

The complaint

Mr S has complained about several issues relating to the administration of his SIPP (Self Invested Personal Pension) by Curtis Banks Limited. In summary:

- There had been long delays in merging four SIPPs leading to higher charges.
- Some of the fees charged were excessive; including £240 per property for insuring the properties himself, and a £1,230 fee for the purchase of a commercial property.
- Curtis Banks' scheme fees appeared to have been overcharged by £4,080.
- He was charged a fee of £500 for Curtis Banks receiving a form from him disclosing no conflict of interest in the purchase of 30,800 shares at a capital cost of £100,000. He thought this was excessive.
- There had been various other administrative errors which Mr S listed. As a result he considered Curtis Banks should rebate some of its fees.

What happened

I issued my provisional decision on this complaint on 12 April 2021. The background and circumstances to the complaint and the reasons why I was minded to uphold it in part were set out in that provisional decision.

In summary:

- Delays in merging the four SIPPs

I said my understanding was that Mr S had initially requested the merger of the four SIPPs in August 2018. A series of e-mails had been sent between Mr S and Curtis Banks discussing what was required and costs. These included, but were not limited to, the following:

Curtis Banks internal e-mail dated 26 September 2018 said, amongst other things:

"The member wants to amalgamate all of the SIPPs into one SIPP for ease of administration going forward.I've spoken to [name of employee] in the Transfer in team and he confirms this should not be a problem."

Curtis Banks e-mailed Mr S on 15 October 2018 saying:

"Just to confirm I have today clarified our instruction to [the solicitors] which hopefully you would have seen in an earlier email that you were copied into. With regards to VAT, my colleague....., will be dealing and is aware of the amalgamation of your SIPPs. He will action accordingly."

With regards to your investment portfolios, I note that our investment team is already dealing with the transfer to [portfolio manager]. Our Transfer Team will deal with your request to transfer all of your investments to [SIPP number] as part of the transferring."

Curtis Banks e-mailed the solicitors on 7 February 2019 saying:

"Still trying to piece together this one. I have found the attached which agrees to your fees. Obviously, please do advise if these have changed as I will need to re-seek authority. If the fees have not altered, are you okay to proceed or do you need anything further from me?"

From the sounds of it, this is 'cosmetic' works and has no bearing on our internal SIPP merger or VAT as the ultimate proprietor is remaining the same. I will advise the internal teams to start progressing with their tasks. Apologies you did not have instruction prior to this as the internal teams have been waiting on the property work first... clearly miscommunication somewhere [internally] but hopefully we can progress forwards.

Mr S e-mailed Curtis Banks and the solicitors on 18 February 2019. He said he thought there was some confusion over the issue, went into some detail about how he saw the matter and then said *"The failure to comply with these instructions in a reasonable time frame has implications in terms of excessive fee levels being incurred."*

I said there were a number of e-mails exchanged up until February 2019, but then very few after that date (copies that had been provided). A further e-mail from August 2019 showed that the merger still hadn't been completed. Another e-mail dated September 2020 showed that the merger had been completed by that time.

In an e-mail to us dated 22 March 2019 Curtis Banks said:

"There is an ongoing action to pool property investments in to one SIPP. There are multiple plans and property investments involved and this requires the re-registration of the properties to a single plan. This is essentially an internal transfer of multiple plans which will ultimately reduce some charges incurred by [Mr S].

I understand [Mr S] made his initial request to pool in August 2018. This task is progressing and I have been informed it should be completed by Tax Year end.

... However each property will still be subject to separate VAT requirements and will still incur charges for being VAT elected, there will therefore be no change in the VAT fees incurred. The pooling of the plans to allow a single VAT reference will not reduce the level of work involved unless the properties are themselves being registered as one single property, which I do not believe is the case. As detailed within the Schedule of fees, a VAT fee is charged against each property. I attach a copy of the email I sent to you on 7 February 2019 providing details of the plans and a copy of the Schedule of Fees. You will note that VAT elected properties, incur a VAT related fee for each property."

I said the merger process appeared to have had some third-party involvement, but my understanding was that it was largely an internal process. I hadn't seen any persuasive evidence that there were lengthy delays by third-parties that might have been outside the control of Curtis Banks. And the e-mails suggested that there was some internal confusion about what was required to complete the merger.

I said I accepted the process may not have been straightforward given the multiple properties involved. However Curtis Banks was obliged to process the merger in a timely and efficient manner, which I wasn't satisfied it achieved. I'd seen no reason why the mergers shouldn't have been completed by the start of the 2019/20 tax year, which allowed

a six-month period. I said I therefore intended to award Mr S any cost savings associated with the merger being completed by that date.

