

The complaint

Mr T complains to The Independent Family Funeral Directors Limited (TIFFDL) about the terms of his funeral plan. He says the plan was mis-sold and he wouldn't have bought it if he'd known he'd have to make payments until he was 90.

What happened

To summarise, in December 2017, Mr T met with a funeral planning consultant and bought a funeral plan. The plan was sold by a company I'll call R. Mr T paid by direct debit, at a cost of £41.62 a month. His plan provided a guaranteed sum of £2999, to pay out after his death.

R was a subsidiary company of TIFFDL. I understand that TIFFDL sold R in June 2020 but retained R's plans, thereafter, managing them directly.

In July 2022, the pre-paid funeral plans industry became subject to compulsory regulation by the Financial Conduct Authority (FCA). Prior to this date, there was no requirement to be regulated in order to sell or administer pre-paid funeral plans. There was a voluntary regulation scheme, administered by the Funeral Planning Authority (FPA), but neither R nor TIFFDL were members.

Mr T wasn't aware there'd been any change in the administration of his funeral plan until his son conducted some online research. Mr T contacted TIFFDL and subsequently complained that his plan had been mis-sold, as he believed he'd be paying until his monthly payments totalled £2999.

In August 2023, TIFFDL sent Mr T a final response letter, saying the plan terms explained the payment arrangements and that Mr T had chosen to pay by fixed – also known as standard - monthly payments when he bought the plan. It said it couldn't find any term that supported Mr T's belief he'd only be paying £2999 for his plan. It also explained he'd need to continue making payments for life or until the anniversary of the plan start date following his 90th birthday. Or he could cancel his plan. But in line with the terms, if he cancelled there'd be no further obligation on TIFFDL to fulfil his funeral plan and no money would be refunded.

Later in August 2023, Mr T received a statement from TIFFDL, providing information about the history of his plan and its current status. This was an industry-wide exercise, in which the FCA required all regulated funeral plan providers to send a plan statement to customers by the end of August 2023. It's now a regulatory requirement that plan providers must send customers a statement at least every three years. The information in Mr T's statement also included a reference to being required to make monthly payments until aged 90.

Mr T remained unhappy about TIFFDL's response and came to the Financial Ombudsman Service. He was shocked about the overall amount he could end up paying for his plan. An investigator looked into things for him but didn't uphold the complaint. She explained that TIFFDL wasn't responsible for the sale of the plan – sold by R – but thought that TIFFDL was entitled to rely on the original cancellation terms. And she referred to the statement TIFFDL had sent Mr T which clarified that payments would need to be kept up until age 90.

Mr T disagreed, so the complaint has come to me for a final decision. Mr T wants TIFFDL to honour the terms he thought he'd signed up to, or refund him what he's paid so far.

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 not upholding this complaint. I recognise this will disappoint Mr T and I'm sorry about that. I'll explain my reasons, focusing on the key points and evidence I consider material to my decision.

R was a company that provided retirement services, including selling funeral plans. As I've explained, at the time, there was no requirement for a company selling pre-paid funeral plans to be regulated by the Financial Conduct Authority, as there is today. So although TIFFDL subsequently took over the administration of Mr T's plan, it wasn't responsible for the sale.

I know Mr T feels strongly that TIFFDL should be held accountable, particularly as he's aware some of the same individuals were involved as directors of both R and also TIFFDL. But in any event, the sale was pre-FCA regulation and neither R nor TIFFDL were members of the voluntary scheme, run by the FPA. So even if TIFFDL had accepted responsibility for the sale, I'd still not have jurisdiction to look at that complaint point.

I'm aware TIFFDL made some comments about the sale in its response to Mr T. And our investigator has also made reference to the information received at the time and what the plan terms say. But as the sale was not subject to regulation, I'm afraid it's not something I can comment on further. I do, nevertheless, appreciate this is an unsatisfactory situation for Mr T that will likely leave him with a number of unanswered questions.

Mr T now faces a difficult decision. To maintain his plan he must continue making monthly payments. If he chooses to cancel he will lose all of the payments he's made so far. I've looked at the original plan terms and it's clear that no refund will be made in the event of cancellation.

'If the plan is paid by standard monthly payments and is cancelled, then no money will be refunded. Once your plan is cancelled we will have no further obligation to fulfil your plan.'

As our investigator explained, the terms required Mr T to keep up his monthly payments in order to maintain the plan. There was no payment term specified. In other words, to maintain his funeral provision, Mr T would need to make a monthly payment for the remainder of his life. But I've also noted that, post-FCA regulation, TIFFDL has chosen to limit the payment term to *'for life or until the anniversary of the plan start date following your 90th birthday.'* This offers some potential benefit to Mr T, in that his payments would cease should he choose to continue with his plan and live into his 90s. But I acknowledge this may seem small comfort in the wider circumstances.

In short, these are the terms under which TIFFDL is administering Mr T's plan. Those terms may feel unreasonable to Mr T, but I think they're clear. So I can't say it's unfair for TIFFDL to hold Mr T to them. I'm therefore not going to ask TIFFDL to do anything more in respect of Mr T's complaint.

My final decision

For the reasons explained above, my final decision is that I'm not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 27 February 2024.

Jo Chilvers
Ombudsman