

## **The complaint**

Mr and Mrs C complain that Anomaly Consultants Ltd ('AMC') mishandled their stocks and shares ISA transfer, which caused them a loss after the transfer was cancelled.

## **What happened**

Mr and Mrs C each hold investment ISAs with Fidelity. They have been receiving financial advice from an adviser from AMC since 2017.

Mr and Mrs C liaised with the AMC adviser in March 2023 relating to utilising their annual ISA allowances (which were short by £14,900 and £9,900 respectively). They also received advice regarding a complete transfer of £20,000 each for the current tax year from Fidelity into Meteor Structured Product ISAs.

Mr C then contacted AMC's office to explain he and Mrs C only wished to complete partial transfers from their existing Fidelity ISAs to Meteor- for the top up amounts. They thereafter completed the paperwork for the partial transfers on 30 March 2023 and AMC sent it to Meteor on 12 April 2023.

On 2 May 2023, Fidelity informed Meteor that it could not permit the ISA transfers because they were partial transfers – and for commercial reasons, it only undertook full transfers. Meteor then relayed this information to AMC by telephone the same day. AMC then liaised with Mr C.

AMC told Meteor that the transfer was full, not partial. However, Mr and Mrs C no longer wished to proceed as they had not agreed to a full transfer, so AMC emailed Meteor to cancel the transfers on 10 May 2023. Meteor acknowledged receipt of that instruction on 19 May 2023.

However, Fidelity thereafter transferred the full ISA values of £64,046 and £27,752 on 9 May 2023, which it received on 12 May 2023. Upon liaising with Mr C, Meteor began the process to return the funds to Fidelity – this was completed on 1 June 2023.

Mr and Mrs C said that by 6 July 2023 they realised that Fidelity had reinstated the funds at the current price, rather than their respective values as of 9 May 2023 – and this had caused each of their ISAs to suffer losses which they believed amounted to £3,945 for Mr C and £2,040 for Mrs C.

Mr and Mrs C complained thereafter to AMC and Meteor.

In August 2023, AMC rejected the complaint. It said the only paperwork originating from AMC (submitted to Fidelity, via Meteor) related to the two clear annual contributions of £14,900 and £9,900. It therefore could not understand why Fidelity would have transferred the different amounts without clear written authority from Mr and Mrs C or why Meteor received £64,046 and £27,752 when AMC had notified it to cancel the transfers on 10 May 2023.

However, AMC said the transferred funds had been reversed and reinvested – and it had checked that Mr and Mrs C retained their ISA wrapper for the investments. Furthermore, the top up amounts of £14,900 and £9,900 had been repaid to them. AMC also confirmed it had no working relationship with Fidelity, and it hadn't instructed it relating to the ISAs.

After the complaint was referred to this service, AMC offered £100 as a goodwill gesture for any inconvenience Mr and Mrs C had suffered. However, it remained of the view that it had no liability for the complaint and that any wrongdoing fell to either Meteor or Fidelity. AMC also didn't believe Mr and Mrs C had suffered any financial loss.

Mr and Mrs C said they remained of the view that their Fidelity holdings had suffered losses across a number of funds.

One of our investigators spoke with ACL, Meteor and Fidelity. He noted how Mr and Mrs C's investments were sold on 9 and 10 May 2023, and they were repurchased on 6 and 7 July 2023. The funds were returned to Fidelity on 16 June 2023, so there did appear to have been a delay from when the money was returned, to when the units were repurchased.

The investigator understood that Mr and Mrs C held additional concerns about the reinvestment of their funds (including administrative issues) specific to Fidelity. He thereafter noted how another complaint was dealt with separately at this service relating to Fidelity's actions.

In respect of this complaint, he believed it should succeed. He said ACL shouldn't have told Meteor to transfer all of Mr and Mrs C's holdings in from Fidelity, and this mistake – along with Meteor accepting ACL's instruction – caused Mr and Mrs C to suffer a loss of units.

He initially believed ACL should be liable for 50% of the losses, split with Meteor (linked to the separate complaint about that business). ACL disagreed, noting that it could only pass on instructions for Mr and Mrs C, and Meteor had taken its call of 2 May 2023 out of context.

However, Meteor thereafter provided further evidence as to the instructions it had received from ACL.

The investigator then issued a further outcome to ACL where he felt it was solely liable for the error – as he was sufficiently persuaded that Meteor hadn't done anything wrong. In his view, ACL had given an incorrect instruction to Meteor on 2 May 2023. He believed that Mr and Mrs C ought to be placed back into the position they'd be in had the sale of the units in the various ISA funds not taken place on 9 and 10 May 2023, and any loss between the sale and reinvestment dates ought to be met by ACL.

Mr and Mrs C accepted the investigator's findings. ACL said it did not agree, and asked for the complaint to be referred to an ombudsman. It said, in summary, that:

- The losses Mr and Mrs C suffered are unfortunate, but not the fault of ACL.
- ACL wasn't privy to any communications between Meteor and Fidelity.
- The request used Meteor's standard transfer paperwork.
- ACL questions whether Fidelity made it clear to Meteor that its refusal to process a partial transfer related to Mr and Mrs C's full holdings or to their request for a partial transfer of their top up ISA contributions.
- In any event, when ACL was contacted by Meteor, the adviser had no reason to believe that the information being provided by Meteor related to anything other than the original subject matter i.e. the ISA contributions.

