

The complaint

Mr K complains that Financial Administration Services Limited (Fidelity) failed to carry out instructions regarding his Self-Invested Personal pension (SIPP) accounts, mis-administered these and blocked online access to one account causing inconvenience and financial losses. He wants compensation for the inconvenience and losses.

What happened

Mr K had two SIPPs administered by Fidelity. One was directly with Fidelity, the other was branded and accessed through a separate firm called Cavendish. I'll refer to these as the Cavendish SIPP and Fidelity SIPP. In October 2020 Fidelity effectively took over the Cavendish accounts with future access provided through Fidelity's online systems.

In November 2020 Mr K emailed Fidelity asking it to *"merge ... accounts into a corresponding single account"* in order to simplify administration. It transferred the investments held in the Cavendish SIPP into the Fidelity SIPP but left the Cavendish SIPP open. Subsequently residual rebates of fund charges and income payments were received and credited to the cash account for the Cavendish SIPP. Fidelity says these were visible on the account online and also shown in annual statements sent to Mr K. Interest was also paid from July 2022, following the rise in the base rate. The amounts involved were relatively small with a maximum value showing in the Cavendish SIPP as around £3.65. In November 2023 Mr K raised a complaint with Fidelity. He said by failing to further transfer the cash balances to the Fidelity SIPP it caused him investment losses and inconvenience. And restrictions placed on the Cavendish SIPP had deprived him of access to his funds, causing distress.

Fidelity didn't uphold the complaint, saying it hadn't made any error. It said Mr K hadn't instructed it to close the Cavendish SIPP, so the subsequent payments received had been correctly allocated to the cash account, and it couldn't transfer these without instructions to do so. It said the existence of the cash balance was shown on the system when Mr K logged on, which as an active trader, he did frequently. It said when the Cavendish SIPP balance initially had reduced to zero, its internal procedures meant that online dealing was no longer available. So, Mr K would need to call to place instructions with this confirmed by a pop-up message had he clicked into the Cavendish SIPP. But it said in view of his complaint effectively requesting the funds be transferred to the Fidelity SIPP, it had now carried this out.

Mr K didn't agree and made a large number of points. He said by transferring the cash balance following his complaint Fidelity had accepted it had acted inappropriately in 2020. That he'd been denied access to his funds and no rational explanation had been provided as to why online trading wasn't available under the Cavendish SIPP. He said needing to complain had further inconvenienced him and it had mishandled this by taking too long to respond and seeking to blame him for the problem and had misled him by providing referral rights to the Pension Ombudsman as well as our service. Fidelity said it hadn't intended to blame him or act unprofessionally. It said it could only act on instructions placed by him, which it considered his complaint to have been.

Mr K referred his complaint to our service. He said Fidelity had breached his human rights and acted unlawfully. And it should pay him £400 in compensation for the distress and inconvenience caused, but he was willing to withdraw the complaint if it paid him £350 and transferred any remaining funds from the Cavendish SIPP. Our investigator looked into the complaint, but he didn't uphold it.

Our investigator said he thought Fidelity had interpreted Mr K instructions in November 2020 correctly, by transferring funds out of, but not closing the Cavendish SIPP. And further transfers couldn't be made unless instructed by Mr K. He said Fidelity had confirmed its standard practice was to prevent online dealing on accounts with a nil balance as a security measure, which wasn't unreasonable. And asking Mr K to call had caused minimal inconvenience and it had in any case acted on his complaint email. And he said he didn't think Fidelity acting on these further instructions was an admission it had made an error in 2020. Instead, it was pragmatically seeking to resolve the complaint.

Our investigator said he didn't think Fidelity's response to Mr K's complaint was disrespectful and set out a reasonable explanation of what had happened. And that Mr K seemed most concerned by Fidelity saying he hadn't taken any action to notify it sooner despite the cash balance being visible on his online account. Our investigator said there is general legal principle requiring someone to mitigate their losses if they were aware of an issue. And referring to this wasn't "*gaslighting*" as Mr K had said. And he said it wasn't unreasonable for Fidelity to make Mr K aware of both the Financial Ombudsman and Pension Ombudsman Services when it provided referral rights in respect of his complaint, given the potential overlap.

