

The complaint

Mrs M has complained that she wasn't provided with prior notification and information about Phoenix Life Limited's decision to apply a "soft close" to the SL abrdn MyFolio Market V Pension Fund.

Mrs M has said that not knowing how the decision might affect her personal pension plan (PPP) caused distress, worry and upset.

Mrs M further said that the soft close was applied prematurely to the fund and she would like an apology for this. Mrs M has also asked that no future soft close is imposed without prior communication, background information, timeframe, and options advice to affected customers.

What happened

The investigator who considered this matter set out the background to the complaint in her assessment of the case. I'm broadly setting out the same background below, with some amendments for the purposes of this decision.

Mrs M has a personal pension plan with Phoenix Life Limited. Mrs M went online on 28 January 2025 to review the value of her PPP. She noted the investment fund where approximately 53% of her pension was invested (SL abrdn MyFolio Market V Fund) was closed.

When Mrs M called Phoenix Life Limited on the same day, she was told the fund closure was a soft close. When Mrs M asked for information about this, how it might affect her pension and why she wasn't told about this prior to the soft close being implemented, the call handler was unable to provide an answer. After speaking to a second call handler who was also unable to provide the information Mrs M needed, she raised a complaint.

Phoenix Life Limited issued a complaint acknowledgement on 3 February 2025.

On 3 March 2025, Phoenix Life Limited issued its complaint response. It explained what the soft close decision for the MyFolio and Multi-Manager fund range was and what this meant. Whilst it didn't think it had to let Mrs M know in advance of the soft close decision, it did recognise that Mrs M wasn't provided with information when she requested it during her call to Phoenix Life Limited on 28 January 2025. It apologised for this, and to recognise the service Mrs M had received, it offered £100 compensation.

Dissatisfied with Phoenix Life Limited's response, Mrs M referred her complaint to our service for consideration.

Having reviewed the matter, our investigator thought that the complaint should be partially upheld, saying the following in summary:

- Phoenix Life Limited explained that a soft close of an investment fund meant that no new money could be paid into that fund – that it was closed to new business.

Switches into the fund wouldn't be allowed, but the investment fund would still be open to regular contributions.

- In terms of whether the closure was implemented prematurely, the Financial Conduct Authority (FCA) undertakes the supervisory role of Phoenix Life Limited and its management actions. The role of this service was to consider individual complaints. This meant that it wasn't for our service to determine whether Phoenix Life Limited's soft close decision that applied to several investment funds should have been applied or whether it was applied prematurely.
- The investigator said that she understood the reasons why Mrs M would like Phoenix Life Limited to ensure no future soft close was imposed without prior communication, background information timeframe, and options advice to affected customers. But because our service doesn't regulate Phoenix Life Limited, it wasn't our role to tell it to change how it operated.
- Mrs M did nevertheless have the option of speaking to the FCA about her concerns, and the investigator provided a link to its contact information.
- With regard to whether Phoenix Life Limited should have made Mrs M aware prior to the application of the soft close, Phoenix Life Limited had said that its decision to not communicate the application of the soft close to investors of the investment funds to which the soft close was applicable was made taking into account the FCA's rules – COBS 21.1 and COLL 4.3.
- Having reviewed these rules, the investigator wasn't persuaded that there was a requirement for Phoenix Life Limited to let Mrs M know of the soft close prior to the application. She also considered whether the lack of notification had had any financial impact – that Mrs M would have taken a certain course of action had she been notified of the soft close.
- The investigator's understanding was that, when Mrs M became aware of the soft close, she reviewed alternatives but decided not to switch because she was happy with the performance of the fund. Based on the available evidence, therefore, it was more likely than not that Mrs M would have made the same decision if she'd received notification of the soft close.
- This meant that Mrs M wouldn't be in a different position than she was now, if she'd received notification of the soft close. That is, she would have reviewed alternatives and remained invested.
- In terms of the emotional and practical impact of the soft close, it wasn't disputed that, when Mrs M telephoned Phoenix Life Limited on 28 January 2025 for information about the soft close, this wasn't provided. The call handler also promised Mrs M that she would receive information to her online mailbox in 24 hours. But this information never materialised.
- Whilst it wouldn't be for Phoenix Life Limited to advise Mrs M on what action to take (if any) due to the soft close, as it wasn't Mrs M's financial adviser, it should have provided her with sufficient factual information when she called it on 28 January 2025 to allow her to make an informed decision on whether to take action, and whether to seek financial advice. Being informed would also alleviate the worry Mrs M was experiencing about the soft close affecting over half of her pension fund.

