

Ombudsman's Determination

Applicant	Mr L
Scheme	Fidelity Funds Network Pension (the Scheme)
Respondent	Fidelity International (Fidelity)

Outcome

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

Complaint summary

2. Mr L has complained that Fidelity delayed processing his crystallisation request which led to him being financially disadvantaged. He has estimated that the delay caused him to incur a loss of £50,000.

Background information, including submissions from the parties and timeline of events

3. The sequence of events is not in dispute, so I have only set out the main points. I acknowledge there were other exchanges of information between all the parties.
4. Mr L was a member of the Scheme, which is a defined contribution pension scheme administered by Fidelity.
5. On 5 March 2020, a request was submitted to Fidelity by Mr L's financial adviser, Birchwood Investment Management Ltd (**Birchwood**), to take a tax-free withdrawal of £375,000 from the Scheme. Mr L had protected his lifetime allowance and held a Fixed Protection Certificate (**FPC**). Birchwood included a screenshot of this certificate with its request.
6. On 12 March 2020, Fidelity telephoned Birchwood to verify Mr L's bank details and it confirmed that the payment of the tax-free sum would be made within five to seven working days.
7. On 14 March 2020, Fidelity sent an email to Birchwood to explain that an original copy of the FPC would be required before it could proceed with the request.

8. On 18 March 2020, Birchwood contacted Fidelity to ask whether the sale of the necessary investments had been completed. Fidelity informed Birchwood that to complete the request it needed an original copy of the FPC.
9. On 19 March 2020, Birchwood asked Fidelity to consider whether it would accept the screenshot of the FPC rather than the original copy.
10. On 24 March 2020, Fidelity said that it had considered the request and confirmed it would accept the screenshot version of the FPC.
11. On 27 March 2020, the investment sale request was completed.
12. On 31 March 2020, Birchwood registered a complaint with Fidelity. It said it was unhappy that on 12 March 2020, it was informed the investment sale request would be completed within seven days. It also argued that it should have been told sooner that an original copy of the FPC would be required.
13. On 2 April 2020, a payment of £375,000 was made to Mr L by CHAPS.
14. On 14 May 2020, Fidelity wrote to Birchwood in response to the complaint. In summary, it said:-
 - It apologised that it did not inform Birchwood during the telephone call, dated 12 March 2020, that it would require an original copy of the FPC. This was because Fidelity had separate teams that dealt with different parts of the application process. Fidelity had provided feedback to the team concerned to prevent this happening again.
 - It did not delay the application as the request was processed within its internal timescales.
 - In respect of the poor service it had provided, it had paid £50 into Mr L's bank account.
15. On 19 May 2020, Birchwood responded to say that it did not accept Fidelity's response. It said that due to the delay in processing the request, Mr L had been financially disadvantaged.
16. On 15 June 2020, Fidelity responded to Birchwood as follows:-
 - During the telephone call, dated 12 March 2020, it should have requested the original copy of the FPC.
 - It should not have emailed the request to a member of staff at Birchwood on 14 March 2020, without first confirming that the person was involved with the case. It understood that the member of staff it emailed had no knowledge of Mr L.
 - If it had correctly requested the original FPC on 12 March 2020, then the exception request should have been granted on 13 March 2020. Mr L's assets

would then have been moved to the drawdown account and the switch to cash would have taken place on 17 March 2020.

- It reviewed the prices Mr L received on 27 March 2020 (£386,556.19) and compared them to the prices he would have received on 17 March 2020 (£371,716). It said Mr L was not disadvantaged by the delay as, had the trades taken place on 17 March 2020, then Mr L would have received £14,840.19 less.
- It apologised for the poor service it provided and, in recognition of the delay, paid Mr L a further £450, bringing the total paid as a gesture of goodwill to £500. It also paid Mr L a further £131.51 in respect of the 10 days that the payment was delayed. This was calculated at 1.6% simple interest minus 20% income tax.

17. Mr L's position:-

- He considers that Fidelity has accepted it made errors.
- His request was made on 5 March 2020, but the investments were not sold until 27 March 2020. He does not understand why the sell down of the funds could not have taken place within five working days or one week of his request.
- He believes the date used for the calculation of his loss should be no later than 12 March 2020.

18. Fidelity's position:-

- Birchwood did not specifically make a request to sell investments. If it had done this via Fidelity's online system, then the sales would have been placed at the next dealing point.
- Instead, Birchwood requested a Benefit Crystallisation Event (**BCE**) which meant that the investment sales would only be placed after it had received all the required documentation.
- Its service level agreement (**SLA**) for the entire BCE process at the time was 15 working days.

