

The complaint

Mr W says Curtis Banks Limited ('CBL') is responsible for the delayed transfer (in specie) of his Self-Invested Personal Pension ('SIPP'), from CBL to Minerva (administered by InvestAcc), between April 2021 and February/March 2022. He claims compensation for financial loss (lost income and lost savings on fees) and for the trouble and inconvenience caused to him by the delay.

What happened

CBL accepts that it caused a total delay of 26 days to the transfer, but it disputes responsibility for any other delays beyond this. It says the roles and actions of third parties consumed other periods of time (and/or caused delays) in the process and it is not responsible for those third parties (or for their actions).

CBL presented a chronology of key events, based on its records, which mainly sets out the following:

- The transfer request was received on 29 April 2021; on 3 May it asked InvestAcc to complete and submit the required transfer forms; it received the forms, from InvestAcc, on 8 June and it says this is when the transfer process began in earnest.
- On 11 June, and with regards to the SIPP's AXA holding, it asked AXA Life Europe ('AXA') for a valuation, which it received on 14 June.
- On 9 July it asked InvestAcc for confirmation of acceptance (of the SIPP's holdings) and it received that confirmation on 12 July.
- On 19 July it asked AXA for confirmation that the holding could be transferred in specie. AXA did not permit this and, on 20 July, said the holding could either be surrendered or assigned. On 28 July it provided the required deed of assignment to AXA for the correct holding (having previously referred to the wrong one).
- On 21 July, with regards to the SIPP's holdings on the Ascentric platform, it learnt that InvestAcc did not have an account on this platform. InvestAcc had to open a platform account before the investments could be transferred. InvestAcc did this through a third-party and confirmed, on 24 August, that it had been done – it said there was a delay by the third-party in this respect. CBL issued the deed of assignment for these investments on the same day and issued re-registration instructions to the platform on 27 August. It also instructed that £1,344 in cash be retained in the platform account for outstanding fees.
- On 24 August, with regards to the AXA holding, it issued the transfer instruction to AXA. AXA confirmed receipt on 7 September and asked for additional documents. On 8 September it asked InvestAcc to complete and submit documentation in this respect – it chased for this on 21 September; InvestAcc returned the documents on 4 October; CBL chased for further outstanding documents on 7 October; InvestAcc

provided them on the same day; CBL then forwarded the documents to AXA on 26 October.

- CBL chased AXA and the platform for progress updates from October onwards. In November it learnt that the documents submitted to AXA were deemed incomplete, it had reason to contend otherwise and it did that in response to AXA; and it also learnt that the platform was still awaiting acceptance details from the third-party account holder (used by InvestAcc).
- With regards to the Ascentric platform holdings, the third-party account holder eventually, on 21 January 2022, confirmed acceptance of the platform holdings and, on 25 January, provided details to progress their re-registration. Transfer of the platform's portfolio was then completed on 11 February.
- CBL chased for progress on the AXA incomplete documentation issue and it was eventually resolved on 16 February 2022. It then chased AXA for progress thereafter. On 1 March, AXA confirmed that transfer of the holding was completed.

CBL says it twice caused delays, beyond the three to five working days in which it would normally take to action steps in the transfer process. On this basis, it accepts that it cause a delay of 19 working days in the period between receipt of the AXA valuation on 14 June 2021 and its response to AXA on 19 July 2021; and that it caused a delay of seven working days in the period between its final receipt of documents from InvestAcc on 7 October 2021 and its forwarding of those documents to AXA on 26 October 2021. CBL also acknowledges the error it made in the first AXA related deed of assignment which referred to the wrong holding.

In recognition of its contribution to the transfer delays CBL says it waived its transfer fee (that it did this in October 2021) and it has offered Mr W £250 for the trouble and inconvenience caused by said contribution. It rejects his claim for a refund of its administration fee between June 2021 and May 2022 because it does not consider itself responsible for the overall transfer delay.

One of our investigators looked into the matter and broadly agreed with CBL's position. She did not consider that it should do more than it has done and offered to do. Mr W disagreed, and noted that the £1,344 retained in the platform account for fees was never waived as it was never returned to him. The investigator clarified that this amount was reasonably withheld for any fees that were outstanding at the time. Mr W has also said the £250 offer was not in addition to a waived transfer fee, but was instead *by way of waiving the transfer out fee*. He asked for an ombudsman's decision. He retains the contention that a particular amount of savings in fees – with fee savings being what prompted his transfer pursuit – would have been achieved but for the delayed transfer and that, whilst he acknowledges there were other parties involved in the process, compensation from CBL should be more than it has offered.

The matter was referred to an ombudsman.

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.