- Some of the fees charged were excessive

Curtis Banks had sent a letter to Mr S dated 27 September 2016. This letter explained that it was making changes to its property administration services and, in accordance with its terms and conditions it gave three-months' notice of the changes which were to be introduced on 1 January 2017. The letter included a schedule of the new fees. It also said the changes involved adjustments to its charges and that, if Mr S didn't want to accept the changes, he could transfer to another pension product (before 1 January 2017) and it would waive its transfer out fee. It went on to outline some of the main changes and charges.

I said Curtis Banks was providing a product. To a large degree, it was able to set the prices it charged for the services that it offered that were related to that product. Customers could then choose whether that product was suitable for their requirements, including whether it was competitive on price. If not they could transfer to another provider without being charged the transfer out fee.

I said in terms of the £240 fees, they were provided for in the schedule and I was satisfied Curtis Banks was entitled to apply those charges. I understood Mr S' comments about the amount of work required by Curtis Banks given his own involvement. However I thought it was a matter for Curtis Banks to decide whether it wanted to offer a bespoke arrangement with Mr S given his particular background and experience. Similarly, in general terms, I thought the £1,230 fee had been charged in accordance with the Fee Schedule.

Mr S had said he managed the property investments himself, dealing with rent demands, insurance, rent reviews and lease renewals, instructing lawyers, and agents as was necessary. So I understood he may have considered the fees were high given the work required of Curtis Banks. However as I'd said, I thought it was for Mr S to decide whether the SIPP was suitable for his own particular requirements (including pricing) following receipt of Curtis Banks' 27 September 2016 letter.

Curtis Banks' scheme fees appeared to have been over-charged by £4,080

Curtis Banks had provided invoices for SIPP 0176 and it seemed to me that the fees charged were in line with the SIPP schedule. The only figure I was unable to reconcile for this SIPP was the £150 (plus VAT). However I thought, as had been suggested by Mr S, this likely reflected the loan to the SIPP.

Curtis Banks hadn't provided copies of invoices for SIPPs 0263/0444/0445. However the £642 charged on each was consistent with the Annual Administration fee. The £1,260 on 0263 was consistent with the combination of fees associated with the Annual Property Admin fee.

I hadn't been able to reconcile the £1,050 fees charged on SIPPs 0444 and 0445. However each included a commercial property. So I thought it was likely they related to the Annual Property Admin fee (and associated fees for the Annual Non-block Insurance Fee and Quarterly VAT Return Fee).

Fee of £500 for a minor administration task relating to the purchase of 30,800 shares

Mr S sent an e-mail about the purchase of the shares on 18 October 2018. It included:

“The purchase of the shares constitutes a non-standard investment and as such [an employee] at Curtis Banks is required under SIPP regulations to carry out some basic checks.

Could you e-mail to Technical Team the following:-

An outline of the companies investment/business plan

Management accounts

A financial forecast

Confirmation that the transfer of the shares has board approval for being held in a SIPP.

Once the information is received it may take up to four weeks for approval and to forward £100,100.

The Curtis Banks charge for this review is £500 which I hereby approve.”

I said it was largely for the firm to decide its pricing structure and there appeared to be work involved in any event. Mr S was clearly aware of the charge – albeit I couldn’t reconcile the £500 with the Schedule of Fees which appeared to say the cost (for 2018) of a Non-standard investment transaction was £250 per transaction. I said I thought Curtis Banks was entitled to apply the charge – albeit in accordance with its Fees Schedule/Terms and Conditions. Mr S didn’t appear to have thought the charge was incorrect (rather than excessive). I said Mr S and Curtis Banks could provide further evidence and arguments about this if the fee wasn’t in line with the applicable Schedule/Terms.

Other administrative errors

Mr S had raised several other concerns about the poor administration of the SIPP(s). We asked Curtis Banks for its comments on these issues. It provided copies of documentation and some comments. I listed them as outlined in Mr S’ e-mail to us dated 21 July 2020, along with Curtis Banks’ responses:

- Mortgage interest to [Mortgage Provider 1] was paid for two months after the mortgage was redeemed.
- The [Mortgage Provider 2] mortgage was allowed to go into arrears prompting a Default Notice and default fee.

Curtis Banks said:

“With regards to any interest paid to a bank after the redemption, the bank should have refunded any surplus paid to the SIPP. I can’t actually see a record of a [Mortgage Provider 1] loan - there is a repaid [Mortgage Provider 2] loan and a current loan from the member a connected lender. We’ll need further details on any payments he is referring to.”

And

“The [Mortgage Provider 2] loan was repaid on 13 January 2020 so I’m not sure how we could have defaulted on the 14 January.”

I said I’d seen a copy of a letter dated 9 January 2020 from Mortgage Provider 2 to the SIPP Trustees which said that the loan had matured and was in default. It included a default notice. It asked that the loan be repaid in full. And another letter dated 9 March 2020 from the Trustees to Mortgage Provider 2 confirming that the loan had been repaid in full. And the closing statement showed this was on 13 January 2020.

