

## Ombudsman's Determination

Applicant	Mr H
Scheme	Fidelity NetworkFund SIPP ( <b>the SIPP</b> )
Respondent	Fidelity International ( <b>Fidelity</b> )

## Outcome

1. I do not uphold Mr H'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. Mr H submits that Fidelity delayed a transfer request unreasonably, resulting in lost opportunities for investment growth.

## Background information, including submissions from the parties

4. Fidelity was acting as the administrator of the SIPP.
5. In November 2015, Mr H decided to transfer the SIPP to MC Trustees Limited (**MC**). On 18 November 2015, Mr H's financial adviser, Flemmings Financial Planning Limited (**Flemmings**) submitted the transfer instruction to MC.
6. MC issued the transfer paperwork to Fidelity on 24 November 2015 and asked Fidelity to start the re-registration process.
7. Fidelity transferred the SIPP assets to MC on 11 February 2016.
8. Flemmings emailed Fidelity on 17 February 2016 to complain about the transfer process. It said:-
  - On 19 November 2015, it had instructed Fidelity to redeem a bank account with an interest rate of 2% containing £552,714.95 of cash assets. This was done in the expectation that Fidelity would transfer these assets to the MD SIPP promptly so Mr H could reinvest the cash. In the event, Fidelity retained the cash during the transfer process and did not transfer the assets to the MC SIPP until 11 February 2016. During this time, the cash earned no interest. If Fidelity had processed the transfer more quickly, the cash could have been

reinvested. Alternatively, it could have remained in the bank account, earning 2% interest.

- Fidelity took the annual administration charge of £504 for the 2016/17 SIPP year from the cash contained in the bank account before it was transferred to the MC SIPP. This was because the SIPP anniversary date fell within the transfer period and would not have become due if Fidelity had completed the transfer more quickly.

9. Fidelity responded on 16 March 2016. It said:

- In-specie transfers often take longer than cash-only transfers; and Mr H's SIPP held several external investments.
- It processed the transfer request in accordance with its service standard of a five working day turnaround for completion of individual tasks.
- When completing transfers, it always retains a cash balance in the SIPP account to ensure there is enough money to cover any charges that are outstanding at the end of the process. This is because it does not know the total charges that are due until the process is completed and as such, the cash in the bank account was retained until the transfer was completed.
- The SIPP terms and conditions say that the annual administration charge is payable on the SIPP anniversary date. In Mr H's case this was 12 January 2016 and so it was entitled to deduct this fee from the final holding transferred to the MD SIPP.
- The SIPP was held in several separate, individual arrangements, depending on how and when the payments were received. As a result, the cash assets could only have been transferred first by way of a partial transfer, which financial advisers are required to specifically request. Fidelity noted that Flemmings had previously requested several partial transfers on behalf of other clients.

## **Adjudicator's Opinion**

10. Mr H'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:

- Fidelity had responded to each piece of correspondence, and all requests from the various parties involved, within five working days, which was in line with its service standards. Delays were not due to maladministration by Fidelity, but reflected the need for the various parties to clarify matters in order to facilitate the transfer process.

- The SIPP terms and conditions state that the annual administration charge is payable on the anniversary of the SIPP start date and, if a client instructs Fidelity to transfer the whole SIPP, this charge will be taken from the final transfer payment. As such, Fidelity was entitled to deduct the annual administration charge from the final cash transfer.
  - Fidelity confirmed that it always holds a cash balance in the SIPP account until the final transfer date so there is sufficient money to cover any outstanding charges. Therefore, Fidelity carried out the transfer in accordance with its policies and did not treat Mr H differently to other customers.
  - The service which Fidelity provided to Mr H was on an execution-only basis and as such, it was not for Fidelity to second-guess Flemmings' intention as to whether a partial transfer was required.
11. Mr H did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr H provided his further comments 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 Mr H for completeness. In summary, these are:
- Flemmings previously asked Fidelity to carry out a partial cash transfer from Mr H's SIPP account but Fidelity declined the request. As a result of this, Mr H took the decision to transfer all the assets in the Fidelity SIPP to the MC SIPP. In support of this point, Mr H provided a copy of an email chain between Flemmings and Fidelity in which the request for a partial transfer was refused.
  - Fidelity should have transferred the majority of the cash in the account to the MC SIPP, keeping a small cash balance in the Fidelity SIPP account to account for the outstanding fees.

## **Ombudsman's decision**

12. I have reviewed the email chain between Flemmings and Fidelity which Mr H provided with his comments. The chain shows that on 3 November 2015, Flemmings emailed Fidelity, explaining:-

"I am writing in respect of our below named clients who wish to partially transfer cash from their respective Fidelity FundsNetwork/Standard Life SIPP to another SIPP provider ...

Please note that the above clients would like to make the above transfer so as to enable them to invest in a product which is not available under the Fidelity FundsNetwork SIPP.

Kindly liaise with Standard Life to grant the concession as a matter of urgency as the above clients wish to execute the partial transfers immediately".

13. On 5 November 2015, Fidelity responded:-

“Standard Life have declined these concession requests.

The reasons they provided were the earlier partial transfers requested on some of these plans, and the additional resource required to process these claims. They acknowledge their statutory obligation to pay out a full transfer value, but that they have no such statutory obligation nor any obligation under the terms and conditions to agree to a partial transfer. They reiterated that a payment out of a partial transfer value is entirely at their discretion. In conclusion, given the value and frequency of partial transfers, the costs associated with processing, and the residual balances left on this occasion (less than £0.5m across the six plans), Standard Life have exercised their discretion to decline these requests. We can facilitate full transfers”.

14. In light of the content of these emails, I accept Mr H’s point that it was not possible to carry out a partial transfer on this occasion.
15. Having said that, Fidelity referred Flemmings’ application for a partial transfer to Standard Life and provided an explanation as to why it was unable to process a partial transfer this time. Fidelity referred to the value and frequency of Mr H’s partial transfer requests, the costs associated with processing them and the relatively low residual balances. In my judgment, this is a reasonable explanation. Having received that explanation Flemmings then instructed Fidelity to disinvest the Bank of Baroda holding. Fidelity did no more than act on the instruction.
16. I appreciate Fidelity retained £552,714 of cash assets within the SIPP account until the transfer to MC was completed. However, this is common practice across the pensions industry. Moreover, Fidelity has confirmed that it always holds a cash balance in the SIPP account until the final transfer date to ensure there are sufficient funds to cover outstanding charges. In these circumstances, I conclude that no maladministration has occurred.
17. Therefore, I do not uphold Mr H’s complaint.

**Karen Johnston**

Deputy Pensions Ombudsman  
22 March 2017