DRN-4227490

The complaint

Mr D complained that Financial Administration Services Limited trading as Fidelity International ('Fidelity'):

- failed to follow his instructions to invest £19,000 into an ISA, split between four funds and
- wrongly charged him fees when the money was in a cash account.

What happened

Mr D held an account with Fidelity – a financial business that administers investments on behalf of its customers. The background to this complaint is as follows.

13 January 2020 – Mr D called to get an up to date valuation - call not relevant to this complaint

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6 October 2020 - Mr D called in to request a valuation on this ISA - call not relevant to complaint

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23 February 2021 - Mr D had £19,496 to invest and he called to discuss putting the money into an Individual Savings Account ('ISA') and being entered into a prize draw. Fidelity explained that the ISA draw was an online only offer. Mr D said he would attempt this online and that he knew which funds he wanted to invest in. Fidelity took email contact details and said it would send him guides telling him how to set up his account online, how to add cash to an online account and how to add cash to a fund. Mr D asked for an up to date valuation and there was discussion about Mr D's holdings held over the years since he'd opened his account in 2002. Mr D was pleased to learn the current valuation. Fidelity verified Mr Ds mobile phone number & email address so that he had everything in place needed to be able to set up the account to manage his investments online. Fidelity provided an 0800 number for Mr D to call when he wanted to get in touch. Fidelity explained how Mr D could transfer money online via bank transfer or debit card payment and told him he could also install its phone application ('app') on a smartphone or give instructions over the phone or by completing forms he could download from its website. Mr D thanked the call handler and ended the call.

Following the call, Fidelity emailed Mr D its guides for online registration and buying funds.

17 March 2021 - Mr D phoned Fidelity. He said he wasn't '*good with online stuff*' but he wanted to open a new ISA. He had transferred in £19,000 but thought he'd put it into an existing account and wasn't sure if the money had gone through. Fidelity confirmed to Mr D that £19,000 had been added to his current ISA and was sitting as cash waiting to be invested. The call handler offered to talk Mr D through how to place his money into new funds over the phone if he wanted to do that straightaway or said he could send him a step by step guide. There was discussion about Fidelity's top 5 recommendations which Mr D said he was interested in and he also said he'd potentially like to add into the funds he was currently invested into. Fidelity explained how Mr D could identify his current investments and place his buys and tried to assist him with his queries. When Mr D understood that his £19,000 cash was secure within an ISA wrapper and that he didn't need to rush into making investment decisions ahead of the end of the tax year, he requested the guides so he could look again at what he was doing. Fidelity said it was sending its 'buy', 'sell' and 'switch' guides and explained what a 'switch' was – these were sent to Mr D during the course of the call. There was some further discussion about placing money and the call handler provided further explanation. Mr D asked for clarification of his holdings value minus the £19,000 he'd just invested and Fidelity told him the value (£29,584.58 as per the last dealing point). Mr D was happy to end the call at that point.

12 January 2022 - Mr D called in to query the valuation of his funds. He said he'd received a letter from Fidelity with four recommended funds but that he couldn't any longer access his emails as he'd changed broadband provider. Fidelity confirmed to Mr D that he'd put £19,000 into cash and that this wasn't invested into any funds. Mr D thought he had arranged for that to happen over the phone but Fidelity said that £19,000 was still sitting in cash. There was further discussion and the call handler said she would send out information to clarify the holdings for Mr D and check things out and call Mr D back to discuss further.

Following the call, Fidelity sent Mr D an up to date statement from March 2021 to 12 January 2022.

13 January 2022 at 12:03pm– Fidelity called Mr D and he asked for a call back later around 5.30pm.

13 January 2022 at 05:41pm – Fidelity called Mr D and the call handler confirmed that his previous calls had been listened to and that Fidelity had sent him instructions on how to place the deals but no deals were placed over the phone. Mr D recalled being advised on how to place deals online, but also that he'd come back and said that he was unable to do so as he was '*not that good online'.* He recalled the call handler saying she would send out the paperwork for him to sign and that he wouldn't be able to take part in the prize draw. Mr D stated that when he spoke to the call handler she'd said she had notes of his instruction and would allocate money to the account and that she'd send out the form for Mr D to sign. He'd then lost his previous account and changed his email address. He said this had happened after 17 March 2021. Following further discussion, this call ended with Fidelity telling Mr D it would investigate further and call him back with an update.

28 January 2022 – as Mr D hadn't heard anything further from Fidelity, he phoned to find out what was happening. Fidelity had previously dealt with the matter as an enquiry and now logged Mr D's concerns as a complaint about his instructions from a year ago not having been actioned and the fact he hadn't had a call back following on from the previous call. The call handler also transferred Mr D to an agent who assisted Mr D to place his buys over the phone.

