

The complaint

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

What happened

To summarise, in December 2017, Mrs T met with a funeral planning consultant and bought a funeral plan. The plan was sold by a company I'll call R. Mrs T paid by direct debit, at a cost of £32.04 a month. Her plan provided a guaranteed sum of £2999, to pay out after her 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.

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

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

Later in August 2023, Mrs T received a statement from TIFFDL, providing information about the history of her 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 Mrs T's statement also included a reference to being required to make monthly payments until aged 90.

Mrs T remained unhappy about TIFFDL's response and came to the Financial Ombudsman Service. She was shocked about the overall amount she could end up paying for her plan. An investigator looked into things for her 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 Mrs T which clarified that payments would need to be kept up until age 90.

Mrs T disagreed, so the complaint has come to me for a final decision. Mrs T wants TIFFDL to honour the terms she thought she'd signed up to, or refund her what she'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 Mrs 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 Mrs T's plan, it wasn't responsible for the sale.

I know Mrs T feels strongly that TIFFDL should be held accountable, particularly as she'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 Mrs 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 Mrs T that will likely leave her with a number of unanswered questions.

Mrs T now faces a difficult decision. To maintain her plan she must continue making monthly payments. If she chooses to cancel she will lose all of the payments she'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 Mrs T to keep up her monthly payments in order to maintain the plan. There was no payment term specified. In other words, to maintain her funeral provision, Mrs T would need to make a monthly payment for the remainder of her 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 Mrs T, in that her payments would cease should she choose to continue with her plan and live into her 90s. But I acknowledge this may seem small comfort in the wider circumstances.

In short, these are the terms under which TIFFDL is administering Mrs T's plan. Those terms may feel unreasonable to Mrs T, but I think they're clear. So I can't say it's unfair for TIFFDL

to hold Mrs T to them. I'm therefore not going to ask TIFFDL to do anything more in respect of Mrs 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 Mrs T to accept or reject my decision before 27 February 2024.

Jo Chilvers
Ombudsman