- Mrs M has explained how, following the call to Phoenix Life Limited she felt unsupported and left to make decisions on whether it was in her best interest to look at alternative funds or remain in the SL abrdn MyFolio Market V Fund and wait for further information. Whilst the soft close was removed in February 2025, Mrs M was left without the information she needed to make an informed decision for several weeks (the information wasn't provided until the complaint response on 3 March 2025), causing Mrs M distress, worry and upset during this time.
- Whilst Phoenix Life Limited apologised for the poor level of service received, the compensation of £100 wasn't sufficient to recognise the emotional impact the service provided on 28 January 2025 and beyond had. The compensation should therefore be increased by £100 to a total of £200.

Phoenix Life Limited agreed to this, and this was conveyed to Mrs M. Mrs M didn't agree, however, saying the following in summary:

- She hadn't been able to find online the FCA rules to which the investigator had made express reference and so she didn't know whether or not she agreed with the investigator's interpretation of them.
- It was incorrect to say that she didn't switch funds in response to the soft closure because she was happy with the performance of the fund. She didn't switch as she had no information which would have helped her decide if that was a proportionate response to a soft close. And by the time she'd received Phoenix's letter attached to its email dated 4 March 2025, it had lifted the restrictions anyway.
- She didn't agree that she would have made the same decision if she'd received notification of the soft close. That was a personal decision which an investor would take in the light of relevant information. For a lay person, however "soft", a closure was a closure. Her complaint was that there was no information on 28 January 2025 and none forthcoming until 4 March 2025, by which time the restrictions had been removed.
- She accepted the apology from Phoenix Life Limited contained in its letter relating to the failure to supply relevant information when requested. The focus in bringing this to the attention of Phoenix Life Limited and this service was to convey that decisions relating to the closure of pension funds, however "soft", have huge impact and without information and clear communication to investors will cause anxiety and distress.
- It would be a self-fulfilling prophecy for Phoenix Life Limited to deem that there would be no change in investor behaviour when it didn't inform investors of the soft closure before it takes place or provide any further explanation for weeks upon which investors could then reasonably base their decision to switch or remain.
- An extract from Phoenix Life Limited's written explanation was as follows:

"When taking the decision to place the close on new business to the funds we followed the guidance and rules set by the FCA. It was deemed the changes we were making would not cause changes in investor behaviour, would not cause the risk profile of the fund to change or lead to an increase in cost. The changes were not seen as fundamental as they did not lead to a change in purpose, did not prejudice the unit holder and did not change the risk profile. For these reasons we did not communicate the soft closure of these funds to individual customers."

- If that information complies with the FCA regulatory framework then the reassurance that the changes were not fundamental, and that there would be no prejudice to the unit holder or change in purpose or risk profile or increase in cost would have helped her make an informed choice immediately whether or not to stay with the pension fund.
- With regard to the reason given in the letter to lift the restriction – so that Phoenix Life Limited could make the changes in a safe and considered way – they shouldn't have been imposed in the first place. Mrs M queried as to how this could be seen as being below the FCA "fundamental" threshold and it therefore being unnecessary to give prior notification to investors.
- Mrs M said that she would like to see an apology from Phoenix Life Limited for imposing the soft close prematurely. Although the FCA may deem prior written communication to investors to not be required, basic information was still necessary to ensure that investors have a general understanding of what a soft closure is on the Phoenix Life Limited websites and documentation and call handlers could refer to that information when dealing with queries. In other circumstances where the changes are fundamental, then prior direct communication, background information timeframe and options advice to affected customers must be provided.

The investigator acknowledged Mrs M's points and said the following:

- She again provided the contact information for the FCA and links to the rules to which businesses had to adhere.
- With regard to the potential impact that Phoenix Life Limited's decision may have on investors, this service couldn't consider the wider implications of Phoenix Life Limited's decision or determine whether the decision made by Phoenix Life Limited was correct. Therefore it wouldn't be for our service to determine whether the soft close was applied prematurely.
- But the decision to lift the restriction didn't necessarily mean that the decision to apply the soft close was incorrect. It was likely the decision to apply the soft close was made taking into account the situation at the time the decision was made. And the lifting of the soft close was also made taking into account the circumstances at the time the decision was made. It could have been that, following the soft close, new information came to light (which wasn't available at the time of the decision to apply the soft close) which led to the lifting of the restriction.

The investigator also enquired of Mrs M as to her thoughts on any financial impact she believed she'd suffered as a result of Phoenix Life Limited's decisions and what she would have done differently had she been informed of the soft close.

