

complaint

Mr S complains that Fidelius Ltd is responsible for the investment loss he suffered following the delay in transferring his pension fund and investment platform to new providers.

background

I issued a provisional decision on 18 April 2019. It's attached and forms part of this decision.

Mr S welcomed my findings that there had been shortcomings on Fidelius' part. But he said the start date for calculating compensation should be 25 October 2016, not 1 January 2017, as I'd proposed in my provisional decision. In summary he said:

- I'd noted Fidelius' adviser's failure to provide a timescale in response to the request in his email of 25 August 2016. The adviser had emailed Mr S the next day saying there was a '*fair bit*' to talk through so that a reasonable timescale could be estimated. That conversation took place on 2 September 2016, supplemented by a further call on 12 September 2016. But, despite the critical importance (for both the basis of the transfer and the timescale) the discussions weren't confirmed by email – unlike what had happened previously, during the thirty years Mr S has been a client, when significant advice has been given over the telephone.
- Fidelius didn't make a written record of its telephone advice. He queried how it was possible for a financial adviser (to whom he was paying over £5,000 a year in fees) not to record crucial advice about a transfer of over £500,000.
- The purpose of the telephone calls was to get a reasonable estimate of the timescale. The adviser didn't send any estimate. Mr S made every effort to get an update on the timescale for the whole process. Fidelius must bear substantial responsibility for allowing him to authorise the transfer on that basis that he reasonably thought it would take four to six weeks.
- The start date for compensation I'd suggested (1 January 2017) appeared to be in part based on what he'd said about wanting the transfer to be done by the end of 2016. He did say that. But when he authorised the transfer he did so on the basis he expected the whole process to be completed within, at most, six weeks.
- The start date also appeared to be based on my view that completion of the transfer by the end of December 2016 should have been achievable. But it could and should have been achieved long before then. From the outset there were inexplicable and unjustified delays. Although Fidelius had said on 30 September 2016 the switches were '*more or less complete*' Mr S recalled (from monitoring progress on line) that they weren't actually completed until about 10 October 2016 – which is consistent with him not receiving the new set of forms until 14 October 2016.
- He queried how the fund switches and encashments could take as long as four weeks when for years his transactions had been executed within 24 hours, using on line platforms, with cash transferred to his account typically within five days.
- He asked if I was sure, if the whole process had been implemented from the outset with urgency and efficiency, it couldn't have been completed by 25 October 2016 or very soon thereafter. The only time he was responsible for any delay was at the end of November 2016 when he was abroad and which was long after everything should have been finalised.

Fidelius responded to my provisional decision saying it had no further information to add. It had calculated redress based on what I'd said in my provisional decision. It attached its calculations and asked that we agree them so that, assuming my final decision was as

expected, it could conclude things quickly. It proposed, as Mr S was retired with no known pensionable earnings, his tax relievable contributions were restricted to £3,600 pa so only about half of the redress could be paid into his pension, to make payment direct to Mr S and on the basis that he's a basic rate tax payer.

We shared Fidelius' calculation with Mr S. He agreed it was in line with what I'd suggested. But he reiterated he hoped I'd revise the basis for compensation by bringing forward the start date. He queried if the compensation was taxable in which case as a deduction for income tax had been made he'd pay tax twice. He pointed out that a deduction of 20% (not 15%) might be more appropriate as his pension was already fully drawn down and he had no entitlement to further tax free cash. He agreed with Fidelius' suggestion to pay redress direct to him rather than trying to pay part into his pension fund.

my findings

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

I've paid particular attention to what Mr S has said in response to my provisional decision about why he thinks compensation should be paid from an earlier date – 25 October 2016 or thereabouts.

I agree that it would have helped if what was discussed about likely timescales on 2 and 12 September 2016 had been confirmed by email. I can understand why Mr S is critical of the adviser's failure to do that or make a file note. I also take the point that knowing how long things were likely to take was important and something Mr S would have wanted to know before agreed to go ahead and, importantly, decided to effect the transfer 50% in cash.

