

Ombudsman's Determination

Applicant	Mr H
Scheme	Phoenix Life Personal Pension Plan (the Plan)
Respondents	Phoenix Life Assurance Limited (Phoenix Life)

Outcome

1. I do not uphold Mr H's complaint, and no further action is required by Phoenix Life.

Complaint Summary

2. Mr H complained that Phoenix Life delayed the transfer of his pension to the receiving scheme, Elevate. As a result of the delay, he was unable to take advantage of his unused personal tax allowance for the 2019/2020 tax year.

Background information, including submissions from the parties

3. Mr H's Plan was valued at over £30,000 and had safeguarded benefits in the form of a guaranteed annuity rate. As such, legislation required him to obtain pension transfer advice before a transfer payment could be made.
4. On 30 January 2020, Mr H's Independent Financial Advisor (**the IFA**) provided Phoenix Life with a Letter of Authority (**LOA**) and asked for a transfer quotation.
5. On 5 February 2020, Phoenix Life issued a transfer quotation to the IFA.
6. On 3 March 2020, Phoenix Life received a request from the IFA for the transfer of Mr H's pension from the Plan to Elevate through Origo, the pension transfer service.
7. On 5 March 2020, Phoenix Life sent a letter to the IFA which contained transfer forms. The letter also said that, in order for the transfer to proceed, a Pension Advice Declaration Form (**PAD Form**) had to be completed by the IFA. However, the PAD Form was not included in the pack. A copy of this letter, and enclosed transfer forms, was also sent to Mr H.
8. On 6 March 2020, Phoenix Life issued a PAD Form to the IFA by post. The form and an accompanying letter were sent to the IFA's address in Lincolnshire (**the Lincolnshire Office**). The letter stated:-

“We will need confirmation that advice has been obtained by completion of the attached Pension Advice Declaration Form (this form should be completed by the Independent Financial Adviser not the plan holder).”

9. On 11 March 2020, Mr H received a copy of the PAD Form. Mr H contacted the IFA about the form on the same day. The IFA said that it had not received any letters from Phoenix Life and asked Mr H to forward the correspondence.
10. On 12 March 2020, the IFA called Phoenix Life and asked why a letter had been sent to Mr H. It asked for the letter to be re-issued to the IFA.
11. On 13 March 2020, the IFA sent Phoenix Life the completed PAD Form. The form was sent with a cover letter with details of the IFA’s Lincolnshire Office.
12. On 16 March 2020, Phoenix Life received the completed PAD Form from the IFA. Despite having received a completed PAD Form, Phoenix Life re-sent its request for transfer forms to the Lincolnshire Office.
13. On 18 March 2020, Phoenix Life sent a letter to the IFA to request additional information. The letter stated:-

“After checking the Financial Services Register we were unable to find evidence that you are authorised to provide advice on Pension Transfers and Pension Opt Outs. Therefore, can you please request that the Senior Manager of your firm, either calls our Customer Contact Centre or writes to us on company letterhead, to confirm that in your capacity as an IFA you are authorised to give advice on Pension Transfers and Pension Opt Outs.”
14. On 20 March 2020, the IFA telephoned Phoenix Life to chase the transfer. It said it had not received the letter which was sent on 18 March 2020. Phoenix Life emailed the document to the IFA.
15. On 23 March 2020, Phoenix Life received the requested confirmation from the IFA. The IFA also said that Mr H’s transfer was tax year end sensitive and that Phoenix Life’s failure to send the correct forms delayed matters considerably. It also asked for the transfer to be treated as a priority.
16. On 24 March 2020, the IFA called Phoenix Life for an update and was told it had not received the letter that confirmed that the IFA had FCA authority to advise pension transfers. It appears that the letter had been received but had not been scanned to Mr H’s record.
17. On 27 March 2020, the IFA called Phoenix Life for an update and was told it was still awaiting its letter of 20 March 2020. However, it appears that this was incorrect as this letter had been scanned to Mr H’s Plan record on 24 March 2020.
18. On 28 March 2020, Phoenix Life sent a confirmation letter to Mr H that a transfer payment would be sent to Elevate. The letter stated:-

“We are pleased to confirm that a payment of £38,230.14 for a transfer of pension benefits from the above plan will be sent to Elevate in the next four to five working days.”

