

## The complaint

Mr O1's (and his wife Mrs O's) son and Lasting Power of Attorney (LPOA), Mr O2, complains on his behalf about the service he received from Family Assurance Friendly Society Limited, trading as OneFamily.

## What happened

In summary Mr O2 is unhappy about the service he received when he contacted OneFamily about Mr O1's (and Mrs O's) investments, including the advice that he says he received about one of Mr O1's policies. He's also unhappy that OneFamily only rectified an error after he'd distributed the funds to him and his sister.

OneFamily didn't uphold the complaint. In summary, it made the following key points:

- The 'family bond' in Mr O1's name had been funded regularly during the initial payment term, which is why the surrender value would remain free from income tax and capital gains tax (CGT) under HMRC rules at the time.
- The nominated beneficiaries for the family bond were recorded as "*My Children Equally*", and that it would only pay out to the children (directly) if the policy was still open at the time the policyholder passed away.
- As the policy was still open, and Mr O1 was still alive, Mr O1 could still do what he wanted with the funds – so the benefit wasn't (strictly speaking) for his children whilst Mr O1 was alive.
- If Mr O1 passed away within seven years of "*gifting*" the funds however, tax might be payable by the recipient(s).
- The other policy was a savings policy under the Married Women's Property Act (MWPA) – also known as a tax-exempt savings plan – with Mr O1's wife as the (sole) beneficiary. It didn't form a part of the estate, as it was held in trust under the MWPA.
- As both policies were tax free, closing them wouldn't be subject to tax.
- Because Mr O1 was still alive, it had done the right thing by paying the funds into his account – including the funds for the WMPA (which was intended for Mr O1 and Mrs O). But it was up to Mr O2 to decide how to use the funds.
- Whilst it accepts that it hadn't provided the best service, it doesn't think that any compensation is due.

Unhappy with OneFamily's response, Mr O2 referred the complaint to our service.

One of our investigators considered the complaint – in relation to Mr O1 – but didn't think it should be upheld. In summary, she made the following key points:

- In terms of the service provided, Mr O2 first became frustrated when he called the business on 9 April 2024 about Mr O1's policies. At the time he'd registered Mr O1's LPOA with OneFamily – which gave him the ability to act on Mr O1's behalf.
- The call handler confirmed the value of the family bond (belonging to Mr O1) as £11,793.64, as well as another policy at £12,456 (invested in stocks and shares) which it found after Mr O2 had provided the reference number. Both investments

were confirmed as being tax exempt.

- Mr O2 enquired about policies in Mrs O's name as he believed she had mirror investments. But because he wasn't authorised to act on her behalf, the call handler was only able to provide limited information.
- In any case, it was agreed that OneFamily would send Mr O2 some documents in the post, including a letter that Mr O2's mother would have to sign to allow him to act on her behalf – which it did on the same day.
- On 4 May 2024, Mr O2 called OneFamily after receiving some correspondence (dated 2 May 2024). Amongst various issues discussed, OneFamily confirmed that it had registered Mr O2 as Mrs O's LPOA.
- The call was long(er) than the previous call and Mr O2 was placed on hold several times.
- Despite what Mr O2 says, she can't agree that OneFamily denied the existence of one of Mrs O's policies, either in this call, or any subsequent calls.
- The investments in question were on two separate systems which the call handler had to navigate around based on the information provided by Mr O2. If the handler had known it was a bond Mr O2 was referring to, she could've found the information sooner. In any case, she probably should've sought assistance sooner within the 25-minute call and not waited for Mr O2 to raise a complaint before reaching out to a colleague.
- On 7 May 2024 another complaint was raised when the call handler couldn't see who the beneficiaries were for Mr O1's tax exempt savings plan. It was only after the call handler put Mr O2 on hold that she was able to find who the beneficiaries were.
- The above issues notwithstanding, the call handlers behaved broadly in line with general standards of good practice. In other words, their behaviour was reasonable and in line with what the investigator would generally expect.
- In terms of whether (or not) OneFamily '*instructed*' Mr O2 to surrender the investments, she can't say that this was the case.
- In other words, although Mr O2 says that he, as LPOA, was instructed by OneFamily to distribute the funds held in trust to its beneficiaries – which has affected Mr O1's tax exempt savings saving plan – the investigator doesn't agree, because she doesn't think that Mr O2 was given instructions.
- Mr O2 confirmed that that the funds had been distributed to him, and his sister, 48 hours before he became aware that the policy wasn't in trust. Unbeknown to him, he and his sister were beneficiaries under a '*statement of wish*'.
- The investigator found that OneFamily had sent Mr O2 several pieces of information about Mr O1's and Mrs O's policy.
- The first being on 9 April 2024, when it sent him a surrender form for Mr O1's tax exempt savings plan. The letter stated:
  - *"Just so you know, as trustee of the policy, you're responsible for making sure the money is passed to or used for the benefit of the beneficiaries of the trust."*