But it's difficult to say that Fidelius' adviser gave Mr S a timescale of four to six weeks for the whole process when there's no contemporaneous record of that. And in any event I'd have expected any timeframe given to have been qualified – for example, the original report referred to how long the transfer '*typically*' should take. In that sort of situation we'd look at how long the transfer actually took and why it wasn't possible to meet any indicative or typical timescale. That's particularly the case when as here there are a number of other parties involved.

In selecting a start date of 1 January 2017 I recognise Mr S' position is that he'd authorised the transfer on the basis it would take a lot less time than that. And that by the time he started to press for the transfer to be completed by the end of the year the whole process had been going on for some time. I don't think there was any suggestion at the outset that the matter was urgent. Mr S no doubt wanted (and was entitled to expect) the transfer to be done without undue delay. But I don't think that's quite the same. But by December 2016 the matter had become urgent. And Fidelius should have picked up on that and done more.

I've looked again as to what happened (or hadn't happened) up until then. But I don't think it would be reasonable to say that the transfer could or should have been completed before the end of October 2016 and that it was Fidelius' fault that didn't happen. Amongst other things, the fund switches weren't completed as quickly as Mr S might have anticipated. I note what he's said about his experience in switching funds but I don't think it's quite the same where there are multiple switches. And the SIPP with the new provider wasn't set up until towards late October 2016. There were then some delays in November 2016 but I don't think those were down to Fidelius. It looks like the new provider may have been slow in

contacting the old provider. And Mr S was away during November too. I take his point that he'd expected it all to have been completed before then but that doesn't mean it was Fidelius' fault that it wasn't.

Fidelius has calculated the redress due on the basis I set out in my provisional decision. It wants to make a payment direct to Mr S as it would be complicated trying to pay part of the redress into Mr S' SIPP as he doesn't have sufficient pensionable earnings. Mr S thinks that would be best too.

Mr S has queried the tax position. Our understanding is that compensation for investment loss isn't subject to income tax. But we make a deduction to represent notional tax so that the consumer isn't overcompensated. Here, if things had gone as they should have, Mr S' money (the part that he'd switched to cash) would have been invested sooner. And the return that money would have earned would be in his pension fund. But, when he came to take it out as income, he'd pay tax on it. So if the money is going to be paid direct to him it can be reduced to allow for the tax that Mr S would otherwise have had to pay.

Fidelius allowed for the fact that 25% of a pension fund can usually be taken as a tax free lump sum. Mr S has very fairly pointed out that he's taken all his tax free cash entitlement. So a reduction of 20% rather than 15% would be appropriate.

But Fidelius has confirmed that, in the interests of settling this matter, it would still be prepared to pay the amount it calculated - £5,828.74 – and to include a payment for distress and inconvenience.

Fidelius should pay the compensation within 28 days of being notified that Mr S has accepted my final decision. If payment is delayed beyond that interest at 8% from the date of my decision to the date of payment should be paid on any sums outstanding.

my final decision

I uphold the complaint. Fidelius must pay Mr S £5,828.74 plus interest, if any.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 21 June 2019.

Lesley Stead
ombudsman

PROVISIONAL DECISION dated 18 April 2019

complaint

Mr S complains that Fidelius Limited is responsible for the investment loss he suffered following the delay in transferring his pension fund from one provider and investment platform to a new provider and platform.

background

Mr S had a SIPP (self invested personal pension) with a provider I'll refer to as the old provider. Mr S's pension fund was invested through an investment platform in a number of funds. In the spring/summer of 2016, Mr S and his advisers from Fidelius re-assessed the performance of the pension. Fidelius was unhappy with the existing investment platform and advised that Mr S switch to another platform operated by a different SIPP provider.

Fidelius produced an "Investment Platform Migration Report" dated 21 June 2016. This report advised on both the new recommended investment platform for Mr S's investments and the mechanics of the switch. Fidelius recommended a new investment platform linked to a new SIPP provider and advised on an investment strategy after the transfer. Fidelius said there were two ways the transfer could be done. First, a cash transfer, where all the assets are sold prior to the transfer and then cash is sent from the old platform to the new one. The alternative was an in-specie transfer or re-registration where the existing assets are transferred in their original state.

