

The complaint

Mrs O complains that Phoenix Life Limited (Phoenix) have unfairly requested she repay pension benefits, despite it having delayed payment whilst it repeatedly checked its calculations before confirming the figures were correct. She says she is not able to make any repayment, having made irreversible financial decisions based on the figures Phoenix provided.

What happened

Mrs O had a deferred annuity contract originally taken out with Britannic in 1989 with a selected retirement date in January 2030. Phoenix is now responsible for the plan. In January 2024 Mrs O called Phoenix to enquire about taking her benefits. It said it would send her a Retirement Information Pack (RIP). When nothing was received Mrs O called Phoenix again on 19 February 2024 and a RIP dated 13 February 2024 was emailed to her. This said the plan currently provided for the payment of a single life annuity of £2,775.24 per annum and the capital value was £61,895.22, but the figures weren't guaranteed. It said various options were available including taking tax free cash and a reduced annuity or full encashment of the benefits as a taxable lump sum. Mrs O decided to take the benefits as a taxable lump sum and completed and returned the paperwork for this. But she'd typed rather than signed her signature and this was requested by Phoenix and provided on 5 March 2024.

Phoenix said it couldn't issue a cheque due to technical problems and asked for Mrs O's bank details, saying it would make payment as soon as possible. These were provided and Phoenix said it would make payment by 16 March 2024. But when payment wasn't made Mrs O called it several times to chase up. On the 22 March 2024 Phoenix said there was a problem with the calculation of her plan value, which was higher than it had originally said. So, it had referred this to the actuarial department to be calculated manually but it didn't know how long this would take. Phoenix logged a complaint during this call. On 10 April 2024 Phoenix said the correct value was £69,076.70, and £59,405.96 after deduction of tax was paid to Mrs O's bank account.

Phoenix said as it had caused a delay in paying the benefits it would check to see if this had caused a financial loss for Mrs O. But the actuarial department then said the retirement value it had calculated on 10 April 2024 was also wrong and the plan value was only £49,884.76 and Mrs O should have received £42,900.89 after tax. It wrote to Mrs O on 17 May 2024 confirming this and to request she repay £16,505.07. Mrs O raised a further complaint about this. She said she no longer had access to the funds having made irreversible financial decisions based on the details confirmed to her by Phoenix, that had been checked by its actuarial department, and it was unreasonable for it to ask for the funds back after six weeks.

In June 2024 Phoenix upheld Mrs O's complaints about the delays but said the overpayment would still need to be repaid. It said it should have paid her benefits on 7 February 2024 and hadn't until 10 April 2024. And this delay had resulted in a loss of £3,418.07 due to a change in the plan value, and interest on the late payment was a further £518.78 net of tax. It said it had deducted these amounts from the overpayment and Mrs O now owed it £12,568.22. It

apologised for the poor service and paid £570 in compensation for this including £20 toward her call costs.

Mrs O referred her complaint to our service and our investigator looked into it, and he upheld the complaint in part.

Our investigator said had Phoenix had made errors, but that our service looked to put consumers back in the position they should have been in. Which meant he couldn't tell it to waive any overpayment it had made as Mrs O was never entitled to that money. But he said he didn't think the right valuation date had been used by Phoenix to work out whether the delay in payment had caused Mrs O losses. He said it should recalculate the policy value on 5 March rather than 7 February 2024 and whether any further loss caused by this including interest. He said Phoenix was prepared to accept repayment in instalments, which was fair. He said the £570 already paid to Mrs O for the distress and inconvenience and towards her expenses was fair and in keeping with what our service would have awarded.

Mrs O didn't agree. She said she had no confidence in Phoenix's ability to determine the correct value of her plan. She said the various figures it had quoted showed "*significant discrepancies*" and it had no control over its processes. She said these issues had caused her distress and disrupted her financial plans and it was unfair for her to "*bear the burden of these errors*". Mrs O said she'd now had confirmation from the tax authorities that Phoenix had paid £9,670.74 in income tax on the gross payment of £69,076.70, which she said showed it had treated the payment as final. She said that Phoenix had confirmed the figure paid was correct to her after the involvement of the actuarial department. She said a fair outcome would be for Phoenix to accept responsibility for its actions and close the case.

As Mrs O doesn't agree it has come to me to decide.

My provisional decision

I issued my provision decision on; 21 August 2025, I explained the reasons why I was planning to uphold the complaint in part, but I couldn't tell Phoenix to waive the overpayment I think it has made. I said:

I understand the frustration and worry that Mrs O has been caused, but unfortunately errors do happen. Older plans like Mrs O's deferred annuity contract offer an annual pension amount at the selected retirement date, to which bonuses might be added rather than having a rolling fund value. The promised pension will typically be adjusted down in the event of early retirement. And when a provider quotes a capital value for this type of plan it's generally based on various conversion factors to provide a cash equivalent value of the annuity provided for. The conversion factors used can change, often reflecting movements in Gilt yields, which have increased significantly in recent years. Any increase in Gilt yields is likely to see the cash equivalent value reduce as the cost of buying an annuity to provide the promised income would also reduce.

Mrs O was originally told the annual annuity available was £2,775.24 payable on a single life basis and guaranteed for ten years. Phoenix has given a large range of capital values for this but says the final value it has provided of £49,883.76 is correct. I asked Phoenix a number of questions about how it had worked out the cash value and it initially provided some conflicting information before clarifying this. It says Mrs O's plan did offer a deferred annuity, but the correct amount of this was £2,470.41 per year including bonuses with an early retirement date of 7 February 2024. Not the £2,775.24 it had originally quoted in its letter of 13 February 2024.