She also asked Phoenix Life the following questions:

- Why did Phoenix Life make the decision to soft close the SL abrdn MyFolio Market V Pension Fund when it did? What influenced its decision and why?
- Why did it subsequently lift the restrictions on this fund when it did? What changed? And what did Phoenix Life mean when it said to Mrs M that it lifted the restriction *"...so we can make the changes in a safe and considered way"*.

- Was it Phoenix Life's intention to close the fund and if so, when and why?

Phoenix Life Limited responded as follows:

- Following a review, it decided to close across a range of products its SL abrdn MyFolio range of funds, including SL abrdn MyFolio Market, which linked to Aberdeen's MyFolio funds. Once the decision to close received internal approval, it started to make arrangements to contact customers to notify them about the closure.
- The first stage in the closure process was to 'soft close' the funds. This meant that regular activity, such as regular contributions, could continue as usual, but certain transactions, such as single payments and switches in from other funds were suspended. This was to support its preparations for eventually closing the fund and switching out customers' savings into an alternative fund.
- It lifted the restriction, and as a result 're-opened' the funds to the types of transactions that were suspended when it 'soft closes' a fund, to support the needs of customers at that time. When it said '*safe and considered way*' it was referring to its plans to review the timescales for implementing the closure of the MyFolio funds.
- It still planned to close the MyFolio funds across a range of products based on the conclusions of its review. Letters to customers explaining the closure were currently planned to be sent out later this year, with a soft closure implemented after the letters had been sent. It currently expected to start switching customers out of the MyFolio funds towards the end of this year.

The investigator then enquired as to why no letters had been sent prior to the first soft close, to which Phoenix Life Limited said the following:

- The first stage in its closure process was to 'soft close' funds to one-off payments, whilst maintaining all regular contributions, and to then start to make arrangements to contact customers. It also added a note informing customers that a fund was closed to new business on its webpage listing the funds available on each of its products, on online servicing and on its fund news page.
- It didn't write to customers because it lifted the restriction before it moved to the next stage of the process. When it lifted the restriction, it reviewed its timescales for implementing the closure of the MyFolio funds.
- During its review, and based on feedback, it decided that when it began to close the funds later this year, it would write to customers before the soft close was implemented.

The investigator then requested the terms and conditions for Mrs M's policy, and Phoenix Life provided these.

Mrs M responded to the investigator's further questions as follows:

- If she'd been told of the soft close she would at the very least have used that information to review her pension funds. Whether she would have then switched funds would have depended on the content of the information provided by Phoenix Life Limited in support of its decision to impose the soft close and how it impacted on her fund.

- She would have used the information provided to review her pension fund and assess whether she needed to consider switching to another fund or funds - or whether, based on the information given by Phoenix Life Limited, she felt reassured that her pension fund would continue to meet its agreed objectives/charges and would not be adversely affected by the soft close.
- She didn't know whether she'd suffered a financial impact as a result of the soft close. She only found out that it was in place on 28 January 2025 when she verbally requested information from Phoenix Life Limited. She spent several hours that day worrying and looking at alternative funds. She felt it was imperative to have the requested information to have a reasonable grasp of what was happening with her existing fund and to guide her choice in other potential funds. By the time she received that information, the soft close had been lifted.
- If she'd received timely reassurance that the changes weren't fundamental, nor prejudicial to her, didn't involve a change in purpose or risk profile or increase in cost, this information would have helped her make an informed choice of whether or not to stay with her pension fund.
- Mrs M also said that she'd received from Phoenix Life Limited a letter dated 3 July 2025 with an attached information sheet detailing the relevant changes to her fund, informing her that there would be a merger of Market and Index Funds. With effect from 11 July 2025, her SL abrdn My Folio Market V Pension Fund would change to SL abrdn My Folio Market V Income Fund. The letter also advised her that a change to her fund could be significant and that if she had concerns, she should think about consulting an advisor.

The investigator then responded to Mrs M as follows:

- She conveyed Phoenix Life Limited's comments that when it made the decision to apply a soft close to the SL abrdn MyFolio Market V Pension Fund, it added a note informing customers that the fund was closed to new business on its webpage, online servicing and on its fund update on 15 January 2025.
- Whilst Phoenix Life Limited didn't write to individual unit holders prior to the soft close and when it was applied to the SL abrdn MyFolio Market V Pension Fund, the information was made available.
- The investigator said that she'd also revisited the FCA guidance which Phoenix Life Limited relied on when it applied the soft close and considered whether it had to give prior notification of the soft close by contacting individual unitholders. She remained of the view that, on the basis of that guidance, there wasn't a responsibility for Phoenix Life Limited to let Mrs M know of the soft close prior to its application.
- In terms of what the policy documents said about prior notification of a soft close, she noted the following on page nine:

"Closing or winding-up a fund or removing a lifestyle profile..."