Fidelius advised that the problem with cash is that although the transfer "typically" takes place in a shorter timeframe "the funds are out of the market for the time it takes the transfer to complete". Fidelius said that transferring by re-registration takes "longer (typically 4-6 weeks)" but with the advantage that the investor's funds would stay in the market.

Fidelius summarised its recommended method of transfer with a heading in the report "Preferred Method of Transfer" which went on to say "I recommend your assets are transferred using the in-specie/re-registration method"

In preparation for the transfer Fidelius recommended that Mr S switch his investments, which were held in a large number of funds, to one multi-asset fund and then re-register these investments with the new platform.

Mr S was unhappy with some of the recommendations in the report. Following further discussions Fidelius produced an addendum dated 22 July 2016 to the migration report. This second report records that Mr S wanted to add two or three funds instead of the one fund Fidelius had recommended. He was also unhappy with the performance of the suggested discretionary fund manager (DFM) for the new platform. In reply Fidelius recommended a diversification into two funds for the transfer process. And a different DFM for the new platform.

Mr S had further discussions with Fidelius in August and September. On 9 September 2016 Fidelius produced an additional report. It recorded, about the investment strategy for the new platform, that Mr S wished to change from the DFM previously recommended and wanted part of his investment to be managed by a named "fully bespoke DFM".

The report said there was a further level of complication with this choice which required the establishment of a full SIPP and that "The re-registration process is slightly more complicated as the investments are not integrated with the SIPP therefore it will take longer to establish the new investments." The report records Fidelius' recommendation that, prior to the migration, the existing investments be reduced to two funds. But it also notes that Mr S hadn't yet decided on whether the transfer was to be through cash or re-registration.

The report included a form for Mr S to choose the way the assets were to be transferred: option 1 was switching all to cash; option 2 was 50% cash and 50% (25% each) in the two recommended funds; option 3 was switching all to the two recommended funds. Mr S signed the form on 12 September 2016 confirming he was happy to proceed with the transfer of his pension using option 2.

Mr S says that he made that choice because he thought it would quicken the process. He says Fidelius' adviser told him over the phone on 2 September 2016 that the transfer would be completed before the end of September 2016. Mr S's understanding was, at the outside, the transfer process would take four to six weeks from when Fidelius received his signed switch form on 13 September 2016.

But the transfer wasn't completed until towards the end of February 2017. Mr S complained to Fidelius and also to the old and new providers. He said he'd lost out as a result of the delayed transfer because 50% of his investment was in cash throughout this period.

timeline

I've set out a timeline for the transfer, which started with Mr S switching some of his investments to cash. I hope what I've said is more or less complete but there may be other emails or telephone calls which I haven't seen. And there are some emails which aren't directly about the progress of the transfer so I haven't referred to them.

13 September 2016: Fidelius received Mr S's signed switch form.

21 September 2016: Fidelius told Mr S that the 'switches are in progress and should be completed by the end of next week'. Fidelius would then be in a position to send out the next set of paperwork.

30 September 2016: Fidelius emailed Mr S saying that the switches were now 'more or less complete'. And it would be sending him further paperwork in the next few days.

14 October 2016: Mr S had received the forms by then. He raised a couple of queries with Fidelius.

25 October 2016: The new SIPP provider confirmed the new SIPP had been set up.

27 October 2016: Fidelius emailed a further form to Mr S which the new provider required.

27 October 2016: Mr S signed the new provider's transfer authority form.

11 November 2016: The new provider sent that form to the old provider.

14 November 2016: The old provider received the form. It discharge forms to the new provider for completion by it and Mr S. A current valuation of the assets held was enclosed. It showed a total fund value of £525,932.85, roughly half of which was held in cash. For in specie re-registration the new provider had to complete the relevant section confirming that the assets were acceptable.