Mr K didn't agree and made a number of points including how he considered Fidelity hadn't complied with regulations in place over clear communication and treating customers fairly. He said Fidelity hadn't acted on his instruction in 2020 to "*transfer all assets*", given his objective was to simplify management and it had overcomplicated the issue. He said any residual balances received should have been credited to the "*active account*" holding the investments from which these had arisen and failing to do so was in breach of the client money handling regulations. He said it had failed to deliver the good outcomes required under Financial Conduct Authority's Consumer Duty requirements.

Mr K said Fidelity's explanation over its decision to "*block online access*" was "*unconvincing and inadequate*" and shouldn't "*override his legal right to access and manage his funds electronically*". He said this had "*terrorised him*" as it would anyone whose account was blocked "*without serious reason*", breaching his right to access his assets. And it wasn't fair of Fidelity to ask him to contact it by telephone, causing unnecessary inconvenience, meaning it had failed to consider his needs and circumstances. He said Fidelity hadn't responded to his complaint in a factual and reasonable manner and had downplayed his legitimate concerns and "*gaslighted*" him, adding to his distress. And it had failed to consider the impact of inflation on his uninvested cash balance or pay compensation for his time and the distress and inconvenience caused.

As Mr K doesn't agree it has come to me to decide.

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.

Having done so I am not upholding the complaint.

The role of our service is to independently resolve complaints by deciding what is fair and reasonable in the circumstances. Unfortunately, errors and misunderstanding do happen from time to time and might, but not always, result in financial losses or distress and inconvenience being caused.

Mr K clearly feels very strongly about what has happened and has made a number of detailed points about what he considers Fidelity's failings to have been, the consequences for him and the failure of our service to fairly consider the issues he raises. I've carefully considered all the points Mr K has made in coming to my decision. Having done so, I don't think Fidelity has caused financial losses or anything other than minor administrative inconvenience, so I can't uphold his complaint.

Mr K's instructions

I think what has happened here is a misunderstanding of instructions Mr K gave in November 2020, which were, *"Please can you merge the pairs of similar accounts into a corresponding single account"*. The Cavendish SIPP appears to have been the smaller of the two and presumably it was administratively simpler to re-register the investments held in that to the Fidelity SIPP before, perhaps, closing it. That would leave Mr K with one account he'd referenced in his message.

Instead, Fidelity interpreted this message as an instruction to transfer the investment holdings of the Cavendish SIPP, and to leave it open. I think Fidelity did that in good faith, given there was no specific instruction to close the account. There appears to have been no benefit to Fidelity in keeping two accounts open. And it did transfer all investments then held as Mr K wanted. And in bringing his complaint he also said Fidelity had *"blocked me from adding new investments"*, perhaps suggesting he hadn't wanted the Cavendish SIPP closed. So, I think there was some ambiguity over what was required.

Had the Cavendish SIPP been closed then any residual payments received would have automatically been paid across the continuing Fidelity SIPP. That's standard industry practice which Fidelity's terms and conditions refer to saying that any subsequent payments received from *"a former"* pension plan following it being transferred to Fidelity, would be allocated to cash pending further instructions from the client. With the Cavendish SIPP still open allocating these funds to it would seem to be the correct action, so I don't think there was mishandling of the funds.

I've thought about whether Fidelity should have contacted Mr K to clarify his instructions in 2020 further. But misunderstandings do happen, and it is the case that very soon after the investment funds had been transferred, he would have been able to see that small amounts of cash had been credited to the Cavendish SIPP account. And Fidelity sent him an annual statement dated 17 December 2020. This showed both SIPP accounts, with the balance in the Cavendish SIPP then being £1.45. From this information, I think he would have been reasonably aware he still had two accounts.

And if this wasn't what he wanted, I think he could have easily, and at minimal inconvenience, contacted Fidelity either by calling or by email to clarify matters. And either closed the Cavendish SIPP or made ongoing arrangements to transfer the minimal cash balances arising from time to time. But Mr K didn't go on to do that for around three years. So, there was no reason for Fidelity to think it hadn't acted as he'd required in 2020. And once he did notify it things weren't operating as he wanted, Fidelity promptly acted to resolve the issue. So, I don't think it has made an error here.

