

Ombudsman's Determination

Applicant	Mr E
Scheme	Fidelity FundsNetwork SIPP (the SIPP)
Respondent	Fidelity

Outcome

1. I do not uphold Mr E'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 E has complained that Fidelity ignored his instruction to transfer his funds held within the SIPP in-specie.

Background information, including submissions from the parties

4. On 25 March 2017, Mr E signed a Transfer Letter of Authority. Mr E has highlighted the following section of the declaration contained within this document:

"Where I have requested a transfer re-registration, I authorise and instruct the current provider(s) to re-register the assets from the plan(s) to Financial Administration Services limited. I authorise the current provider(s) to sell and transfer in cash any assets which cannot be so re-registered or held by FundNetwork."
5. Fidelity has said it received the Transfer letter of Authority on 19 April 2017. However, it did not receive a corresponding application form so it called Mr E's independent financial adviser (**the IFA**) on 20 April 2017 to explain that it would need to submit a transfer application.
6. The IFA had commenced an online application for a transfer of funds from the SIPP but had not completed the application.
7. On 21 April 2017, the IFA spoke with Fidelity in a phone call, a recording of which I have listened to. In this call, upon searching for Mr E's record, Fidelity noted that the online application had not been completed.

8. The IFA said that it had generated an illustration online, which it sent to Mr E along with the transfer forms. The IFA asked Fidelity how to submit the application for the transfer.
9. Fidelity explained to the IFA how to locate the 'manage my client' section of the website. Fidelity then talked through the different stages for locating a pending application. The IFA confirmed that Mr E's details were on this list.
10. Fidelity confirmed this meant the IFA had not yet submitted the application. Fidelity explained how to return to the online process in order to submit this.
11. The IFA said that Mr E had decided not to invest in one of the recommended funds, and could see an option on the online portal for altering the fund percentages. Fidelity confirmed that this could be done at this stage before completing the submission.
12. On 4 September 2017, the IFA raised a complaint with Fidelity on Mr E's behalf. It argued that Fidelity had incorrectly disinvested the funds as part of the transfer process, rather than transferring the funds in-specie, which it believed had caused Mr E a financial loss.

Adjudicator's Findings

13. Mr E'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:-
 - The phone call contains no discussion or comment that an in-specie transfer was required.
 - Fidelity has said that an in-specie transfer cannot be completed online, so the IFA would have needed to submit a paper application if this was the intended action.
 - The IFA discussed changing the fund selection, which could not have been realised without disinvesting some assets.
 - Overall there was no evidence that the IFA had instructed an in-specie transfer.
14. Mr E did not accept the Adjudicator's findings and the complaint was passed to me to consider. Mr E provided his further comments which do not change the outcome. I agree with the Adjudicator's findings and I will therefore only respond to the key points made by Mr E for completeness. A summary of Mr E's comments is below:-
 - Mr E has never used the term 'in-specie' and had to look up its meaning after receiving the Adjudicator's findings.
 - There are no realistic circumstances where an investor would transfer to a different platform by disinvesting then reinvesting.
 - It is for Fidelity to make sure that its clients are familiar with its processes.

- Fidelity has a duty of care to act in the best interest of the funds it holds on behalf of Mr E.
- Fidelity should have recognised that the wrong paperwork had been submitted.

Ombudsman's decision

15. The dispute is over whether the given instruction was for an in-specie transfer.
16. I have reviewed the phone call dated 21 April 2017, and conclude that Fidelity could not reasonably have known that an in-specie transfer was required. It follows that Fidelity could not reasonably have been expected to provide information on the alternative process for this action.
17. I note that the IFA had commenced the online application and that Fidelity had contacted the IFA as the application was flagged as pending. If the IFA had any doubt over which application to use, it ought to have queried this.
18. The IFA has argued that it did send a paper application, however the only paper form it sent was the Transfer Letter of Authority. The highlighted section states how a re-registration will be processed, but only when a re-registration has been instructed. I find no evidence that such an instruction was given.
19. Fidelity's role is to provide general information and guidance on its own processes and to correctly administer client instructions. Mr E is mistaken in his belief that Fidelity ought to have recognised an error had been made in executing the supposed intention. It is not for Fidelity to challenge the client's instruction in a situation such as this, especially given that the instruction came from a registered financial adviser.
20. Therefore, I do not uphold Mr E's complaint.

Anthony Arter

Pensions Ombudsman
14 December 2018