15 November 2016: Fidelius checked with the old provider who said it had the paperwork from the new provider and had sent a valuation to the new provider. Fidelius emailed Mr S to confirm that had happened. Fidelius said it would call the old and the new providers later in the week to get a more exact time as to when the funds should get to the new provider.

23 November 2016: Fidelius received the old provider's discharge form (sent by email by the new provider) for Mr S to sign. Fidelius forwarded it to Mr S.

30 November 2016: Mr S signed the old provider's discharge forms.

2 December 2016: Fidelius received the signed paperwork from Mr S. Fidelius emailed it to the new provider for checking.

5 December 2016: The new provider confirmed the forms were in order. Fidelius posted them to the new provider. Fidelius diarised the matter for one month (to allow for the Christmas break). Fidelius says it expected the old provider and the new provider to liaise direct.

20 December 2016: Mr S emailed Fidelius (apparently in response to Fidelius' email of 15 November 2016). Mr S said he hoped 'we are now nearing the end of this saga'. He said he monitored the value of his assets at the end of each year so it was important to have access to the new investment platforms by then.

3 January 2017: Mr S emailed Fidelius. He wanted an update. He said he didn't know if he'd misunderstood but he was under the impression that the whole process would be completed in four to six weeks. He'd understood that switching the funds into cash and just two funds prior to re registration would speed things up. He wanted to know what it was taking so long and when the transfer should be completed.

4 January 2017: Fidelius emailed Mr S saying it would contact both the old and the new providers.

5 January 2017: Fidelius phoned both the old and the new providers to check progress. Fidelius ascertained that the investment providers for the new SIPP were ready to receive the transferred funds.

6 January 2017: The new provider emailed Fidelius to say it had been waiting confirmation that one of the new investment provider's accounts had been opened. That had been confirmed and so the new provider had told the old provider that the transfer could go ahead.

9 January 2017: Fidelius emailed Mr S saying the old provider had everything from the new provider; all accounts had been set up, the old provider had passed re-registration details to the new investment provider; on re-registration the transfer of funds would take place.

11 January 2017: The new provider asked Fidelius to complete investment information on the new investment provider's platform. Fidelius did that. That generated a form for the new provider to sign and return to the investment provider. Fidelius sent the form to the new provider who forwarded it to the investment provider.

12 January 2017: Fidelius emailed Mr S saying it had spoken to both the old and the new providers and would be speaking to them the next day to try to get a more definitive timescale for completion of the transfer.

16 January 2017: Fidelius emailed Mr S again saying the old provider hadn't responded so Fidelius would contact it again. In another email Fidelius said the old provider was 'being a bit annoying with providing information about timescales'. As soon as Fidelius had an answer it would let Mr S know. Fidelius added that as the re-registration was only two funds the process should be easier going forwards. The re-registration would take place first and when complete the cash transfer would follow.

17 January 2017: The new provider emailed Fidelius to say the old provider was still awaiting confirmation from the investment provider that the re-registration could proceed. The new provider said it would chase the investment provider and report back. Fidelius did that.

18 January 2017: Fidelius chased the new provider again. It said the old provider was progressing the transfer and the re-registration was proceeding.

31 January 2017: One of the investment providers (Fidelius having chased it up) said that it was waiting for the re-registration to complete.

6 February 2017: The investment provider contacted Fidelius to say that what had been said on 5 January 2017 – that it was ready to receive the funds – had been wrong. One of the funds listed on

the application form hadn't been available on its platform. But it had now been added and so they were definitely ready to receive the funds. They had told the old provider that and the re-registration was again underway.

10 February 2017: Fidelius called the old provider who said re-registration was underway.

15 February 2017: Fidelius accessed Mr S's account with the old provider on line. It showed only the cash element remaining. So the funds were in transit and in the process of being re-registered.

17 February 2017: Fidelius emailed Mr S to say that both providers had confirmed the transfer had been made. Mr S's pension with the old provider should just show the cash element which would be transferred after the in specie transfer had taken place.

