

The complaint

Mrs M complains that Scottish Friendly Assurance Society Limited (SFASL) misled her as to the terms of her endowment savings plan. She also complains it failed to cancel the plan in line with her request.

What happened

Mrs M bought an endowment savings plan from SFASL. The plan began in November 2019 and required that Mrs M pay a monthly premium.

In March 2020, Mrs M called SFASL to discuss her plan as she'd been struggling to afford the monthly premiums. She recalls being told that if she paid her premiums in full up to November 2021, she'd be able to surrender the plan at that point for a full reimbursement of what she'd paid. With this in mind, Mrs M continued making payments towards her plan.

In around August 2021, Mrs M had cause to discuss her plan with SFASL. At this point she was told that whilst it's true that she could surrender her plan in November 2021, there was no guarantee she'd get back what she'd paid in.

Mrs M complained that SFASL had misled her. She said if she'd known this was how the plan worked, she'd have cancelled it in March 2020. As part of her complaint, Mrs M says she asked SFASL to cancel her plan. And she continued to correspond back and forth on these issues over the coming months.

SFASL first responded to Mrs M's complaint in August 2021. It explained it hadn't retained records of the conversation Mrs M's complaint focussed on, and there was no other evidence it'd misled her over the terms of her plan. It issued a number of follow up responses reiterating this point over the months that followed. Throughout this period, Mrs M continued to receive letters warning her that she'd missed payments towards her plan, and that she could contact SFASL to reinstate it. As Mrs M remained unhappy, she referred the matter to our service.

Our investigator partly upheld Mrs M's complaint. They weren't persuaded there was sufficient evidence to conclude SFASL misled Mrs M in March 2020. But they felt its handling of her request to cancel the plan had been poor in a way which had inconvenienced Mrs M. They recommended SFASL should pay Mrs M £100 in recognition of this.

SFASL didn't accept our investigators opinion. They felt if Mrs M had been inconvenienced, it was only to a very small degree, such that it shouldn't be required to compensate her. It also argued it had, for Mrs M's benefit, intentionally delayed the cancellation of her plan, to give her a chance to make up her payments so she could recoup some money upon surrender in November 2021.

Mrs M initially accepted our investigator's opinion, before later changing her mind. She was adamant the business had misled her in March 2020, when she recalls being told she'd receive back what she'd paid in if she held the plan until November 2021. As neither party accepted our investigator's opinion, the matter's been referred to me.

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.

Having done so, I'll be partly upholding Mrs M's complaint. I'll explain why.

I've studied the terms of Mrs M's plan in detail, and I'm satisfied the most recent explanation SFASL has given about how it functions is correct. Mrs M would've needed to fully pay her premiums for at least two years to benefit from a surrender value upon cancellation. But the value she'd receive upon early surrender was never guaranteed, and may well be less than she'd paid into the plan at the point of cancellation. Mrs M agreed to these terms when she completed her application with SFASL. And from the evidence I've seen, I think it's likely SFASL supplied Mrs M with copies of these terms at the outset of investing. So, I'm satisfied SFASL's treated her fairly by applying the terms as they're written, and that it's met her information needs by providing her with the terms in the first place.

But mindful of this, as I see it, the crux of Mrs M's complaint is the matter of what she was told during her call with SFASL in March 2020. She remembers being told she'd receive a reimbursement of all her premiums, as long as she made payments to her plan up until November 2021. She's suggested that, but for SFASL giving her the wrong information in March 2020, she'd have cancelled the plan then and there, and saved herself a lot of money.

When communicating with its customers, SFASL's required to do so in a way that's clear, fair, and not misleading. It's also required to treat them fairly. And if the evidence persuaded me it'd failed to do so in its dealings with Mrs M, I'd consider what should be done to fairly compensate her.

SFASL hasn't retained a recording of the call Mrs M is complaining about. But it has kept a brief note of what was discussed during that call. The note simply says "*adv no sv until after 2years*", which I take to mean Mrs M was advised her plan had no surrender value until it'd been active for two years. There's so little detail included in SFASL's note, that I doubt it's representative of the full content of the call with Mrs M. I say this because although this was an inbound call, the note doesn't explain why Mrs M was getting in touch. Likewise, the note seems to contain an answer SFASL gave Mrs M, but it doesn't record what question she asked that prompted the answer. I'm therefore not satisfied I have a complete record of what SFASL did or did not say to Mrs M during this call.

In situations like this, where information is incomplete or ambiguous, I must use what evidence is available to decide, on balance, what I think is most likely to have happened. Having done so, I'm not persuaded SFASL's likely to have misled Mrs M during this call. When deciding this, I've considered that:

- The terms of Mrs M's plan aren't confusing or ambiguous in a way which persuades me an employee of SFASL's would likely misunderstand them.
- What little of the note there is, is accurate and in line with the terms of Mrs M's plan. It doesn't mention what value would be payable on surrender, the specific point Mrs M says SFASL misled her on.
- Having considered SFASL's communications regarding the plan before and since the March 2020 call, it's descriptions of how the plan functions has always been

accurate, as per the plan's terms. I'm therefore not persuaded there was any widespread misunderstanding within SFASL about the way Mrs M's plan functioned.

Mrs M says she would've cancelled her plan in March 2020 if she'd understood there was no guarantee she'd get her premiums back. But as I'm not persuaded SFASL's likely to have misled her during this call, I won't be asking it to compensate her as if she'd cancelled the plan at this point.

I do however have concerns with the way SFASL handled Mrs M's eventual request to cancel her plan.

SFASL has said in its more recent submissions that it's searched its records and can find no evidence of Mrs M specifically asking to cancel her plan. It has however acknowledged that Mrs M sent it an email on 6 August 2021, in which she made reference to a cancellation request she'd made verbally the week earlier. And its complaint response dated 12 August 2021 specifically acknowledges Mrs M's dissatisfaction with the service she received when cancelling her plan.

If SFASL had no prior records of Mrs M asking to cancel her plan, I'm satisfied that as of her email on 6 August 2021, it ought to have known she wanted it cancelled. If SFASL had any concerns about cancelling the plan based on what was said in the email, I'd expect it to have followed this up with Mrs M directly. But there's no evidence that it did so. Instead, SFASL left the plan running, which resulted in Mrs M being sent unnecessary letters warning her about the plan lapsing.

SFASL has said it let Mrs M's plan run on without cancellation as it wanted to offer her the opportunity of making up her premiums and getting something back upon surrender. I accept that SFASL's actions here might have been well intentioned. But it's not provided any evidence to suggest it clearly explained this to Mrs M. From her perspective, she'd made it clear to SFASL no later than 6 August 2021 that she wanted to cancel her plan. And whilst SFASL responded to her complaint about the service related to that request, it never actually actioned it. Rather, it sent her letters chasing up payments for the plan instead.

The evidence in this case persuades me this will've further frustrated and upset Mrs M, as well as inconveniencing her by having to follow the matter up as part of her complaint. This came at a time where SFASL knew Mrs M was already unhappy with her plan. And because of this, I don't think SFASL's treated her fairly. I'm satisfied it's fair and reasonable in these circumstances for me to direct SFASL to pay Mrs M £100 in recognition of the upset and inconvenience it's caused.

I won't be directing SFASL to do any more than this, as I understand Mrs M had cancelled her direct debit with her bank. So she's not paid more towards the plan as a result of SFASL's failure to make good on her request.

My final decision

My final decision is that I partly uphold Mrs M's complaint about Scottish Friendly Assurance Society Limited. I direct that the firm must now pay her £100 for the reasons given above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 27 September 2022.

Marcus Moore
Ombudsman