

Mr. Donal De Barra
Kildimo
Miltown Malbay
County Clare



An tOmbudsman Pinsean
Pensions Ombudsman

20 June, 2014

Our Ref: PO 140319890

Please quote the above number on all correspondence to this Office.

Dear Mr. De Barra,

At the request of my Investigator, Mr. John Sheehan, I have examined your file in the light of a letter received from Mercer dated 17th June 2014.

Essentially, the Mercer letter confirms what in effect we have already known.

The facts are as follows:

1. You left the employment of Hunter Advertising in January 1982.
2. It appears likely that you left on account of redundancy. That entitled you to a deferred benefit under the rules of the scheme.
3. Your option letter signed by Deirdre Cantwell is dated February 1983, a full year later and you confirmed in May 1983 that you wished to retain your deferred benefits.
4. Your benefits were originally set up with Law Union & Rock Assurance, part of the Royal Life Group, whose obligations are now held by Phoenix Life.
5. However, in January 1983, Hunter Advertising in conjunction with Irish Pensions Trust Limited, the trustee of the scheme, decided that they would transfer the scheme to a new provider, Friends Provident.
6. Your benefits were not transferred, but continued to be held by Law Union & Rock. The reason for this is that they were traditional with profits benefits and their early surrender at that point would have resulted in considerable surrender penalties.
7. As a consequence, you had no record on the books of Friends Provident (now Friends First).

8. In 1998, for reasons which are not apparent at this point, it was decided to effect a bulk transfer of the assets held by Royal Assurance Group to Friends Provident and your benefits were included in that bulk transfer.
9. When the defined benefit scheme of Hunter Advertising was wound up in 2007, your benefits were not administered as they should have been because the administration of the wind up was apparently handled by Friends First, who had no record of your benefits, even though they had received the asset representing those benefits.

Mercer advised that, unfortunately, they have uncovered very few documents which are relevant to you. They also state that, due to the length of time that has passed, the fact that the scheme has been wound up and the unavoidable reality that individuals who were employed by Irish Pensions Trust, Royal Life and Friends First at various times have moved on, they have not been able to determine conclusively or track your entitlement in respect of the scheme.

There is no doubt in my mind that you have an entitlement and that entitlement will probably take some time to establish. It is clear to me from the letter signed by Deirdre Cantwell, dated 2nd February 1983, that the benefit outlined in that letter was not guaranteed, but would depend on future bonuses to be added to the value of your policy. It is probably going to take some time to work out what that value might have been, as the first step is to find out what proportion of the bulk transfer value paid over in 1998 represents your benefits. From 1998 onwards, it appears that the benefits were not funded individually, as yours originally were, but were funded on a group basis and we will therefore have to determine what was the investment return on the transfer value that represents your benefits, and which was paid over to Friends First in 1998.

Mercer conclude by saying that *"Whilst our key investigations have been completed, there are a number of points we are continuing to explore. Particularly, we are looking into the circumstances and steps taken around the time that the scheme was wound up in 2007, particularly, what happened to other scheme members' benefits at this time. Friends First are continuing to assist us with these queries and we hope to be able to provide a further update shortly"*.

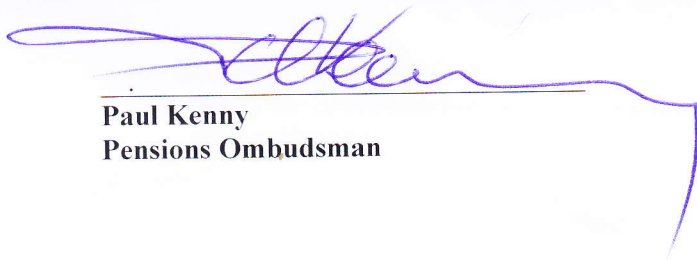
Since receiving this letter, I have been in telephone contact with Mercer. It is evident from the correspondence which you supplied with your original complaint that Phoenix Life has difficulty in giving information to Mercer without letters of authority. From Mercer's point of view, however, the worry is that yours may not be the only benefit which has been "lost" as a result of the bulk transfer – there may be others in a similar situation, for whom no records were ever created in the books of the Friends Provident. Mercer will be liable for your benefits but they will have to report the problem to their professional indemnity insurers. In order for them to do that, it will be necessary for them to establish the extent of the full problem – not just the fact that your own benefits are missing.

Accordingly, I have today instructed Phoenix Life to supply Mercer with all the information that they have in relation to all those persons for whom they were holding benefits immediately prior to the bulk transfer in 1998.

Regrettably, all of this is going to take time. You are understandably upset that you have not received your benefits. What I have outlined above represents the full facts as I know them. We are doing everything in our power to ensure that this matter is handled as expeditiously as possible, but the problem

is considerably more complex than was evident when your complaint was first received. I would therefore ask for your patience.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Paul Kenny', with a long horizontal flourish extending to the right.

Paul Kenny
Pensions Ombudsman