19. On 30 March 2020, Phoenix Life made the transfer payment to Elevate.
20. On 2 April 2020, Elevate received the transfer payment. The funds were credited to Mr H's account on the same day.
21. On 13 April 2020, Elevate wrote to Mr H and said:

“I can see that your adviser keyed on a benefit crystallisation event on 3 April 2020 which paid the tax-free cash to you, this was keyed within the deadline for the tax year. Unfortunately, when this was keyed, it had passed the deadline for income payments as these are dealt with in a different manner. We can pay tax free cash on the same day as keying the benefit crystallisation, however pension income must go through an HMRC approved payroll system which takes two working days which would have taken you into the new tax year.”
22. On 20 April 2020, Mr H sent a formal complaint to Phoenix Life. He said that Phoenix Life had caused delays to the transfer of his pension. The complaint was received by Phoenix Life on 24 April 2020.
23. On 14 May 2020, Phoenix Life responded to Mr H's complaint. It did not accept that it had caused a delay.
24. On 20 May 2020, Mr H complained to Phoenix Life again as he was not satisfied with its response. He requested further information about Phoenix Life's due diligence process and where the PAD Form was sent.
25. On 29 May 2020, Phoenix Life responded to Mr H's complaint. It said it was its standard process to complete due diligence following confirmation that the member has received financial advice. It also confirmed that the PAD Form was sent to the Lincolnshire Office on 6 March 2020, and it was reissued to the same address.
26. On 4 June 2020, Mr H complained to Phoenix Life again as he remained unhappy with its response. He said that his IFA had told him that the PAD Form had been sent to an incorrect address, which caused a delay.
27. On 1 July 2020, Phoenix Life contacted Elevate to ask about what happened to the transfer payment once it was received.
28. On 3 July 2020, Elevate said it received the funds on 2 April 2020 and matched them to Mr H's account that same day. It said that, in order to process Mr H's crystallisation and taxable income by the end of the tax year, the money needed to be received on or before 19 March 2020.
29. On 8 July 2020, Phoenix Life responded to Mr H. It did not agree that it caused a delay to the transfer of Mr H's funds. However, it did agree that it caused confusion to

Mr H by sending the transfer forms to him instead of just to the IFA. It offered £100 as compensation for the distress and inconvenience caused.

30. On 15 July 2020, Mr H advised Phoenix Life he accepted its offer of £100 as “a token to cover some of my outgoings.”
31. On 30 July 2020, Phoenix Life made a final response to Mr H. It said that it had been informed by Elevate that in order for Elevate to process the crystallisation and taxable income in the 2019/2020 tax year, it would have need to have received Mr H’s funds by 19 March 2020. It would not have been able to complete the transfer by this date even if the PAD Form had been received by the IFA earlier.
32. Following the complaint being referred to The Pensions Ombudsman (**TPO**), Mr H and Phoenix Life have made further submissions which are summarised below.

Summary of Mr H’s position:

- He wanted to transfer out of the Plan in order to take advantage of pension freedoms. He wished to take a Pension Commencement Lump Sum (**PCLS**) as well as a withdrawal of £11,000. He needed to make this withdrawal in the 2019/2020 tax year in order to take advantage of his unused personal allowance. The remainder of his benefits was to be withdrawn at a rate of £200 per month.
- Phoenix Life caused a delay to the transfer of his funds by sending the PAD Form to the incorrect address. It was delivered to his address and not to the IFA. The IFA had to contact Phoenix Life to get a new form.
- Phoenix Life informed him in the letter of 28 March 2020 that the Transfer Date for his funds were 24 March 2020, and that the transfer would be sent to Elevate within four to five working days. However, the funds were not received until 2 April 2020.
- He lost out financially due to the delay as he had to accept £300 per month taxable income instead of a tax-free amount of £11,000. He was planning to use the £11,000 to partially fund a property, and because of the delays caused by Phoenix Life he missed the opportunity to withdraw this tax-free amount by one day.

