

## Ombudsman's Determination

Applicant	Mrs W
Scheme	Fidelity FundsNetwork Pension ( <b>the Plan</b> )
Respondents	Fidelity International ( <b>Fidelity</b> )

### Outcome

1. I do not uphold Mrs W's complaint, and no further action is required by Fidelity.

### Complaint Summary

2. Mrs W complained that Fidelity delayed transferring her Flexi Access Drawdown Pension and Self-invested Personal Pension (**the SIPP**) to Nucleus. As a result, her funds were left out of the market longer than necessary and she lost the opportunity for investment growth during this time.

### Background information, including submissions from the parties

3. The sequence of events is not in dispute, so I have only set out the salient points.
4. On 6 October 2020 and 13 October 2020, Mrs W's Independent Financial Advisor (**the IFA**) instructed Fidelity to switch all fund holdings not in suspended funds to cash.
5. On 15 October 2020, Fidelity received an in-specie transfer out request from Nucleus. Fidelity responded with a transfer valuation and transfer discharge forms to be completed and returned.
6. On 20 October 2020, the IFA requested from Nucleus timescales for the completion of the transfer.
7. On 17 November 2020, the IFA chased Nucleus for an update again. Nucleus confirmed that the transfer was still in progress and that it was having issues with contacting Fidelity.
8. On 1 December 2020, Nucleus confirmed to the IFA that the transfer was rejected due to valuations not matching.

9. On 14 December 2020, the IFA sent forms to Nucleus so that the transfer could be requested again.
10. On 18 December 2020, Fidelity received completed discharge forms from Nucleus.
11. On 21 December 2020, Nucleus wrote to Fidelity and confirmed that it was willing to accept the disinvested cash in advance of the suspended assets. It also requested confirmation from Fidelity on if it would transfer the disinvested cash first and send the suspended assets through re-registration afterwards.
12. On the same day, Fidelity initiated the re-registration of the remaining funds to Nucleus.
13. On 22 December 2020, Fidelity confirmed receipt of the discharge forms from Nucleus and said that it would proceed with the transfer. It also said that it aimed to get the transfer processed within three to five working days.
14. On 23 December 2020, Fidelity confirmed to the IFA that the in-specie transfer funds needed to be sent to Nucleus first and that the cash would be transferred thereafter, and this was because the account was in drawdown. It also confirmed that the fund transfer had been arranged to be processed.
15. On 24 December 2020, Fidelity sent out transfer confirmations.
16. On 4 January 2021, the IFA chased Fidelity for an update on the transfer.
17. On 5 January 2021, Fidelity responded to the IFA and confirmed that it had to carry out a manual stock transfer of the non-suspended funds. It also confirmed that the transfers were being marked as urgent. Fidelity also confirmed that a request had been raised to query if the cash could be transferred to Nucleus before the funds.
18. On the same day, Fidelity confirmed that it could not transfer the disinvested cash first as this would constitute a partial transfer. The cash would need to follow the re-registration of the funds.
19. Between 8 January 2021 and 25 January 2021, Fidelity chased the progress of the transfer internally.
20. On 26 January 2021, Fidelity re-registered out the final in-specie transfer to Nucleus.
21. On 27 January 2021, Fidelity sent the cash transfer payment of £327,420.00 (**First Account Payment**) from Mrs W's Drawdown Account to Nucleus. The remaining amount of £65,721.81 (**Second Account Payment**) was sat in cash pending the sale of a property fund.
22. Between 28 January 2021 and 3 February 2021, Fidelity chased the progress of Second Account Payment internally.
23. On 3 February 2021, Fidelity sent the Second Account Payment to Nucleus.

