DRN-5451988

The complaint

Mr M complains that Phoenix Life Limited (Phoenix) gave him poor service with his pension. He also complains that it failed to fairly administer his pension. And that Phoenix failed to explain why his pension hadn't grown in 23 years, as no bonus has been applied since 2001.

What happened

Mr M had a Section 32 Buy-Out Bond pension which started on 1 November 1984. His funds were invested in a with profits fund.

At the set-up of the Bond, the schedule recorded that once Mr M reached age 65 he would be entitled to a guaranteed pension of £981.31 each year.

The policy schedule stated the following:

Provided the annuitant survives until the Normal Retirement Date (NRD) the Society will pay an annuity of £981.31 per annum in equal monthly instalments on each instalment date in each year from the NRD and continuing thereafter in any event until 60 monthly instalments of annuity have been paid and, subject to evidence of the continuance of life of the annuitant, continuing thereafter during the remainder of the lifetime of the annuitant and finally ceasing with the instalment due immediately prior to or coinciding with the date of death of the annuitant..

Mr M said that from set up to 2001 Phoenix added revisionary bonuses to his pension each year. But it discontinued revisionary bonuses from 2002 as it then felt that terminal bonus would be fairer for all with profits policy holders.

In late 2020, Mr M asked Phoenix about taking early retirement. It told him this wasn't possible, given his fund didn't cover his guaranteed pension. Unhappy, Mr M raised a complaint about the performance of his pension and the fact that he couldn't take early retirement.

Phoenix issued its final response letter to this complaint on 13 January 2021. It said it was satisfied that it'd administered Mr M's pension correctly and in accordance with its terms and conditions. It made the following points:

- Under the Bond's terms, Phoenix's only obligation was to pay the guaranteed pension at age 65, along with 50% spouse's pension. At the time, the guaranteed pension was £1,293.76 each year. And Phoenix guaranteed to provide at least that pension, regardless of the value of the Bond at age 65.

- Any benefits taken before age 65 had to include the guaranteed pension. But this could only happen if the value of the pension was big enough to provide that guaranteed pension from an earlier date. As the current cost of providing at least the guaranteed pension was £39,967 and the fund value was only £38,247, there weren't sufficient funds to allow Mr M to take early retirement.

- The total annual guaranteed pension at age 65 was £2,011, with a guaranteed value of £21,316. The last year that an annual bonus had been added to these types of plans was 2001. So since that time, the guaranteed pension at maturity had always been £2,011 each year.

- Mr M could transfer his pension to another provider as this might allow for early retirement.

Phoenix wrote to Mr M several times between 2021 and 2024. It sent bonus statements, a with profits booklet, information on the latest annual and final bonus, and retirement quotes over this period. The retirement quote it sent to Mr M on 6 April 2022 stated that the value at a date in mid-2022 was £40,991.33, but this figure wasn't guaranteed.

The retirement quote gave details about when the guaranteed pension would apply. It said: *It is important for you to note that an annuity guarantee will only apply if benefits are taken at your selected retirement date or within the 6 month period following that date.*

It also explained that Phoenix would regularly review its final bonus scale. And that this meant a final bonus wasn't guaranteed as the scale could be changed at any time, without notice.

On 29 January 2024, Phoenix sent Mr M a retirement wake-up pack based on him taking his pension benefits on his 65th birthday. The pack said the current value of the pension, which wasn't guaranteed, was £28,036.51.

On 3 May 2024, Phoenix sent Mr M a retirement quote. It said the current value of the pension was £28,636.64. It said that of this amount, £18,424.28 was needed to fund the guaranteed pension. The remaining £10,212.36 represented the fund in excess of the guaranteed pension.

The retirement quote again explained that as Phoenix regularly reviewed its final bonus scale, a final bonus wasn't guaranteed as the scale could be changed at any time, without notice.

In May 2024, Mr M contacted Phoenix as he wanted to know why his transfer value had fallen. He asked it to check and confirm whether it was correct or not.

Phoenix responded to Mr M on 24 May 2024 about the drop in value since 2024.

I understand that Mr M called Phoenix on 28 May 2024 to complete the retirement verbal journey for both his guaranteed pension and excess. Phoenix said he wasn't ready to do the verbal journey and wanted to discuss the drop in value again.

Phoenix also wrote to Mr M on 28 May 2024. It said:

- Volatile investment markets over 2022 and 2023 had led to negative investment returns in the with profits fund.

- In 2002, the fund managers decided to stop adding annual bonuses, which it wouldn't have been able to remove once added. Instead they focused on terminal bonuses, which could be more flexibly applied.

- Terminal bonuses were based on how long a pension had been invested.

