DRN-6180385

The complaint

The estate of Mrs H complains about a Distribution Bond and Loan Plan Trust originally set up with Standard Life, now Phoenix Life Limited ('Phoenix'). It says the outstanding £20,000 was wrongly treated as part of Mrs H's estate for inheritance tax ('IHT') purposes following a £5,000 withdrawal in 2013, resulting in £8,000 additional IHT being paid.

The estate also says Phoenix failed to make the consequences of that withdrawal clear at the time and caused unnecessary distress after Mrs H's death by requiring the trust to be registered with HMRC's Trust Registration Service ('TRS') before releasing funds.

What happened

In 2006, Mrs H took out a Loan Plan Flexible Trust policy with Phoenix Life Limited, designed to provide funds to cover future expenses while keeping assets outside her estate for IHT purposes. Shortly afterwards, the trustees authorised a partial withdrawal of £5,000. Mrs H passed away in 2023, leaving her estate with an unexpected £8,000 IHT bill. Concerned about this, her estate queried the administration of the policy, particularly regarding the earlier withdrawal, which they believed may have affected the estate's tax position.

Phoenix initially responded by explaining that the policy operated under the terms set out in the original Loan Plan Deed. They confirmed that the £5,000 withdrawal had been carried out in accordance with instructions from the trustees, and that the remaining funds were treated correctly under the policy's terms. Phoenix highlighted that the trustees were responsible for seeking independent tax advice before authorising any withdrawals, and that they did not provide tax advice. But they did accept the service provided at times was lacking so it offered to compensate £200.

Despite this explanation and offer of compensation, the estate remained unhappy. They contended that no advice had been given to them about the potential impact of the withdrawal on the estate, and that the partial withdrawal had undermined the intended tax planning benefits, resulting in the £8,000 tax liability. The estate also highlighted difficulties in contacting Phoenix following Mrs H's death, citing delays in responses and unclear communication. They felt the documentation at the outset did not make it sufficiently clear that a partial withdrawal could result in funds becoming part of the estate.

The matter was referred to this Service. Our investigator reviewed the original Loan Plan Deed, withdrawal instructions, and correspondence between the estate and Phoenix, as well as relevant regulatory guidance. The investigator concluded that Phoenix had acted in line with the policy terms and had fulfilled its obligations correctly. He found the £5,000 withdrawal was authorised and processed properly, and the estate's tax outcome was consistent with the legal and contractual framework. The investigator recognised the impact to the estate, but he thought the offer provided by Phoenix was in line with his recommendations.

As the estate didn't agree with the investigator's assessment, the complaint was passed to me for 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.

In December 2006 Mrs H invested £25,000 into a Standard Life bond under what was described as a Loan Plan using a Flexible Trust. The documentation shows that this was not an outright gift into trust. Instead, the £25,000 was advanced to the trustees by way of loan. That distinction matters. A loan trust is structured differently from a gift trust. Under this arrangement, Mrs H retained a legal right to be repaid the amount she had lent. The provider literature explains how that interacts with inheritance tax. Under the section dealing with IHT, it states:

"The right to the repayment of any outstanding loan will be treated as an asset of your estate for IHT purposes."

I find the wording is clear and direct. It does not suggest that the loan disappears over time or that it falls outside the estate automatically. Rather, it explains that so long as any part of the loan remains unpaid, the right to repayment continues to belong to the settlor and will form part of their estate.

In August and September 2013 Mrs H and the trustees signed instructions requesting a £5,000 encashment across bond segments. That payment was processed resulting in the outstanding balance of the original £25,000 loan being reduced to £20,000.

Mrs H sadly died in June 2023. At that time, £20,000 of the loan had not been repaid. Phoenix informed the estate that this outstanding balance formed part of Mrs H's estate for IHT purposes. The estate considers that position to be wrong. It feels the 2013 withdrawal altered the tax treatment and that the consequences were not properly explained.

I have thought carefully about that point, because I understand why the position feels counterintuitive. It is natural to assume that once funds sit within a trust for many years, they no longer form part of someone's estate. But in a loan trust, the key feature is not where the money is invested; it is the existence of the outstanding debt.

The structure adopted in 2006 meant that Mrs H lent £25,000 to the trustees. She retained the right to call that money back. Unless the loan was fully repaid or formally waived, that right continued throughout her lifetime. The documentation expressly reflects that position. It explains, in simple terms, that any outstanding loan remains part of the estate for IHT purposes. The 2013 withdrawal did not change the nature of the arrangement. It did not convert the remaining balance into a gift. It did not extinguish the repayment right. It simply reduced the amount owed from £25,000 to £20,000. In fact, if anything, that repayment reduced the amount that would ultimately fall within the estate.

Because £20,000 remained legally due to Mrs H at the date of her death, her estate still held the right to recover that sum. That right is an asset. And under the terms set out in the original documentation, it is treated as part of the estate for IHT purposes.

I appreciate that the estate considers the additional IHT of £8,000 to have arisen because of the 2013 transaction. But when I look at the chain of events, the tax liability did not arise because £5,000 was withdrawn. It arose because £20,000 of the loan remained outstanding at death. Had the loan been fully repaid during Mrs H's lifetime, there would have been no such asset in the estate. Conversely, had no repayment been made at all, a larger amount would have fallen within it. The tax position followed the existence of the unpaid balance, not the act of partial repayment.

The estate also says Phoenix failed to warn of the consequences of the withdrawal. I have considered that carefully. However, the IHT treatment of the outstanding loan was not a new or hidden consequence triggered in 2013. It was a fundamental feature of the arrangement

from the outset. The provider documentation clearly explained that the outstanding loan would remain part of the estate.

It is also important to recognise roles. The plan was arranged in 2006 on the advice of a financial adviser. The adviser's responsibility was to explain the suitability of the structure and its tax implications. Phoenix, as successor to Standard Life, acted as the product provider. There is no evidence that Phoenix provided personal advice to Mrs H or assumed responsibility for reviewing the estate planning consequences each time a repayment was requested.

That said, I do not underestimate how unsettling this must have been for the family. Administering an estate is rarely straightforward, and encountering what feels like an unexpected tax liability naturally adds to that strain. The fact that another provider may have approached matters differently in relation to the TRS would only have compounded the sense that this could have been handled more easily.

However, providers are required to meet regulatory and anti-money laundering obligations. Ensuring that a trust is properly registered before releasing funds is consistent with those obligations. A difference in operational practice between providers does not necessarily mean one has acted wrongly. What matters is whether Phoenix's requirement was unreasonable or outside regulatory expectations. I have not seen evidence that it was.

I understand why the estate feels disappointed by that conclusion. But my role is to decide whether Phoenix acted incorrectly or caused the loss complained of. Having considered all of the evidence and the relevant documentation, I am not persuaded that it did.

I note that Phoenix offered £200 in compensation to the estate for its customer service failings. Even if this amount had not already been paid, I consider £200 to be fair and reasonable in all the circumstances for the repeated chasing and calls made while pursuing the complaint.

My final decision

Phoenix Life Limited has already made an offer to pay £200 to settle the complaint and I think this offer is fair in all the circumstances. So, my decision is Phoenix Life Limited should pay Mrs H estate £200 if it hasn't done so already.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mrs H to accept or reject my decision before 31 March 2026.

Farzana Miah
Ombudsman