

The complaint

The estate of Mrs W complains about errors by Dignity Funerals Limited in the delivery of the services purchased by Mrs W in her pre-paid funeral plan. It also complains about poor service when her family sought to arrange her funeral.

References to Dignity include the actions of its funeral directors, acting on its behalf to deliver the funeral plan.

The complaint is brought on behalf of the estate by members of Mrs W's family.

What happened

The history of this complaint is well known to both parties, so I won't repeat all the details here. To summarise, in 2020, Mrs W bought a Pearl pre-paid funeral plan from Dignity. She chose to pay by instalments, at just under £40 per month, which would be in place over the following 12 years.

Sadly, in December 2023, Mrs W died. Her family sought to redeem her funeral plan and arrange her funeral. Regrettably, there were a number of issues with the care of Mrs W and arrangements for her funeral. Amongst other things, these included how Mrs W was looked after and presented, the viewing arrangements and issues on the day of the funeral. Notably, staff failed to recognise that Mrs W suffered from oedema, a condition that required specialist care and attention after death.

Mrs W's family complained. In response, Dignity said issues to do with the order of service and location of limousines had been agreed with family members. But it acknowledged there'd been significant failings and that elements of its service hadn't been of an appropriate standard and quality. In conclusion, Dignity said:

I would firstly like to apologise for the distress and inconvenience Dignity have caused. Dignity aims to provide the correct care and support to all our consumers. It is disappointing to learn that on this occasion we have failed you, your loved ones, and [Mrs W]. It was highlighted during the investigation that Dignity is at fault, and this is due to the attention to detail provided by the staff members involved in the care of [Mrs W] and the funeral service arrangers. Dignity has specific processes in place, which our staff have failed to follow. I understand that no amount of money or verbal apologise may rectify the distress Dignity have caused. As we discussed via telephone, to bring this matter to a close I would like to award £750.00 for the distress and inconvenience caused.

Mrs W's family brought the complaint to the Financial Ombudsman Service. Our investigator reviewed things. She explained she was unable to comment on Dignity's offer of compensation for distress and inconvenience, as our rules only allow us to award compensation to eligible complainants themselves, not their representatives. However, she was able to look at whether there'd been any loss of value in the plan. She concluded that

Dignity should refund the estate £1030, representing the standard pricing provided by Dignity for care of the deceased and viewing of the deceased for family and friends.

As Dignity did not respond to the investigator's view, the case was automatically referred for an ombudsman's decision.

On 5 June 2024, I issued a provisional decision, setting out why and how I intended to uphold the estate of Mrs W's complaint. In that decision I said:

Firstly, for completeness, I'll reiterate what our investigator has explained regarding our powers to award compensation for distress and inconvenience. Our rules only allow us to award compensation to eligible complainants themselves – that's Mrs W in this case. The events complained of all happened after Mrs W died, so didn't affect her personally. I'm afraid that means I can't consider the impact of Dignity's actions on Mrs W's wider family. I appreciate this may be an unsatisfactory position for [Mrs W's family], but it's not something I can change. I acknowledge there are some areas relating to the arrangements that remain in dispute, principally concerning clothing provided for Mrs W to wear, the order of service and location of limousines. But I accept that Dignity's dealings with Mrs W's family caused upset, distress and inconvenience at what was an already challenging time.

I can, however, look at whether Mrs W got the services she bought when she took out her plan. Dignity accept there were failings, including the provision of wrong information about viewing arrangements. And notably, there was inadequate care of Mrs W. This led to incorrectly fitted clothing, damage to clothing and personal items, and distress for the family, who raised concerns when they went to view Mrs W.

Mrs W's Pearl plan included care and preparation of the deceased, as well as viewing by family and friends. The cost of these elements wasn't specified on Mrs W's plan documentation and Dignity has said no price breakdown is available in relation to the individual service costs. It has, however, provided its standard price list at the time of Mrs W's death. This cannot confirm what the separate costs of elements of the plan might've been when Mrs W purchased in 2020. I acknowledge Dignity's statement that that's not possible. But I accept the price list as the best available indicator of a general value attributed to care of the deceased.

Where I find an element of the plan hasn't been delivered as it should have been, our rules, set out in the Financial Conduct Authority's Handbook of rules and guidance – Dispute Resolution: Complaints, allows me to make a money award for financial loss (DISP 3.7.2). This is distinct from money awards for distress and inconvenience.

The combined value of care of and viewing of the deceased on the standard price list is £1030. I'm satisfied that delivery of these elements was not of a satisfactory quality and standard, as required under the Financial Conduct Authority's Funeral Plan: Conduct of Business sourcebook (FPCOB 14.1.4). Indeed, I think the failings were so significant that the whole value of these elements should be refunded to the estate.

This means, in principle, I agree with the award proposed by our investigator. However, in reviewing this complaint, I don't think it is appropriate to make that award as it stands, because I'm not satisfied the basis of the £750 compensation Dignity paid was entirely for distress and inconvenience to Mrs W's family.