Adjudicator's Opinion

19. Mr L'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:-

- The Adjudicator took the view that Fidelity's SLA of 15 working days to process applications such as Mr L's was reasonable.
- As Fidelity took 16 working days to complete the process in Mr L's case, the Adjudicator's opinion was that this was not an unreasonable amount of time.

- The Adjudicator also took the view that as Mr L's request was not straightforward, involving both a BCE and FPC, further complexity was added to the process.
 - Fidelity accepted it made errors and provided a poor service regarding the FPC. The Adjudicator's opinion was that although this amounted to maladministration by Fidelity, the loss assessment it carried out showed that a financial loss had not occurred. This was because had the switch taken place on 17 March 2020, Mr L would have received £14,840.19 less than he actually received.
 - Fidelity paid Mr L £631.51 as a gesture of goodwill. The Adjudicator was of the view that in the circumstances of the complaint a higher award was not merited.
20. Mr L did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr L provided some further comments in response to the Opinion. Mr L said:-
- If the financial industry is going to retain credibility, then it is important that the institutions and those tasked with the responsibility of overseeing them take a fair position that protects the interests of the consumer.
 - The opinion that in this digital age it is reasonable for a sell down to take three weeks seems both outdated and unacceptable, especially when Fidelity had all the documents at the point of the initial instruction on 5 March 2020.
 - The process was managed very badly by Fidelity, leading to material loss.
21. I have considered the additional points raised by Mr L, however they do not change the outcome. I agree with the Adjudicator's Opinion.

Ombudsman's decision

22. There is no dispute that there was a delay by Fidelity in the process of Mr L taking a tax-free withdrawal from the Scheme. However, I do not find that the delay was unreasonable.
23. Mr L's request, through Birchwood, to take a tax-free withdrawal from the Scheme was not a standard one, which involved both a BCE and FPC. This meant the transaction was more complex than it might otherwise have been, as additional information had to be requested, including verification of Mr L's bank details and a copy of the FPC with Mr L's name on it. While Mr L has said he feels the transaction could have been completed sooner, I do not find the time taken by Fidelity to complete it to be unreasonable.
24. Fidelity has said it has an SLA of 15 working days for such a transaction as Mr L requested to complete. While Fidelity has said it does not publish the SLA in respect of this part of the contract, I do not consider it to be unreasonable for such a transaction. I also consider the fact the transaction took one day longer to be immaterial.

25. Mr L has said the institutions that oversee the financial industry should take a fair position that protects the interests of the consumer. I would remind Mr L that The Pensions Ombudsman is not a regulatory body and any concerns he has in this regard should be directed to the FCA or The Pensions Regulator. TPO is an independent impartial body and not a consumer champion.
26. Fidelity has accepted there were errors in the transaction. The errors amount to maladministration, which will have caused Mr L non-financial injustice. However, while the errors amount to maladministration, I do not find that Mr L suffered a financial loss.
27. Mr L has said that Fidelity had the necessary documentation to complete the transaction on 5 March 2020 and it should have proceeded with the sale of his investments at that time. However, Fidelity explained why the sale could not go ahead at that time:-
 - On 14 March 2020, Fidelity emailed Birchwood to request an original copy of the FPC. It has accepted that it should have made the request on 12 March 2020, within five working days.
 - On 18 March 2020, Fidelity confirmed to Birchwood that it needed an original copy of the FPC and told it this was why the sale of the investments had not gone ahead.
 - On 19 March 2020, Birchwood asked Fidelity if it would accept the screenshot of the FPC rather than an original copy.
 - On 24 March 2020, Fidelity confirmed to Birchwood that it would accept the screenshot of the FPC.
 - On 27 March 2020, the sale of the investments was completed.
28. I find that the approach taken by Fidelity was reasonable in the circumstances of the transaction, with it involving both a BCE and FPC.
29. I also do not find that Mr L has suffered a financial loss. This is because had Fidelity initiated the sale on 13 March 2020, after granting an exception request for the screenshot of the FPC, the switch to cash should have taken place on 17 March 2020. Had this happened, Mr L would have received less than he did when the switch actually occurred.
30. Fidelity has paid Mr L £631.51 as a gesture of goodwill. It has paid him £131.51, as interest for the late payment of the tax-free cash and £500 for the poor service he received. I find that this is appropriate recognition of the distress and inconvenience Mr L has suffered.

CAS-65532-W1D0

31. I do not uphold Mr L's complaint.

Anthony Arter CBE
Deputy Pensions Ombudsman
6 December 2023