

## The complaint

Mr K says he experienced disruption to his investment process when trying to undertake transactions through Financial Administration Services Limited's (FASL) online platform in respect of his Self-invested Personal Pension (SIPP). He says he didn't receive confirmation of the trades in real time, which had never happened previously in the 11 years he'd been using the platform. Mr K says FASL (trading as Fidelity) failed to address his enquiries or deal with his complaint properly. He thought he may've suffered financial detriment and noted other negative impacts on him including the inconvenience and distress he'd been caused.

## What happened

Mr K has provided a detailed explanation of his complaint. The following extracts summarise what he has told this Service:

*"I placed 25 trades in my SIPP account at 10.37am but never received a confirmation of transaction screen or document. I [was] logged [in] since 10.22am and waited until after the cut-off point of 11 am without receiving confirmation of my order. This has added to my frustration and upset building on the same issue happening 2 days before this complaint, not knowing if my order, placed before the cut-off point of 11 am has been executed correctly although I placed it well ahead of time. I looked every elsewhere within Fidelity platform but the order confirmation is nowhere to be found. Nobody understands why, since Fidelity generate this document, why they do not keep the record within my documents section of the Fidelity platform for my accounts?... I am a frequent user, the experience in using Fidelity platform in the last 2 days (4th and 5th of October 2023) has been notably worse than what I experienced for most of the time before then."*

*"I asked Fidelity to provide me, via regular email in my [email] account linked to my Fidelity account, or via Fidelity platform if Fidelity prefer, or via secure message, a pdf document that details the orders I placed and the time Fidelity received this, for the days the platform problem occurred. This was always done when the platform worked properly but not at those times. Because I placed those orders well ahead of the cut-off points of 11am ... I am reasonable to expect that Fidelity must have received them before the cut-off point for best execution. If not, that means Fidelity platform has even worse problems than notification problems only..."*

Mr K went on to list other concerns including his belief FASL hadn't got to grips with his enquiries or complaint. To put things right he proposed FASL should provide:

*"1. Inclusion of timestamped order confirmation PDF documents in the client view of the Fidelity platform, accessible in real-time during the order placement process, to ensure transparency and accountability.*

*2. Compensation of £200 to cover the upset, inconvenience, and wasted time and effort spent pursuing my complaint through the business and to continue to pursue it through the Financial Ombudsman entire process. This compensation reflects the emotional toll of the situation, significant time and energy input necessary to pursue the complaint and the likelihood of further delays in resolving the matter... I would be willing to withdraw this*

*complaint without further Financial Ombudsman Service involvement and fully settle directly with Fidelity for £100 and the implementation of item 1...*"

Mr K raised his complaint with FASL on 5 October 2023 and it responded on 20 October 2023. It didn't uphold his case. It said it had been unable to review his recent online sessions, possibly because of anti-virus software, pop-up blockers and/or security settings he had in place. However, it informed him the pending orders tool was working. It gave advice about how he could access transaction history on his account. It confirmed the transactions he'd requested had been given effect at the right time and provided information about when different funds were priced. It also said it wasn't aware other customers had experienced the same problem he had.

Mr K wasn't content with FASL's response and he brought his complaint to this Service in the terms I've already set out. An Investigator considered his case but didn't uphold it. He didn't think the firm had done anything wrong.

Mr K didn't agree with the Investigator's findings and conclusions. He provided a very detailed list of reasons for wanting an ombudsman's decision. He thought the Investigator had failed to address his complaint properly.

As both parties couldn't agree with the Investigator's view, Mr K's complaint has been passed to me to review afresh and to provide a 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.

Where there's conflicting information about the events complained about and gaps in what we know, my role is to weigh the evidence we do have and to decide, on the balance of probabilities, what's most likely to have happened.

I've not provided a detailed response to all the points Mr K has raised. That's deliberate; ours is an informal service for resolving disputes between financial businesses and their customers. While I've taken into account all submissions, I've concentrated my findings on what I think is relevant and at the heart of his complaint.

I'm not upholding Mr K's complaint. I'll explain why.

The first thing I've considered is the extensive regulation around the services like those performed by FASL for Mr K. The FCA Handbook contains twelve Principles for businesses, which it says are fundamental obligations firms must adhere to (PRIN 2.1.1 R in the FCA Handbook). These include:

- Principle 2, which requires a firm to conduct its business with due skill, care and diligence.
- Principle 3, which requires a firm to take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems.
- Principle 6, which requires a firm to pay due regard to the interests of its customers and treat them fairly.
- Principle 7, which requires a firm to pay due regard to the information needs of its clients, and communicate information to them in a way which is clear, fair and not misleading.

- Principle 12, which requires a firm to act to deliver good outcomes for retail customers.

So, the Principles are relevant and form part of the regulatory framework that existed at the relevant time. They must always be complied with by regulated firms. As such, I need to have regard to them in deciding Mr K's complaint.

Although Mr K has provided a detailed explanation of his complaint, the matters arising essentially stem from a narrow and clear event. He was attempting to make investment trades on his SIPP, but he didn't receive real time confirmation these had been given effect. This was not his usual experience, so he was worried about what had happened. Neither was he able to access alternative sources of information on FASL's platform to put his mind at rest that the transactions had taken place.

Dealing with pensions is a significant financial transaction. So, when things didn't happen in the normal way for Mr K in October 2023 when he was making investment decisions on his SIPP, I recognise this would've given rise to concern. And I can see the subsequent engagement he had with FASL wasn't sufficient to put his mind at rest and this led to him making further considerable efforts to resolve matters to his satisfaction, including bringing matters to this Service.

