

The complaint

Mr C complains about the administration undertaken by Financial Administration Services Limited (trading as Fidelity International, hereafter referred to as '*Fidelity*') in respect of his investment ISA. He says Fidelity has failed to provide him with appropriate information from the Authorised Corporate Director ('ACD') for the Woodford Equity Income Fund ('*WEIF*').

What happened

Mr C holds an investment ISA with Fidelity, within which he held units in the WEIF. Link Fund Solutions Limited (Capita Financial Managers Limited at the time, later acquired by Link and hereafter referred to as 'Link') was the nominated ACD of the WEIF.

With agreement from the depositary, Link suspended the fund in June 2019 due to increased redemptions, and subsequently made the decision to liquidate it. Pay-outs have been made out of the fund since then.

In April 2023, the Financial Conduct Authority ('FCA') announced a conditional settlement of its investigation into the circumstances leading up to the suspension of the WEIF, and Link's role as ACD. As part of the conditional settlement, Link agreed to pay all of its assets over to 250,000 investors in the WEIF, via a Scheme of Arrangement. The scheme was approved by creditors on 14 December 2023 and sanctioned by the High Court in a judgment issued on 9 February 2024.

In August 2023, Mr C complained to Fidelity via its secure message system. Mr C has since explained that as part of the FCA's involvement and the intention to set up the scheme, many notices have been sent from Link to nominees (including Fidelity) describing the scheme, seeking nominations for a steering committee and giving voting directions for the compensation scheme. However, Fidelity had not made him aware of any of these updates.

Mr C says he had only discovered the updates incidentally on social media. Consequentially, he had missed his opportunity to make a nomination and could otherwise have been unable to make a vote regarding the scheme had he not contacted Fidelity when he did.

Fidelity initially sent Mr C message replies explaining it had made relevant letters to affected investors available online – where no active response was needed. However, Mr C remained unhappy, noting he ought to have been sent the entirety of Link's correspondence directly.

On 1 September 2023, Fidelity rejected the complaint. It said it took a business decision to place updates - where no actions were required regarding the WEIF - on its website. Material updates requiring an investor to potentially take action were issued directly via post.

Thereafter, Mr C continued corresponding with Fidelity. It issued replies to him on 5 September 2023, 17 October 2023, and 9 November 2023, but was not persuaded to change its view on the complaint. In the interim on 1 November 2023, Fidelity forwarded a letter to Mr C from Link which confirmed that voting was open for the compensation scheme.

Mr C then referred his complaint to this service. He said that in order to resolve his

complaint, he wanted Fidelity to ensure that in future *all* notices, such as corporate actions are sent to all affected unitholders - by either sending the document to them or sending a message directly which confirms the document's existence and where it can be read.

The complaint was thereafter considered by one of our investigators. He did not think it ought to succeed. Though he understood Mr C had said some other businesses had updated customers, he felt Fidelity had behaved fairly as it had passed across all communications that required Mr C to take some action and otherwise published notices on its website as it confirmed it would.

Mr C disagreed. He said he wanted the complaint to be referred to an ombudsman. He said he had 13 further points of submissions that he wanted to be considered. These were:

1. He is surprised that the investigator believes it acceptable for Fidelity to post updates on its website. The issues with the WEIF have been ongoing for almost five years and in order to keep himself apprised of the situation he'd conceivably have needed to check Fidelity's website every day.
2. It is arrogant of Fidelity to assume what actions Mr C would or wouldn't take based on the letters it *decided* to send him – that should be his choice, not Fidelity's.
3. Link says it issued updates on 20 April 2023 and 28 July 2023 – but he did not receive those, because he wasn't constantly checking Fidelity's website.
4. He disagrees with what Fidelity considers a 'material' update or not – for example, notices about serving on a steering committee and the voting process for the compensation scheme weren't sent to him, but he believes they should have been.
5. The two letters of 20 April 2023 and 28 July 2023 did confirm that no action was required. Link wrote those letters; however, Mr C feels that Link should not be considered a reliable party given its responsibility in the failure of the WEIF.
6. The investigator noted how the 28 July 2023 letter wasn't sent to Mr C – so it must be assumed that this service approves of Mr C being denied an opportunity.
7. The investigator gave an example of an email that Fidelity did send to him on 8 September 2023, but it merely sent a link to its website for Mr C to plough through.
8. The letter Fidelity says it sent on to him dated 1 November 2023 regarding voting for the scheme was never received by him – the investigator merely took Fidelity as its word that the letter was sent.
9. Just over one fifth of the affected creditors voted on the compensation scheme, implying that most retail investors such as Mr C were largely unaware of the vote – that was the case here. Fidelity didn't send the relevant correspondence from Link.
10. He is disappointed that the Financial Ombudsman Service simply believes whatever Fidelity tells it amounts to acceptable service standards.
11. He does accept that Fidelity is entitled to make its own commercial decisions – but only up to a point. Its decisions cannot override Fidelity's regulatory obligation to act in the best interests of its customers.
12. Link's sanction hearing judgment confirmed how it was obliged to send documentation to all persons registered on the WEIF's register of members, including to financial intermediaries for onward distribution. In his view, 'onward distribution' does not mean publication on Fidelity's website.
13. He simply doesn't understand why Fidelity has created this issue – simply forwarding correspondence from Link to affected investors should be an automatic, straightforward administrative step to take.

