

The complaint

The executor for The estate of X complains that Scottish Friendly Assurance Society Limited (British Seniors), paid the proceeds of a whole of life policy directly to a family member of the deceased, instead of to the executor's client account.

To put matters right the executor wants British Seniors to '*...make a payment to us of the £6,000 which is correctly owed to the estate, and a compensation payment to the estate of £1,000 towards the significant additional costs which have been incurred in dealing with their actions.*'

What happened

I understand that the late X took out a whole of life policy, with a sum assured of £6,000, with British Seniors in 2016.

After X died in late 2021, the executor contacted British Seniors to notify it, and to ask whether the whole of life policy X held with it was written into Trust.

The executor says that British Seniors confirmed that the policy was not written into Trust. It told the executor that it had paid the £6,000 sum assured to a family member of the deceased, having first confirmed with the funeral provider that the family member had met the cost of the funeral for X. It said the family member '*...had paid for the funeral which was greater than the sum assured therefore we reimbursed the [family member] accordingly which is part of our normal process.*'

The executor was not satisfied with British Seniors' response and referred the complaint to this service.

The executor said British Seniors had wrongly paid the money to reimburse X's relative for the cost of the funeral. It said it had told British Seniors '*...that, if the policy was not written into Trust, it is therefore payable to the estate*'.

And the executor said:

The estate has not received £6,000 which would have paid towards our legal fees. There have been problems in the estate which have arisen from lack of funds overall, and this figure, although small at first glance, has had a major contributing effect on these issues.

Having considered the complaint, our investigator said he was satisfied that the proceeds of the whole of life policy should have been paid to the estate and not to the late X's family member. To put matters right he said he thought British Seniors should pay the executor of the estate the £6,000 sum assured, plus any reasonable costs the estate had incurred in dealing with this issue.

British Seniors did not accept our investigator's view and asked for the complaint to be determined by an ombudsman.

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.

I issued my provisional decision on this complaint on 5 December 2023. In it I explained that I had reached a different view to that of our investigator.

I said it was not in dispute that the terms of the policy the late X held, set out:

Once a claim is accepted, we will provide the lump sum payment due to you or the person who is legally entitled to it, whichever is appropriate.

I noted that the executor said that, as he was '*legally entitled*' to receive the payment, British Seniors should make '*...payment to us on behalf of the Executor of the estate*' and '*...recover these funds*' from the family member who paid for X's funeral.

I said it was unclear to me what financial loss the Estate had suffered as a result of the money from the whole of life policy being used to cover the cost of X's funeral, rather than to pay the executor's fees.

I therefore asked the executor to explain how the estate had lost out financially as a result of British Seniors paying the sum assured to the family member who had met the cost of the funeral. I also asked why the executor hadn't arranged for the funeral costs to be paid and whether the estate had now reimbursed the family member who had paid for the funeral, as I noted the sum assured had not covered the full costs incurred. And if the family member hadn't been fully reimbursed by the estate, I asked the executor to explain why.

The executor did not respond to these queries.

I explained that this service determines complaints based on what we consider to be fair and reasonable. And I said that, even if I accepted that British Seniors hadn't acted in line with its terms and conditions in this case, this didn't in itself mean this service would make an award against it. I explained that we are not the industry regulator and don't have the power to punish or fine businesses for acting incorrectly.

In the absence of anything to explain how the estate had suffered a financial loss as a result of British Seniors paying the sum assured towards the cost of the funeral, rather than to the executor's client account to meet the executor's fees, I said my provisional decision was that I couldn't reasonably uphold this complaint.

Neither the executor, nor British Seniors provided any fresh information or evidence in response to my provisional decision. I therefore find no reason to depart from my earlier conclusions.

My final decision

My decision is that, for the reasons I have set out above I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of X to accept or reject my decision before 14 February 2024.

Suzannah Stuart
Ombudsman