It appeared that there was an administrative problem as Mr S had said. But I said it wasn't clear whether this was due to a failure by Curtis Banks or by the mortgage provider, as the evidence suggested the mortgage had been repaid on time. My understanding was that it didn't result in any financial detriment to the SIPP (Mr S).

- Insurance premiums paid by the tenants to Curtis Banks had been refunded back to the tenants.

Curtis Banks said:

"For the insurance, can he be more specific on dates and which Tenants? I can only see one Tenant with any insurance rent outstanding and I can't see any payments out in respect of refunds."

I said my understanding was that some of the tenants in the commercial properties were paying their insurance premiums to Curtis Banks along with their rent. However Mr S had arranged insurance cover outside of Curtis Banks' block policy, and so the insurance premiums needed to be paid direct to the insurance broker. Mr S had said that under the terms of the lease the tenant was required to pay the rent plus the insurance premium to the landlord. He also said that the tenants had '*...ignored my instruction*' to pay the premiums direct to the broker. Curtis Banks Property Guide said that Curtis Banks was effectively responsible for the insurance. So I said I didn't think it was unreasonable for it to have forwarded the premiums to the broker rather than refunded them back to the tenants.

- Rents on two properties were lost /returned to the tenant

Curtis Banks said:

"If payments are made without relevant references attached it can be difficult to match funds to the relevant SIPP and payments may be returned."

"...Once a tenant is in place the responsibility for paying rent in line with the terms of the lease is theirs. They are provided with relevant banking details and requested to establish regular bank transfer by either Direct Debit or Standing Order with particular references in order that we can reconcile funds received with the appropriate SIPP. We cannot accept liability if a tenant fails to comply, we will however enter debt recovery processes if debt remains unpaid."

Mr S had provided copies of a series of e-mail's from April/May 2019 relating to a 'missing' payment of £38,792. I understood it was paid by the tenant on 18 March 2019, received by Curtis Banks on 20 March 2019, but not allocated to the SIPP as the payment didn't have the correct reference. The funds were returned to the tenant on 4 April 2019, but the tenant returned them on 15 April 2019. Mr S' letter dated 27 May 2019 shows he was still chasing the missing sum at that time. Further e-mails showed he was chasing another payment for the same property in June 2018, and also a payment 'missing' for another property.

Mr S had said there was sufficient information sent with the payments to have enabled Curtis Banks to have identified the intended account. I hadn't seen copies of the original payments. However I thought the evidence showed payments were missing, and Curtis Banks was charging an annual property fee which, at least in part, was applied for the collection of rents. Yet it appeared it was Mr S who was investigating and chasing the matter. Rental receipts were credited as debits in the SIPP account reducing the balance from £284,317 to £85,000. The correct balance should have shown £196,260.

Mr S had said:

“Rental receipts have been credited as debits reducing the balance by £100,000 That error has now been corrected.”

Curtis Banks had said:

“I can’t confirm why rent would be showing as debits instead of credits as this is no longer visible, however would assume if this had been the case it would have been flagged immediately as an error on the account and rectified. If not then it could have been an error on the portal which would not affect the account.”

- Submitting Form W-8BEN-E by Curtis Banks was ignored which meant the SIPP would have been unable to avoid USA withholding tax.

The documents provided showed that Mr S received an e-mail about the form in December 2019. And Curtis Banks sent the form on 21 February 2020. Again, it appeared that it was Mr S who was having to chase the matter, albeit no damage was caused.

- Curtis Banks failed to renew the LEI number which meant the SIPP would have been unable to buy or sell shares.

There were a series of e-mails exchanged between 23 January 2019 and 12 February 2019 chasing Curtis Banks to update the LEI number. Mr S then e-mailed our adjudicator on 13 February 2019 saying as a result of the delay in updating the number he was unable to trade on his portfolio of over £4 million.

It appeared the matter wasn’t initially dealt with in a timely manner and Mr S was chasing it. But my understanding was that no losses resulted from the delay albeit, again, Mr S was having to spend time on it.

- Mr S also sent us a letter dated 1 September 2020 saying he wanted to add another issue to his complaint. He said he had used his own solicitor to initially buy a property through his SIPP and then sell it. He didn’t think Curtis Banks should be charging £240 both on purchase and sale. He said the previous SIPP administrator didn’t apply such charges and to add another £480 to his claim.

I said Curtis Banks was obliged to apply charges in line with its Schedule of Fees, which I thought it had (subject to what I’d said earlier). And it was largely a matter for Curtis Banks to set its pricing structure and for clients to decide whether its product is suitable for their needs.

I said however that I had thought about whether, given the number of administrative failures that Mr S had alleged, he should be able to transfer to another provider without incurring a charge.

