

The complaint

Mrs W complains to Co-op Funeral Plans Limited that a plan was set up without her knowledge and, having requested cancellation, she is being charged a cancellation fee.

What happened

To summarise, in February 2023, Mrs W discovered a monthly payment to Co-op of £19.58 leaving her account. She contacted Co-op and was told a funeral plan had been set up in June 2021. The plan was sold by another company, acting with Co-op's agreement. Mrs W said she wanted to cancel the plan. Co-op explained this was possible, but that she would be charged a cancellation fee of £250.

Mrs W complained, but Co-op maintained its position, saying that to complete the setup of the funeral plan and direct debit she would have provided bank details and signed the contractual agreement.

Mrs W was unhappy about this decision and came to the Financial Ombudsman Service. An investigator looked into things for her and upheld the complaint. The investigator didn't think Co-op had shown that Mrs W agreed to take out the plan. Overall, she was satisfied Mrs W wasn't aware the plan was in place. Without that knowledge, Mrs W wasn't able to take advantage of the cooling-off period. So our investigator didn't think it was fair to charge Mrs W a cancellation fee. She said Co-op should refund Mrs W all of the money she'd paid towards the plan.

Co-op disagreed, so the complaint 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, focusing on the points and evidence I consider material to my decision. So, if I don't refer to a particular point or piece of evidence, it's not because I haven't thought about it. Rather, I don't consider it changes the outcome of the complaint.

I've looked at the terms relevant to the plan and I'm satisfied Co-op is entitled to charge the cancellation fee for plans cancelled outside of the cooling-off period. But for me to decide if that fee was fairly applied in Mrs W's case, I need to think about the sale of the plan, what

information was provided to Mrs W and whether she would've been aware that a plan was in place.

Co-op has said that the plan was sold over the phone, so there's no application form. Mrs W has acknowledged she made an enquiry about a plan, but maintains she didn't pursue it and was unaware the plan had been set up.

I'm satisfied Mrs W must have provided her bank details to the seller to enable a direct debit to be set up. But how and when this was done is not clear. No sales script or call recording is available, so I don't know the context of Mrs W being asked for her bank details, whether the set up was done as a paperless direct debit or whether Mrs W provided a signed authority.

Co-op has said that a direct debit letter was sent to Mrs W on 16 June 2021. But it's not been able to provide a copy of the letter, so I don't know what it said. Nor has it been able to provide any signed authority from Mrs W. Neither have I seen contemporaneous evidence to show that Mrs W was sent plan documents in June 2021 or shortly thereafter. Mrs W states that she never received any information from Co-op. So I'm not satisfied she'd been aware a plan was in place and had the opportunity to cancel it without penalty.

In the absence of a clear understanding about the inception of this plan and the information provided to Mrs W, I'm persuaded that Mrs W was unaware of the plan until she noticed the payment leaving her account. So I don't think it's fair for Co-op to charge her a cancellation fee.

Putting things right

As I don't think the cancellation term has been fairly applied in Mrs W's circumstances, I think Co-op should refund Mrs W the total payments she made towards the plan. No cancellation fee should be applied. I understand the payments made total £374.67.

In line with our rules, I've thought about my discretion to award interest on the refund. But I've decided against it in this case, because I'm satisfied Mrs W did provide her bank details to the seller, albeit the context remains unclear. And the direct debit was in place for approximately 18 months. I acknowledge people don't always routinely check their statements, but nevertheless, the opportunity to notice the payment and raise the matter with Co-op earlier was available to Mrs W.

Co-op should therefore refund Mrs W £374.67.

My final decision

My final decision is that I uphold this complaint and 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 W to accept or reject my decision before 15 September 2023.

Jo Chilvers
Ombudsman