

## Ombudsman's Determination

Applicant	Mrs I
Scheme	Fidelity Self Invested Personal Pension Scheme ( <b>the SIPP</b> )
Respondent	Fidelity International ( <b>Fidelity</b> )

## Outcome

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

## Complaint summary

2. Mrs I has complained that she submitted an instruction to sell units, in the reasonable expectation that Fidelity would apply the prevailing unit price to encash those units. However, Fidelity applied the unit price available on the next working day. She has suffered a financial loss as a direct result of Fidelity's alleged maladministration.

## 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. I acknowledge there were other exchanges of information between all the parties.
4. On 11 March 2020, Mrs I instructed Fidelity to sell the units she had invested in the Baillie Gifford Emerging Markets Growth fund (**the Baillie Gifford Fund**). The instructions were received at 12.50 am; Fidelity completed the sale on the same day.
5. The Key Investor document for the Baillie Gifford Fund (**the Key Investor Document**) states:

“You can sell some or all of your shares on any business day in the United Kingdom by contacting our Dealing Department by phone or post. Where properly completed documentation is received by post, shares will be sold at the next valuation point following receipt of the instruction.”
6. The value of the units in the Baillie Gifford Fund amounted to £21,973.28, as at the valuation date of 12 March 2020.
7. On 14 March 2020, Fidelity sent Mrs I confirmation of the value of the units that had been encashed (**the Sale Confirmation Letter**). Fidelity said that 3,117.22 units

were sold at a unit price of £7.0490. However, Fidelity incorrectly said that the valuation date was 13 March 2020.

8. Mrs I telephoned Fidelity to query the valuation date of 13 March 2020. Mrs I explained that she was expecting Fidelity to use a valuation date of 11 March 2020. The Fidelity representative apologised and said that they would look into the matter and take corrective action.
9. On 24 March 2020, Mrs I telephoned Fidelity. Mrs I reiterated that she was expecting the valuation date to be 11 March 2020, the date she submitted the instruction to sell the units in the Baillie Gifford Fund. During the telephone call, the representative clarified that the valuation date on the Sale Confirmation Letter was incorrect; the correct date was 12 March 2020. The representative explained that the Baillie Gifford Fund operated a trading plus one day policy. Consequently, units were valued on the next working day following receipt of an instruction to trade.
10. Mrs I subsequently submitted a formal complaint to Fidelity.
11. In late March 2020, Fidelity provided its response to Mrs I's complaint and explained that:-
  - Fidelity and the Baillie Gifford Fund Manager had agreed a daily cut off of 4pm for the sale of any units in Baillie Gifford funds. Units would then be valued on the next working day, provided the instruction had been received before 4pm.
  - To receive a valuation date of 11 March 2020, Mrs I would have been required to submit a sale instruction before 4pm on 10 March 2020.
  - The units from the sale of the Baillie Gifford Fund were valued on 12 March 2020, at £7.0490 per unit.
  - Fidelity was unable to comment on the dealing/cut off times agreed by other platform providers.
12. On 24 April 2020, Mrs I telephoned Fidelity and highlighted that Fidelity had provided incorrect information in the Sale Confirmation Letter. Mrs I pointed out that information on the cut off times, in respect of the Baillie Gifford Fund, was not available on Fidelity's website or in any of its literature.
13. On 30 April 2020, Fidelity wrote to Mrs I and advised:-
  - The Sale Confirmation Letter was incorrect as it should have said that the valuation date was 12 March 2020. This error was partially caused by a delay in the Baillie Gifford Fund Manager sending Fidelity confirmation of the unit price post sale.
  - Mrs I was incorrectly told that a correction would be made to the SIPP. The instruction to sell the units in the Baillie Gifford Fund was received on 11 March

2020, so she was only entitled to have the units valued on the next working day (12 March 2020).

- Fidelity does not provide specific information on cut off times on its website. If a SIPP member has a specific question concerning a particular fund, they should contact Fidelity's helpline.
  - Fidelity was prepared to offer Mrs I £150, in recognition of the incorrect information it provided in the Sale Confirmation Letter and during the subsequent telephone conversation she had with Fidelity.
14. On 28 May 2020, Mrs I telephoned Fidelity to query the cut off time, and pricing point, for the Baillie Gifford Fund. A recording of the conversation has been provided to The Pensions Ombudsman (**TPO**). The recording confirms that the representative explained that the cut off time was 4pm with a price point set for the next working day.
  15. On 26 June 2020, Mrs I again telephoned Fidelity to query the cut off time and price point for the Baillie Gifford Fund. Mrs I said that she believes she was provided with incorrect information during the telephone call. She alleges that the call representative told her to get her unit sale instruction in as early as possible to secure a same day unit price.
  16. Fidelity does not have a record of the 26 June 2020 telephone call. However, Mrs I has provided TPO with a recording of the conversation. The representative advised that the Baillie Gifford Fund had a cut off time of 4pm, with a valuation point of 10am. The representative also advised that any sale instructions should be provided as early as possible to meet the daily cut off time of 4pm.
  17. On 27 June 2020, Mrs I emailed Fidelity and explained that she had recently telephoned its helpline. She was told that she needed to submit an instruction to sell units as soon as possible, and preferably in the morning, for the sale to be valued on the same day. Fidelity should correct the valuation date to 11 March 2020, and use the unit price of £7.522 that applied on 11 March 2020. Mrs I calculated that the value of the units in the Baillie Gifford Fund would have amounted to £23,447, as at 11 March 2020.
  18. On 16 July 2020, Fidelity explained that the valuation date it had used was in line with the agreement Fidelity had with the Baillie Gifford Fund Manager. The offer of £150, in recognition that it had provided Mrs I with incorrect information, was reasonable in the circumstances.
  19. On 27 July 2020, Mrs I requested that Fidelity amend the valuation date to 11 March 2020, and pay her an award of £1,474 to remedy the financial loss she had identified.
  20. On 30 July 2020, Fidelity telephoned Mrs I and said that its position had not changed as the sale of the units in the Baillie Gifford Fund was processed correctly. The offer of an inconvenience award of £150, was in recognition of the fact that the Sale Confirmation Letter showed an incorrect valuation date. The offer was also an