24 February 2017: The new provider emailed Fidelius confirming that £265,069.32 had been received in cash and £274,215.70 in specie. The new provider had asked for investment instructions. Fidelius emailed Mr S with a copy of the email.

27 February 2017: The new provider told Fidelius that the re registration and the cash transfer had all been completed. The new provider was in the process of sending the cash to the investment providers.

10 March 2017: Fidelius checked with the new provider that the transfer was complete. The old provider told Fidelius that it would be conducting an internal investigation into why the transfer took so long.

our investigator's view

Our investigator didn't think Fidelius had misled Mr S about the timescales involved. The period mentioned (four to six weeks) was an indication of the timescale that would apply when all the documents required by the providers had been signed and submitted to allow them to complete the transfer. He said the transfer process only started when all the forms had been issued, signed and returned. That was in December 2016. The transfer completed in February 2017. Our investigator thought that wasn't too far from the four to six weeks suggested by Fidelius. The adjudicator didn't think Fidelius gave Mr S incorrect information about the timeframe for the transfer. Nor had Fidelius delayed things. So the adjudicator didn't recommend the complaint be upheld.

Mr S disagreed. In summary he said Fidelius had made no distinction between the pre-transfer and the transfer process itself – he reasonably believed the four to six weeks quoted would cover both. And, in any case, Fidelius told him in a phone call that the whole process would be completed by the end of September 2016.

our further enquiries

We asked Fidelius whether four to six weeks was a reasonable estimate of the likely timescale involved in this type of transfer. Fidelius gave us an example of a transfer in February 2016 for a client with two investments each containing a single fund and transferring in-specie to a new platform in less than two weeks. Fidelius also cited a transfer of a client's pension with a portfolio of 25 - 30 funds completing within seven weeks. Fidelius said its experience was that an in specie transfer of a complex portfolio would take longer than transferring a single fund. But it described a 23 week transfer timescale as 'unprecedented'.

It said it had advised Mr S in June 2016 to simplify his portfolios into a single fund before the transfer began. It was cautious and despite the quick turn round in the first example given it suggested a four to six week typical timescale to Mr S. Fidelius was advising some clients to leave the old provider's platform due to certain inefficiencies. Fidelius didn't think the old provider would be as quick as two weeks but it had no reason to believe it would take anywhere near as long as it did. Four to six weeks was a very reasonable estimate based on its previous experience.

As to what had caused the delay Fidelius said that an in specie transfer takes place between the investment providers. It had no part in the process other than to obtain the necessary forms which it did without delay. It suggested the forms were sent to it in a somewhat piecemeal fashion. One or two of the later forms were unexpected. Filling out all the forms took longer than anticipated. But it had acted properly and hadn't caused any delays.

Mr S had decided – against Fidelius' advice – to convert half of his pension fund into cash. It was only the other half that was to be transferred in specie. Fidelius said it didn't think any of its other clients had done that. Fidelius described that as a very unusual, perhaps unique, decision.

The logical result of Mr S's decision was that the cash would transfer fairly quickly – within two to four weeks (as estimated in the June 2016 recommendation letter). The in specie transfer, running concurrently, would complete after about four to six weeks. So it had good reason to believe the total transfer should have completed within about six weeks.

But that didn't happen. In mid January Fidelius learned that the old provider's systems were less efficient – it wouldn't transfer the cash element until after the in specie transfer had been completed. So Mr S's decision to place half his money in cash meant that money was left with the old provider and in cash during the transfer process which took much longer than expected. In January 2017 it would have been entirely inappropriate to advise Mr S to reinvest the cash – the investment period would have been a few weeks at most and possibly only a few days as the in specie transfer was by then underway.