Mr K provided this Service with testimony about what happened in October 2023, including a screen shot which showed a *loading* or *buffering circle*, which was evident while he was trying to trade, prior to and after FASL's transaction daily cut-off point. So, naturally, he couldn't be sure at that time whether his requests had been actioned or not.

Unfortunately there's no definitive evidence about whether the problem experienced by Mr K arose with FASL's platform or had something to do with his own infrastructure. As the Investigator concluded in one of his view letters to Mr K:

*"I have considered the actions taken by Fidelity following your issues and I believe that these were appropriate and offered the support that I would have expected."*

*"Fidelity attempted to replicate the error that you had encountered but were unable to do so, this means that it could not establish exactly why you had an issue placing trades, and so could not identify any issue or particular reason why you encountered a problem."*

*"It did also offer you advice to ensure that you did not have any pop-up blocker settings on your browser which can affect the performance of the site and this advice has been added to the terms and conditions on its website since your complaint."*

*"It is therefore my opinion that Fidelity did attempt to investigate your complaint and offered advice, which would seem to be reasonable in my opinion. Unfortunately, it was not able to get to the exact root cause of your issue."*

*"When a firm has issues with its systems, we usually see a spike in complaints at the Financial Ombudsman Service but this has not happened with Fidelity, which would suggest that it was not a system issue."*

*"In the circumstances, I believe that Fidelity did offer the help and support that it could in the circumstances. It is unfortunate that it could not resolve your issues, but I believe that it made a fair attempt to do so."*

Since raising his complaint, Mr K hasn't made this Service aware of any further occurrences of the problem he experienced in October 2023. So, I assume he has since had access to the information about his transactions that he needs at the right time.

Based on the information available to me, I think it's more likely than not the issue Mr K experienced with the loading/buffering screen was outside of FASL's control.

I've also thought about the challenges Mr K raised in response to the Investigator's initial view (in italics below). Turning briefly to these matters:

- *Summary of complaint* – Mr K was concerned that not all aspects of his complaint had been considered. Although I've reached the same overall conclusion as the Investigator, I can assure him I've thought about all the matters he's raised. And I've previously set out the approach this Service takes to dealing with complaints.
- *Fidelity's initial response* – Mr K says this Service failed to consider the fact FASL couldn't review those online sessions he had where the problem complained about arose. I disagree. I think a full explanation of why this was likely the case was provided by the firm and has been covered.
- *Confirmation screen and document* – Mr K says because he didn't receive the real-time trading confirmation he usually received, he had no other means know whether the transactions had taken place properly. Since the event, FASL has demonstrated the trades he made in October 2023 were given effect at the right time and price. No telling case has been made by Mr K that he has incurred a financial loss in relation to the matters complained about. He says there hasn't been a proper consideration of FASL's responsibilities in respect of the consumer duty here. The consumer duty does require a business to act to deliver good outcomes for retail customers. However, this doesn't mean individual customers will always get good outcomes or will always be protected from poor outcomes. It is about the outcomes that result from the business' actions considering what it knew or could reasonably be expected to have known at the relevant time. In acting to deliver a good outcome, a business should act in good faith, avoid causing foreseeable harm to customers and support them to pursue their financial objectives. From what I've seen in this case, I do not conclude FASL was in breach of the consumer duty.
- *Means to check transactions* – Mr K broadened his previous challenge and said FASL hadn't provided him with an explanation for the problem he experienced in October 2023, nor did it provide him with any suggestions about how this might be avoided in the future. I think any reasonable assessment of the firm's communication with Mr K around the time of the events would conclude the actions FASL took to investigate the issues he raised and its response to his complaint were proportionate, fair and reasonable. It did provide him with some advice about steps he could take which could potentially improve his experience of using his online account. And he would've had access to the information he needed shortly after the events complained about.
- *Evidence of errors* – Mr K asserts that the problems he experienced in October 2023 were the result of FASL's platform. But having reviewed all the information available to me at this time. I've concluded on the balance of probabilities the technical problems he experienced weren't within its control.
- *Terms and conditions* – Mr K says that just because FASL's terms and conditions state they are not responsible for losses due to system unavailability unless there is negligence, fraud or deliberate default, that doesn't mean it can ignore its duties to provide customers with proper explanations and support when problems arise. I agree. And I've dealt with these matters already.
- *Proposed solutions and compensation* – Mr K challenged the Investigator's position that he wasn't due some form of compensation. While I've no doubt the events of October 2023 did cause Mr K understandable concern, I think this should've been for a relatively brief period and the sums involved were relatively small. Unfortunately,

we're all inconvenienced at times in our day-to-day lives – and in our dealings with other people, businesses and organisations. I don't find anything out of the ordinary in this case. And as I've concluded FASL didn't do anything materially wrong, it follows I won't be requiring it to make an award in this regard.

Our service is not the regulator, and while we give proper consideration to law and regulations, we look at individual complaints and determine them on a fair and reasonable basis. If an error has been made by the business and this caused a loss, we seek to put the customer back into the position they'd have been in now. But I've concluded in this case FASL doesn't need to do anything further.

In summary, I find it more likely than not FASL wasn't responsible for the technical problems Mr K experienced when conducting transactions on its platform in October 2023. In that context it wouldn't be reasonable for me to conclude it should take action to reengineer its platform to cater for what appears to have been a rare incident, which was beyond its control.

I think FASL explained to Mr K why it hadn't been able to review his relevant online sessions. It informed him about what tools and information he could access to monitor his transactions. And it confirmed the transactions he'd requested in October 2023 had been given effect at the right time.

I know Mr K will be disappointed with my findings and conclusions. But I've concluded FASL has been proportionate, fair and reasonable in its dealings with him.

### **My final decision**

For the reasons I've set out, I'm not upholding Mr K's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 7 February 2025.

Kevin Williamson

**Ombudsman**