DRN-4622192

The complaint

Mr M complains that Phoenix Life Limited failed to pay the stated rate of interest on the cash within his pension plan that he says he was initially promised.

Mr M now wants Phoenix to honour the original rate of return that he says they originally committed to which he believes equates to around an additional £5,000.

What happened

In May 2021, Phoenix wrote to Mr M explaining that if he chose to leave his monies invested beyond the age of 75, any amounts held in cash would attract interest on those funds at the prevailing rate. At that particular time, they explained that whilst not guaranteed, their current rate of interest equalled the Consumer Prices Index (CPI) plus 0.5% p.a.

The following month, as Mr M had reached his 75th birthday, Phoenix wrote to him again explaining that his monies had been disinvested and moved into cash. Again, Phoenix stated that Mr M's monies, whilst sat in cash, would attract a rate of CPI plus 0.5%. On 27 July 2021, Phoenix wrote to Mr M explaining that their earlier communications had been incorrect and that his funds weren't benefiting from CPI plus 0.5%, rather, they were paying 0.5% only. Phoenix explained the rate that Mr M's cash funds were entitled to was equal to the Bank of England base rate less 0.5% p.a., subject to a minimum of 0.5%.

In November 2021, Mr M decided to move his pension from Phoenix to Aviva. Within the transfer paperwork, Phoenix once again explained that Mr M's cash funds were benefiting from a rate of CPI plus 0.5% p.a. The following month, Phoenix again sent a further letter explaining that the funds sat in cash were earning a rate of CPI plus 0.5% p.a. In January 2022, Mr M's pension fund was switched to Aviva.

In May 2022, (and in July 2022 after not receiving a response), Mr M requested a statement from Phoenix to understand what rate of return he'd earned on his funds from the point they'd switched his pension into cash to the time that he'd moved his monies away to Aviva. In response, Phoenix explained that they had paid 0.5% on the cash funds from the point that they were switched into cash and also said that his funds weren't entitled to the CPI element too.

Shortly afterwards, Mr M decided to formally complain to Phoenix. In summary, he said that he felt Phoenix should honour the original interest rate that they had quoted of CPI plus 0.5%. As such, he asked Phoenix to pay him the £5,000 in interest that he felt he was owed.

As Mr M hadn't received Phoenix's response to his complaint letter after seven months, he decided to raise his concerns with this service in May 2023. However, in June 2023, after reviewing Mr M's complaint, Phoenix acknowledged that they had sent inaccurate letters to him. They explained that the rate of interest that was applied to Mr M's funds wasn't linked to CPI, but was based on the Bank of England base rate as they'd set out in their July 2021 letter. Given the confusion caused, Phoenix explained that they were offering Mr M £500 for the upset their incorrect letters had caused and a further £300 for the length of time it had taken them to respond to his complaint.

After considering Phoenix's response, Mr M felt that they should honour the original rate that they set out of CPI plus 0.5%. So, he asked this service to look into his complaint for him.

The complaint was then considered by one of our Investigators. He concluded that whilst Phoenix's letters had led to some confusion, based on the fact that Mr M had received the rate of interest that he was always entitled to, he hadn't lost out financially and as such, he concluded that Phoenix's offer of £800 was fair.

Mr M, however, disagreed with our Investigator's findings. In summary, he said that he'd made investment decisions based on Phoenix's incorrect letters. Given inflation was on the rise at that time, Mr M says that he decided to leave his monies with Phoenix rather than moving his funds elsewhere. Mr M explained that as consequence of Phoenix's letters, he'd suffered financially and should be recompensed.

Our Investigator was not persuaded to change his view as he didn't believe that Mr M had presented any new arguments that he'd not already considered or responded to. Unhappy with that outcome, Mr M then asked the Investigator to pass the case to an Ombudsman 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.

I have summarised this complaint in less detail than Mr M has done and I've done so using my own words. The purpose of my decision isn't to address every single point raised by all of the parties involved. If there's something I've not mentioned, it isn't because I've ignored it - I haven't. I'm satisfied that I don't need to comment on every individual argument to be able to reach what I think is the right outcome. No discourtesy is intended by this; our rules allow me to do this and it simply reflects the informal nature of our service as a free alternative to the courts. Instead, I will focus on what I find to be the key issue here, which is whether the approach that Phoenix have set out to put things right for Mr M is fair and reasonable.

