

Ombudsman's Determination

Applicant	Mr D
Scheme	The Fidelity Self Invested Personal Pension (the SIPP)
Respondent	Fidelity International (Fidelity)

Outcome

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

Complaint summary

2. Mr D has complained that Fidelity completed a full transfer in from a pension policy previously held with Aegon against his wishes, causing him financial detriment.

Background information, including submissions from the parties

3. Historically, protected rights (**PR**) benefits were accrued by some members when their personal or occupational pension scheme had contracted-out of the State Second scheme.
4. Mr D held two pension policies outside of the SIPP, with Aegon that were numbered 3908626 and 9263870.
5. Policy number 3908626 contained a PR element and policy number 9263870 had Waiver of Contributions (**WOC**) cover attached to it.
6. On 3 August 2018, Aegon wrote to Mr D's financial adviser (**the Adviser**), regarding the transfer of Mr D's two policies and said:-
 - Partial transfers would be deducted proportionately across the elements of a member's policy. A penalty would be payable on any remaining funds after a partial transfer.
 - Any WOC cover attached to a policy would not be affected by a partial transfer if contributions continued to be paid after the partial transfer.
7. On 5 September 2018, the Adviser submitted an online application to Fidelity via its website for the transfer of Mr D's two pension policies with Aegon into the SIPP.

8. The Adviser noted estimated transfer values of £38,779.76 for policy number 3908626 and £101,000 under policy number 9263870.
9. The estimated transfer value regarding policy number 3908626 related to only the PR element of Mr D's benefits. The full fund value, including the non-PR element was approximately £49,000.
10. In the online application form for policy number 3908626 the Adviser also entered the term "PR only".
11. The Adviser has said that immediately after submitting the online application he telephoned the FundsNetwork area of Fidelity (**FundsNetwork**) to confirm that a partial transfer of Mr D's two policies with Aegon was required.
12. On 19 November 2018, the Adviser telephoned Fidelity to discuss the transfers and said:-
 - A partial transfer of policy number 9263870 totalling only approximately £101,000 had been requested, but a full transfer of around £102,000 was completed. Aegon's records showed Fidelity had noted that Aegon would process a full transfer.
 - A partial transfer of policy number 3908626 should also have been processed but a full transfer was completed. He had telephoned Fidelity before the transfer of Mr D's two policies to explain that partial transfers would be required.
13. In response the call handler confirmed that £100,202.65 had been transferred under policy number 9263870, and that a further £49,002.55 was transferred under policy number 3908626. An investigation would be conducted to establish the reason for the full transfers and whether errors had been made.
14. On 26 November 2018, Fidelity telephoned the Adviser and said:-
 - An investigation had established that full transfers of Mr D's two policies from Aegon had been processed because an online application was submitted. A paper-based application had been required for partial transfers.
 - Aegon had said it was not at fault for the full transfers. However, the matter could be resolved if Fidelity returned the funds to Aegon, and it then processed partial transfers.
 - A further investigation would be undertaken to establish what had been discussed between the call handler at FundsNetwork and the Adviser before the transfer was completed.
15. On 2 January 2019, the Adviser emailed FundsNetwork and said:-
 - As a result of policy number 9263870 being fully transferred, the WOC provision previously attached to it was lost. Aegon has confirmed that if the transfer funds were returned, a new policy would need to be processed.

