

Ombudsman's Determination

Applicant	Mr S
Scheme	Phoenix Life Retirement Annuity Contract (the Policy)
Respondent	Phoenix Life Limited (Phoenix Life)

Outcome

1. I do not uphold Mr S' complaint and no further action is required by Phoenix Life.
2. My reasons for reaching this decision are explained in more detail below.

Complaint summary

3. Mr S has complained that Phoenix Life has not invested his pension fund appropriately, as other Phoenix Life funds have achieved a higher performance. He also complains that he did not receive annual statements from 2005 onwards.

Background information, including submissions from the parties

4. In 1988, Mr S received advice from a Phoenix Life representative, who advised him to take out the Policy, as he had no access to an occupational scheme. The Policy was invested into the Phoenix Life with profits fund and Mr S' initial contributions were £40 per month.
5. Mr S has said that he did not receive annual statements after 2005. Phoenix Life looked into this and noticed that there was a word missing in the first line of the address on Mr S' file. It paid £100 to Mr S in recognition of the inconvenience its error had caused.
6. Mr S brought his complaint to this Office, adding that his funds would have achieved a higher growth in a low interest bank account.

Adjudicator's Opinion

7. Mr S' complaint was considered by one of our Adjudicators who concluded that no further action was required by Phoenix Life. The Adjudicator's initial findings are summarised briefly below:-

- The Adjudicator was not aware that the Pensions Regulator (**TPR**) had any concerns about the management of the Phoenix Life with profits fund.
 - It was Mr S' responsibility to ensure the investments remained suitable for him.
 - Whilst it seems a Phoenix Life adviser gave the initial advice in 1988, the Pensions Ombudsman does not have jurisdiction to look at financial advice given.
 - Mr S ought to have recognised sooner that he was no longer receiving annual statements, and could have contacted Phoenix Life as early as 2006 to notify it of this issue.
 - In any event, Phoenix Life made an award recognising its mistake.
 - The Adjudicator felt that the Pensions Ombudsman would not recommend an award for this address error.
8. Mr S did not accept the Adjudicator's findings and the complaint was passed to me to consider. Mr S provided his further comments which do not change the outcome. I agree with the Adjudicator's findings and I will therefore only respond to the key points made by Mr S for completeness.
9. Mr S replied to the Adjudicator maintaining his argument that, as Phoenix Life gave him advice, it was responsible for ensuring the Policy was suitable for him.

Ombudsman's decision

10. Complaints about financial advice and the suitability of financial products are outside of the jurisdiction of this Office, so I will not comment on this part of Mr S' complaint.
11. Mr S also claims that he did not receive annual statements from 2005 onwards. Presumably he received statements from 1988 up until this point. As a result, he would have anticipated a statement each year and it is reasonable to assume that he would have been aware that these had stopped. It would have then been reasonable to expect him to have raised this issue with Phoenix Life in 2005, or at the very latest the following year. I do not consider that there has been a financial loss as a result of the address error.
12. The Policy is a personal pension, which means Mr S is responsible for managing his investments, or employing a financial adviser to do so on his behalf. Had Mr S taken action to rectify the missing statements, he could have decided much earlier that he was unhappy with the performance and taken steps to mitigate this.

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13. I do not uphold Mr S' complaint.

Anthony Arter

Pensions Ombudsman

31 July 2018