The balance of available evidence, including the submissions from both parties, supports the following initial observations:

- The transfer happened in specie, so the SIPP's holdings were never taken out of the market during the process and there is no claim for investment related financial loss in this respect. There also appears to be no claim for, or evidence of, post-transfer liquidation and reinvestment related financial loss in this case. I briefly refer to these issues because they can be the main areas of financial loss in cases about delayed transfers of pension and/or investment assets, but they don't apply in the present case. I note Mr W's claim for loss of income. However, this appears to co-relate to the savings in fees that, he asserts, he would have benefitted from but for the delayed transfer. I address this further below.
- CBL waived the transfer out fee in recognition of its contribution to the delayed transfer. The £1,344 retained in the platform account was a separate matter, it appears to have related to outstanding fees that already needed to be settled, not the transfer out fee. I have not seen evidence of a dedicated transfer out fee from CBL applied to or incurred by Mr W in the process.
- CBL has also offered £250 in recognition of its contribution to the delayed transfer.

Besides CBL, the process mainly involved Mr W's financial adviser, InvestAcc, the ceding and receiving schemes' trustees, the Ascentric platform (and its parent company), AXA, and the third-party platform account holder. In this context, and in the context of the present complaint *about CBL*, responsibility for the time it took to complete the transfer does not automatically rest with CBL. Unless it can be established that its actions and/or inactions wholly or mainly caused the process to be delayed, it would not be fair or reasonable to hold it responsible for the time it took to complete the transfer.

In the absence of an investment/reinvestment related financial loss, as I have already addressed, the other matter to consider is whether (or not) CBL should give Mr W more compensation (more than what it has given and offered) for its role in the trouble and inconvenience caused to him in the overall transfer process. In this respect, I consider CBL's position to be defined by the transfer out fee that it waived (which, directly or indirectly, benefitted Mr W) and the £250 it has offered. Mr W makes a claim for lost income and lost savings on fees, caused by the delayed transfer. Whilst these also count as potential financial losses, his claim depends on being able to show that CBL was wholly or mainly responsible for the delayed transfer – which, Mr W says, is what led to the alleged lost income and lost savings on fees. On balance, and as I set out below, I do not find that CBL was so responsible.

I agree that the transfer began, in earnest, on 8 June 2021 – when the required transfer forms were received by CBL. The transfer was not completed until between 11 February 2022 and 1 March 2022. In this case, I do not have enough evidence, or the remit, to determine any specific wrongdoings by any of the other parties in the transfer process (other than CBL), so I make no such findings. However, I have enough evidence – and the remit – to address CBL's role in the process.

I agree with the allowance of three to five working days for action, for each stage of the process at CBL's end, but I do not quite agree with its concluding calculation – beyond that allowance – that it caused a total of 26 days delay to the process. However, in the context of the process as a whole, my assessment is not markedly different and it is not enough to reach the conclusion that CBL was wholly or mainly at fault for the time the process took. It is also not enough to say CBL caused a tangible amount of additional trouble and inconvenience to Mr W.

I agree with the two periods of delay that CBL accepts it caused. In addition, and on balance, I consider that the AXA incomplete documentation issue – between November 2021 and February 2022 – could have been addressed and resolved earlier between CBL and AXA. I understand why CBL queried the issue. Its experience at the time was that what AXA was asking for had not been necessary in other comparable cases, but, in the end, it still had to meet AXA's request. I do not suggest that all of the three months in this period amount to a delay caused by CBL, but, in broad terms and based on evidence in the chronology that says this issue arose around the middle of November 2021, I consider that CBL should probably have conceded on the issue by January 2022 and submitted the document as AXA required it to be submitted – which is what it eventually did in February 2022. I am not persuaded that the debate on the issue was worth all the time it appears to have taken.

Discounting the three to five working days allowance, this would mean CBL is responsible for an additional delay of around 20 working days. In my opinion, and on balance, an updated and combined total of 46 working days of delays caused by CBL does not make enough of a tangible difference to the previous assessment of liability for 26 working days of delay, in a transfer process that lasted and appears to have been delayed over eight months. I have not seen evidence that CBL can reasonably be held liable for any delays in the process beyond these 46 days, so it follows that it was not wholly or mainly responsible for the time it took to complete the transfer – or for the lost income and lost savings on fees that Mr W claims..

It is also not enough to show that CBL's transfer out fee waiver and offer of £250 are insufficient, in terms of compensation for its role in the trouble and inconvenience caused to Mr W. In the context set above, I am not persuaded that it should have to offer any more. The waiver has value of its own, the same applies to the £250 offer and, taken together, they are not inadequate compensation for CBL's contribution in this respect. CBL's offer remains and Mr W's claim is essentially for more compensation. For the above reasons, I do not uphold that claim.

My final decision

For the reasons given above, I do not uphold Mr W's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 10 January 2023.

Roy Kuku
Ombudsman