Fidelity had no other comments to make.

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.

From my review of this complaint, I appreciate the depth of feeling Mr C has about this matter, given the length of time and other important factors involved. I also realise my decision won't be what he has hoped for. However, I'm unable to agree that this complaint should succeed. I'll summarise my reasons for reaching that conclusion below.

I thank Mr C for the submissions he has made regarding his complaint both to Fidelity and to this service. I have considered everything both parties have had to say about the complaint, but this doesn't mean I will be addressing every individual argument put forward.

This service's role is to investigate disputes and resolve complaints informally, whilst taking into account relevant laws, regulations and best practice. In reaching my decision, I'll focus on the issues I believe to be central to the complaint to decide what I think is fair and reasonable in all of the circumstances. We are not a court; and though there are rules I may rely on in respect of complaint handling procedures, I am not required to comment on each point or make specific determinations on every submission put forward by the parties.

It's important for me to point out that we do not act in the capacity of a regulator. That means our decisions don't ordinarily interfere in how a business may conduct its operations or exercise what may be commercial judgment on the provision of a particular service. That remit falls to the FCA.

I note the regulator's function here – though Mr C is aware of that and accepts the position to a degree – because the crux of this complaint relates to how Fidelity has operated, how it has chosen to determine which updates it passes to affected investors from Link and using which medium. So, though Mr C may believe otherwise, it is not my role to determine how Fidelity undertakes that administrative decision or command it to operate in a different way.

Instead, I have looked at whether it has treated Mr C – as an affected investor with units in the WEIF – fairly in relation to the provision of correspondence. And I believe it has.

Whilst Mr C is entitled to form his own view on the reasonableness of Fidelity's approach to the ongoing WEIF correspondence, I must also do the same. I am mindful of the relevant FCA rules referred to by Mr C in respect of treating customers fairly. However, from an objective standpoint, I do not consider its administration to have been unfairly handled or that Fidelity has failed to behave honestly, fairly or professionally in the circumstances.

In January and February 2020, Mr C was sent information about the suspension and impending closure of the WEIF. That correspondence (issued by post) explained how Mr C could obtain all the latest information about the fund on a specific part of Fidelity's website.

Thereafter, Fidelity made a decision as to how it would send information to its affected unitholders. It has told us how if it had a material update from Link (examples including a payment being made, freezing or unfreezing, any taxation matter such as capital gains tax impact or name changes to the fund) then it sent physical letters or an email to the relevant investors. Otherwise, all general updates were placed on its website.

I do not believe that approach is unreasonable, or that it has materially disadvantaged Mr C as he contends. Fidelity did write to Mr C regarding the compensation scheme. On 1 November 2023 it sent him a letter – correctly addressed - entitled '*LF Equity Income Fund Compensation Scheme Voting Open*'. That letter told Mr C of the deadline of 4 December 2023, and confirmed:

“We previously wrote to you with an update from Link Fund Solutions about the LF Equity Income Fund (formerly the LF Woodford Equity Income Fund). We informed you of the proposal of a compensation scheme. Further details have now been made available by the scheme, including an opportunity for investors to vote on the proposed settlement scheme.

As you are classed as a scheme creditor, you have the opportunity to vote on the proposals. You don't have to vote if you choose not to, and any compensation would still be paid out to all investors, regardless of whether they exercise their right to vote or not.”

I know Mr C says he did not receive this letter, but the vast majority of correctly addressed postal correspondence is properly received. And Fidelity is not accountable for an external postal service. I have seen evidence of the letter that was sent. I don't find it likely, on balance, that this one wasn't sent when all other postal correspondence was sent and received by Mr C.

As the nominee, Fidelity confirmed how it would send out all communications to investor where there had been a direct action required or some change to the fund. Letters which provided no material update were not sent directly – and instead were uploaded to the website that Mr C and other unitholders had been informed of previously.

In respect of the updates from Link to nominees and investors dated 20 April 2023 and 28 July 2023, these were placed at the relevant part of Fidelity's website rather than issued by post or email to Mr C and other affected unitholders. It did this because each letter was headed in bold with the following statement **“THIS LETTER IS IMPORTANT BUT IS FOR INFORMATION ONLY AND NO ACTION IS REQUIRED”**. I don't find that unreasonable.

I am also mindful that the first of these letters (and several before it) contained clear information about the publishing of the letters online by Link. It said that *“a copy of this letter and all previous letters to investors since the Fund's suspension can be found on our website at <https://equityincome.linkfundsolutions.co.uk/investor-communications>”*. This link provides a downloadable version of every letter issued by Link to affected unitholders since 3 June 2019. Had Mr C felt he was unable to view Fidelity's website, this provided an alternative to the updates received from Link and uploaded to its website by Fidelity as the nominee.

It was a matter for Fidelity to determine as to whether it wanted to send each of these letters to the affected unitholders in person, based on their content and requirement for action. From the information I have seen – and noting that we do not act in the capacity of a regulator – I don't think it was unreasonable for Fidelity to take a view on what information to send via its website as opposed to using post or email. I therefore do not believe that Fidelity is required to do anything further to resolve the complaint.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 10 May 2024.

Jo Storey
Ombudsman