Access to SIPP and funds

Mr K says the Cavendish SIPP was “*blocked*”, but I don’t think that is fair description as the restriction appears to have only been on the ability to place online instructions. So, it isn’t reasonable to say he was denied access to or prevented from managing the funds in question. Fidelity offers different ways to place instructions and it doesn’t undertake to always provide electronic services, so there was no “*legal right*” to this as Mr K has argued. The terms and conditions regarding provision of accounts and services which he accepted in opening his SIPPs say under clause 7 “*Responsibilities*”,

(e) We cannot guarantee that access to, or trading in, your accounts online, by phone or post will be available at all times or without delay. We may at our absolute discretion suspend the operation of our online and/or phone services where we consider it necessary. This may be as a result of an External Event, Legal Requirement or for any other reason which we consider necessary for our protection or your protection or benefit.”

That means Mr K had been made aware that electronic services might not be available. Fidelity has said the occurrence of a nil balance was one such event that would require a telephone call, or as it proved in this case, a further email to place instructions. It says this is for security reasons and whilst Mr K says it is treating him unfairly by not providing specific explanations about this, I disagree. Detailed explanations about security procedures by definition undermine the objective. And it isn’t unreasonable that Fidelity should want to block any potential dealing request being made on an account with no or minimal cash available.

Mr K has said he found this restriction on his account “*terrorising*”. Problems do affect people differently. But no restrictions had been applied to his other Fidelity accounts, and it’s important to note he wasn’t being prevented from personally accessing his funds from his pension as he was below the minimum age allowed in law to do so. If Mr K was concerned, I think he would have contacted Fidelity at the earliest opportunity, but he doesn’t appear to have done so. And, when he did (quite robustly) advise it of the issue in his complaint, it took action to resolve the matter promptly. That leads me to conclude that the duration of any distress was relatively brief which when combined with the relatively modest sums involved means the overall impact on him was small.

Financial losses

In terms of the financial consequences of what happened, there was never any more than £3.45 in the Cavendish SIPP before Fidelity completed the further transfer in November 2023. So, any investment Mr K might have made would be relatively minor in the context of his overall funds with Fidelity. And he could have moved this money into the main SIPP at any time allowing him to reinvest it as he wished. That does mean that Mr K was always required to place some type of instruction about these funds, so it isn’t reasonable to say Fidelity has caused financial losses. And because he would have always needed to provide investment instructions for these funds, I think he was caused minimal additional inconvenience.

Other matters

Mr K has mentioned Consumer Duty and the objective of achieving good outcomes for consumers. Consumer Duty didn’t come into operation until 31 July 2023, so sometime after the initial instructions were placed in 2020. As I’ve set out, I don’t think Fidelity had any reason to think it hadn’t interpreted these instructions as he required until he complained in November 2023. And, whilst Mr K has disputed this complaint was a specific instruction to

move the cash balance to the main SIPP, he did outline that consolidation was his objective and Fidelity's response here seems to me to have been in line with this objective.

Complaint handling isn't something our service has jurisdiction to consider because it isn't a regulated activity. But from the evidence I've seen I don't think Fidelity acted unreasonably in how it dealt with Mr K's complaint. I think it explained its position politely and provided adequate explanation of the consequential events. That Fidelity's interpretation of Mr K's instruction was different from his own is a difference of opinion and not gaslighting in my view. And Fidelity had nothing to gain from deliberately misinterpreting any client instruction. It correctly provided Mr K with referral rights to our service as well as also providing details of the Pension Ombudsman, which I don't think was unreasonable.

Taking everything together, Mr K could have provided clearer instructions in 2020 and Fidelity might have clarified them. But it was almost immediately apparent residual funds were being allocated to the Cavendish SIPP and he could have simply queried this and resolved the matter with minimal inconvenience. Had that been the case, I don't think a compensation award for distress and inconvenience would have been merited then. That Mr K didn't raise the matter for around three years suggests to me he wasn't greatly concerned about the issue and the impact on him was minimal. And when he did bring it to Fidelity's attention it was promptly resolved by Fidelity. That means I don't think it has treated Mr K unfairly or unreasonably and I can't uphold his complaint.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 9 January 2025.

Nigel Bracken
Ombudsman