Summary of Phoenix Life’s position:-

- It does not agree that it caused unnecessary delays to the transfer process.
- It does not agree that the PAD Form was sent to the incorrect address. It did issue the form to both Mr H and the IFA using the correct addresses.
- It was part of its standard due diligence process to check the IFA’s authorisation, and this process could only start after it had received the completed PAD form. It could only transfer Mr H’s fund once it had received the confirmation regarding the IFA’s authorisation.

- Elevate has confirmed that in order for it to have processed the crystallisation and taxable income in the 2019/2020 tax year, it would have needed to have received Mr H's funds by 19 March 2020.
- Phoenix Life was not told that the transfer was time sensitive until 23 March 2020. So, it did not know about the deadline until it was too late.
- It was only told by the IFA that the transfer needed to complete before the end of the 2019/2020 tax year. Elevate received the funds on 2 April 2020, so it complied with the deadline the IFA had set.
- It accepts that it caused some confusion by sending the transfer forms to both Mr H and the IFA. So, it offered £100 compensation for the trouble and upset caused, which Mr H accepted.

Adjudicator's Opinion

33. Mr H'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: -

- The Adjudicator was of the view that there was no unreasonable delay in Phoenix Life's handling of the transfer of Mr H's pension to Elevate.
- Elevate has said that, in order for it to process Mr H's taxable income in the 2019/2020 tax year, it would have needed to have received Mr H's funds by 19 March 2020. The Adjudicator was not presented with any evidence which suggested that Phoenix Life was aware of the 19 March 2020 deadline, and this deadline had already passed by the time it was informed that the transfer was time sensitive. As on 23 March 2020, the IFA told Phoenix Life that the transfer was "tax year end sensitive" on this date. Phoenix Life ensured that the payment was completed by the end of the tax year, so it managed to comply with the IFA's request.
- It was the Adjudicator's view that the PAD Form was sent to the correct address of the IFA on 6 March 2020. A copy of this letter with the original cover letter has been provided to TPO. The completed PAD Form which was returned by the IFA, also included the cover letter which was addressed to the IFA.
- Phoenix Life has explained that it was its standard process to start the due diligence process after a member had confirmed that they received financial advice. The Adjudicator said that, in her opinion, the Ombudsman would be satisfied with this explanation. As a member can change advisors, it would be reasonable to expect Phoenix Life to only complete its due diligence checks once advice had been given.

- It was the Adjudicator's view that Phoenix Life completed the transfer within the timescales it informed of in the letter of 28 March 2020. The letter stated that the transfer payment would be made within the next four or five working days. The Adjudicator said this would have been four to five working days from the date of the letter of 28 March 2020.
- Phoenix Life offered Mr H £100 in recognition of the distress and inconvenience it caused him when it sent the transfer pack to him as well as his IFA. It said that it should have only sent the transfer pack to his IFA, so it can see that this would have caused confusion. The Adjudicator was of the opinion that, if this complaint went to the Ombudsman, he would not direct a higher award.

34. Mr H did not accept the Adjudicator's Opinion, and the complaint was passed to me to consider. Mr H submitted further comments in response to the Opinion. In summary he said:-

- The PAD Form was only sent to him, and he had to deliver the form to the IFA to complete and return to Phoenix Life. Phoenix Life did not issue a replacement form to the IFA until 16 March 2020. By this time the IFA had already returned the PAD Form to Phoenix Life.
- Phoenix Life repeatedly informed the IFA that it had not received the authorisation confirmation from it, even after it was received on 23 March 2020. This was grossly misleading and poor administration by Phoenix Life.
- He considers that the letter of 28 March 2020 clearly states that the transfer payment would be made within four to five working days from the transfer date of 24 March 2020.

