

## Ombudsman's Determination

Applicant	Mr E
Scheme	Stakeholder Pension Plan ( <b>the Scheme</b> )
Respondent	Phoenix Life

## Outcome

1. I do not uphold Mr E'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 E has complained about the reduction in the value of his benefits under the Scheme and he feels that Phoenix Life has failed to protect the value of his savings. He has complained that his benefits have reduced, despite being transferred to the Pension Income Protector Fund (**the Fund**).

## Background information, including submissions from the parties

4. Mr E has benefits under the Scheme. As part of Phoenix Life's investment strategy, benefits are transferred from one type of fund to another, as the members approach Scheme retirement age. In September 2012, Mr E's benefits were therefore moved from the Pension Growth Fund to the Fund.
5. On 2 September 2016, the value of Mr E's Scheme benefits was £76,777.23. On 2 September 2017, Mr E's Scheme benefits had dropped to £71,833.66, despite him having made contributions of £1,575.00. Mr E says that he has suffered a loss of £6,518.57.
6. On 20 November 2017, Mr E complained to Phoenix Life.
7. On 4 December 2017, Phoenix Life responded and said that it was unable to uphold the complaint. Phoenix Life explained:

"As a unit linked fund, the advantage of the Pension Income Protector fund is that the price of the units invested in the fund is always available, and the value can therefore always be determined. The disadvantage is that there are

no guarantees. The price of the units can go up or down, and the value of the policy depends on the value of the units held.”

8. On the 8 December 2017, Mr E replied. Mr E was unhappy that his Scheme benefits had reduced despite being transferred into the Fund. Mr E suggested a remedy by asking for the value of his Scheme benefits to be increased to £78,352.23. This figure represents the September 2016 value plus the contributions that had been made since that date.
9. On 24 January 2018, Phoenix Life responded by rejecting his complaint. Phoenix Life said:

“The aim of the Pension Income Protector Fund is to protect the actual income that the total fund value will be able to provide for the individual at their selected retirement date, and during retirement itself; not to protect the overall fund value at any point in time.”
10. Phoenix Life also said that the Fund was unit linked, so the value of the Fund will change every day. In addition, it noted that the contributions that Mr E had made in 2017 form part of the total value and the total amount of units held has increased since 2016. Phoenix Life provided a table, included in the Appendix, showing the Fund’s performance. It also stressed that the Fund has previously performed well since the switching had started.
11. Later in the letter, Phoenix Life explained that it had advised Mr E of the plan to move his benefits into the Fund as early as 2012. Phoenix Life also said that Mr E’s Annual Statements would have confirmed that, “if you are considering altering your plan in any way, you should contact your financial adviser or you could call our Customer Care Team.”
12. On 22 February 2018, Mr E brought the complaint to this Office. As part of his submissions, Mr E sent us a copy of one of Phoenix Life’s leaflets. Amongst other things the leaflet said: “The Pension Income Protector Fund is designed to be more secure but has less opportunity for growth than the Pension Growth Fund and is intended to help protect the value of your pension savings in the last few years before your selected retirement date.”
13. On 30 May 2018, Phoenix Life confirmed with our Office that Mr E’s Scheme benefits as of 25 May 2018 were £73,063.91. Phoenix Life also confirmed that it had received a request for the benefits to be transferred to another provider.

## **Adjudicator’s Opinion**

14. Mr E’s complaint was considered by one of our Adjudicators who concluded that no further action was required by Phoenix Life. The Adjudicator’s findings are summarised below:-