### **So, who are the beneficiaries**

*As this policy was set up under legislation called the married women's property act (MWPA), a trust was created when you opened the policy. Simply put, Trust allows someone to own a policy for the benefit of someone else.*

*With this particular type of Trust, the beneficiaries could be your spouse or children. And they may have been individually named or referred to as 'my spouse' or 'all my children equally'. Get in touch on the number below if you need more information about this."*

- Another letter was sent the same day, which provided a breakdown of the

investment.

- On 2 May 2024, OneFamily sent Mr O2 a letter acknowledging him as Mrs O's named authority – but this was for her tax-exempt savings plan.
- During one of the three calls to OneFamily (on 7 May 2024), Mr O2 initially advised that he wanted to shutdown Mr O1's account and asked about the beneficiaries for the tax-exempt savings plan. At this point, he thought Mr O1's and Mrs O's policies mirrored each other.
- The call handler confirmed that 'beneficiaries' wouldn't apply to the family bond, however with the WMPA they'd usually be "*the spouse or All my children equally*" – although the notes didn't state for sure who the beneficiaries were.
- Because Mr O2 had already made a complaint earlier the same day, Mr G from OneFamily called him back and confirmed that the beneficiary for the family bond was "*All my children equally*".
- Mr O2 said he'd been given different information in relation to Mrs O, in response to which Mr G confirmed the information – namely that Mr O1's bond listed the beneficiary as "*All my children equally*". Mr G nevertheless said that he'd take it away and investigate it, as well as the other points raised. Mr O2 confirmed that he wanted everything in writing, and Mr G confirmed that he'd act as Mr O2's single point of contact in respect of both Mr O1's and Mrs O's account queries – presumably so that Mr O2 wouldn't have to explain the history of his concerns, each time.
- On 16 May 2024, Mr O2 called OneFamily to discuss an email he'd sent Mr G on 9 May 2024 in which he had asked two questions.
- In the first question, Mr O2 asked if the money – which he said didn't belong to Mr O1 but the trust for the beneficiaries (which are Mrs O, along with him and his sister) – could be paid directly to the beneficiaries to avoid any misinterpretation by HMRC? In response, Mr G explained that the money would be paid to the trustee for distribution – but it was the trustee's responsibility. He also explained that OneFamily doesn't chase up or notify HMRC. In relation to IHT, Mr G explained that the money doesn't form part of the estate because it's in trust, and that it doesn't count as a gift either.
- Mr O2 requested a letter from OneFamily making clear several points which he wanted as evidence, in case HMRC raised issues.
- In the second question, Mr O2 asked whether there was an option to re-assign the beneficiary of the trust, before cashing out – for example, could Mrs O re-assign her share to her grandchildren for example. Mr G explained that there was no such option with the MWPAs, which Mr O2 understood.
- On 16 May 2024, OneFamily provided the following documentation:
  - Confirmation that Mr O2's complaint has been resolved.
  - A surrender form for Mr O's plan ending in number 32Y.
  - A summary of both Mr O1's and Mrs O's family bonds.
  - Acknowledgement of Mr O2's LPOA for Mrs O.
  - Summary of the MWPAs – the tax-exempt savings plan – for Mrs O, with the following wording: "*Please be aware that as this policy is placed in Trust under the Married Woman's Property act, it will not form part of your estate for inheritance tax purposes*".
- Two further letters were sent. In the first letter (dated 22 May 2024) OneFamily confirmed that it had closed Mr O1's Family Bond and paid £11,851.61 (to the account from which the premiums had been paid).
- In the second letter (dated 23 May 2024) OneFamily confirmed the closure of Mr O1's MWPAs – tax exempt savings plan – and payment of £12,540.36 into his nominated bank account.
- In an email dated 28 May 2024 Mr O2 requested that the complaint be reopened as OneFamily hadn't fulfilled its undertaking. He was unhappy for a number of reasons, including that:
  - OneFamily didn't mention two other accounts.