- Before the transfer of Mr D's two policies was completed, he had advised Fidelity that partial transfers were required in a similar way to a previous case involving another client.
 - Despite his telephone phone call to Fidelity immediately after submitting the online application, his instructions were not processed correctly. This had resulted in financial detriment to Mr D.
16. On 31 January 2019, the Adviser telephoned Fidelity to complain that it had made an error in completing full transfers of Mr D's two policies from Aegon and that the matter had remained unresolved for over a month.
17. On 20 February 2019, Fidelity wrote to the Adviser in response and said:-
- It had listened to call recordings of the Adviser's inbound and outbound telephone conversations with Fidelity's call centre over a two-month period prior to the transfers be completed. However, no evidence of a partial transfer being requested was found.
 - The term "PR only" had been entered in the online application for the transfer of policy number 3908626 but the submission was completed for a full transfer of Mr D's two policies from Aegon. That transfer request was then processed correctly.
18. On 4 March 2019, the Adviser emailed Fidelity and said:-
- Aegon had provided screenshots from Origo showing that a full transfer of policy number 3908626 had been requested. If a partial transfer was required, the question of whether or not a full transfer was required should have been answered "no" but instead an answer of "yes" had been input. This explained why the full fund value was transferred.
 - In the online application form submitted for the transfer of policy number 3908626, he had stated "PR only". The meaning of this could have been questioned by Fidelity, and the correct box saying 'no' to a full transfer should then have been ticked.
 - He had telephoned Fidelity shortly after submitting the online application and confirmed partial transfers should be completed as was the case with another client under similar circumstances.
 - Fidelity could have informed him that a paper-based application would be required for partial transfers, before he submitted the online application. No updates were subsequently provided by Fidelity on the progress of the transfer. So, the error in completing full transfers had only been identified weeks after the event.
19. On 18 March 2019, Fidelity emailed the Adviser and said that the call handler in FundsNetwork who the Adviser spoke to on 6 August 2018 had no record of a partial transfer being requested. So, an award to Mr D would not be appropriate.

20. On 9 May 2019, the Adviser wrote to Fidelity and complained that:-

- Fidelity had completed a full transfer of Mr D's two policies from Aegon in error. Policy number 3908626 consisted of PR and non-PR elements. Before the transfer Aegon had advised him to use the term "PR only" in the online transfer application for submission to Fidelity. Having then done so he had expected Fidelity to query why that term had been used, instead of automatically completing full transfers. As a result of Fidelity's errors in that regard Mr D incurred a penalty of £4,128 on the transfer of the non-PR element of policy number 3908626.
- Had a partial transfer of policy number 9263870 been completed, Aegon would have allowed Mr D to retain the WOC facility that was attached to it, with no penalty charge. Since Fidelity had completed a full transfer Mr D had incurred a further £800 penalty with Aegon to retain the WOC facility.
- Since the transfers of Mr D's two policies, Fidelity had introduced an online partial transfer process. This shows that Fidelity had been aware of the weakness that had existed in its previous paper-based online partial transfer process.

21. On 16 May 2019, Fidelity wrote to the Adviser in response and said:-

- The online application had been for the full transfer of Mr D's two policies with Aegon. Aegon had previously instructed the Adviser to enter the term "PR only" to represent PR benefits only to be transferred. This advice did not come from Fidelity.
- When an online transfer application is received, it is automatically transposed onto Fidelity's Origo system which is used for exchanging transfer data with a ceding scheme. As part of the transfer process, the ceding scheme, in this case Aegon, is asked to provide details of any PR benefits that may be included. The Adviser has confirmed that Aegon was aware that Mr D held such benefits but still processed full transfers to Fidelity.
- Telephone calls to FundsNetwork are not recorded since the call handlers do not take instructions for applications to be processed. Instead, financial advisers were normally asked to place their instructions online. If this failed, an adviser could telephone Fidelity's call centre.
- The previous transfer case involving another of the Adviser's clients was completed successfully. However, had there been an error, steps would have been taken to correct it.
- An award to Mr D in recognition of the penalty charges he had received from Aegon after the transfer would not be appropriate.

22. On 9 June 2019, the Adviser emailed Fidelity and complained that:-

- It had not been possible to choose between requesting a partial or full transfer via Fidelity's website at the time he submitted the online application for Mr D.

- Subsequently, Fidelity had introduced a new online system that automatically populates Origo with instructions as to whether or not a full or partial transfer is required. This was as a direct response to previous errors that Fidelity had made such as in Mr D's case.