- ACL still contends that the instruction to ‘fully’ transfer related only to the top up contributions and Meteor knew – or should have known – this.
- ACL did not know until after the transfer was refused that Fidelity couldn’t otherwise have accepted a partial transfer.

### **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 the parties for their patience whilst this matter has awaited referral to an ombudsman.

Having looked at everything before me, I also believe this complaint should be upheld, for principally the same reasons put forward by our investigator. My reasons for reaching this outcome, in summary, are:

- ACL gave the instruction to Meteor on Mr and Mrs C’s behalf on 12 April 2023.
- The top ups for the 2022/2023 tax year had been made within that tax year to utilise the full allowances for both Mr and Mrs C.
- The transfer request fell into the next tax year – and given the amounts Mr and Mrs C wanted to be transferred (the top up contributions) differed to the full ISA values, Fidelity could not complete the transfer – because it was a partial transfer, not a full one.
- It is for this reason that Meteor sought to clarify this with ACL’s adviser on 2 May 2023 – and the adviser sought instruction from Mr and Mrs C, which he then relayed to Meteor on their behalf.
- ACL has told this service that *“we are authorised on investment business to provide advice and to pass on clients instructions”*.
- To that end, evidence from Meteor’s call transcript of 2 May 2023 confirms how ACL’s adviser noted that *“You kindly emailed by colleague, [NAME], this morning regarding our mutual clients [Mr and Mrs C]. It was suggested that this was a partial transfer from Fidelity. I have just spoken to the clients and it is a full transfer not a partial”*.
- Meteor’s administrator replied confirming *“I think it was just because of what they wrote on the form it could be taken to mean it was a partial”*. The adviser reconfirmed that *“No, it was full”*.
- Meteor went on to explain that Fidelity could dispute the form and Meteor would have updated ACL if that happened.
- ACL accepts Mr and Mrs C did not want to fully transfer their ISAs, but instead just the value of the top ups for the 2022/2023 subscriptions – because ACL submitted that instruction to Meteor on their behalf in April 2023.
- I am persuaded that the adviser thereafter made a mistake – he did not inform Meteor that the transfer from Fidelity was a partial one.
- In any event, the transfer wasn’t permitted by Fidelity.
- However, Mr and Mrs C did not wish to make a full transfer at any time – and ACL’s adviser confirmed as such eight days later when an email was sent to Meteor to cancel the transfers altogether.
- Had the adviser correctly informed Meteor on 2 May 2023 that the transfer request was a partial one, Meteor couldn’t have fulfilled the request – and Fidelity would not have sold down the units in the underlying funds within Mr and Mrs C’s ISA wrappers.
- Fidelity has confirmed how – due to the sale and repurchase of units when restoring the investment ISAs - Mr C was disadvantaged on 4 out of 6 funds and Mrs C was

disadvantaged on 3 out of 4 funds, where the overall values were restored but the price per unit had increased by the time of the reinvestment.

- Accordingly, both Mr and Mrs C have lost units in a total of seven funds.
- I am sufficiently persuaded that those losses were a direct consequence of the incorrect instruction given by ACL's adviser on 2 May 2023, when he contradicted the wishes of Mr and Mrs C set out on the forms they signed for partial transfers on 30 March 2023 by informing Meteor that the transfers were full ones.
- I believe, on balance, the adviser should have appreciated that Fidelity would deem a 'full' transfer to be the entirety of the ISA funds, not other amounts less than the total holdings, given it had specifically asked that question of Meteor – which was accordingly relayed to ACL, who acted for Mr and Mrs C in giving instructions for the transfer.

I therefore agree this complaint should succeed against ACL.

### **Putting things right**

I note that Fidelity has been able to reinstate the ISA wrapper status for both Mr C and Mrs C's investments, so Mr and Mrs C's tax status for the investments will be unaffected.

I therefore direct ACL to reinstate the missing units for both Mr C and Mrs C's Fidelity ISAs by comparing the number of repurchased units from 6 and 7 July 2023 to the sale dates of 9 and 10 May 2023. This is because its actions caused the delayed reinstatement at higher unit prices, meaning Mr and Mrs C currently have fewer units across four and three funds respectively than they would have if the sale hadn't happened. It should therefore liaise with Fidelity as to the financial cost of the reinstatement and pay this to make good both Mr and Mrs C's correct unit values in their Fidelity ISAs as at their relevant sale dates in May 2023.

AMC must also pay Mr and Mrs C £100 to reflect the upset they've been caused during the period of reinstatement of their investment ISAs. I believe that amount is appropriate for administrative errors of this nature, and it should be paid to Mr and Mrs C directly. I also note Fidelity has previously agreed to pay £100 to Mr and Mrs C on a similar basis – though that offer was previously made without any liability. ACL must now pay this as a monetary award.

I make no other award or direction.

### **My final decision**

For the reasons explained, I uphold this complaint. I direct Anomaly Consultants Ltd to undertake the redress I have set out above to place both Mr C and Mrs C's Fidelity ISAs in the position they should have been in but for its mistake - which is that no transfer should have taken place in May 2023 and the number of units in their respective underlying funds would have remained correct as of 8 and 9 May 2023.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs C to accept or reject my decision before 28 October 2024.

Jo Storey  
**Ombudsman**