- The accounts aren't in trust, and as such could be subject to IHT,
- A "pro-forma" for the closure of account.
- The above notwithstanding, the investigator was unable to say that OneFamily gave Mr O2 a specific instruction that caused loss to him, Mr O1 and/or Mrs O.
- The only instruction that OneFamily gave the trustees was: *"Just so you know, as trustee of the policy, you're responsible for making sure the money is passed to or used for the benefit of the beneficiaries of the trust."*
- She's not persuaded that this caused a loss. It leaves it up to the reader to decide what they should be doing. There's no evidence of a direct instruction given.

Mr O2 disagreed with the investigator's view and asked for an ombudsman's decision. In summary, he made the following key points:

- On the investigator's conclusion regarding whether OneFamily denied the existence of one of Mrs O's policies, he can only assume OneFamily hasn't shared all the calls. It's true that on one call OneFamily found both investments, but on subsequent calls, it couldn't find one or the other.
- The investigator and he have different opinions about what constitutes an *"instruction"* given by OneFamily. Mr O2 believed the information he was given amounted to instructions.
- He, as a lay person, was supposed to know the difference between policies and bonds, which he didn't.
- OneFamily assured him that there was no downside to closing the policy before death. But he's since discovered that this isn't the case.
- Some of the letters the investigator refers to were issued days before the closures, and not received until after. The timeline should use the dates the letters were received, not sent.

The investigator having considered the additional points wasn't persuaded to change her mind.

- In response Mr O2 said Mr O1 and Mrs O had by then lost faith in OneFamily's ability to manage their investments.
- For the reasons set out, it was priority to get the money out and terminate their relationship with OneFamily.

As no agreement has reached, the matter was passed to me for review.

### **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 agree with the investigator's conclusion for much the same reasons. I'm not going to uphold this complaint.

On the face of the evidence, and on balance, despite what Mr O2 says, I'm unable to safely say that OneFamily behaved in such a way that this complaint should be upheld.

In other words, on the face of the evidence, and on balance, I'm not persuaded that:

- OneFamily behaved unreasonably in respect of Mr O1.
- OneFamily instructed Mr O2 to do anything specific on behalf of Mr O1.
- OneFamily is responsible for any financial loss Mr O1 may have suffered - because

I'm not persuaded it behaved unreasonably.

Before I explain further why this is the case, I thank the parties for their considerable patience whilst this matter has awaited review by an ombudsman.

I'm mindful that there is a separate complaint by Mr O2, on behalf of Mrs O, which I will deal with separately. Because the cases are linked, and the facts are (in the main) identical, I've also made reference to Mrs O's case, even though this decision only involves Mr O1's complaint.

I can see that this process has been frustrating for Mr O2. I very much recognise his and Mr O1's strength of feeling about this matter. Mr O2 has provided detailed submissions to support the complaint, which I've read and considered carefully. However, I hope that Mr O1 and Mr O2, and OneFamily, won't take the fact my findings focus on what I consider to be the central issues, and not in as much detail, as a discourtesy.

The purpose of my decision isn't to address every single point raised under a separate subject heading, it's not what I'm required to do in order to reach a decision in this case. My role is to consider the evidence presented by Mr O2 and OneFamily, and reach what I think is an independent, fair, and reasonable decision based on the facts of the case.

That said, I've provided a much more detailed description of what happened, and when (using the investigator's view) than I ordinarily would. I've done this to assist both Mr O2 and OneFamily, and so that I don't have to repeat all the details again.