Fidelius referred to the second addendum to the reasons why letter dated 9 September 2016. Fidelius said it didn't recommend a cash transfer – the letter discussed the in specie fund selection (which follows on from the reasons why letter of June 2018 and the first addendum letter). Clearly Mr S was by then considering a cash transfer. Fidelius gave him that option but didn't recommend it. Fidelius again recommended an in specie transfer via a single fund. Mr S challenged and rejected Fidelius' advice more than once and eventually 'took the unusual decision' for a hybrid transfer, partly in specie and partly in cash.

That wasn't what Fidelius had recommended – if Mr S had followed Fidelius' advice the situation wouldn't have arisen. If Fidelius had known in September 2016 that a hybrid transfer would have led to the cash being held by the old provider until after the in specie transfer had been completed it would have advised Mr S against his chosen course. But as it was such an unexpected consequence that Fidelius couldn't reasonably have known or anticipated it.

About why he decided to transfer 50% of his investments into cash Mr S says (in his email to us of 2 July 2018) that "I take full responsibility for the decision to transfer 50% in cash". He added "but I would not have done so if I had been advised that the whole process could reasonably be expected to take much longer than the 4 to 6 weeks mentioned in various ways at different times".

As I've mentioned above, Mr S has also raised complaints about the time taken with both the old SIPP provider and the new provider. I've had access to those complaint files.

my provisional findings

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

Mr S is disappointed that it took so long to transfer his pension to another provider. As his money was held in cash during this period he lost out financially as a result. And given the size of his fund, missing out on investment growth on half of his pension fund wasn't insignificant. I can understand Mr S's unhappiness with the time it took. Fidelius itself has described the time taken – some 23 weeks – as 'unprecedented'.

As I've noted there were several parties involved in the transfer. As well as Mr S and Fidelius, there were the old and the new providers and several investment platforms. I'm only looking at Fidelius' role in the matter.

I don't agree with what Fidelius says about it having no part in an in specie transfer. Fidelius was Mr S's adviser. Fidelius had oversight of the transfer and a role in facilitating and coordinating the transfer and chasing up, if necessary, any of the other parties involved; as well as keeping Mr S informed. And Fidelius accepts that, even though it wasn't directly involved in the transfer process once all the forms were completed, it continued to press the other companies concerned to complete their work and it kept Mr S updated. So it's against that background that I've considered what Fidelius did and if it could and should have done more.

Fidelius did advise Mr S to transfer. Fidelius said that was because of inefficiencies it had experienced with the original investment platform. But Fidelius didn't advise Mr S to do the transfer in the way he did – by switching half of his pension fund to cash and transferring the other investments to two funds and then transferring them in specie. Fidelius' letter of 21 June 2016 is clear in recommending an in-specie/re-registration transfer as the funds would remain in the market. And Mr S very fairly acknowledged (in his email to us of 2 July 2018) that he took full responsibility for the decision to transfer 50% in cash.

I'm not entirely clear why Mr S decided to do that. I think it might speed things up. Fidelius' letter of 21 June 2016 suggests that if the transfer had been all in cash it would be quicker than re-registration. But Fidelius didn't recommend that as the money would be out of the market. Leaving 50% in cash and the rest to be transferred in-specie meant that it all wouldn't be transferred at the same time and there'd still be a wait for the re-registration process to complete.

In an email in August 2016 Fidelius' adviser refers to Mr S possibly holding money in cash "in light of current market value". That could suggest Mr S may have been considering transferring to cash not to quicken the transfer process but to take the money (or some of it at least) out of the market because of the then current market conditions.

But whatever the reason, it was still up to Fidelius to do what it could to make sure the transfer completed without undue delay. Particularly as Mr S says his decision was based on how long he understood from what Fidelius had told him that the transfer would take to complete. Mr S said (in his email of 2 July 2018) "but I would not have done so [ie opted to transfer 50% to cash and transfer the rest in specie] if I had been advised that the whole process could reasonably be expected to take much longer than the 4 to 6 weeks mentioned in various ways at different times". So I've looked at what Fidelius said about the likely timescales.

I don't think there's any dispute (subject to what I say below about the transfer being done in two stages) that Fidelius did initially indicate a four to six week timeframe. I note what Fidelius has said about whether that was a reasonable estimate of the likely time involved in this type of transfer and the examples Fidelius gave. So it seems that estimate was based on Fidelius' experience of previous transfers.