I said on the evidence provided at that time, there did appear to have been a number of administrative failings. I said each might be considered relatively minor when considered in isolation. I said I understood they didn’t result in any financial detriment. However that when they were all considered together and in the round, I thought they could reasonably lead to Mr S losing confidence in Curtis Banks’ ability to manage the SIPP in a timely and efficient manner.

I said my view at that time was that there had been a number of errors, but that the appropriate remedy was a refund of some of the charges as I went onto set out.

My provisional; decision was therefore to uphold Mr S' complaint in part.

I said I intended to uphold the complaints about the delays in merging the SIPP, and make an award for the other administrative issues.

I said I didn't intend to uphold the complaints about the excessive fees; scheme fees being overcharged; or the £500 fee relating to the purchase of the 30,800 shares.

For the delays in the merging of the SIPP, I said I intended that Curtis Banks Limited should calculate any additional fees that Mr S paid as a result of the delayed merger during the period from 6 April 2019 to the date the SIPP were merged. I asked that both parties should provide a breakdown of the costs they considered would have been saved over that period.

For the other administrative issues I said I hadn't been able to make a finding on all the issues that Mr S had raised. I said on the one hand the evidence suggested that there were a number of administrative failures over a period of time. However on the other, that it appeared they were all eventually resolved with no financial loss to Mr S. I said it was clear that Mr S had spent a lot of time and effort monitoring the administration of the SIPP, and he had active involvement in the management of the commercial properties.

I said taking everything into account, I intended to award £500 back to Mr S for the administrative failings.

I said Curtis Banks Limited should pay the compensation into Mr S' pension plan to increase its value by the amount of the compensation and any interest. However that Curtis Banks Limited shouldn't pay the compensation into the pension plan if it would conflict with any existing protection or allowance. And that If this was the case, for example if Mr S has any protections, he should let us know.

I said if Curtis Banks Limited wasn't able to pay the compensation into Mr S' pension plan it should pay that amount direct to him. But had it been possible to pay into the plan, it would have provided a taxable income. Therefore I said the compensation should be reduced to notionally allow for any income tax that would otherwise have been paid.

I said Curtis Banks should also pay Mr S £300 for the distress and inconvenience I was satisfied the matter had caused him.

I asked both parties to send me any further evidence or arguments that they wanted me to consider before I made my final decision.

Curtis Banks said it agreed some of the annual fees for the SIPP should be refunded due to the delay in merging. In total this was £2,016. It also agreed to pay Mr S the £500 refund for the administrative failures listed, and the £300 for the distress and inconvenience caused to Mr S. In total this was £2,816.

Mr S said he accepted the £2,816 which he understood to be in relation to poor administration. However he said there remained the outstanding fee of £240 per property because he arranged insurance through his own broker rather than through Curtis Banks.

Mr S also said the firm's offer didn't compensate him for another issue he had raised following my provisional 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.

Having done so, I've seen no reason to depart from the finding in my provisional decision to uphold Mr S' complaint in part.

Mr S has referred to the additional £240 per property he had to pay as a result of not arranging the properties' insurance on Curtis Banks' block policy. However, for the reasons I explained in my provisional decision, I don't think that part of his complaint should be upheld.

Mr S has also raised additional issues with the administration of the SIPP since I sent my provisional decision. However, as I explained in that decision, Mr S had already raised issues through the lifetime of the original complaint, and I said I thought it was appropriate to draw a line under those issues and provide my provisional view on them at that point. Mr S' complaint has been under consideration for some time, and I don't think it's appropriate or practical to keep adding issue to those already under consideration as part of this complaint - as I said, the current complaints could otherwise go on indefinitely.

Mr S can raise any issues that weren't considered as part of this complaint separately with us if he cannot resolve them with the firm.

Putting things right

For the reasons I set out above in my provisional decision, I think fair compensation is for Curtis Banks Limited to pay Mr S £2,516. And £300 for the distress and inconvenience caused to Mr S through the time and effort he has had to spend to rectify matters.

The £2,516 (and £300) *shouldn't* be paid into the SIPP, as Mr S has confirmed that he has Enhanced Protection on his pension. It should therefore be paid to him directly.

Mr S has provided evidence to show that, with reliefs claimed, his income *wasn't* liable to basic rate tax for 2019/20. He says the position will be similar for 2020/21 and 2021/22.

Curtis Banks should therefore pay the compensation to Mr S directly, and without a deduction for income tax.

Interest at the rate of 8% per year simple should be added to the compensation from the date of this decision to date of payment if settlement isn't made within 28 days of us notifying Curtis Banks that Mr S has accepted this final decision.

My final decision

My final decision is that I uphold Mr S' complaint in part as I set out above and in my provisional decision. I order Curtis Banks Limited to pay compensation to Mr S as I have outlined in 'Putting things right' above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 1 November 2021.

David Ashley
Ombudsman