

## Ombudsman's Determination

Applicant	Mrs Y
Scheme	Fidelity SIPP (the <b>SIPP</b> )
Respondents	Fidelity

## Outcome

1. I do not uphold Mrs Y's complaint and no further action is required by Fidelity.
2. My reasons for reaching this decision are explained in more detail below.

## Complaint summary

3. Mrs Y has complained that a mistake by Fidelity created a delay in the payment of the cash lump sum and income drawdown from the SIPP, causing her a financial loss. She also says that the delay in processing her request, and in particular the fact that she was told that she could not receive her pension as she was living in Portugal, caused her distress and inconvenience for which she should be compensated.

## Background information, including submissions from the parties

4. Mrs Y sold the investments held in the SIPP on 26 March 2015. Her intention was to use the 25% cash lump sum to reduce her mortgage debt, thereby reducing her mortgage repayments.
5. The lump sum payment was eventually made on 2 September 2015.
6. Mrs Y says that Fidelity did not know how to deal with a relatively straightforward request to provide a lump sum payment and set up a drawdown account.
7. She was told that she could not access the monies as she lived abroad. This was a great worry until she was told, much later, that there was no problem.
8. She says that Fidelity has never explained why further charges were deducted after the fund was switched to cash on 26 March 2015, which she considers did not require any management input justifying further charges.
9. She considers that Fidelity made no real attempt to resolve the issues and that their apology letter lacked any degree of genuine concern or regret.

10. Fidelity say that the fact that they will not open accounts for clients outside of the UK is covered in their client terms. The application received was correctly rejected because it gave Mrs Y's address as being in Portugal.
11. They also say that the delay was simply because of the time it took to receive an application in good order and that there was no delay once this had been received.

## **Adjudicator's Opinion**

12. Mrs 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 briefly below:
  - The SIPP had originally been set up on an 'advised' basis, but Mrs Y had severed the relationship with her financial adviser. This restricted Fidelity's ability to deal direct with her and action her requests.
  - Fidelity proposed that Mrs Y transfer her SIPP to a new arrangement which would be set up on a 'non-advised' basis. However, Fidelity will only open accounts for current UK residents and the application form submitted by Mrs Y gave her address as being in Portugal.
  - Fidelity agreed to resubmit the application with Mrs Y's UK address. However, in a separate conversation with Fidelity, Mrs Y was told that, because she was not resident in the UK, her options were to speak to her adviser and take the cash lump sum and income drawdown from the existing SIPP, seek the help of another financial adviser or transfer the funds to another provider.
  - Mrs Y agreed with Fidelity that they would telephone her on 20 July 2015, and made arrangements especially so that she could take the call. However, Fidelity did not telephone as agreed. Fidelity has accepted this and offered £40 compensation.
  - The transfer and drawdown forms were sent to Mrs Y, completed and returned on 12 August 2015.
  - Fidelity's actions amounted to poor administration without amounting to maladministration.
  - Whilst Fidelity did cause some confusion in having two individuals providing contradictory advice regarding the implications of Mrs Y living in Portugal, the only delay which could have been avoided was that between 15 May 2015 and 18 June 2015. However, Mrs Y accepts that Fidelity made attempts to telephone her, but that she did not pick up their voicemail messages.
  - Overall, the Adjudicator did not consider that Fidelity could be held to be at fault for the time taken. Fidelity accepted that they did not telephone Mrs Y on 20 July

2015, as agreed, but the Adjudicator considered that the offer of £40 compensation was adequate for the inconvenience caused.

13. Mrs Y did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mrs Y provided her further comments, many of which do not change the outcome. I agree with the Adjudicator's Opinion, summarised above, and I will therefore only respond to the key points made by Mrs Y for completeness.
14. Mrs Y disagrees to some extent with the Adjudicator's view that Fidelity are free to decide how best to run their business provided they comply with the law. She says that if delays are caused as a result then that amounts to maladministration.
15. She points out that, although the problem of her living in Portugal was first identified on 15 May 2015, it was not until 15 July 2015 that this was resolved when it was agreed that the amended application could be used.
16. Whilst she accepts that she had not picked up voicemail messages, she points out that she had repeatedly emailed Fidelity between 16 May 2015 and 6 July 2015. She says that it would have been clear to Fidelity that she used email extensively and that they should have attempted to contact her in this way.
17. She says that the Adjudicator has not considered the considerable stress and uncertainty caused by being told that she could not access her pension fund because she was living in Portugal.

### **Ombudsman's decision**

18. I agree with the Adjudicator that Fidelity are free to decide how to run their business, but I accept Mrs Y's point that, where their processes lead to unnecessary and unjustified delay, this may be considered to be maladministration. However, I do not consider that to be the case here, as I will explain.
19. The issue was not simply that Mrs Y was living in Portugal, but that she had severed her relationship with her financial adviser. Were this still classed as an 'advised' SIPP, many of the problems which followed would simply not have occurred. I make this point not to attach blame, but to clarify that this was an unusual combination of circumstances which goes some way to explain what followed and why Fidelity were unsure how best to deal with her case.
20. I acknowledge Mrs Y's point that whilst Fidelity were telephoning her and leaving voicemail messages, she was emailing Fidelity. I have some sympathy with her view that Fidelity could have emailed her in return, but nonetheless I consider that, as she failed to check her voicemail messages, she has to share the responsibility for the delay caused between 15 May 2015 and 18 June 2015, when she was told that Fidelity had been trying to contact her.
21. Mrs Y says that the thought of not being able to access her pension as she was living in Portugal caused her considerable stress and uncertainty. But, I do not believe this

is the case. Regardless of whether or not her application for a 'non-advised' SIPP could be accepted, Fidelity had made clear to her, in the second telephone conversation on 15 May 2015, that she could access her funds either by speaking to her adviser, seeking the help of another adviser, or transferring her funds to another provider.

22. So whilst I agree that Fidelity's administration of Mrs Y's request for benefits was poor, I do not consider that it amounted to maladministration.
23. Therefore, I do not uphold Mrs Y's complaint.

**Anthony Arter**

Pensions Ombudsman  
8 June 2016