

The complaint

Mr Q complains that Financial Administration Services Limited (“FASL”) has failed to pay him cashback that he believes he was entitled to receive for the transfer of his pension savings to the firm.

What happened

Mr Q is under the age of 18. So he has been assisted in making this complaint by his mother who has responsibility for his pension savings until he reaches 18 years of age. But in this decision, for ease, I will generally refer to all communication on the complaint as having been with, and from, Mr Q himself. Much of the discussions with FASL about the transfer of the pension savings were undertaken by Mr Q’s grandfather, who I will call Mr X.

I issued a provisional decision on this complaint last month. In that decision I explained why I thought the complaint should be upheld and what FASL needed to do to put things right. Both parties have received a copy of the provisional decision but, for completeness, I include some extracts from it below. In my decision I said;

Mr X had invested in pension plans on behalf of his grandchildren, Mr Q and his sister. Those pension savings were held in stakeholder pension plans with Standard Life. In November 2023 Mr X had discussions with FASL about the possibility of transferring the two pension plans to the firm. Mr X was already a long-term client of FASL. FASL explained the charges that would apply to one of the plans (since Mr X’s grand-daughter was over 18 years of age) and that, because of his age, Mr Q’s plan would not attract any service fees.

In early December FASL received an application for the opening of a Junior Self Invested Personal Pension (“SIPP”) on behalf of Mr Q. I understand it also received a similar instruction to open a SIPP from Mr Q’s sister.

Around a week later Mr X had a further discussion with FASL about the transfer of some pension savings of his own. During that call FASL told Mr X that it was currently running a promotion offering a cashback benefit for any transfers.

FASL received the transferred funds from Standard Life on behalf of Mr Q’s pension savings in February 2024. In April 2024 Mr X complained to FASL that cashback had been received by his granddaughter, but not by Mr Q. FASL didn’t agree with the complaint. It said the terms and conditions of the cashback offer excluded transfers from Junior SIPP accounts. So it said that Mr Q didn’t qualify for the offer. Unhappy with that response Mr Q brought the complaint to us.

I think first of all it would be helpful to set out my understanding of the basic timeline behind this transfer, and in particular whether the cashback offer was key to the transfer of Mr Q’s pension savings. FASL has provided us with a number of phone calls that it had with Mr X. It was Mr X that appears to have arranged the transfer of Mr Q’s pension benefits and guided both Mr Q and his mother in their instructions.

I am satisfied that the cashback offer was not discussed with Mr X (or Mr Q or his mother) before the transfer application was made to FASL. Mr X discussed the cashback, in general terms relating to his own pension savings, around a week later. And it doesn't seem that any formal documentation relating to the offer was seen by Mr X or Mr Q until around March 2024 when it was sent, as part of a routine circular, to Mr X's wife.

So I'm satisfied that the transfer did not take place as a result of the cashback being offered. I think the application was made before Mr Q or Mr X had any awareness that an offer was available. I think instead the better charging terms being offered by FASL was the motivating factor behind the request to move Mr Q's pension savings.

But I am satisfied that Mr Q's transfer was made within the period for which the cashback offer applied – that was for transfers between 27 November 2023 and 1 April 2024. So, providing the other terms of the offer were met, I think it reasonable that Mr Q should expect the benefit to be paid. There are two terms of the offer that have been raised as being applicable to this complaint and the rejection of the cashback, and I will discuss each in turn. The specific terms of importance are the following;

5. This Offer excludes;

- a. transfers of assets held in a product/account provided or administered by any company within Fidelity's group of companies including, without limitation, transfers from the EBS SIPP and the Fidelity Personal Pension, or Fidelity Adviser Solutions (formerly FundsNetwork) SIPP, provided by Standard Life;*
- f. transfer of Junior SIPPs; Junior ISAs and....*

As I have said earlier, Mr Q's pension savings were held in a junior stakeholder pension with Standard Life. FASL has confirmed to us that pension plan does not fall under the definitions of the excluded accounts listed in section 5(a) above. So I am satisfied that the previous product provider for Mr Q's pension savings being Standard Life does not affect his entitlement to receive the cashback offer.

So it is section 5(f) that FASL says is the reason that Mr Q's pension transfer was not eligible for the cashback offer. It says that Mr Q opened a Junior SIPP with FASL, and that because he was under the age of 18 his pension with Standard Life would have also been classified as a Junior Pension. So it says that means the Junior SIPP that Mr Q opened was correctly excluded from the cashback offer.