23. On 17 June 2019, Fidelity wrote to the Adviser in response and confirmed that changes had been made to its online application processing facility. However, these changes had been planned and implemented before the Adviser made a complaint.

Mr D's position

24. At the time the Adviser submitted the online application, Fidelity operated a paper-based partial transfer process. So, FundsNetwork asked the Adviser to complete an online application and print the form as Fidelity was in the process of switching to online partial transfers. The Adviser then submitted an online application to Fidelity for his two policies with Aegon to be transferred into the SIPP.
25. The Adviser had experienced problems following a similar transfer request for another client. So, the Adviser telephoned FundNetworks immediately after submitting the online application to confirm the partial transfer requests. Despite this Fidelity subsequently completed full transfers of both of the policies with Aegon.
26. The Origo system used by Fidelity was also operated by Aegon, and it had informed the Adviser that he should enter the term "PR only" in the online application. The intention was that Fidelity should then understand that a partial transfer was required. As Fidelity did not follow this instruction, Aegon received only reference number 3908626 via Origo, without the words 'PR only' being quoted, and completed a full transfer.
27. Despite the fact that the online application confirmed an estimated transfer value of £38,779.76 under policy number 3908626, it was processed for £49,002.55, which is 26% more than the estimate. However, this could have been due to a fluctuation in the fund value.
28. The transfer of policy number 9263870 was correctly processed. However, policy number 3908626 consisted of two elements, a non-PR element with a £4,128 penalty attached, if transferred. So, this element of the policy should not have been transferred into the SIPP. The other element was a PR element valued at £38,779.76 with no transfer penalty attached to it. So, an award of £4,128 would be appropriate in recognition of the financial detriment caused by the full transfer of policy number 3908626.

Fidelity's position

29. The online application details submitted by the Adviser would have been automatically transposed onto Origo. These transfer details then needed to be approved by a Fidelity staff member without making any amendments. So, the

information received via Origo was used to initiate the full transfers of Mr D's two policies with Aegon into the SIPP.

30. An investigation subsequently established that there was no evidence the Adviser had requested partial transfers whether online, in writing or during any telephone call. Telephone calls with FundsNetwork are not recorded. However, recordings of the inbound and outbound telephone conversations between the Adviser and Fidelity's main call centre in the two-month period prior to the transfers were listened to during the investigation.
31. No error was made by Fidelity in processing the online application submitted by the Adviser. Mr D has not subsequently asked for either of the transfers to be reversed. The lost WOC issue regarding policy number 9263870 was resolved following a separate complaint the Adviser made to Aegon.

Adjudicator's Opinion

32. Mr D'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:-
 - Mr D contends that at the time the Adviser submitted the online application, Fidelity operated a paper-based partial transfer process. So, FundsNetwork asked the Adviser to complete an online application but print and send the form. Mr D said that the Adviser then submitted an online application to Fidelity for his two policies with Aegon to be transferred into the SIPP.
 - In the Adjudicator's opinion this shows that the Advisor was aware Fidelity operated a paper-based partial transfer process by 5 September 2018 and still submitted an online application, contrary to Fidelity's procedures at the time. Mr D has provided no evidence that the Adviser submitted a paper transfer application form in accordance with the guidance provided by FundsNetwork. So, Fidelity cannot be held responsible for the resulting full transfer of policy number 3908626.
 - Fidelity has no record of receiving a telephone call, or of communications with the Adviser regarding a partial transfer before or just after the online application was submitted. So, in the Adjudicator's view it was not possible to form an opinion on Mr D's assertion that due to problems following a similar transfer request for another client, the Advisor had telephoned FundNetworks immediately after submitting the online application to confirm the partial transfer requests.
 - The advice to enter the words "PR only" in an online application to Fidelity was supposedly provided to the Adviser by Aegon. In the Adjudicator's opinion, Fidelity cannot reasonably be held responsible for the Adviser not completing an online application form and printing it to make a paper-based partial transfer request, as advised. There was no way for Fidelity to know a partial transfer was required, having received an online application from the Adviser.

