

Ombudsman's Determination

Applicant	Ms G
Scheme	Phoenix Life Personal Pension Plan (the Plan)
Respondent	Phoenix Life Limited (Phoenix)

Outcome

1. I do not uphold Ms G's complaint and no further action is required by Phoenix.

Complaint summary

2. Ms G complained that Phoenix unreasonably refused to provide her with a pension drawdown policy to claim her retirement benefits because she lived overseas.

Background information, including submissions from the parties

3. On 16 July 2019, Phoenix sent a retirement pack to Ms G, confirming that she was approaching her selected retirement date and set out her benefit options as:-
 - Option 1** Taking all your pension savings in one go as a taxable lump sum
 - Option 2** Buying a guaranteed income for life (annuity)
 - Option 3** Taking your pension savings as a number of lump sums
 - Option 4** Choosing more than one option and mixing them
 - Option 5** Transferring your pension savings to another pension provider
 - Option 6** Keeping your pension savings where they are
4. With regard to Option 3, Phoenix also informed Ms G that, "This option is not available directly from Phoenix but if you are interested in finding out more you can contact our Customer Care Team..."
5. On 13 September 2019, Ms G telephoned the Customer Care Team at Phoenix to discuss Option 3. Ms G has said that she was told that the pension drawdown option was not available because she lived in France.
6. Phoenix said that during the call Ms G was told that it would not be possible to claim her benefits as a number of lump sums via a pension drawdown policy with Phoenix.

7. In response, Ms G complained to the call handler that it was unreasonable that Phoenix had refused to provide this option.
8. The call handler's notes of the conversation stated that she then telephoned Phoenix's partner company, HUB Financial Solutions (**HUB**), to find out if it offered pension drawdown policies to customers living outside of the UK, and "[returned] to speak to [Ms G] but the line [had been] released."
9. On 16 September 2019, Phoenix telephoned Ms G and confirmed that neither Phoenix nor HUB offered pension drawdown policies to customers living outside of the UK.
10. The call handler's notes made at the time stated that Ms G repeated her previous complaint and claimed that she had been cut-off during the telephone conversation on 13 September 2019.
11. On 7 October 2019, Phoenix wrote to Ms G in response and said:-
 - Ms G had not been cut-off during the telephone call on 13 September 2019.
 - Phoenix did not provide pension drawdown policies, and HUB did not offer that facility to customers living overseas.
 - Ms G would need to seek financial advice or find another provider if she wished to purchase a pension drawdown policy.

Ms G's position

12. Ms G says:-
 - During the telephone call on 13 September 2019 Phoenix said that it would not provide her with a pension drawdown policy because she lived in France and then cut her off.
 - For the same reason Phoenix had failed to transfer the call to HUB.
 - During the telephone call on 16 September 2019, Phoenix again cited the fact that she lived in France as the reason why neither Phoenix nor HUB would provide her with a pension drawdown policy.
 - Her residence in France had repeatedly been used by Phoenix as justification for the UK financial services industry not providing the option she had been seeking.
 - This poor advice had caused her financial detriment.

Phoenix's position

13. Phoenix say:-

- The retirement pack sent to Ms G on 16 July 2019 was under the first stage of Phoenix's retirement process, which is designed to give customers basic information about their options.
- So, the retirement pack included all of the options that had been open to Ms G, and not just those that were available with Phoenix.
- Phoenix does not offer a pension drawdown facility, regardless of a member's country of residence, as stated in the previously mentioned retirement pack.
- As a consequence of this, Phoenix's normal procedure is to transfer any calls regarding that option to HUB.
- HUB has confirmed that it will not provide a drawdown policy to Ms G, because she lives overseas.
- Phoenix is unable to clarify why HUB does not offer a pension drawdown policy to overseas customers, because it is an independent company with its own procedures.

Adjudicator's Opinion

14. Ms G's complaint was considered by one of our Adjudicators who concluded that no further action was required by Phoenix. The Adjudicator's findings are summarised below:-

- In the Adjudicator's view it was not possible to establish definitively what was said during the telephone call that Ms G made to the Customer Care Team at Phoenix on 13 September 2019, since accounts of the conversation differ. However, Ms G was correctly told that Phoenix could not offer her a pension drawdown policy, even if the reason given was incorrect.
- Phoenix does not offer pension drawdown policies, regardless of a member's country of residence, and its normal procedure is to refer enquiries regarding that option to HUB.
- The retirement pack sent to Ms G on 16 July 2019 included Option 3 – 'Taking your pension savings as a number of lump sums' and the related notes stated, "This option is not available directly from Phoenix but if you are interested in finding out more you can contact our Customer Care Team." In the Adjudicator's view Ms G ought to have been aware that Phoenix would not offer her that option via a pension drawdown policy before she telephoned the Customer Care Team. But in any event Phoenix acted in accordance with its normal procedures and there is no evidence that Ms G was deliberately cut-off during the call because she lived overseas, or to avoid transferring the call to HUB for the same reason.
- In its letter of 7 October 2019, Phoenix confirmed that it did not provide pension drawdown policies, and that HUB would not offer that facility to customers living

overseas. Phoenix also said that Ms G would need to seek financial advice or find another provider if she wished to purchase a pension drawdown policy in that way. In the Adjudicator's opinion there is no evidence Phoenix told Ms G that the UK financial services industry would not provide that option.

- Phoenix had made a commercial decision not to provide pension drawdown policies. So, Ms G was appropriately prompted to seek financial advice on how to claim her benefits in that way while living overseas. There was no overriding requirement for Phoenix to provide the pension drawdown option. Further HUB is an independent company and its decision not to offer that type of policy to customers living overseas, including Ms G, was beyond Phoenix's control. In the Adjudicator's opinion there was no maladministration by Phoenix.

15. Phoenix accepted the Adjudicator's Opinion, Ms G did not, and the complaint was passed to me to consider. Ms G provided her further comments, which do not change the outcome. I agree with the Adjudicator's Opinion and note the additional points raised by Ms G.

Ms G's additional comments

16. Pension Wise has confirmed her entitlement to purchase a pension drawdown policy in the UK, even as an overseas resident. Phoenix Life and other UK pension scheme administrators have unreasonably denied her that entitlement simply on the basis that she lives overseas. No adequate explanation has been provided as to why she is unable to transfer her benefits with Phoenix to a pension scheme in the UK.

Ombudsman's decision

17. Ms G complained that Phoenix unreasonably refused to provide her with a pension drawdown policy. I note that in its letter of 7 October 2019, Phoenix said that it did not provide pension drawdown policies, and HUB would not offer that facility to members living overseas. The letter also stated that Ms G would need to seek financial advice or find another provider if she wished to purchase a pension drawdown policy in the UK. I have seen nothing to suggest that Ms G was told she would be unable to transfer her benefits.
18. Phoenix has clearly made a business decision not to provide pension drawdown policies which it is entitled to do. Since there is no requirement for Phoenix to offer a pension drawdown option to Ms G, whether she lives in the UK or overseas, it is for Ms G to seek financial advice as suggested by Phoenix, should she wish to transfer her benefits from Phoenix and purchase a drawdown policy elsewhere. There is no requirement for Phoenix to offer any further explanation or guidance to Ms G regarding the possibility of transferring her benefits to another provider.

CAS-41694-J9Q2

19. I do not uphold Ms G's complaint.

Anthony Arter

Pensions Ombudsman

22 May 2022