But I'm sorry to tell FASL that I do not agree with its interpretation of the terms. Whilst it is likely that FASL has represented to Mr Q what it intended its terms to say, it has not correctly reflected what they actually say.

Generally in the pensions marketplace, pensions are divided into three product types - stakeholder pensions, personal pensions, and SIPPs. Each have their own characteristics and investment options. For example, a stakeholder pension might provide a default investment strategy whereas a SIPP would generally offer a wider and more sophisticated range of investment options. A SIPP would usually require greater management and perhaps come with higher charges in return for the wider investment choices.

The exclusion terms discuss the origin of the transferred funds, rather than the FASL product into which they are being paid. That is clearly shown both by the restrictions on the previous product providers, and in the wording discussing the “transfer of” [my emphasis] rather than the “transfer to” [again my emphasis] a Junior SIPP. And, in some other of the terms (such as 5(a) above), FASL has been careful to make reference to both Personal Pensions and SIPPs as different product types.

So it doesn’t seem to me that the specific pension plan held by Mr Q before the transfer – a junior stakeholder pension – is excluded by the terms FASL put in place.

It therefore follows that I currently think Mr Q has been treated unfairly by FASL in not having the cashback offer added to his pension savings. I currently think it fair and reasonable that the applicable cashback should be paid to him.

I invited both parties to provide us with any further comments or evidence in response to my provisional decision. Both Mr Q and FASL accepted my provisional findings but responded with some similar concerns about how the redress I had proposed should be paid. So I provided some updated thoughts to both parties about what would be an appropriate method of compensation.

Mr Q accepted my updated redress proposals and asked that any compensation be paid to the Cash Management Account (“CMA”) held with FASL by his mother. FASL also agreed with some of my redress proposals. In brief it agreed to pay the cashback amount, and add some interest for the delayed payment. But it raised some concerns about the date I had said that interest should start to accrue.

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.

As I set out in my provisional decision, in deciding this complaint I’ve taken into account the law, any relevant regulatory rules and good industry practice at the time. I have also carefully considered the submissions that have been made by Mr Q and by FASL. Where the evidence is unclear, or there are conflicts, I have made my decision based on the balance of probabilities. In other words I have looked at what evidence we do have, and the surrounding circumstances, to help me decide what I think is more likely to, or should, have happened.

And I repeat my reflections on the role of this service. This service isn’t intended to regulate or punish businesses for their conduct – that is the role of the Financial Conduct Authority. Instead this service looks to resolve individual complaints between a consumer and a business. Should we decide that something has gone wrong we would ask the business to put things right by placing the consumer, as far as is possible, in the position they would have been if the problem hadn’t occurred.

Following my provisional decision, and the updated redress proposals that I issued, we appear to have reached a broad agreement about how FASL should put things right for Mr Q. The only matter that remains to be agreed is when the compensatory interest should start to be added to the cashback amount.

As I have said above, my aim with the redress proposals is to place Mr Q into the position he would have been had nothing gone wrong. The terms and conditions of the cashback offer stated that the cashback would be paid within 90 days of the offer closing on 1 April 2024. So the latest FASL could have paid the cashback would have been 30 June 2024.

But as I mentioned in my provisional decision Mr Q's sister transferred her pension to FASL at the same time. And she successfully received a cashback payment that was credited to her CMA on 12 March 2024. I think that it would be reasonable to conclude that any payment to Mr Q would have been made in a similar timeframe. So below I will be making a small amendment to the redress proposals I issued to both parties. The impact of that change is relatively small (less than £7), and I think fairly represents what would have happened had nothing gone wrong.

So to confirm my findings on this complaint, I think Mr Q has been treated unfairly by FASL in not having the cashback offer paid following the transfer of his pension savings. I think it fair and reasonable that the applicable cashback should be paid to him.

Putting things right

I direct FASL to do the following in order to put things right;

- Pay compensation to Mr Q equal to the value of the cashback I have found he was entitled to receive (£1,000).
- As that compensation would have been paid as a cash sum, rather than added to the pension account, interest at a rate of 8% simple per annum should be added from the date the cashback would have been paid on 12 March 2024 to the date of settlement. HM Revenue & Customs requires FASL to take off tax from this interest. FASL must give Mr Q a certificate showing how much tax it's taken off if he asks for one.
- The payment should be made promptly to the CMA held with FASL by Mr Q's mother.

My final decision

My final decision is that I uphold Mr Q's complaint and direct Financial Administration Services Limited to put things right as detailed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr Q to accept or reject my decision before 14 March 2025.

Paul Reilly
Ombudsman