PO-8391

Ombudsman's Determination

Applicant	Mr S
Scheme	Fidelity Self-Invested Pension Plan (**the Plan**)
Respondents	Fidelity

Outcome

1. I do not uphold Mr 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 S is complaining that Fidelity caused an error and delay in the transfer of the Plan from Fidelity to Hargreaves Lansdown (**HL**), which resulted in a financial loss.

Background information, including submissions from the parties

4. The Plan with Fidelity was held in two separate accounts with Standard Life (Account 1 and Account 2), based on when the relevant holdings within each were transferred to Standard Life. Both accounts were held together under the Plan. Although the Plan was split between the two accounts, the holdings were held together under one policy. Fidelity says that the system only keeps track of the monetary value of each account and not the number of the units within each.

5. On 6 May 2014, HL submitted a request to Fidelity via Origo, to transfer £110,000 from the Plan. The transfer request was also sent via post and received by Fidelity on 8 May 2104.

6. Fidelity said that Standard Life does not allow partial transfers from an account so, following instructions from HL and Mr S, the transfer was changed to realise the value of Account 2. At the time, Account 2 had a value of £112,565.18.

7. On 8 May 2014, Fidelity sold £113,000 of assets in the Plan. Fidelity states that when processing the sale, the holdings within the accounts are not ring-fenced, which can allow the value of the accounts to change due to market movements. Fidelity says this was the reason why it sold a greater amount than the value, at the time the instructions were received, of the No 2 Account. This was to account for any

fluctuations in value due to market movements during the settlement period of five working days.

8. The sale was completed on 14 May 2014. However, at this date, the value of Account 2 had increased to £113,435.

9. Fidelity made a further sale for £1,500, as more cash was required to complete the transfer. The second sale was completed on 21 May 2014. However, at this date, the value of the relevant part had dropped to £112,582.72 and this sum was transferred. The second sale proceeds of £1,500 and the difference between the original sale of £113,000 and the transfer amount of £112,582.72, were reinvested in the Plan.

10. Mr S states that, due to the mismanagement of the transfer, Fidelity caused multiple delays which resulted in a loss of £852.28, the difference between the value of his account on 14 May 2016, and the amount transferred to HL on 21 May 2016 (i.e. £113,435 - £ 112,582.72).

11. On 15 May 2014, Mr S raised a complaint with Fidelity about the additional time it had taken to complete the transfer of the Plan to HL. Fidelity found no error in its actions but acknowledged that the transfer could potentially have been completed some days prior, and its service could have been better. In recognition of this, Fidelity sent Mr S a complimentary hamper.

12. Fidelity said that Mr S' account was to be transferred as cash, meaning that sufficient units needed to be sold proportionally across the Plan to cover the transfer value before the transfer payment could be made. This inevitably involved Mr S being out of the market for that period. This is covered in clause 15.5 of the Plan's terms and conditions , which states that:

    "we can't make a transfer until we've sold the assets that we need to sell to provide the transfer payment".

13. Mr S remained unhappy and brought his complaint to us.

Adjudicator's Opinion

14. Mr 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 Adjudicator said that Fidelity cannot be held responsible for how investments perform in the future. This would have frustrated Mr S but it was unavoidable as the process is not instantaneous.

    - Fidelity followed their procedures correctly and any disadvantage Mr S suffered was a direct result of market conditions, not failings by Fidelity.

- It was unfortunate that the markets moved adversely, which resulted in the necessity for an additional sale of units. Fidelity acted in good faith on 8 May 2014, when it sold what it thought would be sufficient units to cover any potential market fluctuations.

- Any disadvantage experienced by Mr S was a result of market fluctuations, which are an integral part of SIPP valuations. The market could have changed in Mr S' favour or, as happened in this case, moved against him. While it is unfortunate that, in this case, the fund value had fallen, this was through no fault of Fidelity.

15. Mr S did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr S 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 S for completeness.

Ombudsman's decision

16. Mr S says that the price fluctuation should only have affected the second sale of £1,500, and not the whole sale. He says that the price is fixed at the dealing date and it is no longer subject to fluctuation between then and the settlement date.

17. The Plan does not operate in the manner which Mr S describes. He is right that the price of any units sold is set when the transaction is completed. However, as the value of the units in the Plan are not "ring-fenced", the value of both Account 1 and 2 are still vulnerable to changes in the market, even when a sale is in progress.

18. When Fidelity placed a sale to realise an equivalent value to Account 2, it did not actually take units from Account 2 to the market. It sold a proportion of the Plan (for this purpose, there is no distinction between the accounts), which it considered would be sufficient to realise the value of Account 2. This meant that if the value of Account 2 changed before the transfer date, then there would be an equivalent shortfall or excess. That is what happened to Mr S.

19. By the settlement date, when the funds became available for transfer, the value of Account 2 had changed. Account 2 could not be partially transferred, so another slice of the Plan had to be sold to try and match the new value of Account 2.

20. As Account 2 was still "live" when the second sale of £1,500 was made, this explains why the second sale was based on the then value of Account 2 i.e. £113,435. Account 2 was only closed when the transfer completed on 21 May 2014, and more than the then value of Account 2 had been realised.

21. To Mr S, it appeared that the sale price fluctuated between the deal and settlement date but that is not the case. The value of Account 2 changed but the sale price did not.

22. Mr S assumes that he is entitled to the difference between the valuation of Account 2 on 14 May 2016 and 21 May 2016. However, the value of Account 2 was only crystallised when the transfer completed on 21 May 2014, so Mr S is not entitled to any valuation prior to that date. Mr S was still subject to the usual fluctuation of value in the Plan before then, and he cannot pick and choose the date to freeze the value of Account 2.

23. Fidelity has reinvested the excess funds realised from the sales into Account 1 of the Plan.

24. I believe Fidelity followed its own procedures correctly, and I do not find any evidence of maladministration.

25. Therefore, I do not uphold Mr S' complaint.

Anthony Arter

Pensions Ombudsman
20 March 2017