

Ombudsman's Determination

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

Outcome

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

Complaint summary

2. Mr Y has complained that Fidelity has denied him control of how and when he is able to take a withdrawal from his SIPP and that it has not processed payment of his benefits as per his instructions
3. He says he has been disadvantaged because of this as he has been denied an income since January 2021, which will have increased his tax liability for the subsequent tax year.

Background information, including submissions from the parties

4. The sequence of events is not in dispute, so I have only set out the salient points. I acknowledge there were other exchanges of information between all the parties.
5. At the point of applying for the SIPP with Fidelity, Mr Y signed an application summary which detailed declarations he was agreeing to in opening the SIPP. Under the declarations section, Mr Y declared that he had been given copies of the SIPP Terms and Conditions (**T&Cs**), he had read the documents and would be bound by them.
6. Section 18.3 of the SIPP T&Cs, states:-

"You can take income in the form of pension drawdown from a Fidelity SIPP – Pension Drawdown Account created at a Pension Date provided:

- You have received risk warnings in the form of a telephone conversation or face to face meeting from Fidelity's Retirement Service, using either their guidance or advice service."
7. On 17 and 18 August 2020, Mr Y telephoned Fidelity to discuss how it processes Uncrystallised Funds Pension Lump Sum (**UFPLS**) payments.
 8. On 21 August 2020, Mr Y telephoned Fidelity to express his dissatisfaction with being told that it had to send him an illustration and discuss the risk and regulatory details of him receiving a UFPLS payment before making payment to him. Mr Y also expressed that he was unhappy that it was unable to give him a specific date as to when he would receive payment.
 9. On 21 December 2020, Fidelity responded to Mr Y's complaint. It said in summary:-
 - It was obliged to issue a client with an illustration and ensure that they were aware of the risks and regulatory details associated with taking an UFPLS payment. It would not consider any form of instruction to bypass this process.
 - It was not able to specify dates for any payment that was made on a regular basis as these were processed automatically and there were too many variables with each individual instruction.
 - It did not usually allow clients to defer an instruction to a later date, however it made an exception for Mr Y with his most recent UFPLS payment.
 - It apologised for the time taken to respond to Mr Y's concerns and in recognition of this, it had arranged for £100 to be paid into his bank account.
 10. On 14 January 2021, Mr Y wrote to Fidelity requesting a withdrawal form pack with an illustration for a withdrawal from his SIPP of £5,200. He confirmed that this was an execution only request and that he fully understood all of the implications and did not require Fidelity to telephone him. He explained that due to his phone being stolen, he had a new phone number and that due to the pandemic he was having to self-isolate at a temporary address so required Fidelity to amend its records.
 11. On 26 January 2021, Fidelity wrote to Mr Y. It acknowledged his request for a withdrawal from his SIPP and informed him that it was unable to accept his request as it required the appropriate application form to be completed. It also advised Mr Y that a telephone call needed to take place before it could begin preparing and sending his application paperwork. It confirmed that it had attempted to telephone Mr Y but was unsuccessful in reaching him and due to unprecedented demand, the next available appointment for a telephone call was 5 February 2021.
 12. On 5 February 2021, Fidelity made four telephone calls to Mr Y but was unable to reach him.

13. On 12 February 2021, Mr Y wrote to Fidelity. He said in summary:-

- He was disappointed that Fidelity did not send the 26 January 2021 letter to his temporary address as per his request in an earlier communication.
- He felt he was being discriminated against as he did not have a good working phone signal.
- Fidelity was preventing him from managing his SIPP and removing his control of the SIPP altogether by refusing to send him the documentation which was required to make a withdrawal payment.
- He was an execution only client and did not require any guidance.

14. On 22 February 2021, Fidelity wrote to Mr Y acknowledging his letter of 12 February 2021 and informed him that it would carry out an investigation into the points he raised.

15. On 3 March 2021, Fidelity telephoned Mr Y to discuss his complaint but it was unsuccessful in reaching him.

16. On 4 March 2021, Fidelity responded to Mr Y's complaint letter. It said in summary:-

- It did not uphold Mr Y's complaint as it must adhere to the guidelines set by the Financial Conduct Authority's (**FCA**) 'Conduct of Business (COBS)'. Section 19.7¹ stipulated that it was required to give retirement risk warnings to its retail clients and signpost them.
- It must also ensure this had been communicated to each client before it could progress to the next stage. Its chosen method of communication was by verbal means on a recorded line.
- It was unable to accept any other form of acceptance to the retirement risk warnings as per its T&Cs – 'Doing Business with Fidelity' document.
- It noted that Mr Y had provided it with a temporary address. However, it was unable to use this address as it was not a formal instruction, and it had been unable to speak with Mr Y to verify this.
- The number Mr Y had provided, in his letter dated 14 January 2021, had not been verified so it was unable to send him an SMS text message. In order for it to be verified, it must speak to Mr Y.