24. On the same day, the IFA queried why Fidelity did not transfer the cash from the uncrystallised pot as the legal requirement to only do full transfers only applied to crystallised pensions. Fidelity responded and said that its process to date was to handle Drawdown accounts and Savings accounts separately. It admitted that it could have transferred the cash from the uncrystallised pot sooner, had its process been different. It also confirmed that changes were being made to its process to create a more joint approach and that the separate handling of accounts did not usually cause problems.
25. On 10 May 2021, the IFA complained to Fidelity on behalf of Mrs W regarding the delays to the transfer of her pension to Nucleus.
26. On 7 June 2021, Fidelity sent a letter to the IFA with an update. It said it was still not in a position to respond to Mrs W's complaint.
27. On 5 July 2021, Fidelity informed the IFA it was still carrying out investigations, and that it was committed to resolving the matter as soon as possible.
28. On 13 July 2021, the IFA requested an update on the complaint from Fidelity.
29. On 15 July 2021, Fidelity sent an email to the IFA to query who at Fidelity had advised the IFA to switch Mrs W's non-suspended funds to cash to facilitate a quicker transfer.
30. On 2 August 2021, Fidelity sent a letter to the IFA with an update on the complaint investigation. It apologised for the delay in resolving Mrs W's complaint.
31. On 31 August 2021, Fidelity apologised again for the delay in resolving Mrs W's complaint in a letter to the IFA.
32. On 2 September 2021, Fidelity provided its final response to Mrs W's complaint. It did not uphold the complaint as the transfer was processed in accordance with procedures and expected timescales. It offered Mrs W £25 in recognition of the time taken to complete the complaint investigation.
33. Following the complaint being referred to The Pensions Ombudsman (**TPO**), Mrs W and Fidelity made further submissions that have been summarised below.

**Summary of Mrs W's position:-**

- As a result of Fidelity's lack of communication and broken promises, her pension funds were out of market significantly longer than necessary.
- Fidelity operated a faulty process and failed to communicate it, which caused her to suffer unnecessarily. It did not communicate that the re-registration of the suspended funds needed to be completed prior to the transfer of the disinvested cash.
- Fidelity did not communicate the sequence of events until two months after the receipt of the necessary forms to complete the transfer.

- It repeatedly alluded that the transfer would be completed imminently. If it was not for this the disinvestment could have been reversed and the impact lessened.
- The transfer should have completed by 22 December 2020 if no delays had occurred. She is due £11,840.86 for her funds being left out of the market unnecessarily between this date and the dates the transfers were settled.

### **Summary of Fidelity's position:-**

- From receipt of the required transfer documents from Nucleus the in-specie transfer was completed within nine weeks. It expects such transfers to take up to twelve weeks to complete.
- The industry standard for in-specie transfers is for any cash transfer payments to be sent once the re-registration of the fund holdings to the new pension provider have settled. This was the process followed for Mrs W's transfer out.
- It could not find any records of the IFA being advised that selling the fund holdings to cash would ensure the transfer would complete sooner. This would be the case for cash transfer requests, but it did not receive a cash transfer request from Nucleus.
- Had the IFA not decided to sell all the non-suspended funds to cash, Mrs W's funds would have remained invested and would have been transferred in-specie alongside the suspended funds.
- The actions which resulted in £327,420.88 remaining in cash were not those of Fidelity.
- The transfer out request received from Nucleus was completed in a timely manner and in line with the processing procedures for such transfers.

### **Adjudicator's Opinion**

34. Mrs W'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:-

- Fidelity explained that where a transfer includes an in-specie fund transfer and cash transfer, its standard procedure was to complete the cash transfer after the in-specie fund transfer had been completed. This process was explained to the IFA in the emails of 23 December 2020 and 5 January 2021. The Adjudicator noted that Fidelity did not explain to Mrs W or the IFA what its standard process was prior to commencing the transfer. However, Fidelity was not required to explain to them that it would process the transactions in this way.
- Fidelity was unable to proceed with the in-specie transfer of Mrs W's funds without having received all of the required forms. It did not receive the final discharge

forms from Nucleus until 18 December 2020. It was therefore the Adjudicator's view that it was not the actions of Fidelity which caused an initial delay of almost two months to the transfer of Mrs W's funds.

- It was the Adjudicator's opinion that Fidelity completed the transfers of Mrs W's two pensions within a timely manner. Fidelity has confirmed that it would have expected such transfers to take up to twelve weeks at the time, and Mrs W's transfers were completed well within this timeframe.
- The Adjudicator was of the view that Fidelity's actions did not amount to maladministration. The transfer took longer to complete as Fidelity had to carry out a manual stock transfer of the non-suspended funds, however, there was regular internal communication to progress Mrs W's transfer, which indicated that Fidelity did understand the urgency of the matter.

35. In the Adjudicator's view, Fidelity did as it was instructed in relation to the disinvestment of the non-suspended funds into cash. The disinvestment was instructed by the IFA prior to the in-specie transfer request. As the Adjudicator was not presented with any evidence which showed that the IFA was incorrectly advised by Fidelity that it would be more efficient to move non-suspended funds to cash prior to requesting the in-specie transfer of the suspended funds, she considered that any loss caused due to the majority of Mrs W's funds remaining in cash could not reasonably be attributed to

36. any failings or shortcomings by Fidelity.