- Fidelity has confirmed that its systems at the time were not equipped to process an online partial transfer request. The details entered in an online application were not received in the same format and instead were automatically transmitted onto Origo for processing. This is likely the reason why the question of whether or not a full transfer was required produced an answer of “yes” in Origo.
 - Mr D has provided no evidence that the Advisor had previously been informed by Fidelity that the words “PR only” would automatically appear in Origo and initiate a partial transfer. In the Adjudicator’s view this was an assumption based on the information Aegon provided to the Adviser. So, there was no maladministration by Fidelity in completing a full transfer of policy number 3908626 in accordance with the instruction of “yes” to a full transfer it received via Origo.
 - In the Adjudicator’s opinion it was because the fund value could fluctuate that Fidelity would not have known the exact transfer value under policy number 3908626, before Aegon transferred the sum of £49,002.55. Fidelity would also have been expecting a full transfer based on the online application submitted by the Adviser. So, there would have been no reason for Fidelity to question the transfer value.
33. Fidelity accepted the Adjudicator’s opinion, Mr D did not, and the complaint was passed to me to consider. Mr D and Fidelity provided their further comments, which do not change the outcome. I agree with the Adjudicator’s Opinion and note the additional points raised by Mr D and Fidelity.

Mr D’s additional comments

34. Fidelity’s online application system did not facilitate any differentiation between full and partial transfers, it only provided space for a policy number to be entered, which shows that the system was not suitable for its purpose. Aegon informed the Adviser that a partial transfer could be requested by entering the words ‘PR Only’ in an online application and that no penalty would result from this. The Adviser then followed this guidance.
35. A screen print of the online application submitted by the Adviser indicated that policy number 3908626 and the words ‘PR only’, were entered in the same field and would be available for Aegon’s attention. It was reasonable for the Adviser to assume that this would be the case. It was also unclear how the policy number was transposed onto Origo, but if it was done manually, the term ‘PR only’ was omitted in error. Aegon has confirmed that it acted in accordance with the full transfer request it received from Fidelity via Origo.
36. FundsNetwork’s main telephone number was unhelpful due to the length of time a person had to wait for a call handler to become available. So, the Adviser was provided with a mobile number for a named call handler who became his main contact at FundsNetwork. It then became a habit for the Adviser to telephone the named call handler over several years.

37. The named call handler suggested that the Adviser should submit an online application for a partial transfer then telephone him, having done so. At the time Fidelity was trialling an online partial transfer system. Since FundsNetwork had made previous errors involving other clients, and had a system fault, the Adviser telephoned the named call handler after submitting an online application, as suggested. However, Fidelity failed to follow his instructions for a partial transfer.
38. FundsNetwork operated a poor telephone system in requiring unrecorded calls to the named call handler's mobile telephone when raising enquiries or providing instructions. FundsNetwork used this process to unreasonably claim that there was no record that the Adviser called immediately after submitting the online application. The Adviser was never told that only phone calls made to Fidelity's main enquiry number would be recorded, otherwise he would have called on that line.
39. Before completing a full transfer, Fidelity ought to have questioned the fund value increase under policy number 3908626 as £38,779 that was quoted in the online application, but £49,002.55 was transferred a matter of days later. That 26% increase was significant but Fidelity ignored it.

Fidelity's additional comments

40. At the time the Adviser submitted the online application there was no trial allowing partial transfers to be submitted online. There were also no procedures whereby financial advisers were encouraged to telephone a mobile number and make unrecorded enquiries or provide instructions.