- Mr E complained that his Scheme benefits had dropped in value as a result of being moved to the Fund. Whilst this is true for the period between September 2016 to September 2017, this is not the case overall. Phoenix Life transferred benefits into the Fund between September 2012 and September 2017, and during this same period there was £24,703.65 growth.
  - The Fund provides unit linked investments, and as such the value of any benefits within it will fluctuate in line with the performance of the units in question. Furthermore, the Adjudicator believed that Mr E ought reasonably to have been aware of how his Scheme benefits had been invested. Therefore, Mr E should have known of the risk to his Fund's value.
  - Phoenix Life has said that it provided Annual Plan Statements to Mr E, explaining how his Scheme benefits were being invested. These statements also invited him to contact his financial advisor or call Phoenix's Customer Care Team, if he wished to alter how his benefits were invested. There is nothing to suggest that this was done.
  - Mr E feels that the Fund has not secured his savings in the manner it advertised that it would. Mr E has provided a copy of the leaflet available for the Fund. This leaflet explained that Mr E's benefits will be more secure in the Fund but that there would be less opportunity for growth. This indicates his benefits will be invested in lower risk investments, but this is not the same as the funds being invested in a no risk investment, for example, a solely cash fund.
  - The adjudicator said that, in his view, the complaint should not be upheld and Mr E's claim for compensation of £6,518.57 should not succeed.
15. Mr E did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr E provided his further comments which do not change the outcome.
16. Mr E has complained that the wording issued by Phoenix Life to describe the Fund is totally misleading. He says that the wording purports to "protect the value of your pension savings," but the Fund did not do this. He contends that no reasonable person would take financial advice regarding altering his investments when the wording is so clear. He wanted to maintain the value of his savings and feels he was mis-sold the Fund.
17. I agree with the Adjudicator's Opinion and I will therefore only respond to the key points made by Mr E for completeness.

## **Ombudsman's decision**

18. I do not find that Mr E's Scheme benefits have reduced overall as a result of them being moved into the Fund. In September 2012, Phoenix Life began moving units into the Fund. At this point, Mr E's Scheme benefits were valued at £37,680.01. By

September 2017, the value of the benefits had grown to £71,833.66. Once I consider Mr E's contributions of £9,450.00, it shows that Mr E has achieved an overall growth of £24,703.65.

19. I understand Mr E's disappointment in the poor performance between September 2016 and 2017, however this is not reflective of the overall performance of the Fund.
20. Mr E has complained about the information Phoenix Life gave him in relation to the Fund. He complained that the Fund achieved the opposite of what the literature said it would. He was told that the purpose of the Fund was to "protect the value already achieved" and "protect the value of your pension savings." It is clear that the literature says both of those things. However, the leaflet also says that Phoenix Life will move units into more stable funds to reduce the risk of sudden reductions in values. I accept that the leaflet says that the funds will be invested in lower risk investments, but it does not go as far as to say there is no risk to his investments. I do not believe Mr E can successfully argue that he had been told that the Fund was without risk.
21. If Mr E was risk averse, I find that Phoenix Life did enough to signpost other options for him to alter the investment strategy being applied to his benefits. If he wished to alter how his benefits were invested, Phoenix Life provided him with Annual Plan Statements that invited him to contact his financial advisor or call Phoenix's Customer Care Team. Had his absolute priority been to maintain the value of his benefits and he believed that this was not happening he could have transferred his investments into a cash fund. I find that he was given options to contact Phoenix Life and protect his savings. With the funds still being invested, there was always a risk to the value of his benefits; so, Mr E cannot complain because the risk has been realised to an extent.
22. Mr E has also made a complaint that no reasonable person would seek financial advice because the leaflet was clear in promising the protection of his benefits. I do not accept that this is correct as I find that the leaflet highlighted the risk in keeping the funds invested. With regard to obtaining financial advice, again I do not agree with Mr E. Phoenix Life provided statements that invited Mr E to contact his financial advisor or its Customer Care Team if he was looking to make any changes to his investments. Whilst he may not have wanted to get advice from a financial advisor, he was given the alternative option of speaking to the Customer Care Team. There is nothing to suggest that he did this, so it would suggest that he was comfortable with the risk involved.
23. Mr E has benefitted from the overall performance of the Fund. I appreciate that the proximity of the poor performance to Mr E's normal retirement date has caused him concern. However, the funds were still invested and, as a consequence, this put them at risk to some losses although there had been an increase in the Fund over the whole period of the investment.

**PO-20959**

24. Therefore, I do not uphold Mr E's complaint.

**Anthony Arter**

Pensions Ombudsman

31 July 2018

**Appendix**

	Value at 2 September (£)	Contributions made in that yr (£)	Units in Growth Fund	Units in Income Protector
2012	37,680.01	1,706.25	14,122.15	0
2013	46,116.82	1,548.75	11,726.64	2,684.41
2014	52,315.30	1,443.75	7,224.07	7,365.38
2015	58,890.97	1,575.00	3,013.57	11,658.18
2016	76,777.23	1,601.25	654.33	13,915.44
2017	71,833.66	1,575.00	0	14,799.10