I'm mindful that Mr O2 wasn't privy to Mr O1 (and/or Mrs O) setting up these investments many years ago, along with the discussions (about their aims and objectives) that would've taken place at the time.

This might explain why Mr O2 doesn't know whether Mr O1's (and Mrs O's) investments were held in a formal trust or otherwise (such as expression of wish) and why he was making the relevant enquiries.

I'm aware this complaint isn't about the suitability of the advice but about the service Mr O2 received, on behalf of Mr O1 and Mrs O, which is why I've not looked at how the investments were set up and why.

I also appreciate that Mr O2, as a son, and LPOA, is trying to do his very best for both Mr O1 and Mrs O (as well as the beneficiaries) in tidying up matters for them, with some limited assistance from both of his parents.

Mr O2 is probably in the dark about several key issues relating to the investments that Mr O1 and Mrs O probably wouldn't be. This might explain why Mr O2's not satisfied with some of the answers provided by OneFamily, because he has his own ideas about what should happen.

I'm mindful that OneFamily isn't a specialist tax adviser, neither is it responsible for setting up and administering a trust, which is usually done by a solicitor and/or accountant.

In this case I'm not persuaded that the investments belonging to Mr O1 were held in a (traditional) trust, and this may be the cause of some of Mr O2's frustrations – however this isn't something I can blame OneFamily for.

In the circumstance, and on balance, I think that Mr O2 might've been better off discussing issues with a tax adviser or accountant before deciding what to do but in any event – whilst I can't blame Mr O2, I can't hold OneFamily responsible for his actions either.

I don't uphold this complaint, in brief, for the following reasons:

- On the face of the evidence, and on balance, despite what Mr O2 says, I'm satisfied that OneFamily provided a reasonable service overall.
- I note the call of 9 April 2024 when Mr O2 first called OneFamily about Mr O1's investments and matters were dealt with swiftly.
- Whilst subsequent calls between Mr O2 and OneFamily weren't the shortest, they mainly related to Mrs O. I note that there was quite a bit to discuss, and not all the information was readily available to the call handler. This inevitably means it would've taken longer to resolve any issues.
- I'm also mindful that the investments were on two different systems, which wouldn't have been necessarily obvious to the call handler at the outset.
- I note that Mr O1's investments weren't as difficult to locate as sometimes was the case with Mrs O's investments.
- Incidentally I don't think OneFamily did anything wrong by not discussing Mrs O's investments with Mr O2 when he didn't have the appropriate authority to act on her behalf.
- Nevertheless, I note that with the assistance of OneFamily key issues were resolved swiftly.
- Whilst I appreciate some of Mr O2's frustrations, I note that Mr G offered himself as the single point of contact for Mr O2 and did his best to answer Mr O2's questions and queries, of which there were many. Despite what Mr O2 says, I'm satisfied that correspondence relating to his queries was provided within a reasonable amount of time.
- In the circumstances, and on balance, I'm satisfied that OneFamily did what it could to assist Mr O2.
- In response to Mr O2's latest response, I'm unable to safely say that the complaint should be upheld even if OneFamily, on occasion couldn't find Mrs O's investment having already confirmed its existence. I can't see how this caused Mr O1 and/or Mrs O a financial disadvantage, such that this complaint should be upheld.
- I should also point that not being able to find an investment is not as same as denying the investment ever existed, which is what Mr O2 has sought to argue OneFamily did.
- On the face of the evidence, and on balance, despite what Mr O2 says, I'm unable to safely say that OneFamily 'instructed' him to encash any of the investments in question and/or to distribute the funds to the beneficiaries or otherwise.
- Based on the nature of the correspondence, I am satisfied that OneFamily was simply making Mr O2 (as LPOA) aware of his duties and responsibilities ultimately towards Mr O1 and Mrs O, and the beneficiaries. In the circumstances, and on balance, I'm unable to safely say that by doing so it forced Mr O2 to take any particular course of action. I'm persuaded that what Mr O2 did, he did of his own volition, and not because he was told to do it.
- Whilst I note what Mr O2 says about "*instructions*" in his latest response, I (like the investigator) don't agree with his interpretation. I note he believes that the information he received amounted to instructions (which presumably he felt obliged to follow) but I don't agree.
- In conclusion, on the face of the evidence, and on balance, I can't safely say that OneFamily provided Mr O2 with instructions. And even if it had, it was a matter for him whether (or not) he did what was (purportedly) asked of him.
- In relation to the two questions mentioned above, with respect I think that Mr O2