17. Following the complaint being referred to The Pensions Ombudsman (**TPO**), Mr Y and Fidelity made further submissions that have been summarised below.

¹ 'Pensions nudge and retirement risk warnings'

Mr Y's position

18. He is not happy that due to Fidelity's withdrawal process he has been denied control of his SIPP and was unable to make a withdrawal until 2023, despite requesting one in 2021.
19. Fidelity's inflexible interpretation of its T&Cs has denied him his right of controlling his SIPP and has prevented him from optimising tax efficiencies which has caused him financial hardship.

Fidelity's position

20. It believes that the correct decision was made in not upholding Mr Y's complaint.
21. It was reasonable for it to follow its security and withdrawal processes with its clients when requesting withdrawals from their SIPP.
22. It has a duty of care to ensure all clients are fully aware of the potential implications when making a withdrawal.

Adjudicator's Opinion

23. Mr Y'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 in paragraphs 24 to 26 below.
24. The Adjudicator was of the opinion that Fidelity was entitled to set its own standards and requirements in order to manage the SIPP and that the measures to protect the security of SIPP member's benefits was not unreasonable. When Mr Y agreed to the SIPP T&Cs, he agreed to the requirements stated for making withdrawals.
25. It was the Adjudicator's opinion that while she could appreciate the difficulty Mr Y faced during the pandemic, she was satisfied that Fidelity acted in accordance with its T&Cs and appropriately advised Mr Y that before making any UFPLS payment, he must have a telephone call with it to advise him of the risks and regulations associated with the withdrawal.
26. The Adjudicator disagreed that Fidelity had denied Mr Y an income as he had claimed and said that there was no maladministration.
27. Mr Y did not accept the Adjudicator's Opinion. The complaint was passed to me to consider. Mr Y provided further comments which do not change the outcome. I agree with the Adjudicator's Opinion and note the additional points raised by Mr Y.

Mr Y's additional comments

- 28. Fidelity has not complied with FCA obligations and has narrowly interpreted the way in which it discharges those obligations which is discriminatory.
- 29. The FCA make allowance for either written or verbal sign posting of risks however Fidelity does not provide written risk warnings.
- 30. Fidelity makes no mention that it does not permit a client to call them and obtain risk warnings.
- 31. During the telephone calls that Fidelity made to him, the weak signal contributed to the lack of conversation as the call kept cutting out. Fidelity failed to fulfil its own requirements of delivering its risk warnings as it did not arrange a face-to-face meeting with him.

Ombudsman's decision

- 32. Mr Y has complained that Fidelity has denied him the right to manage his SIPP.
- 33. Mr Y has referred to Fidelity not complying with the FCA guidelines. I do not agree. Section 19.7 of the Conduct of Business clearly requires Fidelity to give retirement risk warnings to its retail clients and ensure they have been signposted. In addition, it must ensure that these have been communicated with the client before it can progress to the next stage which Fidelity attempted to do.
- 34. Section 18.3 of the SIPP's T&Cs required that Mr Y receive risk warnings in the form of a telephone conversation or face to face meeting with Fidelity's Retirement Service.
- 35. Fidelity was not able to arrange a face-to-face meeting with Mr Y due to the pandemic. So, it attempted to call Mr Y on several occasions.
- 36. At that time, Mr Y provided Fidelity with a temporary address and an alternative telephone number. To verify these modes of contact, Fidelity informed Mr Y that it would need to speak with him but it was unable to do so. I do not find that Fidelity was being uncooperative in putting these security measures in place.

Fidelity has a duty to ensure clients are fully aware of withdrawal implications. All the requirements requested from Mr Y appear to have been reasonable and proportionate and do not amount to maladministration by Fidelity.

- 37. I do not uphold Mr Y's complaint.

Camilla Barry

Deputy Pensions Ombudsman

CAS-76954-G2W2

17 March 2025