I've reviewed the language used throughout the final response letter carefully. It's evident to me from that letter that Dignity intended its compensation to recognise both the failings in care of Mrs W and the impact of those failings on Mrs W's family. But I

can't make a money award in respect of the same loss of value twice. So I have to think about a fair way to award redress in all the circumstances of the case.

Dignity has subsequently said it should've referred more explicitly to loss of value in its final response letter, as the entirety of its award was to recognise those failings. I acknowledge that the difference in terminology used by Dignity and by the ombudsman service has caused some confusion. No fault is attributed to Dignity in this respect. Nevertheless, I don't think that's enough for me to ignore the rightly apologetic language of the final response letter, which makes clear reference to the distress and inconvenience caused. So in this complaint, it seems to me the fair approach is for me to notionally attribute half the £750 compensation paid to loss of value and half to distress and inconvenience.

Mrs W was paying for her plan in instalments. Dignity has confirmed Mrs W had paid £1715 towards her plan. The number of payments she'd made was sufficient to qualify for the Dignity Promise, whereby, providing the plan has been in place for more than 12 months, payments are up to date and the plan hasn't been cancelled or lapsed, funeral services in the plan will be provided with nothing more to pay.

We take this to mean that the full value of the plan will be provided to the deceased and their family. So where there are failings in the delivery of the plan, the deceased's estate is entitled to up to 100% redress of any element where there has been a loss of value in the plan. However, in situations where the plan was part-paid for at the time of death, the redress of any determined loss of value will be capped at the amount the plan holder had paid towards the plan. This is in accordance with our rules for awards involving financial loss.

So in Mrs W's case, the maximum redress I could award for loss of value in the plan is £1,715, because that's what Mrs W paid Dignity. I've already said I think the loss of value in the plan is fairly set at £1030. But I've also said I think Dignity's payment of £750 included £375 redress for loss of value. That's the element I cannot award again.

So, deducting £375 from the total loss of value of £1030, I think Dignity should pay the estate a further £655 redress for failings in the care of Mrs W and the viewing arrangements for her family and friends.

Overall, including money already paid by Dignity, the redress for financial loss remains £1030. This is below the amount Mrs W paid towards her plan. So I'm satisfied the redress is fair and reasonable in all the circumstances of the case.

To put things right I intended to tell Dignity to:

- *Pay the estate of Mrs W £655 to reflect the outstanding amount of loss of value in Mrs W's plan.*
- *In line with our usual approach, set out on our website, Dignity should add to the £655 payment 8% per annum simple interest, from the date of Mrs W's death until the date the payment is made. I've determined this as a fair date from which to pay interest, as the redemption of Mrs W's plan – commenced on the date of her death – was when the diminution in value began.*
- *Additionally, Dignity should pay the estate 8% per annum simple interest on the £375 already paid that I've attributed as loss of value in the plan. As above, this should be*

calculated from the date of Mrs W's death until the date the payment was made.

- *If Dignity considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell the estate how much it's taken off. It should provide a tax deduction certificate if requested, so that the estate can reclaim the tax from HM Revenue & Customs if appropriate.*

I asked both parties to let me have any further comments or evidence by 21 June 2024.

On behalf of the estate, Mrs W's daughter acknowledged receipt of my decision. She expressed disappointment with my provisional conclusions. She reiterated her view that Mrs W and her family had been very badly let down by Dignity. She didn't agree with my proposed redress.

Dignity said it didn't have anything further to add.

As both parties have responded to my provisional decision and the deadline for comments has passed, I'll now issue my 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.

The reasoning set out in my provisional decision explained why I thought Dignity needed to put things right and how redress should reasonably be calculated. To reiterate, I cannot award compensation for distress and inconvenience to Mrs W's family, although I readily accept that Dignity's failings have caused considerable and lasting distress to her relatives. I'm also required to separate financial loss – in this case, that's loss of value in the plan – from compensation for distress and inconvenience. I do, however, appreciate this is likely a moot point for the estate.

Having considered the additional comments from Mrs W's daughter carefully, I'm remain satisfied that the conclusions and redress set out in my provisional decision are the most appropriate way to decide this complaint.

Putting things right

To put things right, Dignity should:

- Pay the estate of Mrs W £655 to reflect the outstanding amount of loss of value in Mrs W's plan.
- In line with our usual approach, set out on our website, Dignity should add to the £655 payment 8% per annum simple interest, from the date of Mrs W's death until the date the payment is made. I've determined this as a fair date from which to pay interest, as the redemption of Mrs W's plan – commenced on the date of her death – was when the diminution in value began.
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calculated from the date of Mrs W's death until the date the payment was made.

- If Dignity considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell the estate how much it's taken off. It should provide a tax deduction certificate if requested, so that the estate can reclaim the tax from HM Revenue & Customs if appropriate.

My final decision

I uphold this complaint and require Dignity Funerals Limited to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mrs W to accept or reject my decision before 24 July 2024.

Jo Chilvers
Ombudsman