- It was the IFA and Mrs W's decision to move the non-suspended funds to cash prior to requesting the in-specie transfer, and the decision was made before the transfer had begun. If the funds had remained invested, Mrs W would have benefited from market conditions. The IFA and Mrs W had the opportunity to reinvest the cash up until the re-registration of the non-suspended funds. It was therefore the Adjudicator's view that it would be unreasonable to hold Fidelity responsible for Mrs W's funds being out of the market.

37. Mrs W did not accept the Adjudicator's Opinion, and the complaint was passed to me to consider. Mrs W submitted further comments in response to the Opinion. In summary she said:-

- Fidelity assessed their procedure of having 'procedural shortcoming' and it was looking to make changes to its process as a result of this.
- It also confirmed it could have sent the cash for the Savings Account sooner in the email response it sent to the IFA on 3 February 2021. It did not prioritise the transfer of the cash, even though it was aware that Nucleus was willing to accept the cash prior to the in-specie transfer of the suspended funds.
- Although Fidelity did follow the initial instruction to disinvest the cash, it does not appear to have mitigated the length of time the funds were disinvested.

38. I have considered Mrs W's further comments, but they do not change the outcome, I agree with the Adjudicator's Opinion.

### **Ombudsman's decision**

39. I find that Fidelity was not responsible for any unreasonable delays to the transfer of Mrs W's pension to Nucleus.
40. On 15 October 2020, Fidelity received an in-specie transfer request from Nucleus for Mrs W's pension funds. Fidelity was unable to proceed with the in-specie transfer until it had received all of the required transfer forms. It only received the final discharge forms from Nucleus on 18 December 2020. I therefore find that Fidelity was not responsible for the initial delay of two months to the transfer of Mrs W's funds.
41. I also do not find that Fidelity caused any unreasonable delays to the transfer once it had received all of the required forms. It initiated the re-registration of the suspended funds shortly after it had received the required forms. Although the transfer took longer to complete as Fidelity had to carry out a manual stock transfer of the non-suspended funds, it was still completed well within the twelve weeks that it expected such transfers to take at the time.
42. Mrs W's main complaint is that the majority of her funds were left out of the market longer than necessary and that she lost the opportunity for investment growth during this time.
43. Fidelity has said that its standard process was to complete the cash transfer after the in-specie fund transfer had been completed, in cases where a transfer included both an in-specie fund transfer and a cash transfer. This process was explained to the IFA in the emails of 23 December 2020 and 5 January 2021.
44. Fidelity received an in-specie transfer request and was required to follow the standard process that was in place for such transfers at the time. It has explained that it would have been able to transfer the cash funds sooner had it received a cash transfer request from Nucleus. It did not however receive a cash transfer request. I find that Fidelity acted appropriately by following its standard process and the formal transfer instruction it had received, and its actions do not amount to maladministration.
45. I recognise that Fidelity said in its correspondence with the IFA on 3 February 2021 that it would have been able to transfer parts of Mrs W's funds sooner, had its process been different, and that it was introducing changes. I do not consider Fidelity's response to the IFA on 3 February 2021 to be an admission of liability in relation to Mrs W's transfer. Rather, I find it commendable that Fidelity regularly reviews its processes to find ways to improve, and I do not consider that this alters the fact that Fidelity correctly followed the process that was in place at the time of Mrs W's transfer.

46. The decisions to move Mrs W's non-suspended funds to cash on 6 and 13 October 2020 was made by the IFA and Mrs W, before the in-specie transfer request was sent to Fidelity. They may have been under the impression that encashing the funds prior to requesting the in-specie transfer would have expedited the transfer process. However, I have not been presented with any evidence which would suggest that the IFA or Mrs W were incorrectly advised by Fidelity that it would be more efficient to move non-suspended funds to cash prior to requesting the in-specie transfer of the suspended funds. The IFA and Mrs W also had the option to reinvest the funds up until the re-registration of the non-suspended funds, if they wanted to benefit from the market conditions at the time.
47. I do not find that any financial loss that Mrs W may have suffered due to the majority of her funds remaining in cash, can reasonably be attributed to any failings or shortcomings by Fidelity. Rather, Fidelity's internal communications suggest that it was taking steps to complete the transfer at the earliest possible point.
48. I do not uphold Mrs W's complaint, and no further action is required by Fidelity.

**Dominic Harris**

Pensions Ombudsman  
4 April 2025