The original migration report talks about the re-registration part of the transfer taking four to six weeks. The report then goes on to discuss consolidating the existing funds into one as a preparation for that transfer although no timescale is allocated to that. I think it was fairly clear that there'd be a first stage of consolidating the funds and then a second stage of actually transferring them. The process was then made more complex as Mr S added another fund to the pre-transfer stage and wanted a bespoke DFM which required a transfer to a full SIPP.

Mr S says that, in his phone call with Fidelius' adviser on 2 September 2016, he was assured the whole process could be completed by the end of September. The adviser can't recall this and there's no written confirmation of it. I think it likely that Mr S and the adviser would have discussed the timescale in the phone call on 2 September 2016. But it's difficult to be sure that Mr S was given an assurance that it would all be completed by the end of September.

I note in his email of 25 August 2016 Mr S asked for a timescale. But he didn't get one. The Fidelius adviser was instead somewhat vague, telling Mr S that this is "Not a quick process from here to conclusion though". That might suggest it unlikely that only a week or so later the adviser was prepared to commit to completion by the end of September 2016.

It may be that Mr S was told that the consolidation process would complete by the end of September 2016. That was process that Fidelius had control of and which in fact appears to have happened as recorded in Fidelius' emails of 21 and 30 September 2016. In the earlier email Fidelius told Mr S that the switches were in progress – Fidelius having received Mr S's signed switch form on 13 September 2016 – and should be completed by the end of the following week. And in the later email Fidelius told Mr S that the switches were now more or less complete.

Overall I think it was reasonable for Mr S to expect that the consolidation process, which had to happen before the transfer itself, would be completed by the end of September 2016 but that setting up the new SIPP and the new investments would take longer. .

On 25 October 2016 the new provider confirmed that Mr S's application had been accepted. So it was really only then that the transfer was set to go ahead. I think Mr S might reasonably have thought that it would take a further four to six weeks or so from then, the preliminary hurdles of switching funds and setting up a new SIPP having been cleared.

On that basis he'd have been expecting the transfer to be completed by, say, late November/early December.

But it wasn't completed until the end of February 2017. I've looked at what happened during the four month period from the end of October 2016 to the end of February 2017.

Mr S had signed the new provider's transfer authority form on 27 October 2016. But it wasn't sent to the old provider until 11 November 2016. I don't know if there was a delay in the new provider getting the form or if the new provider didn't send it to the old provider promptly. But it meant that a further two weeks passed by. Even if the delay wasn't on Fidelius' part, I think it should have chased the form up and made sure it reached the old provider without delay.

The old provider dealt with the form promptly – it sent discharge forms to the new provider for it and Mr S to complete. It seems it took a week for Mr S to sign and return the old provider's discharge forms (sent to him on 23 November 2016 but not received back by Fidelius until 2 December 2016).

Fidelius then diarised the matter on 5 December 2016 for one month. I know that was to take into account the holiday period. But, given the length of time the matter had already going on, I think Fidelius should have been pushing to get the transfer completed quickly. I don't think allowing a further month or so, in the hope that, between them, the old and the new providers would complete the transfer, was wise.

I further note that, despite Mr S contacting Fidelius on 20 December 2016 saying he needed things completed by the end of the year, Fidelius didn't take the opportunity to check how the transfer was progressing or take any steps to try to ensure that Mr S's end of year deadline was met. So when Mr S contacted Fidelius in the New Year it didn't have any news for him. And Mr S then expressed dissatisfaction about how long things were taking.

That does seem to have prompted Fidelius to be more proactive. Fidelius did chase up both the old and the new providers on 4 January 2017. Fidelius ascertained that the both investment providers for the new SIPP were ready to receive the transferred funds. It seems that Fidelius was given to understand that everything was in place – Fidelius told Mr S that on 9 January 2017.

