

The complaint

Miss H complains that Golden Leaves Ltd will retain a 20% cancellation fee, should she choose to cancel her plan. She says she wasn't made aware of the plan's terms and conditions and the fee is unreasonable.

What happened

In brief summary, in 2013, Miss H bought a pre-paid funeral plan, through a local funeral director.

Earlier this year, Miss H contacted Golden Leaves to enquire about the surrender value of her plan. Golden Leaves provided this information and explained there'd be a cancellation fee, amounting to £556.20.

Miss H was very unhappy about this and complained. But Golden Leaves didn't uphold her complaint, saying the cancellation fee was part of its standard terms and conditions which were provided to her when she bought the plan.

Miss H referred her complaint to the Financial Ombudsman Service, saying she was never given Golden Leaves' terms and conditions, nor made aware of the 20% cancellation fee. She thought she should receive a full refund. An investigator looked into things but didn't uphold her complaint. He said Miss H had signed her application form, confirming she'd read and understood the terms and conditions.

Miss H says the signature on the application form is not hers and maintains she wasn't aware of the cancellation fee. She says if she'd received terms she would've read them carefully.

Miss H asked for an ombudsman to review matters, so her complaint has come to me for a final decision.

By way of clarification, I note Miss H has shared some concerns regarding her partner's funeral in 2019. Whilst I acknowledge her concerns, I must stress that this complaint - and therefore my decision - relates only to her dissatisfaction with Golden Leaves' cancellation fee.

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'm not upholding this complaint. I recognise my decision will disappoint Miss H and I'm sorry about that. I'll explain my reasons.

Golden Leaves has relied on its terms and on Miss H's application form as evidence the terms were provided to her at the time of sale. I can see the terms explain about the cancellation fee. The application form includes, just above the signature box, the following statements:

'Please sign below if you have checked all the details on the form and believe they are a true description of the funeral arrangements you require. By signing this form you are confirming that you have read and understood the Terms & Conditions of Golden Leaves Plans.'

Miss H says she received limited documentation from the funeral director, which she retained and provided to this service to support her complaint. She's adamant there were no terms and conditions and that, as Golden Leaves suggested, she'd not simply forgotten about receiving them or, perhaps, mislaid them. I appreciate the strength of her feeling on these points.

Our investigator provided Miss H with a copy of the application form Golden Leaves relies on. Miss H maintains the signature isn't hers and provided documents with her signature to show it's been consistent over many years. As a lay person in this respect – that is, not a handwriting expert - I can't say the signatures appear sufficiently dissimilar for me to be satisfied the one on the application form isn't Miss H's. So I'm left with conflicting evidence.

Golden Leaves produced a signed application form and said terms would've been provided to Miss H. Miss H provided strong testimony she never received the terms. However, thinking about the circumstances as a whole, I don't think I need to make a finding on whether or not Miss H received the terms and understood there was a cancellation fee. I say this because even if I were to accept Miss H's testimony over Golden Leaves' documentation and find there was a problem at the time of sale, in order to require Golden Leaves to do as Miss H wants and waive the cancellation fee, I'd need to be satisfied the provision of terms would've made a difference. In other words, if Miss H had seen the terms and understood, in 2013, a cancellation fee applied, would that have stopped her buying the plan?

Generally, people buy funeral plans to gain peace of mind. A plan provides security – a guarantee that one's wishes and requirements will be delivered at the time of need, without significant additional cost to one's estate. Miss H has said she was prompted to enquire about a plan after a friend bought one. She'd originally intended just to enquire about the cost. But at the appointment, she bought a plan, paying in full on her credit card.

Miss H has now had that plan for over ten years. This suggests to me that, having decided she wanted to buy a plan – a plan that at the time, in 2013, she would fully anticipate being used in the future – knowing about the cancellation fee wouldn't have stopped Miss H going ahead with the purchase, because she wouldn't have expected ever to have to pay that fee.

For reasons unforeseen at the time of sale, Miss H now wishes to cancel her plan. I can understand why she's unhappy about the cancellation fee and feels this is unfair. But overall, I'm not satisfied knowing about the cancellation fee at the time would've stopped Miss H buying a plan. So I don't think Golden Leaves would be treating Miss H unfairly in applying the cancellation fee applicable to her plan, should she wish to go ahead with cancellation now.

Once again, I'm sorry to send unwelcome news to Miss H.

My final decision

For the reasons set out above I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss H to accept or reject my decision before 28 December 2023.

Jo Chilvers
Ombudsman