

The complaint

Mrs M complains that Co-op Funeral Plans Limited sent plan documentation to her address when it should have been sent to her attorney's. Mrs M is represented by her daughter and attorney, Mrs F.

What happened

Mrs M lives in a care home. She has dementia and lacks capacity. Mrs F has a lasting power of attorney for Mrs M, so is legally entitled to act on her behalf in respect of financial matters.

In summary, in September 2022, Mrs F approached Co-op to set up a funeral plan for Mrs M. She subsequently attended an appointment at a Co-op Funeralcare home. She explained Mrs M's circumstances to Co-op's representative and provided documentation confirming her identity and the lasting power of attorney.

It's clear there were some difficulties entering both Mrs M's and Mrs F's information and details onto Co-op's computer system. And there were issues uploading Mrs F's ID and legal documents, with advice needing to be sought from other colleagues. But Mrs F was able to pay in full for a simple cremation plan, using her attorney's bank card, with the money debiting from the account the following day. Mrs F says she was assured the plan certificate and paperwork would be with her in two to three weeks.

In short, this didn't happen, because documentation was sent to Mrs M instead. That documentation has never come to light. Mrs F thinks it was likely lost or thrown away by Mrs M at the care home where she lives.

Mrs F subsequently complained. But Co-op didn't uphold the complaint, saying that documents had to be sent to the plan holder – Mrs M – under Financial Conduct Authority (FCA) guidelines.

Mrs F remained unhappy so came to the Financial Ombudsman Service. In response to our request for information, Co-op revised its position. It said Mrs F, as attorney, could change the address on the plan and receive documents. It proposed honouring her request to receive documentation and also offered £50 by way of apology for misleading information.

Our investigator conveyed Co-op's comments to Mrs F. But Mrs F had lost faith in Co-op, having informed them in January 2023 that she no longer wanted the plan and would like a full refund. She reiterated this to our investigator, who then looked into things for her. Our investigator upheld the complaint. She thought Co-op's revised acceptance that Mrs F could receive paperwork wasn't a satisfactory resolution to the complaint. She said Co-op had missed early opportunities to resolve matters and it was understandable that Mrs F had lost faith and no longer wished to deal with Co-op. She recommended that Co-op cancel Mrs M's plan and refund the full amount paid, without any cancellation fee.

Co-op didn't accept our investigator's view. It said it had followed the correct process at the time. It asked for an ombudsman to review the complaint. So the case has come to me for a final 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.

Having done so, I'm upholding this complaint. I'll explain my reasons.

Firstly, for clarity, I'll reiterate what our investigator has explained to Mrs F regarding compensation. I don't doubt this experience has been stressful and upsetting for her. But our rules only allow us to award compensation to eligible complainants themselves – that's Mrs M, in this case - not their representatives or family members. So whilst I acknowledge Co-op's offer to Mrs F of £50 compensation for misleading information, I can't comment on it any further.

I'll turn now to the substantive complaint. Co-op initially said its reason for not sending the plan documents to Mrs F was that it was unable to set up a funeral plan without the understanding of the plan holder, hence why the plan details were sent to Mrs M's address. It referred to guidelines from the FCA, although no specific guideline was referenced.

FCA rules require the provision of appropriate information about a funeral plan contract in good time before the conclusion of the contract (FPCOB 9.2.1R in the FCA Handbook - Business Standards, FPCOB Funeral Plan: Conduct of Business sourcebook, available online).

Co-op met with Mrs F, discussed requirements and accepted payment in full for a funeral plan for Mrs M. So I conclude that Mrs F's legal authority as attorney – entitling her to act in Mrs M's stead – must have been accepted in the initial sales meeting. Given this, and Mrs F's explanation to Co-op that Mrs M had dementia and lacked capacity, I think it would have been reasonable to send documents to Mrs F directly, as she requested.

Co-op also provided an internal email chain which didn't reference any regulation or indicate whether there had been a change in approach. What it did suggest was that its quality assurance processes had identified some confusion and misunderstanding amongst staff regarding dealing with customers who have appointed an attorney. So on balance, I think confusion regarding internal processes more likely led to the difficulties Mrs F experienced. Indeed, Co-op has acknowledged that Mrs F was given some misleading information.

To my mind, Co-op had opportunity to sort things out when Mrs F first complained. Had it done so, faith may have been restored. Unfortunately, this didn't happen and Mrs F lost trust in Co-op to care for Mrs M at the time of need and deal sensitively with her relatives. Mrs F wrote to Co-op in January 2023 requesting cancellation of the plan:

'I hope you will draw a line under this upsetting experience, null and void the funeral plan and refund the money in full to the original POA bank account.'

I've not seen any evidence that this request was picked up on and responded to.

If all had gone right, Mrs F would have received plan documents and likely been satisfied in her dealings with Co-op on Mrs M's behalf. Unfortunately, the misinformation and failure to get things back on track led to a breakdown in the relationship. Mrs F wants a full refund for

the plan. In light of Co-op's errors, I think a fair outcome is for that refund to be made without the usual cancellation fee.

Putting things right

To put things right Co-op should:

- Cancel Mrs M's funeral plan and refund the full amount paid. No cancellation fee or any other administrative charge should be made.
- In line with our usual approach, set out on our website, Co-op should add to the refund 8% per annum simple interest, from 1 February 2023 until the date the refund is paid. I've determined this as a fair date for interest to be paid from, as it allows some time for Co-op to act on and process Mrs F's request to cancel the plan – set out in her letter dated 17 January 2023.
- If Co-op considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mrs M how much it's taken off. It should also give her a tax deduction certificate if she asks for one, so that she can reclaim the tax from HM Revenue & Customs if appropriate.

My final decision

My final decision is that I require Co-op Funeral Plans Limited to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 2 November 2023.

Jo Chilvers
Ombudsman