8 February 2022 - Mr D called for an up to date valuation - call not relevant to complaint.

8 February 2022 – Fidelity upheld Mr D's complaint in part. It said, in summary, that after checking its call logs for all the numbers provided by Mr D, there was no evidence of a call to place a deal until he invested the funds over the phone during the call on 28 January 2022. Fidelity did however apologise for not calling Mr D back after speaking to him on 13 January 2022 when he'd been led to expect Fidelity would ring him back with an update. Fidelity acknowledged that it had let Mr D down and offered him £50 as a gesture of goodwill.

When our investigator looked into what happened, she felt the available information supported what Fidelity had said. She said there was no record of Mr D having asked Fidelity to place his funds until this happened on 28 January 2022 and that he'd correctly been charged the £300. She felt that Fidelity's offer to pay £50 as a gesture of goodwill for not calling Mr D back when it said it would was fair and reasonable. As a result, she said she wouldn't be asking Fidelity to do anything further.

Mr D didn't agree with the investigator and I have summarised his concerns as follows:

- Fidelity has failed to provide a complete log of all calls made by Mr D regarding his ISA investment of £19,000 being split between funds recommended by their investment expert in a 2020/2021 Fidelity ISA recommendations brochure
- he had not intended his £19,000 to go into a non-interest Cash Account, then to have deductions made from that sum resulting in the value of his investment being reduced
- information on Fidelity's website clearly says that no deductions will be made from money that is held in a cash account
- a much higher level of compensation is appropriate.

The complaint came to me to decide. I issued a provisional decision.

What I said in my provisional decision

Here are some of the main things I said.
'I appreciate how strongly Mr D feels about this complaint. Whilst I've summarised some of his concerns in my own words, I've carefully read and considered everything he's said. We provide an informal complaints handling service and this is reflected in the way I've approached the complaint. It's part of my role to identify and concentrate on the core issues I need to address in order to reach a fair outcome. This means I won't necessarily mention everything Mr D has brought to my attention as the purpose of my decision isn't to address every single point raised. My role is to consider the evidence presented by both parties and reach a fair and reasonable decision based on the facts of the case.

My findings are made on a balance of probabilities, in other words, what is more likely than not, based on the evidence that has been provided by the parties.

Mr D's complaint that Fidelity failed to follow instructions to invest £19,000 into an ISA, split between four funds following his phone call on 17 March 2021.

I've carefully listened to the call recordings and read all the call notes provided by Fidelity. I've no good reason to think that Fidelity has not sent me a full list of all its relevant phone calls with Mr D, which I've set out above. I appreciate that Mr D disagrees on this point, but what he says isn't enough on its own for me to be able to uphold his complaint.

I have to give due weight to what both parties say.

Fidelity has provided information showing it conducted a comprehensive phone number search of its records - it checked against all the possible phone numbers Mr D provided and it has sent me evidence of the calls it says it had. Mr D hasn't provided me with any evidence from his own phone records to show me that he's correct in saying there's a 'missing' phone call after 17 March 2021 when he says he provided instructions to Fidelity to buy into funds. I don't doubt he's certain about what he's told us but I think it's more likely that Mr D is simply mistaken and the phone call on 12 January 2022 was the first time he had spoken to Fidelity since the call on 17 March 2021. It's clear to me from listening to the calls on 23 February and 17 March 2021 that he was looking into how to place his buys himself and the information he requested, which I can see Fidelity sent him, provided the information he needed to know about how to do this. If there had been a further call with new instructions, Fidelity would also be able to confirm this. Fidelity acted promptly when instructed by Mr D to invest his funds over the phone during the call on 28 January 2022.

On the basis of the available evidence, on balance, I find that there is insufficient evidence to uphold Mr D's complaint that Fidelity failed to follow instructions he says he gave to invest £19,000 into an ISA, split between four funds, sometime after the phone call on 17 March 2021.

Mr D's complaint that Fidelity wrongly charged him when the money was in a cash account.

Mr D relies on information he's seen on Fidelity's website which says*:' We do not charge a service fee on money held in your Cash account.* He put things this way: *'I think that clearly reads that No deductions will be made from money that is held in a Cash Account.'*

But Fidelity has explained that the Cash Management Account ('CMA') is used to help pay for customer service fees if they prefer to use cash rather than selling units. The screenshot Mr D relies on also says this :'…*You can use it to pay for fees….'*

Mr D's CMA was opened in September 2020. When he deposited the funds on 17 March 2021, he did not deposit the funds in the CMA but into his ISA and these funds were held as cash.

Fidelity has explained that the value of all a customer's assets, including cash, determines which Service fee is applied. Based on his portfolio size (including the cash), Mr D would have been subject to a 0.35% service charge.