35. I have considered Mr H's further comments, but they do not change the outcome, I agree with the Adjudicator's Opinion.

Ombudsman's decision

36. I find that Phoenix Life did not cause any unreasonable delays to the transfer of Mr H's pension to Elevate.

37. Mr H's Plan was valued at over £30,000 and had safeguarded benefits in the form of a guaranteed annuity rate. As such, legislation required him to obtain pension transfer financial advice before a transfer payment could be made. To meet this requirement, Phoenix Life issued PAD Forms to Mr H and the IFA. It asked for the form to be completed and returned by the IFA.

38. I find that Phoenix Life issued the PAD Form in a timely manner to the IFA on 6 March 2020. I understand that Mr H also received a copy of the PAD Form, which would have caused some confusion. I have reviewed the completed PAD Form which was received by Phoenix Life on 16 March 2020, and it included the cover letter that

was addressed to the Lincolnshire Office. It is therefore clear that the IFA received the form that was issued on 6 March 2020.

39. Phoenix Life has said that it was its standard process to carry out due diligence checks once confirmation was received that advice was obtained. During the due diligence process it was discovered that further confirmation was needed regarding the IFA's authorisation. Phoenix Life requested the additional confirmation on 18 March 2020, just two days after it had received the completed PAD Form from the IFA. I find it was reasonable by Phoenix Life to carry out its due diligence process in this manner, and it did not cause any delays in this part of the process.
40. Phoenix Life received the requested information regarding the IFA's authorisations on 23 March 2020. I recognise that Phoenix Life incorrectly informed the IFA on two occasions that it had not received the information it had requested on 18 March 2020, even though it had been received. Although this was unfortunate, it did not cause any delays to the overall transfer process.
41. On 28 March 2020, Phoenix Life issued a letter to Mr H which explained that his transfer payment was being made to Elevate within the next four to five working days. I understand that Mr H has said that he considered the transfer date of 24 March 2020 to be the date from which the payment would be made within four to five working days. However, Phoenix Life has explained that 24 March 2020 was the transfer value date, and that the stated timeframe was meant to start from the date of the letter, 28 March 2020.
42. I have reviewed the letter of 28 March 2020, and I find that Phoenix Life made the payment within the timeframe described in the letter, as Elevate received the funds on 2 April 2020. Phoenix Life was only informed that the transfer was "tax year end sensitive" in the IFA's letter of 23 March 2020, and it made the payment to Elevate before the end of the tax year. I find that it did not cause any unnecessary delays to the transfer of Mr H's pension.
43. Elevate has also confirmed after the transfer was completed, that it would have needed to have received Mr H's funds by 19 March 2020, in order for it to process Mr H's taxable income in the 2019/2020 tax year.
44. I have not seen evidence that suggests that Phoenix Life was informed of this deadline. Considering that the IFA only informed Phoenix Life that the transfer was time sensitive after this deadline had passed, I find that Phoenix Life was not responsible for Mr H missing his opportunity to take advantage of his unused tax allowance for the 2019/2020 tax year. Indeed, to the extent that it was important to Mr H to make payments in a tax year, I would have expected the request to transfer to have been made earlier than 3 March (see paragraph 6) and for the time sensitivity to have been explained at the outset.
45. Phoenix Life has offered Mr H £100 for causing a confusion by sending the transfer forms to him as well as the IFA. I find this redress to be sufficient, and I note that Mr H has accepted this offer.

CAS-56595-R8D7

46. I do not uphold Mr H's complaint, and no further action is required by Phoenix Life.

Dominic Harris

Pensions Ombudsman
19 March 2025