Unfortunately the new provider then had further requirements. I don't think Fidelius could have known that. And there was a problem with the new investment platform and one of the funds not being available which Fidelius hadn't been told at the time – it had been told everything was in place.

But it seems the old provider was wasn't dealing with things as Fidelius had expected. It appears that Fidelius thought the old provider would transfer the cash element first. Fidelius didn't find out, until mid January 2017, that the cash element wouldn't be transferred until after the in specie transfer had been completed. I can see that by then it wouldn't have been appropriate to advise Mr S to reinvest the cash – the investment period would have been a few weeks at most and hopefully only a few days as the in specie transfer was by then underway. But the problem is that, by the time Fidelius found out that the cash element wasn't transferred first, 50% of Mr S's fund had already been in cash for over three months.

Fidelius has said that if it had known in September 2016 that a hybrid transfer would have led to the cash being held by the old provider until after the in specie transfer had been completed it would have advised Mr S against his chosen course. But as it was such an unexpected consequence Fidelius couldn't reasonably have known or anticipated it.

I don't agree. I think Fidelius should have checked with the old provider at the outset or earlier on in the process exactly how the part cash/part in specie transfer would be done. Particularly if that was very unusual and so Fidelius wouldn't have known how the old provider (who according to Fidelius wasn't very efficient anyway) would deal with it.

If Fidelius had advised Mr S that the cash element of the transfer would be held up pending completion of the in specie part of the transfer Mr S might have opted instead for the full in specie transfer that Fidelius had recommended. Alternatively Mr S may have decided to switch all his investments into cash as that should prove simpler and quicker.

But leaving that issue aside, I think Fidelius should have done more. It doesn't seem to have appreciated that the process was taking much longer than Mr S – and Fidelius itself – was expecting. Fidelius could have pressed the old provider for a proper timescale and stressed to all parties involved the urgency of the matter. I don't think Fidelius recognised that the delay meant the matter had become urgent. Fidelius should have recognised that and reacted appropriately by doing more to drive the transfer forward.

It's impossible to say now with certainty what the timescale would have been if Fidelius had been more proactive and had insisted that all parties treat the matter as urgent. Or what timescale could have been achieved had Mr S decided to opt for a full in specie transfer. Or indeed if he'd decided to switch everything to cash. But Mr S wanted the transfer done by the end of 2016. I think that should have been achievable.

If the transfer had been completed earlier the 50% of Mr S's fund that was held in cash would have been invested earlier. I could ask Fidelus to work out what return Mr S would have got on that money if he'd invested earlier in the same funds that he actually invested in a couple of months later.

But working all that out would be complicated – I assume it will involve a large number of funds. So, as an alternative and to keep things simpler, a benchmark index which broadly corresponds to the overall level of risk of his SIPP portfolio with the old provider represented can be used. If, for example, it looked to be a higher risk portfolio I'd suggest the FTSE UK Private Investors Growth Total Return Index (prior to 1 March 2017, the FTSE WMA Stock Market Income total return index). If the portfolio was more medium risk, the FTSE UK Private Investor Income Total Return Index would be appropriate. The benchmark should be applied to the cash element of Mr S's fund from 1 January 2017 to 24 February 2017 – that's the date the new provider told Fidelius that it had received £265,069.32 in cash to be reinvested in accordance with Mr S's instructions.

Ideally the redress should be paid into Mr S's pension plan to increase its value by the amount of the compensation. The amount paid should allow for the effect of charges and any available tax relief. Compensation should not be paid into the pension plan if it would conflict with any existing protection or allowance. If it can't be paid into the pension plan Fidelius should pay the redress direct to Mr S.

But had been possible to pay into the plan, it would have provided a taxable income. Therefore the compensation should be reduced to notionally allow for any income tax that would otherwise have been paid. The notional allowance should be calculated using Mr S's expected/actual marginal rate of tax in retirement.

my provisional decision

I uphold Mr S's complaint. Fidelius must calculate and pay him compensation as I've set out above.

Lesley Stead
ombudsman