However, when the service fee is deducted, Fidelity said it applies this rate to all assets (but excluding cash) and divides by 12 to make a proportionate monthly deduction. Fidelity said the service charges incurred by Mr D would have therefore been applied to his total portfolio (excluding any cash). The fee was deducted from the cash holdings within the ISA and then transferred to the CMA to be paid.

As Mr D held other assets with Fidelity (excluding cash), this explains why it deducted these fees. The fee was not itself a direct charge on the cash holdings, it was taken from cash to pay for the overall charges across the portfolio.

Fidelity says these charges were taken correctly and I agree – as far as I can see they were correctly applied in line with the account terms and conditions that Mr D signed up to in order to be able to use Fidelity's service and there's also more information about this on Fidelity's website. I can't fairly say in these circumstances that Fidelity did anything wrong or that it acted unfairly or unreasonably when it deducted the charges Mr D has complained about. This means, I can't uphold this part of his complaint and so it follows that I cannot direct Fidelity to refund fees it charged Mr D.

Fidelity's goodwill offer to pay Mr D £50 in respect of its admitted poor service when it failed to call him back or update him after it said it would during the call on 13 January 2022.

I can tell Fidelity to pay compensation or take other steps to put things right if I am satisfied that Fidelity did something wrong or acted unfairly or unreasonably and this led to Mr D suffering some detriment and/or financial loss. Fidelity has already upheld this part of Mr D's complaint so I don't need to say more about this other than I agree that Mr D was entitled to expect a better level of service from Fidelity than he experienced on this particular occasion.

The principle behind redress awarded by this service is to put Mr D into the position he would've been in, but for Fidelity's poor service on this occasion. I've thought carefully about the consequences for Mr D of this poor service.

I've considered whether, had Fidelity gone back to Mr D on a more timely basis, he would've invested sooner – and I find he most likely would've done. I say this because when he made contact on 28 January 2022 after not hearing from Fidelity for over two weeks, this resulted in his funds being invested during that phone call.

I think it's fair to say that Mr D was reasonably entitled to expect a call back from Fidelity within a week of his call on 13 January 2022 – and had that happened, he probably would've instructed the investment that was actually done for him on 28 January 2022. So I think Fidelity should check whether, if it had carried out Mr D's investment instructions on 20 January 2022, which is the latest date I think it ought to have gone back to him, this would've affected the current value of his holdings. If so, and Mr D is worse off as a result, then it seems fair to me that Fidelity should make up this shortfall.

I can see how Fidelity's delay getting back to Mr D when he was waiting for Fidelity to call would've caused Mr D some distress and inconvenience and I think the £50 payment it has offered for this is fair compensation. This amount is in line with the level of award I consider fair to reflect the extent and impact on Mr D of this service failings on Fidelity's part.'

What the parties said in response to my provisional decision

Mr D and Fidelity have both indicated that they accept what I've said in my provisional decision.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I'd like to thank both parties for all the information that has been provided about this matter and for responding to my provisional decision. Given that I've not received any further evidence or comment that changes my mind about this complaint, I confirm the conclusions I reached in my provisional decision.

Putting things right

To put things right Fidelity should pay the £50 it offered to settle Mr D's complaint (if it hasn't already) and, in addition, do the following:

1. Calculate the number of units Mr D would have purchased with the money that was invested during the call on 28 January 2022, in the same proportion that Mr D actually did invest, assuming that the investments were made on 20 January 2022.
2. The number of units calculated at (1) should then be valued at the date of my decision.
3. To the figure calculated at (2) should be added the amount of any dividend that Mr D would have received if Mr D had held these units calculated at (1) from 20 January 2022. This total figure, including any dividend, represents the *fair value.*
4. The number of units that were actually purchased on 28 January 2022 should also be valued at the date of my decision. This represents the *actual value.*

If the *actual value* is greater than the *fair value*, no compensation is payable. If the *fair value* is greater than the *actual value*, there is a loss and compensation is payable.

Any compensation due should be paid to Mr D.

Fidelity should provide details of the calculations to Mr D in a clear, simple format.

If any compensation due is not paid within 28 days of Fidelity receiving acceptance of my decision, interest at 8% per annum on the loss identified will be payable from the final decision date to the date of settlement. Income tax may be payable on this interest, if paid. If Fidelity deducts income tax from the interest, it should tell Mr D how much has been taken off. Fidelity should give Mr D a tax deduction certificate in respect of interest if he asks for one, so Mr D can reclaim the tax on this interest from HM Revenue & Customs, if appropriate.

My final decision

I uphold this complaint in part and direct Financial Administration Services Limited to take the steps set out above to put things right for Mr D.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 17 August 2023.

Susan Webb
Ombudsman