made several assumptions regarding payment and tax and was looking for an answer that wasn't forthcoming. It's arguable he wanted some kind of confirmation that the beneficiaries wouldn't have to pay tax, and/or that the issue could be circumvented by assigning the investments to different beneficiaries. But this isn't something that OneFamily could help with.

- I'm satisfied that Mr G on behalf of OneFamily, provided general information about what would happen. I'm unable to say that any specific advice or instruction was provided, which is probably why Mr O2 has an issue with OneFamily's investigation and resolution of his issues. Nevertheless, I can't say OneFamily behaved unreasonably.
- I note Mr O2 requested a letter from OneFamily confirming several points, which he thought would act as evidence (for HMRC purposes) so that although the money passed through Mr O1's account, he wouldn't be liable to pay tax on this. Despite what Mr O2 says, I don't think OneFamily could provide correspondence specifically to this affect, so it hasn't done anything wrong by not doing so.
- In relation to the second question, which was essentially an enquiry about whether there was an option to re-assign the beneficiaries. OneFamily quite rightly confirmed that there was no such option with the MWPA, which Mr O2 appeared to understand.
- I note that Mr G, one behalf of OneFamily, subsequently provided several letters in due course, which amongst other points, confirmed the payment and closure of the investments, which is what Mr O2 wanted at the time.
- In any case, anything that Mr O2 was unsure about or wanted further information on, he could've called OneFamily, which he was invited to do in any event.
- If Mr O2 didn't know the difference between policies and bonds, he ought reasonably to have asked OneFamily for clarification.
- If he didn't know the difference or didn't ask (for whatever reason) it's not something I can blame OneFamily for.
- In the circumstances, and on balance, I don't think it's fair to blame OneFamily for Mr O2's decision to close the investments before death. I don't think OneFamily was generally wrong to say that there was no disadvantage in closing the accounts (before death) – I note the beneficiaries received the money sooner. If there was a specific consideration that Mr O2 had in mind he ought reasonably to have made this clear to the business. In any case, it was a matter for him what he decided to do.
- I'm mindful that OneFamily made clear at the very outset that in respect of the family bond, the beneficiaries were recorded as "My Children Equally". However, this was only upon death, otherwise Mr O1 could do whatever he liked with the investment and proceeds. This wasn't the case with WMPA, which was held for the benefit of Mr O1 and/or the benefit of Mrs O. In any case, whether (or not) tax would be payable by the beneficiaries, would depend on their circumstances – this isn't something that I'd expect OneFamily to be able to advise on.
- Whilst I appreciate what Mr O2 says about some of the correspondence, the date of receipt is not what's relevant for my purposes, and that's because OneFamily can't be responsible for the actions of a third-party postal service. In other words, provided the letters are correctly addressed and sent in a timely manner – which I believe they were – I can't blame OneFamily for any issues experienced by a third-party postal service for which it can't be responsible.
- In any case, it seems to me that Mr O2, one behalf of Mr O1, and Mrs O, decided to encash the investment and close the accounts with OneFamily because he and Mr O1 and Mrs O had lost faith in OneFamily. I note this as a decision that Mr O2 made of his own volition, without any advice from OneFamily. Therefore, it's not something I can blame one family for.

I appreciate that Mr O2, on behalf of Mr O1, will be unhappy that I've reached the same conclusion as the investigator. But on the face of the available evidence, and on balance, despite what he says, I can't uphold this complaint and give him what he wants.

### **My final decision**

For the reasons set out above, I don't uphold this complaint and I make no award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O1 to accept or reject my decision before 14 May 2025.

Dara Islam  
**Ombudsman**