Mr M then contacted Phoenix again on 29 May 2024. He raised a number of issues, including wanted to know why his transfer value had decreased by 25% from £38,247 to £28,636 on 3 May 2024.

Phoenix treated this as a new complaint. It didn't think it'd done anything wrong. It issued its final response letter on 24 June 2024. It made the following points:

- It felt it'd already explained the reasons for the drop in value on 24 May 2024.
- It said that Mr M's pension was invested in the with profits fund, meaning its value fluctuated with market performance. And that although bonuses were never guaranteed, they couldn't be removed once added.
- It typically reviewed final bonuses twice a year. But reserved the right to change or withdraw them at any time.
- It enclosed a copy of its 'Phoenix Life Limited UK Traditional With-Profits Policies' factsheet, which it felt should answer any questions Mr M might have.

On 1 July 2024 Phoenix wrote to Mr M with information about his pension. It said it hadn't been able to add any annual bonus for 2023. It provided a table showing the final bonus rates for pension policies reaching their selected retirement date from July 2024. This showed that Mr M's policy wouldn't receive a final bonus.

Mr M was still unhappy, so he wrote to Phoenix again on 3 July 2024.

On 17 July 2024, Phoenix sent Mr M a more detailed explanation about how his pension was calculated, including his guaranteed pension and bonuses. It also explained why it hadn't been able to add bonuses since 2001.

Phoenix provided Mr M with a breakdown of his benefits at age 65, as follows:

Guaranteed Pension	*£982.00 pa*
Reversionary Bonus	*£955.00 pa*
Special Bonus	*£74.00 pa*
Total Guaranteed Pension	*£2,011.00 pa*
Cash Option Factor	*15.000*
Fund/Transfer Value	*£30,165.00*

Mr M raised further questions on 19 July 2024, as he felt Phoenix had failed to explain the reason for what he felt was the underperformance of his pension. He also felt it'd provided him with contradictory information over the years. Phoenix didn't respond. So he referred his complaint to this service on 6 September 2024.

Mr M said that at the end of 2001 his guaranteed annual pension was £2,011. He felt that Phoenix should've ensured that his pension grew between 2001 and 2024, given its many communications about how well the fund was doing.

Mr M said that from 2001, when Phoenix had said it was moving from annual bonuses to a terminal bonus, he believed that his pension would develop up to the maturity date and that a final bonus would be applied. He also referred to a statement in Phoenix's 24 May 2024 email to him which he felt noted that his pension needed a 43-year term to attract any terminal bonus, which wasn't possible for his policy.

On 31 January 2025, Phoenix made an offer to resolve Mr M's complaint. It offered him £200 compensation for the distress and inconvenience caused by its delays in addressing his further queries from 19 July 2024. It acknowledged it hadn't answered those queries. And said it would now refer them for a response. It also acknowledged that it'd sent Mr M a factsheet about the wrong product on 28 May 2024. And provided the correct factsheet. But Phoenix said that as the referral rights from its January 2021 final response letter had expired in July 2021, it didn't give this service its consent to review the points Mr M had raised in that complaint.

Our investigator noted that the complaint which had led to the 2021 final response letter was out of time for this service to consider its merits.

Our investigator felt that the £200 compensation Phoenix had offered Mr M in respect of his 2024 complaint for its delayed response to his queries was reasonable under the circumstances.

Mr M didn't agree with our investigator. He made the following points:

- He didn't think his response reflected Phoenix's poor performance in the administration of his pension.
- He felt there'd been a detrimental change to his pension about which he'd not been informed.
- He still didn't understand why his pension's transfer value had fallen over the last five years and why no terminal bonus was applicable.
- He still didn't understand why his GMP from 2001 (£2,011 each year) hadn't increased, despite what he felt were positive annual average returns of around 6% since then.
- Mr M felt that Phoenix has misled him and many of its other customers, given its constant positive messages about terminal bonuses over the years.

As agreement couldn't be reached, the complaint has come to me for a review.

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 agree with our investigator that Phoenix's offer of £200 compensation is fair under the circumstances of this complaint. Therefore, while I uphold the complaint, I'm not going to ask Phoenix to take any additional steps to put things right. I know this will be disappointing for Mr M. I'll explain the reasons for my decision.

Before I start, I'd first like to say that I agree with our investigator, and for the same reasons, that Mr M's 2021 complaint has been brought to this service too late for this service to be able to consider its merits. As that complaint related to Mr M's dissatisfaction with the performance of his pension and his inability to take early retirement, I won't be able to consider the merits of those points in this decision.

I first considered if there's any evidence that Phoenix had poorly administered Mr M's pension.

Is there any evidence that Phoenix failed to correctly administer Mr M's pension?