Having carefully considered Mr M's complaint, I'm upholding his complaint, but I'm not going to instruct Phoenix to do anything different beyond what they've already proposed. I'll explain why below.

I can well understand Mr M's disappointment at learning that his pension funds, whilst sat in cash, weren't going to earn the higher, CPI plus 0.5%, interest rate that Phoenix initially set out. Mr M says that he's lost out on around £5,000 of interest because of Phoenix's mistake.

So, I've looked very closely at the various letters that Phoenix sent to Mr M and in my mind, there doesn't seem to be any doubt that Phoenix provided inaccurate information about their interest rate to him and they did so on multiple occasions. They've admitted as much and apologised in their complaint resolution letter to him. However, when a business makes a mistake, it's not the role of this service to punish them – that's the responsibility of the regulator, the Financial Conduct Authority. Our role is to resolve complaints quickly and informally, and when mistakes have occurred, we'd normally instruct the business to put the consumer back into the same position that they would have been in had it not been for the error.

What that means in practice is, we wouldn't ordinarily instruct a business to pay the consumer a rate of interest to which they would never have been entitled to; that would be unfair on the firm. We would, however, expect the business to pay the consumer the correct interest rate and, it seems to me, that Phoenix have done just that. I think Phoenix's letter from July 2021 was clear about what their actual interest rate policy was, as it identified the earlier letters were incorrect and set out what Mr M was actually entitled to. So, whilst Mr M may feel that he is entitled to the higher rate of interest on his pension cash because that's the rate that Phoenix set out in their earlier letters, I don't agree and that's because if the letters that Mr M received were reversed and Phoenix had only paid 0.5% interest, when in fact he was actually entitled to the CPI element as well, we would instruct Phoenix to pay the CPI component too. What that means is, despite what Mr M may think, he hasn't suffered a financial loss, but rather he has suffered a loss of expectations which is very different.

Mr M says that greater emphasis should be placed on the May and June 2021 letters than the subsequent July 2021 letter (which corrected the situation) because it was those earlier letters that he used to make his investment decisions - but I don't agree. Importantly, despite sending incorrect information to Mr M in May and June 2021, Phoenix corrected themselves on 27 July 2021, when they wrote to him setting out the correct interest rate that his pension cash would earn.

So, it seems that for a period of around three months, Mr M thought his pension funds were earning a higher interest rate than they actually were. But, when Phoenix wrote to Mr M again in both November 2021 and December 2021, stating that his monies would earn CPI plus 0.5% p.a., I think it's at that point, given Phoenix's letter from July 2021, that Mr M should've questioned the accuracy of those later letters, but he didn't do so until after he had moved his pension away. But in any event, it wasn't until January 2022 that Mr M switched his pension away to another provider, so I'm not persuaded that Phoenix's letters from May and June 2021 were drivers in encouraging Mr M to retain his funds with Phoenix, because in July 2021, they'd already set the record straight.

I've thought very carefully about the offer that Phoenix have set out to put things right for Mr M. They've acknowledged that they could have responded to his complaint more promptly and offered to pay him £300 to apologise for their delays. They've also offered Mr M £500 in acknowledgment of the fact that they issued multiple letters to him that contained errors. Given I've seen nothing to persuade me that Mr M has suffered a financial loss, as the CPI interest element was not something that he was ever entitled to, I'm satisfied that the offer Phoenix has set out is fair and reasonable for the trouble and upset caused and is in line with what I would have instructed them to pay Mr M had they not already offered to do so.

My final decision

Phoenix Life Limited has already made an offer to pay Mr M £800 to settle the complaint, and I think that this offer is fair and reasonable in all of the circumstances. So, my decision is that Phoenix Life Limited should pay the £800 to Mr M if they've not already done so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 7 April 2024.

Simon Fox
Ombudsman