Our service doesn't have the actuarial expertise that Phoenix does (despite the repeated errors made) and it isn't our role to calculate the value of Mrs O's benefits, which involves multiple factors. However, I've looked at annuity rates at the time Mrs O was asking to take her benefits (February 2024) on the same basis as provided for under her plan. And a typical annuity rate then was around 6%. The rate offered by Phoenix works out to be around 5%, so less than the average rate then available on the open market, but that favoured Mrs O. And whilst the final value is lower than it originally quoted it doesn't appear to be unfairly low.

So, it does appear Phoenix has made an overpayment and like when bank error leads to funds being incorrectly paid into an account it wouldn't be reasonable for me to tell Phoenix to waive repayment. It has said it will consider a repayment plan for the overpayment on terms that are affordable to Mrs O, and I think that is fair.

I've thought carefully about the further calculation of the plan fund value proposed by our investigator based on Phoenix's likely processing times, which would push the retirement date back to 5 March 2024. However, 7 February 2024 has been the relevant date since outset and changing that now provides for further delay, and I think, unreasonable uncertainty for Mrs O. Both the deferred annuity available and the capital value of it on 5 March 2024 could be different. It's likely the deferred annuity would be fractionally higher but annuity rates and the factors Phoenix uses in its calculations could also have changed. I think given the delays and uncertainty it is both prudent and fair to draw a line under matters and retain 7 February 2024 as the retirement date.

Phoenix made multiple errors in processing Mrs O's retirement benefit claim, resulting in both delays and her being caused considerable distress and inconvenience over many months. At this stage I don't think the compensation paid by Phoenix is fair in the circumstances. I've listened to a number of the calls made by Mrs O to Phoenix where she repeatedly expressed frustration about the delays, the failure to reply to emails, and to confirm details in writing, the cost of calling it and spending long periods on hold to then be given contradictory information. A particular sequence of calls where Mrs O pressed for updates to be repeatedly told the matter had been referred to "actuarial" and no timeframe for when the recalculation would be completed and her benefits paid could be given, showed particularly poor service as it was now around six weeks since she'd returned the paperwork to accept the original maturity value provided to her.

Not unreasonably Mrs O went ahead with financial decisions based on the rechecked and confirmed valuation and to then be told that this final figure was incorrect, and a substantial repayment was required caused her further distress. Taking everything together, I think it is fair that the £570 in compensation that has already been paid by Phoenix should be increased to £750. But it wouldn't be reasonable for me to tell it to waive the repayment due.

I asked both parties to send me any further information or comments they would like me to consider.

Response to provisional decision

Mrs O didn't accept my provisional decision. She said she'd acted in good faith and there were multiple errors and delays before her benefits were paid then many weeks before Phoenix said there was another error and wanted repayment. She said she'd carried out irreversible financial decisions with the funds and couldn't make repayment. She said she had submitted a Subject Data Access Request (DSAR) for all the records held by Phoenix as she felt the evidence provided to date was inadequate and she asked for time for the DSAR to be completed to enable her to make further comments.

Phoenix accepted my provisional 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've decided to uphold the complaint in part.

I thought it was fair to give Mrs O further time to collate any more evidence, but she has confirmed that the DSAR remains outstanding from Phoenix after several months despite repeated requests from her. She says this highlights further failures in Phoenix's record keeping and internal controls. She has raised these issues with the Information Commissioners Office (ICO).

I appreciate the further frustration this has caused, but the role of our service is to provide quick and impartial dispute resolution that is fair to both sides. As we aren't the financial regulator, I can't sanction Phoenix for any failures or tell it to change the way it does things. I can only consider the impact on Mrs O of what she has complained about. And in this case, I do think that I have enough evidence to consider what is fair and reasonable in the circumstances of this complaint.

Unfortunately, errors in calculating older policies like Mrs O's aren't uncommon. Plans like hers are relatively complex compared to more modern arrangements and may well be administered on legacy computer systems and relatively few such plans will still be active by now. The errors made undoubtedly caused Mrs O distress and inconvenience which is why I thought it was fair that the compensation already paid by Phoenix should be increased to £750. But, where an error has been made it isn't always fair to tell the pension provider to waive any overpayment, as ultimately the cost of this would be carried by other policyholders. And whilst Mrs O has said it was around six weeks before Phoenix confirmed the error, this is a relatively short period of time, rather than being years after the event.

In coming to both my provisional and now my final decision on Mrs O complaint I have carefully considered the impact on her. She used the funds to repay debts and can't herself recover the overpayment now. But, whilst what has happened has been stressful, inconvenient and deeply disappointing for her, it does appear she has derived some benefit. That's because Phoenix is offering to agree repayment terms that are both affordable for her and don't include interest on the outstanding balance. Whereas it is highly likely that the debt Mrs O cleared was subject to interest, meaning that she is probably in a better position than she would be otherwise. So, overall whilst Mrs O wasn't entitled to what she was paid, I think Phoenix is treating her fairly in how repayment should be achieved. And because of that, whilst I know my decision will disappoint Mrs O, I can't uphold that aspect of her complaint.

Putting things right

I think Mrs O suffered distress and inconvenience because of the errors made by Phoenix as well as the delays these caused. Phoenix accepts this and has already paid Mrs O £570 in compensation. In the circumstances of this complaint, I think it's fair that this be increased to a total of £750.

My final decision

For the reasons I've given above and in my provisional decision, my final decision is that I uphold this complaint in part against Phoenix Life Limited.

I direct Phoenix Life Limited to pay Mrs O a further £180 in compensation to give a total of £750 for the distress and inconvenience she's been caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs O to accept or reject my decision before 24 February 2026.

Nigel Bracken
Ombudsman