The schedule produced at the time Mr M's bond was set up stated that he would be entitled to a guaranteed pension of £981.31 each year at age 65. The schedule contained no guaranteed investment return or transfer value. This isn't surprising, as it simply guaranteed the minimum pension Mr M would get at age 65. This was entirely in line with other similar policies taken out at that time.

Up to 2001, Phoenix increased this guaranteed pension with annual (reversionary) bonuses. This meant that by July 2024, these had increased the guaranteed pension by £955 each year. Once these annual bonuses were added as additional guaranteed pension, they couldn't be removed. But the annual bonuses themselves were never guaranteed under the schedule. Therefore I can't say that Phoenix did anything wrong when it stopped applying them.

Similarly, terminal bonuses might sometimes be applied to the bond at retirement, but these also weren't guaranteed in the schedule.

I acknowledge that Mr M doesn't understand why his guaranteed pension from 2001 hasn't increased since then, despite positive annual average returns in the period that followed. I also acknowledge that he expected his pension's transfer value to increase with those positive investment returns, rather than falling. But I can't fairly agree that there's anything in the schedule that states that bonuses must directly correlate to the fund performance in any given year. I'm satisfied that there were never any guarantees in the bond's schedule about how the transfer value would grow over time. Again, this is what I would expect about a policy like this one, as it was set up to guarantee a minimum pension, not a transfer value.

I also appreciate that Mr M was expecting Phoenix to add a terminal bonus to his bond. But this is only paid if the fund's assets exceed the guaranteed benefits. And the evidence shows that the guaranteed benefits under Mr M's bond exceeded the value of the underlying investments, meaning there were no excess funds to pay a terminal bonus.

Therefore, while I understand that Mr M is unhappy as he expected to get higher benefits, I've not found any evidence of mistakes in Phoenix's management/administration of his bond. I'm satisfied that Phoenix offered Mr M the correct guaranteed pension at age 65. And that it wasn't required to guarantee his transfer value in any way. I therefore can't reasonably conclude that Phoenix has acted unfairly here.

I next considered Mr M's complaint that there'd been a detrimental change to his pension that he'd not been informed about.

Did Phoenix change Mr M's pension without informing him?

Mr M said that Phoenix had told him in May 2009 that terminal bonuses were applicable and that policies over 30 years would receive a 125% terminal bonus, but this wasn't guaranteed. But in May 2024, he received information which led him to understand that his policy, which had then been in force for 39 years, wouldn't be eligible for a terminal bonus. He said Phoenix didn't tell him that it'd increased the requirement for the length of policy to 43 years.

Phoenix told this service that the information provided in its May 2024 letter had stated that a policy like Mr M's would have to be in force for 43 years before any terminal bonus was applicable. It said that this information wasn't relevant and wasn't the rate that Mr M would have been entitled to. It said it'd provided Mr M with the correct information in its letter of 17 July 2024. And apologised for any confusion this had caused Mr M.

While I can see that Phoenix made an error when it sent Mr M irrelevant information in May 2024, I've not seen any evidence that it changed Mr M's pension without informing him. So I can't fairly uphold this part of the complaint.

I finally considered whether the £200 compensation Phoenix has offered Mr M is reasonable under the circumstances of this complaint.

Distress and inconvenience

Mr M feels that Phoenix misled him. He said it sent him constant positive messages about terminal bonuses over the years.

While I understand why Mr M feels this way, I explained earlier in my decision why I felt the schedule set out what was guaranteed under the bond. And that there were no guarantees about either annual or terminal bonuses under those terms.

I've also noted Phoenix's communication with Mr M over the years. I think that while it made it very clear that a final bonus wasn't guaranteed, it did from time to time also imply that its with profits fund, which supported Mr M's bond, was doing well.

While it has to be remembered that Phoenix's communications would've been sent to a large group of its customers with different policy terms and guaranteed pensions, and therefore the positive news sometimes implied would be perfectly reasonable, I can see why this led to Mr M expecting a terminal bonus to be applied to his fund. I can also see that Phoenix hasn't always responded to Mr M's questions in a timely manner.

I also note that there was a period of about two months between May 2024 and July 2024 when Mr M felt that Phoenix had changed his pension without first informing him.

Overall, I agree with our investigator that Phoenix's £200 compensation offer is fair, given the inconvenience and confusion it caused.

As it's not clear from the evidence provided whether Phoenix has already paid the £200 compensation it offered to Mr M, I uphold the complaint.

Putting things right

I require Phoenix Life Limited to pay Mr M £200 compensation for the distress and inconvenience it has caused him.

My final decision

For the reasons set out above, I uphold Mr M's complaint. Phoenix Life Limited must pay Mr M £200 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 9 June 2025.

Jo Occleshaw
Ombudsman