S as a lump sum after making a notional reduction to allow for future income tax that would otherwise have been paid.

If Mr S has remaining tax-free cash entitlement, 25% of the loss would be tax-free and 75% would have been taxed according to his income tax rate in retirement – confirmed by his representative to be 20%. So making a notional reduction of 15% overall from the loss would adequately reflect this.

Past and future income loss

Mr S's representative has said that Mr S has withdrawn a lower amount than he otherwise would have done as a result of the lower fund value being transferred to Prudential. But as Mr S is in income drawdown, rather than having bought an annuity, he hasn't crystallised a permanent loss in income, and so there is no future loss as such.

And the withdrawal of a lower sum in the past, whilst no doubt concerning to him and something I'll address in the next section, will have had the effect of increasing the overall pot still available to him once any fund loss caused by the delays is rectified through the calculation in the section above.

Therefore, there should be no financial loss in terms of income which needs to be addressed.

Emotional and practical impact because of the delay

As set out above, Phoenix Life Limited has acknowledged the distress and inconvenience caused to Mr S and offered £200 compensation. But I think this went beyond simply the delay itself. As a result of the lower transfer value, Mr S significantly reduced his income withdrawals amidst concerns over the sustainability of the higher income amount in his retirement. And so I think a higher amount than the £200 offered by Phoenix Life Limited is warranted here.

In thinking about the type of sum which would be appropriate here, I've considered the guidance on our website and the types of award which this service might make in similar situations.

Our guidance says that "an award of over £300 and up to around £750 might be fair where the impact of a mistake has caused considerable distress, upset and worry – and/or significant inconvenience and disruption that needs a lot of extra effort to sort out. Typically, the impact lasts over many weeks or months, but it could also be fair to award in this range if a mistake has a serious short-term impact".

There was certainly the immediate impact caused here by the delay itself, which was rectified within a relatively short amount of time, but there's been a longer lasting impact on Mr S in terms of the reduction in his income and concerns about the sustainability of income withdrawals in the future.

And so I think an appropriate sum here would be £400."

Mr S's representative said that they had nothing further to add. Phoenix Life Limited has also submitted no further comments.

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.

As neither party has submitted anything further in response to my provisional decision, I see no reason to depart from those findings.

Putting things right

Phoenix Life Limited must undertake the direction contained in the extract from the

provisional decision above.

My final decision

My final decision is that I uphold the complaint and direct Phoenix Life Limited to undertake the above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 27 May 2025.

Philip Miller
Ombudsman