acknowledgement that Mrs S was incorrectly informed that the valuation date would be corrected.

## **Adjudicator's Opinion**

21. Mrs I'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 acted in accordance with its agreement with the Baillie Gifford Fund Manager. As Mrs I's sale instruction was placed after the cut off time of 4pm on 10 March 2020, she was only entitled to have the units valued as at 12 March 2020. Consequently, Mrs I had not suffered any financial loss.
- Fidelity was not responsible for how the Baillie Gifford Fund was managed.
- The Key Investor Document was available on Fidelity's website at the time of the sale and confirmed the position. If Mrs I had any questions about the Baillie Gifford Fund, before she instructed the sale, it would have been open to Mrs I to contact Fidelity's helpline. The Adjudicator noted that Mrs I did not contact Fidelity before submitting her instructions to sell the units.
- Mrs I had assumed that the units would be valued on 11 March 2020. In the Adjudicator's view, Fidelity could not be held accountable for any alleged loss Mrs I had suffered as a consequence of that assumption. Mrs I could have made enquiries regarding the Baillie Gifford Fund before instructing Fidelity to sell the units.
- However, the Adjudicator acknowledged that Mrs I had been provided with incorrect information on two separate occasions. The Sale Confirmation Letter showed an incorrect valuation date of 13 March 2020. Mrs I was also incorrectly told by a representative that the valuation date could be amended to 11 March 2020.
- The Adjudicator agreed that the provision of incorrect information amounted to maladministration. The normal course of action would be to put Mrs I back into the position, she would have been in, had it not been for those errors. However, the Adjudicator highlighted that Mrs I was provided with incorrect information after the units in the Baillie Gifford Fund had been sold. So, it did not influence, or affect, Mrs I's decision to submit the sale instruction.
- The Adjudicator concluded that the matter did not warrant the minimum award of £500, that the Pensions Ombudsman would direct for non-financial injustice. In the Adjudicator's view, the effects of the maladministration were short-term and did not result in any negative financial consequences for Mrs I.

22. Mrs I did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mrs I provided her further comments which do not change the outcome.

23. I have considered the additional points raised by Mrs I but I agree with the Adjudicator's Opinion. Mrs I's additional points are summarised below:-
- Mrs I has explained that she has sold units in the Baillie Gifford Fund on a number of occasions, through other providers. All of these providers offered same day valuation for sales instructed early in the morning. So, the agreement between Fidelity and the Baillie Gifford Fund Manager was highly unusual.
  - Information on what Fidelity and the Baillie Gifford Fund Manager had agreed should have been made available on Fidelity's website.
  - Fidelity should provide sufficient redress to remedy her calculated loss of £1,473.72.

### **Ombudsman's decision**

24. Mrs I's complaint concerns the valuation date used for the sale of the units in the Baillie Gifford Fund, which she instructed on 11 March 2020. She considers that the valuation date of 12 March 2020, has resulted in her suffering a financial loss of £1,473.72.
25. The call recording of the telephone calls Mrs I made to Fidelity on 28 May 2020 and 26 June 2020, does not support the view that Mrs I was provided with incorrect information concerning the Baillie Gifford Fund. It is clear from the timeline that the incorrect information Fidelity provided to Mrs I was made several months after the date Mrs I instructed Fidelity to encash the units on 11 March 2020. Consequently, the financial loss Mrs I is claiming is not a direct consequence of her acting on information she subsequently received from Fidelity.
26. Mrs I made an assumption about the valuation date, based on her experience with other providers. This is not something for which Fidelity can be held responsible. The Key Investor Document, which was available on Fidelity's website, confirms that "shares will be sold at the next valuation point following receipt of the instruction". Further, if Mrs I had any questions concerning the cut off time or the valuation point, Mrs I could have contacted Fidelity directly. I note that she did not contact Fidelity until after the units had been encashed.
27. Lastly, there is no overriding legislative requirement for Fidelity to provide information on the Baillie Gifford Fund's cut off times on its website. There is nothing to suggest that Mrs I would have been provided with incorrect information if she had telephoned Fidelity before actioning the unit sale.
28. On reviewing the evidence, I am satisfied that Fidelity has acted in accordance with the agreement it has with the Baillie Gifford Fund Manager. Under the terms of that agreement, Mrs I is not entitled to a valuation date of 11 March 2020. So, she has not suffered a financial loss.
29. I do not uphold Mrs I's complaint.

CAS-56878-Q0F5

**Anthony Arter CBE**

Deputy Pensions Ombudsman

1 May 2024