

The complaint

Mr C complains that the value of his pension plan held with Phoenix Life Limited has been unreasonably eroded by charges over the years and has failed in its primary objective of long-term growth for retirement.

Mr C has been helped in his complaint by his financial adviser.

What happened

In 1991 Mr C started a personal pension for the self-employed with National Financial Management Corporation PLC, part of the Target Life group. Target Life is now part of Phoenix Life Limited (“Phoenix”), which is why the decision is against Phoenix.

Mr C made twelve monthly contributions of £73.33 totalling just under £880 between February 1991 and January 1992, at which point the plan was made paid up. The funds were invested in the Target Life Managed Fund. The normal retirement date (“NRD”) was set to Mr C’s 75th birthday in October 2030.

In June 2023, when he reached state pension age, Mr C contacted Phoenix and discovered the policy was only worth £63. Mr C couldn’t understand how it was worth so little after being invested for thirty years. But Phoenix didn’t register his concerns as a formal complaint at that point.

In October 2023 Mr C’s financial adviser complained to Phoenix on his behalf. Phoenix responded to explain that the policy was unit-linked and so the value wasn’t guaranteed as the investment units were subject to market fluctuations. As well as the policy charges taken on a monthly basis, Mr C’s policy also came with Full Investment Protection Benefit (“FIBP”), a form of life insurance which would’ve returned the full value of the policy in the event of Mr C’s death prior to his NRD. And the terms and conditions of the policy make clear charges will continue to be deducted even if contributions have stopped. It didn’t uphold Mr C’s complaint but offered £100 for the inconvenience of not registering his concerns as a complaint when he originally raised them.

In November 2023 the financial adviser queried the charges further, and Phoenix provided a schedule showing the charges which had been applied over the years. It explained that by April 2016 all units (other than bonus units) in the policy had been eaten up by charges, and from that point the ongoing charges were accrued as a debt to the policy. In April 2019 the policy bonus was calculated and applied to the policy, which cleared the charges which had accrued, and from that point the charges have been deducted from the remaining bonus. Mr C wasn’t happy so referred his complaint to this service where it was considered by one of our investigators. She understood that Mr C would’ve been disappointed that his policy hadn’t grown over the period. But she didn’t think Phoenix needed to take any further action as the charges had been applied in line with the policy terms Mr C agreed to, and that any pension plan would’ve involved charges. She explained how the FIBP worked and was satisfied the terms allowed Phoenix to charge for administering the policy by way of

cancelling units. She thought the £100 offered by Phoenix was sufficient for the inconvenience caused to Mr C by having to chase Phoenix for a response to his concerns.

Mr C didn't feel this was fair. He couldn't see how the value of his plan had shrunk so much over a thirty-year period when investments are expected to grow. He thought Phoenix should've alerted him that the charges were eroding any investment growth to enable him to take action.

I issued a provisional decision on this case in February 2024, as I'd come to the same outcome as the investigator but for slightly different reasons. In the provisional decision I said the following:

The type of plan Mr C started in his mid-thirties is aimed at the self-employed who don't have a workplace pension. The plan terms make clear a pension is intended to be a long-term investment and was set up with the expectation that it would receive regular contributions, at the time up to 17.5% of earnings. Mr C only contributed to this plan for one year, so even if he wasn't expecting charges to be deducted, I think it's unlikely he was relying on this plan to provide significantly for his retirement. And I agree with the investigator, that any pension plan, including low-cost stakeholder plans, will be subject to charges.

Mr C's plan is an older style unit-linked policy, where the first two years of contributions are allocated to Capital units, which incur higher charges to offset the cost of setting up the plan. Thereafter contributions are allocated to Accumulation units, with lower charges which are the ones invested for growth. This is clearly set out in the policy terms which reads "*All contributions are allocated to Accumulation Units, except the first two years' of regular contributions which are allocated to Capital Units*". The terms state the monthly management charge at the outset was 1/12th of 1% of the value of the fund. And that "*Capital Units bear an additional annual management charge of 3.5% to cover setting up costs*".

As Mr C didn't make more than two years of contributions, his plan wouldn't have had any Accumulation units, so was subject to the additional 3.5% charge throughout, which explains why the value was eroded by charges, rather than growing as he expected. Once he'd made two years of regular contributions, the plan would've started allocating Accumulation units and would've had a better chance of the investment growth outperforming the effect of charges.

In addition to the usual administration or fund charges, Mr C's plan had an additional feature of the FIBP, which acted as a kind of life assurance policy and provided for an effective return of premiums should he pass away before his NRD, but this came with an additional monthly cost. Due to the passage of time, we don't have a copy of the application form, but I think the FIBP is likely to have been optional, as the cost for Mr C was based on his age, sex, smoker status and sum at risk.

The policy terms explain that the cost of the FIBP and monthly administration fee would be charged to the plan on the first day of the month. And that the charges will be paid for by the cancellation of units. The terms explain that a bonus fund is built up from 5% of the value of the regular contributions plus the monthly administration charge on the accumulation units in the fund. I can see the illustration of retirement benefits let Mr C know that the policy value can go down as well as up, and that the value of the pension actually paid out will be impacted by charges. Despite making minimal contributions, Mr C's plan did attract a bonus which was applied in 2019, and this was used to clear the debt made up of accrued charges.

Mr C says he wasn't made aware of the effect of charges on his plan, and just assumed it was invested to grow. So I asked Phoenix what communication if any, there'd been with Mr C over the years. Phoenix confirmed they sent annual statements every year. While it's possible Mr C may not have received every one of these, its records show Mr C contacted Phoenix on 1 March 2006 to update his address, so I think he'd have received at least some statements after that. And on 25 October 2011 Mr C called Phoenix to request a retirement pack which was issued the same day and would've included a current plan valuation. I think Mr C must've received this, as otherwise I'd have expected him to call to chase it up.

Mr C suggests if he'd known what was happening to his policy he would've taken action, although he doesn't appear to have acted on the statements or retirement pack. He could've perhaps cancelled the FIBP, but the plan would still be subject to the monthly management charge, at the higher rate due to the lack of Accumulation units. And once the policy was made paid-up Mr C couldn't have restarted his contributions. So I'm not persuaded he'd be in a different position than he is now.

My provisional conclusion was that I didn't uphold the complaint as Phoenix had acted in accordance with the policy terms, and the £100 compensation already paid Mr C was fair.

Both parties confirmed receipt of the provisional decision but had no further comments.

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.

As neither party has challenged my findings or provided new evidence or comments, I see no reason to depart from my provisional conclusions. So for the reasons already explained, I don't uphold the complaint or require Phoenix to take any further action.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 8 April 2024.

Sarah Milne
Ombudsman