Ombudsman's decision

41. Mr D contends that Fidelity's system did not facilitate differentiation between full and partial transfers. A screen print of the online application submitted by the Adviser indicated that policy number 3908626 and the words 'PR only', were entered in the same field and would be available for Aegon's attention to process a partial transfer. Mr D says it was reasonable for the Adviser to assume that this would be the case. It was also unclear how the policy number was transposed onto Origo but if it was done manually, the term 'PR only' was omitted in error.
42. I consider that the Adviser entered the words 'PR only' in the online application with no guarantee provided by Fidelity that this would initiate a partial transfer. Indeed, it would appear that both parties were aware of this. For example, the Adviser commented, in a letter to FundsNetwork dated 23 May 2019, that "*...your online system at that time did not give an opportunity to select either a partial or full transfer*". Similarly, in my view, it is the fact that Fidelity was aware that its online system could not facilitate partial transfers that, at that time, a paper-based approach was required. Fidelity has confirmed that its online applications are automatically transposed onto Origo and are not received in the original format – and in my view that is the reason that only policy number 3908626 was received in Origo, without the term 'PR only' being included.

43. Having seen a screen print of the online application, I consider that the field in which the Adviser input the words 'PR only' was designated for a policy number to be entered, as it was marked 'Policy reference'. The number 3908626 correctly transposed from the online application to Origo accordingly. So, there is no evidence of a fault in Fidelity's system. In these circumstances, I find that it was not reasonable for the Adviser to assume that the term 'PR only' would also be available for either Fidelity or Aegon to act on. Fidelity correctly processed a full transfer in accordance with its normal procedures at the time since an online application rather than a paper application was received from the Adviser.
44. Mr D says that a named call handler at FundsNetwork suggested that the Adviser should submit an online application for a partial transfer then telephone him. Mr D says that at the time Fidelity was trialling an online partial transfer system. The Adviser then telephoned the named call handler after submitting an online application, as suggested. Fidelity contends that at the time the Adviser submitted the online application there was no trial requiring partial transfers to be submitted online.
45. I consider that the Adviser acted in accordance with the guidance from Aegon that Mr D has referred to, rather than on any instructions provided by Fidelity. It has no record of any telephone conversation with the Adviser regarding a partial transfer either in the two-month period before, or just after the online application was submitted on 5 September 2018. While there could have been a telephone call between the named call handler and the Adviser, there is no evidence of what was discussed on any call, for example a contemporaneous file note. As a result, I find that there is no evidence Fidelity informed the Adviser of a trial involving an online partial transfer system at the time, that an online application would be acceptable in relation to a partial transfer or that a named call handler at FundsNetwork informed the Adviser that he should call after submitting an online application.
46. Mr D has also complained that FundsNetwork operated a poor telephone system in requiring unrecorded calls from financial advisers to a named call handler's mobile telephone when raising enquiries or providing instructions. He says Fidelity has used this process to claim there was no record that the Adviser called immediately after submitting an online application. Mr D submits that the Adviser was never told that only calls to Fidelity's main telephone number would be recorded, otherwise he would have called on that line. Fidelity contends that it had no procedures whereby financial advisers were encouraged to call a mobile number and thus make unrecorded enquiries.
47. I note that Mr D has expressed concern regarding the length of time it took the Adviser to successfully contact Fidelity on its main telephone number. However, again there is no evidence to support Mr D's suggestion that Fidelity encouraged the Adviser to instead contact a named call handler at FundsNetwork on a mobile number and raise queries directly in order to avoid recordings. While it might have been time consuming or frustrating the Adviser was free to use Fidelity's main line like all other customers, or pass on the relevant information in writing via email or letter

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48. Mr D contends that before completing a full transfer, Fidelity ought to have questioned the fund value increase under policy number 3908626. I find that due to the fact that the fund value could fluctuate, Fidelity would not have known the actual transfer value until it was received from Aegon and was not in a position to question the increase. So, there was no maladministration by Fidelity.
49. I do not uphold Mr D's complaint.

Dominic Harris

Pensions Ombudsman
27 February 2023