

The complaint

Mr S is unhappy that Phoenix Life Limited (Phoenix) will not let him take his pension benefits as a lump sum. He would Phoenix to allow him to do this.

What happened

I have reviewed all the evidence provided by both parties. I have not reproduced all of this in this decision but concentrated on what I believe to be the most relevant parts.

On 23 November 1989, Mr S took out a 'freedom bond' as an occupational pension. This bond is a type of pension called a Section 32 buy-out plan and was intended to provide him with a level of retirement income when he reached his specified retirement age. The level of income it would provide him would be based upon his final pensionable pay and the policy included a 'guaranteed minimum income' (GMP), which meant that if the value of the assets in the fund was insufficient at retirement to provide him with that level of income, the income would be 'topped up' to the specified GMP level.

On 8 July 2014, shortly before his scheduled retirement date, Phoenix wrote to Mr S to outline his options. It said:

This letter contains important information to help you turn your pension savings into a retirement income. It's important that you read this letter and consider all your options — it will help you get the best value from your savings.

On 26 September 2014, Mr S wrote to Phoenix to request annuity quotations. He completed a form to request these. The form he completed also stated:

Based upon the information we have, we do not believe you are eligible for a small funds lump sum payment. If you wish to discuss your eligibility, please contact us.

Phoenix wrote again to Mr S on 2 October 2014 to provide the annuity quotations. It also highlighted five options that were detailed in the quotation pack he just had been sent. The first of these was:

Take the whole pension fund as a one-off lump sum, subject to an income tax deduction. We normally refer to this as a small funds lump sum option, but you may also see it called a small pots payment.

The letter also explained the policy contained GMP benefits and also that there were some budget proposals which:

would allow people with a defined contribution pension pot to cash-in that pot, subject to an income tax charge.

This option might be available as early as April 2015 so you should consider this when choosing a retirement option.

On 26 March 2015, Phoenix replied to a request from an independent financial adviser (IFA) working on behalf of Mr S to provide him an updated transfer value. Phoenix drew attention to the GMP benefits that would be lost if he were to transfer his benefits to another provider.

Phoenix wrote again to Mr S on 14 April 2015 in response to a request from him for his options for taking his retirements benefits. Included in this letter, Phoenix said in relation to Mr S taking all his benefits as cash, this was not an option open to him at that time, but:

We are looking into this option, so it might be available under your plan in the future.

Mr S wrote again to Phoenix in November 2016 asking for further annuity quotations, which he received, and again on 12 March 2019, although he still did not take his benefits. Phoenix sent Mr S another letter in August 2017 that stated that one of his options was:

Option – Take your pension as a lump sum

If the value of your pension is small (usually less than £30,000) you might be able to take it as a lump sum payment

Further communications took place until 22 August 2024, when Mr S complained that Phoenix would not let him take his pension as a lump sum with 25% tax free cash and 75% taxable.

Phoenix responded to Mr S's complaint on 25 September 2024. It upheld his complaint as it considered that it hadn't been properly able to explain why he couldn't take his benefits in the way he wanted. It went on to explain that

Unfortunately, the law does not permit a promised Guaranteed Minimum Pension (GMP) to be exchanged for a [lump sum], so we cannot offer you a cash-in lump sum from your Freedom Bond.

It paid him £150 for the distress and inconvenience that it had caused Mr S and £10 for his expenses in communicating with it on this matter but said that it was unable to allow him to take his benefits as a lump sum.

Unhappy with this response, Mr S brought his complaint to this service.

Our investigator reviewed all the evidence in this case and formed the view that although Phoenix was correct to not allow Mr S to take all his benefits as a cash lump sum, the information it had sent him over the years had lacked the appropriate clarity. Consequently, they believed that the compensation it had offered him was appropriate in the circumstances.

Mr S remained unhappy at not being able to take a lump sum so the complaint has been passed to me to make a 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 done so, I have reached the same conclusion as our Investigator and do not uphold Mr S's complaint.

I can appreciate that Mr S will be disappointed with this, so I will explain now how I have reached my conclusions.

Firstly, I think it's important to reflect upon the role of this Service. Our role is to impartially review the circumstances of a complaint and make a decision on whether a business has made errors or treated a customer unfairly. Where it has, we expect a business to fairly compensate a customer for any financial loss and distress and inconvenience they have suffered as a result.

In the circumstances of this case I need to determine whether Phoenix was correct when it did not allow Mr S to take his pension benefits in one lump sum, and I believe that it was.

I've taken into account that Mr S's pension plan is what is called section 32 buyout plan which was designed to pay a guaranteed minimum level of income on retirement rather than be taken as a lump sum.

I've also carefully considered the terms and conditions of Mr S's policy.

Essentially, his pension provided him with a guaranteed minimum level of income if he bought an annuity at his scheduled retirement age from Phoenix. This guarantee would be lost if he transferred his pension to another provider. As this income was guaranteed, if there was not enough value in his funds to provide this GMP, Phoenix would have to make up any shortfall.

I can see that the terms and conditions of the plan make clear that it isn't possible to replace a GMP to provide a lump sum. These state:

Any option or election under Conditions 2. 3. 5 and 6 [i.e., cash lumpsum] as is applicable to this Policy may only be exercised to the extent that there shall remain an annuity payable to the Annuitant of not less than the Guaranteed Minimum Pension....

This means that apart from any tax free cash lump sum (of up to 25%), the remaining funds must be used to provide an annuity which provides Mr S with an income. If, however, the value of the assets had grown in the intervening years so that the value was higher than needed to provide the GMP, then any additional value could be used to provide Mr S with a lump sum payment or additional income, for example.

The provision of retirement benefits is highly regulated and Phoenix has to operate both with these regulations and the law. In the case of a section 32 policy with a GMP, legislation doesn't permit a lump-sum to be taken instead of a GMP, so I can't see that Phoenix has done anything wrong in refusing to allow Mr S to access his benefits in this way. Given this, I can't ask it to pay Mr S his benefits in the way he would prefer.

Where Phoenix has made mistakes are in the communications that it has had with Mr S over the years. I can see how some of the communications it had with Mr S were unclear and may have given him the impression that taking a lump sum may have been possible, when it was never actually an option for him.

I've also considered that Mr S's IFA could – and perhaps should – have explained the situation to him in 2015, but as he did not progress to taking his benefits at that time I can appreciate that their relationship may have been of short duration.

Given this, on balance I find that the level of compensation that Phoenix has already paid Mr S is appropriate in the circumstances of this complaint.

My final decision

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

Phoenix Life Limited need do no more than it has already offered to resolve this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 15 July 2025.

Bill Catchpole
Ombudsman