

## Ombudsman's Determination

Applicant	Miss N
Scheme	Fidelity Self Invested Personal Pension Scheme ( <b>the SIPP</b> )
Respondent	Fidelity International Ltd ( <b>Fidelity</b> )

## Outcome

1. I do not uphold Miss N's complaint and no further action is required by Fidelity.

## Complaint summary

2. Miss N's complaint is that Fidelity did not accept her contribution to the SIPP. As a result of this, she has lost out on 20% tax relief for the tax year 2018/2019.

## Background information, including submissions from the parties

3. In March 2017, Miss N opened the SIPP.
4. On 23 March 2018, Miss N made a payment to the SIPP online. The payment generated an email from Fidelity to Miss N acknowledging receipt of the payment.
5. On 4 April 2019, Miss N paid £5,500 into the SIPP via a bank transfer. She did not submit a completed online application form with the payment.
6. On 5 April 2019, Fidelity received the payment. Fidelity subsequently returned the payment to Miss N because no application form had been completed.
7. On 24 April 2019, Miss N raised a complaint with Fidelity. She said she presumed the payment would be automatically applied to her pension account as she only had one SIPP with Fidelity. Miss N also said that she made the payment late in the tax year as she did not know her income and needed to calculate her 40% tax liability. She was unhappy that she would miss out on the tax relief for the year 2018/2019.
8. In June 2019, Fidelity responded to Miss N under its complaints' procedure. It said that to invest a contribution in the SIPP it required both the payment and a fully completed application form.
9. In August 2019, there were further email exchanges between Miss N and Fidelity regarding the complaint. Miss N said the Fidelity's Terms and Conditions (**T&Cs**) did

not state that a completed application form was required to make a payment. She wanted Fidelity to reimburse her for the 20% tax relief she lost out on.

10. Fidelity said that while the requirement to complete an application form was not detailed in its T&Cs, it was Fidelity's policy and a regulatory requirement, as it was unable to invest any payment without a clear instruction. It said it agreed that this should be mentioned in the T&Cs which would be amended to make its policy on this clearer.
11. Fidelity provided my Office with screenshots of two application forms, which it says Miss N submitted online when paying into the SIPP on 27 March 2017 and 23 March 2018. It also provided its internal work notes completed for each payment. Fidelity said:-
  - It expected Miss N to have submitted an application form on 4 April 2019, as she had been aware of the requirement previously.
  - If Miss N had called its service centre it would have quickly dispelled her assumption that an application form was not required.
  - In common with other pension providers, it required a completed application form to process pension contributions. While this was not stated in its T&Cs, it was a reasonable requirement.
  - The application form confirmed the source of funds, the investment instructions and the client's eligibility to make the contribution. Simply paying funds into an account was not sufficient for Fidelity to fulfil its duty of care. Without the completed application form, it could not correctly apply the contribution or second guess the client's intention.

## **Adjudicator's Opinion**

12. Miss N's complaint was considered by one of our Adjudicators who concluded that no further action was required by Fidelity. The Adjudicator's findings are summarised below:-
  - Miss N said she assumed as she only had one SIPP with Fidelity, she could make the payment without submitting an application form.
  - Fidelity conceded that the SIPP's T&Cs do not mention the requirement to submit an application form when making a payment into the SIPP. Nevertheless, it was part of the process and Fidelity's policy.
  - Miss N had previously completed application forms when she submitted payments in March 2017 and March 2018. As such, she was familiar with the process and ought reasonably to have known that she needed to submit an application form when she made the payment in April 2019. If she had any doubt, she should have enquired with Fidelity prior to making the payment.

- Fidelity said it would review/amend the T&Cs as necessary. But this did not amount to maladministration causing Miss N injustice, because Miss N was aware of the process of completing an application form when making a pension contribution. Consequently, the Adjudicator's Opinion was that the complaint should not be upheld.

13. Miss N disagreed with the Adjudicator's Opinion, and in response, she made further points. In summary she said:-

- Neither application form was dated, which is surprising.
- She is sure she did not complete the 2018 application form because she received Fidelity's email of 23 August 2018 confirming how to pay additional contributions. She made the cash deposit the next day to the bank account supplied and purchased the investments on-line a few days later. There was no mention of an application form.
- The 2018 application form looked like the 2017 application form, which presumably was generated when she inputted information on screen to open the SIPP.
- The 2017 application form showed cash (she bought investments subsequently using the online buying system), while the 2018 application form showed the funds in which she eventually invested. There should be some evidence that Fidelity contacted her to request that she complete a form in 2018 and include the funds required, but there is no evidence that anyone did in the 2018 work note.
- The 2018 application form is just a screenshot of data held by Fidelity.
- Not all pension providers require the completion of an application form when adding to a pension. It is not a regulatory requirement.

14. In response to Miss N's further points, Fidelity said:-

- It had already provided all available evidence to my Office. This comprised application forms previously completed by Miss N together with investment instructions.
- Expecting a payment to be applied and invested immediately into specific investments without the application form was not reasonable.
- The fact that the funds were not applied and invested would appear to be sufficient evidence that an application form was required to provide the investment instruction.
- The screenshot of an email dated 23 March 2018 at 12:20pm notified Fidelity that Miss N had submitted an application form online. The email said, "Expectation setup for £800". Fidelity uses the word 'Expectation' to mean application form.

Such an email only gets sent to Fidelity once an individual has submitted an application form which happened in Miss N's case in March 2018.

- An automated email was also generated and sent to Miss N on 23 March 2018 at 12:20pm. This provided her with bank details for her to send a payment to Fidelity for processing.
- Fidelity received no email notification on 4 April 2019. This is because she made a payment online without submitting an application form.

15. As Miss N did not accept the Adjudicator's Opinion, the complaint was passed to me to consider. I agree with the Adjudicator's Opinion and note the additional points raised by Miss N and Fidelity.

### **Ombudsman's decision**

16. Miss N complains that Fidelity did not accept her 2019 contribution to the SIPP, and she lost out on tax relief as a result of this.
17. SIPP operators are required to follow the Financial Conduct Authority's "A guide for Self-Invested Personal Pensions (SIPP) operators" (**the SIPP Guide**). This includes examples to demonstrate good practice. Such as "retaining evidence of members' instructions for investments and movement of funds".
18. I find that Fidelity rightly adhered to the SIPP Guide by returning Miss N's contribution because an application form had not been completed.
19. Miss N acted on an assumption that an application form was not required when she made the payment to the SIPP on 4 April 2019.
20. Miss N says she does not believe or recall completing either of the application forms submitted with her payments in March 2017 and 2018. But I have no reason to doubt their authenticity.
21. Nonetheless, Miss N ought to have known the insufficiency of submitting a payment without an accompanying investment instruction having completed the process previously. At the very least, Miss N should have first contacted Fidelity to check what it required before submitting the 2019 payment.
22. The only criticism I make is that Fidelity's T&Cs should have made reference to the need for an application form to be submitted when a payment is made to the SIPP. However, I understand that the T&Cs have or are to be amended to include this information.
23. I do not uphold Miss N's complaint.

CAS-34152-M8J6

**Anthony Arter**

Pensions Ombudsman  
18 August 2021