

The complaint

Mrs T, via her representative Mrs M, complains that an investment was mis-sold to her by the Co-operative Bank Plc in 1997.

What happened

In 2022 Mrs M was sorting through Mrs T's paperwork and got in touch with the Co-operative about any accounts Mrs T might have taken out with Britannia Building Society, a part of the Co-operative Bank. They told Mrs M that according to their records, Mrs T opened a stocks and shares ISA in March 1997 (which would have been a PEP at that time), and they didn't have records of it being closed. Mrs M later found a cheque stub showing a payment for £6,000, dated a few days before the PEP was opened.

The Co-operative said that though it would have been sold in a Britannia store, the ISA would have actually been provided by Britannia Life, which later became Alba Life, which was now Phoenix Life. They said Britannia Life was a separate company to Britannia Building Society.

So, Mrs M got in touch with Phoenix Life, but they didn't have any records of the account to say if it still held any money. They explained that ISAs sold by Britannia wouldn't have been passes to them but rather to Standard Life, part of Abrdn. Unfortunately, Abrdn also couldn't find records of what happened to the account.

Mrs M raised a complaint about the Co-operative about the fact they were unable to say what happened to this account. This complaint has been dealt with separately by our service, and wasn't upheld. For clarity, I won't be commenting on that complaint in this decision. Following the outcome of that complaint, Mrs M raised a complaint about the sale of the investment, primarily because she didn't think the Mrs T was made aware it wouldn't be held with Britannia Building Society. Mrs M remembers Mrs T taking out a Guaranteed Equity Bond (GEB) and thought that was likely to be the same product as the ISA.

The Co-operative didn't uphold the complaint – they said although the ISAs were sold in Britannia branches, the responsibility for the sale lay with Phoenix Life as the ISA provider. They explained GEBs were separate, and would have been provided by Britannia, but they had no record of Mrs T taking out a GEB. So, they didn't uphold the complaint. As Mrs M remained unhappy, she brought the complaint to our service on Mrs T's behalf.

An investigator looked into it and didn't uphold it – she thought it was likely that the Co-operative wasn't responsible for the sale of the ISA, based on the explanation they'd provided. Mrs M didn't agree – she pointed out a rewards statement dated February 2007 from Britannia that showed Mrs T had received a certain number of points for holding two accounts, including the PEP. She felt this showed Britannia (and so, the Co-operative) had records of the ISA from 2006/7 and that they must have been involved with it at that stage.

As the investigator wasn't persuaded to change her mind the complaint has been passed to me for a 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.

Mrs M has provided detailed recollections of the sale of the GEB, as she assisted Mrs T with taking this out. However, she's not provided specific recollections about the sale of the PEP. She suspects they were the same product – that the GEB was to be held within the PEP.

However, based on the balance of probabilities, I'm satisfied they were two separate products sold at different times. Primarily, this is because the Co-operative has recently confirmed that Britannia Building Society didn't start to sell the GEB product until around 2005 – eight years after the start date of the PEP.

The Co-operative has also confirmed that the GEB product line stayed with Britannia (and so the Co-operative) – so the provider of that is different to the provider of the ISA, which the Co-operative maintains is a separate company.

The sale of the GEB

Though there's no documentary evidence of the GEB, given Mrs M's detailed recollections of the sale of it, I don't doubt that one was taken out in Mrs T's name. However, neither the Co-operative or Mrs M have been able to provide information about it – for instance we don't know when it was sold, or how much Mrs M invested.

As these were fixed term products, it's not surprising that there's no records of it. Presuming it was taken out in the mid to late 2000's, it would have come to an end many years ago. Though I know this is frustrating for Mrs M and Mrs T, I simply think the Co-operative won't be able to provide anything further about the GEB. Given the time that's passed, I don't think this is unreasonable.

As the Co-operative has confirmed this product stayed with Britannia, Mrs M's complaint point about whether they were told about the fact the product would be with a different company, doesn't apply here. Nor do I think it would be fair and reasonable to say it was mis-sold for any other reason, given the lack of information – both about the amount and time of the investment, and about Mrs T's circumstances and objectives at the time it was sold.

The sale of the ISA

Mrs M has explained that she's found a cheque stub for £6,000, dated a few days before the start date of the PEP. That was the total you could invest in a PEP in 1997, and given its proximity to the start date, I'm persuaded that was the amount that was invested in this PEP.

However, its start date and the amount are the limit of what we know about the PEP. We have no point of sale documents – so no application form, key features, illustration, fact find or suitability letter, which are the types of documents that we'd normally want to see when considering the sale of an investment. Nor do we have any recollections from Mrs T or Mrs M about this sale specifically.

Having reviewed everything, I'm persuaded that the Co-operative aren't responsible for the sale because:

- Though it was sold in a Britannia branch, or via their offices, from what I've seen I'm persuaded Britannia Life is separate and would be responsible for the way the product was sold, and what was said, both verbally and in writing, at the sale.
- On the screenshot the Co-operative has supplied, which shows the start date and account number of the ISA, there's no end date. I think the reason for this is likely because the PEP was held with a separate company, so the Co-operative haven't been able to update their own records of it.
- Though not responsible for the sale, the Co-operative (or Britannia Building Society at the time) kept details of the sales that took place and used this information for their Membership Reward scheme.
- The statement from February 2007 does not confirm the PEP was held by Britannia Building Society, based on the single page of it that I've seen.

I understand that Mrs M feels strongly that she and Mrs T weren't made aware that the product would be provided by a firm other than Britannia Building Society and feels the account was mis-sold as a result. It seems that Mrs M's main concern with the ISA being with a different company is that it wasn't as safe as she and Mrs T were expecting - she feels this has caused the money to become lost.

Given we have no paperwork from the sale, I haven't been able to confirm what was said - in writing at least - about who the PEP was provided by in 1997. As it appears to have been a Britannia Life product, which was a subsidiary of Britannia Building Society at the time, it's possible that the branding on the documents was all similar, so Mrs T very well may have thought the PEP was provided by Britannia Building Society.

In general, product providers can't guarantee that they will always be trading as a company indefinitely – and so with open-ended products like PEPs and ISAs, there is always a risk that the product provider may choose to sell their book of products on to a different company. Or, as seems to be the case here, the subsidiary could split off from the Building Society.

Unless it was something the business was already planning and had made public knowledge at the time of the sale, I wouldn't expect a business to highlight this as a risk to a customer. This is because it's a hypothetical and remote risk at that point in time. There are many hypothetical things that can happen during the life of any product, and it's not always possible for each possibility to be set out in terms and conditions, or more prominently in the other point of sale documents.

Based on the evidence I've seen, I'm satisfied the Co-operative aren't responsible for the sale of the ISA and so, they haven't done anything wrong here.

My final decision

My final decision is that I don't uphold this complaint, for the reasons set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs T to accept or reject my decision before 25 August 2023.

Katie Haywood
Ombudsman