5.11: For commercial reasons (including those specified below), it is necessary for the insurer to be able to:

close a fund to new investments (so that no new units in the fund are sold to

investors) to protect the interests of existing unitholders under the fund; ...

... If a fund that you're invested in is being closed or wound up, you'll normally get 3 months' notice. You may receive less notice (or, in exceptional circumstances, no notice) if the external fund manager closes or withdraws their funds, or a shorter period (or no notice) is necessary to protect the interests of the unitholders with units in that fund..."

- The terms and conditions allowed Phoenix Life Limited to make the decision as to whether or not to provide notice to its unit holders about the decision to close a fund to new business.
- So, whilst Mrs M was unhappy about the lack of notification of the soft close, the investigator's view remained that Phoenix Life Limited didn't do anything wrong in respect of the lack of prior notification of the soft close.
- However, basic information about the soft close should have been available to Mrs M when she asked for this during her call to Phoenix Life Limited. And if it wasn't something that was available during the call, then it should have been sent to Mrs M shortly thereafter.
- This was the reason for her recommendation to increase the compensation offered by Phoenix Life Limited to £200, which it had accepted.
- The investigator acknowledged the information Mrs M requested about the soft close would have helped her make an informed choice about whether or not to stay invested in the SL abrdn MyFolio Market V Pension Fund. But in the absence of persuasive evidence to demonstrate that the lack of information prevented Mrs M from taking an alternative course of action, and that this had a financial impact, the investigator wouldn't be recommending that Phoenix Life Limited do anything in this respect.

As agreement couldn't be reached on the matter, the investigator notified both parties that she would refer it to an ombudsman for review.

Mrs M then submitted further comments as follows:

- With regard to what Phoenix Life Limited had said about it adding a note about the soft close to its web page, as there was no further information about the content of the note, she assumed that no other clarification or reassurance was given to existing customers. This was also the first time she'd been given this information.
- The lifting of the soft close had been implemented so that changes could be made in a safe and considered way for customers, but this was at odds with the terms and conditions of the policy as set out by the investigator. As such, Mrs M wasn't sure as to whether those terms would apply.

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.

And having done so, I've reached broadly the same conclusions as the investigator and for similar reasons.

I acknowledge the points made by Mrs M, but as with investigator, I think that, although ideally investors might have received prior notification about the soft close, there was no regulatory requirement for it to do so. And the provisions within the terms and conditions also allowed for there to be a shorter notice period, or no notice period at all, in certain situations if deemed appropriate by Phoenix Life Limited.

And I don't think that this would necessarily have undermined Phoenix Life Limited's principle of wanting to make changes in a safe and considered way. It has confirmed that there was in essence no change to the fund in terms of the way it was managed, nor in the associated costs. Rather, for a short period of time, the fund wasn't open to new investment other than by regular contributions.

Further, I've noted what Mrs M has said about not being in a position to know whether she would have acted differently, had more information about the soft close been available. But even if I were to conclude that Phoenix Life Limited should have provided prior notification, as noted by the investigator this lack of certainty, along with the fact that there was no fundamental change in the fund, would make it very difficult to determine whether Mrs M would have suffered a financial loss by not being given the opportunity of doing something different as a result.

Any loss would therefore be one of expectation – that there was in Mrs M's view a failing on Phoenix Life Limited's part, but with there being no firm sense that this had caused an actual loss to her.

I do nevertheless recognise that being unaware of the implications of the soft close would have been unsettling, and when Mrs M called Phoenix Life Limited to enquire about it, it should have either been able to provide her with the required information during the call, or soon after.

That it didn't would quite understandably and reasonably have caused distress to Mrs M, and so I agree with the investigator's conclusion that the amount which Phoenix Life Limited should pay to Mrs M should be higher.

There's guidance on our website as to the types of award which might typically be appropriate in certain situations. An award between £100 and up to £300 would be suitable where there have been repeated small errors, or a larger single mistake, requiring a reasonable amount of effort to sort out.

This would typically result in an impact that lasts a few days, or even weeks, and cause either some distress, inconvenience, disappointment or loss of expectation.

In thinking about what has happened here, and the fact that Mrs M called for information about the soft close on 28 January 2025, but didn't receive this until the final response letter of 3 March 2025, I think the amount of £200 is appropriate.

Putting things right

Phoenix Life Limited should pay Mrs M £200.

My final decision

My final decision is that Phoenix Life Limited should pay Mrs M £200.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 30 October 2025.

Philip Miller
Ombudsman