

The complaint

Mrs K is unhappy that National Westminster Bank Plc ('NatWest') failed to set up a trust when they advised her to take out a Flexible Protection Plan.

What happened

In 1997, Mrs K and her late husband met with a NatWest financial adviser to discuss their financial needs and options, including how to plan for the future. Mrs K was advised to take out a Flexible Protection Plan and to put it in trust for her son, who was a baby at the time.

In 2022, Mrs K's husband sadly passed away. In reviewing her financial affairs, she received updated documents from the Plan's provider. These showed that the Plan had not been placed in trust as Mrs K had originally believed.

Mrs K complained to both the Plan provider and NatWest about this. NatWest said they had no record of receiving the documents required to set up the trust, so did not think they had done anything wrong. The Plan provider explained that they were not responsible for what happened at the time the Plan was sold and had not advised her, but they provided her with the necessary information so that she could set up the trust now.

As she was unhappy with NatWest's response, Mrs K brought her complaint to our service where it was considered by an investigator. They didn't think the complaint should be upheld, as there was no record of NatWest receiving the required trust documents. Mrs K disagreed so the case has been passed to me.

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.

A long time has passed since 1997 and understandably, I've not seen all the documentation from when the Plan was sold. However, I do know that Mrs K met with the NatWest adviser on a number of occasions in October / November of that year, and that she was sent a follow up pack of documents on 25th November 1997, which I have a copy of. It's not in dispute that Mrs K was advised to place the Plan in a trust, and that it was her intention to do so.

Mrs K has told us she recalls returning the form to set up the trust along with the form to set up the Plan, and therefore has questioned how one could have been set up without the other. But reading one of the letters enclosed in the pack sent to Mrs K on 25th November 1997, I think it's clear that the application to set up the Plan was actually completed earlier than this, and in person. I say this because the letter starts *"Further to our recent meetings..."* and states:

"Having identified your potential needs, agreed your priorities and identified suitable products from the range available from NatWest, we proceeded to complete the proposal documentation, which I have forwarded for processing. Currently, our underwriters are assessing your proposal and, subject to acceptance...you can

expect to receive shortly confirmation that your proposal has been accepted.”

The cover letter of the pack sent on 25th November 1997 outlines the documents that are enclosed. One of these is the “*Justification of recommendations*”, of which the above letter is a part of. Another is the “*Flexible Trust form (to be completed and returned to me)*” and there’s also the “*PEP application form (to be completed and returned to me)*”.

Taking this all into account, I’m satisfied that Mrs K completed the application for the Plan in person with the adviser, and then later received the form to set up the trust in the post, along with a number of other documents.

While Mrs K has said she recalls taking the trust form into branch to return it to the adviser along with the Plan application, the surrounding evidence doesn’t support this. I don’t doubt Mrs K’s recollections are genuinely held. But the Plan was sold over 27 years ago and memories can understandably fade over such a long period.

Based on what I’ve seen, I’m not satisfied that the Plan application form was ever sent to Mrs K so I can’t say she’s likely to have returned it to NatWest with the trust form. And I know that she did not complete and return the PEP application form that was included in the pack, because I’ve seen the adviser’s notes from late January 1998. These say the adviser spoke to the late Mr K on 26th January 1998, who confirmed they would not be opening the PEP for the time being.

I cannot say why the adviser did not chase up the trust form. But I do not think this in itself is enough to say that NatWest have done something wrong here.

In conclusion, I haven’t been provided with evidence such that I can say NatWest received the necessary form to set up the trust. So, while I appreciate this will come as a disappointment to Mrs K, and I know she feels strongly about her complaint, I cannot conclude that NatWest did something wrong by not setting up the trust in 1997.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mrs K to accept or reject my decision before 7 March 2025.

Artemis Pantelides
Ombudsman