

## **The complaint**

Mr T complains that his Self-Invested Personal Pension (SIPP) provider, Curtis Banks Limited (CBL), caused significant delays in the transfer of his SIPP from them to another provider.

## **What happened**

Mr T had a SIPP with CBL. In August 2020 he started the process of transferring his SIPP to another provider – provider A. But the transfer didn't complete until 27 November 2020.

I understand that the majority of Mr T's plan value was held in investments with three separate third party investment managers – managers B, C and D.

CBL asked provider A for information to allow them to complete due diligence checks on 20 August 2020. Provider A provided the requested information on 24 August 2020.

CBL said that after they'd completed the due diligence on provider A on 8 September 2020, they instructed each of the three investment managers to encash all assets and return all sales proceeds to them. They said that they were then reliant on those managers to arrange the sale of all assets and return the funds to the SIPP. CBL said that once all funds had been received from the three investment managers they made a single transfer payment promptly to provider A.

Mr T complained to CBL on 18 October 2020. He said that although disinvestment instructions had been sent to managers A, B and C by 14 September 2020, the funds had yet to be transferred. He said this was causing him great concern. He asked CBL to update provider A on progress with the transfer on 19 October 2020. Mr T also said that he didn't expect to pay charges or fees for the SIPP transfer.

CBL issued their final response letter on 10 November 2020. They didn't think they'd done anything wrong. They said that once they'd received the transfer request, they had

immediately started work on the transfer itself. They said this broadly consisted of four steps:

- completing due diligence checks on provider A;
- instructing the various holders of the SIPP assets to sell them down to cash;
- making payment to provider A; and
- closing the CBL SIPP and issuing the necessary paperwork.

CBL said that they were currently still in the second stage of the transfer process. This was because, although they'd instructed managers B, C and D to realise the cash, they were still waiting for the sale proceeds from managers B and D. They said that they'd continue to chase those managers for updates. But that they were reliant on managers B and D to dispose of the investments and transfer the cash to them. They said that as of 9 November 2020, manager D had completed the sales and was in the process of moving the funds. But

that manager B had yet to complete all of sales.

Also on 10 November 2020, Mr T's IFA asked CBL if it would be possible to make a partial transfer to provider A of just the cash proceeds. CBL replied on 12 November 2020. They said that they would be able to partially transfer cash proceeds to provider A. But that they would require five years' fees to be retained, on top of an additional partial transfer fee. CBL also gave an update on manager B and D. They said manager B had sent the instruction to their dealing team to be actioned. And that funds from manager D were due to be disbursed on 28 October 2020. They said that they hadn't received anything, but that they were chasing.

On 12 November 2020, Mr T's IFA asked CBL if they would waive the partial transfer fee under the circumstances. On the same day, Mr T also wrote to CBL to reinforce his complaint, which he didn't think they'd taken seriously. He asked CBL to take the following actions:

- At no charge, for that part of his funds that CBL already held, carry out a partial transfer by 13 November 2020 to provider A so that they could be reinvested.
- For Mr T's funds held with manager D, CBL should ensure that manager D wire the funds to provider A on 13 November 2020 for no fee.
- For Mr T's funds held with manager C, CBL should ensure that manager D act on the sale instructions as quickly as possible. He said he required CBL to email him by close of business on 13 November 2020 with the date the funds would be wired. No fee should be charged. He also required them to ask manager B for a letter of apology, explaining the reasons for the delay.
- Waive all CBL fees for the year.

CBL replied to Mr T on 13 November 2020. They said they couldn't agree to waiving all of his fees in respect of his transfer as they didn't agree that they'd caused any delays. They said that they'd issued the instructions to sell Mr T's assets with managers B, C and D in a timely manner. But that although they'd received the sale proceeds from manager C, they still hadn't received them from managers B and D. They gave an update about what had happened with the sale proceeds from manager D. They also gave an update about what had happened with manager B, stating that they'd chased them for updates on 15 and 27 October 2020. CBL confirmed that it was possible for the manager C funds that they held to be paid to provider A as a partial transfer. And gave the same information about the fee that they'd given on 12 November 2020. They said they wouldn't waive this charge.

On 17 November 2020, CBL emailed Mr T's IFA to tell him they'd incorrectly told him they'd need five years' of fees within the account, if the funds from manager C were partially transferred out. They said that the partial transfer fee would in fact be £300. They also provided an update on the progress of the transfer.

Unhappy with CBL's response, Mr T brought his complaint to this service. He said that the transfer had taken much longer than he'd expected. And that during the transfer process CBL hadn't kept him adequately informed about the reasons for the delays. He also said that as a significant part of his funds had been converted to cash early in the process, he'd been out of the market for a substantial period. He said this had led to a financial loss. Mr T also felt that part of the transfer and advisory fees he'd incurred throughout the process should be refunded.

Our investigator felt that the complaint should be upheld. Although she acknowledged that

some of the delays were out of CBL's control, she felt that they'd caused four weeks' delay to the process. She felt that CBL should carry out a loss calculation to establish whether Mr T had suffered a financial loss. And that they should pay Mr T £200 compensation for the stress and inconvenience caused by the delay.

CBL agreed with our investigator that they could've done more to chase manager D for the sale proceeds. And said they'd accept a four-week delay for the overall transfer.

Mr T didn't agree with our investigator. He made the following points:

- He said that the proceeds from the sale of his investment holding with manager C, which represented 60% of his total pension investment at CBL, were received in cash by CBL on 28 September 2020. But that they weren't delivered to provider A until 1 December 2020. He felt that in holding 60% of his pension in cash for over two months, CBL had failed in their duty of care.

He said that as there was a delay in the disinvestment of the other funds, CBL should have made a partial transfer to provider A, or at least offered that as a solution. He said that when CBL had been asked to make a partial transfer of the funds, they'd said that five years' of fees would be withheld as a cost for making the transfer. But they'd corrected that a week later when they told him it would actually cost £300. He said he'd asked for the fee to be waived under the circumstances, but CBL hadn't agreed. He felt that the failure to carry out a partial transfer had lost him nine weeks' investment return on that money.

- Mr T also disagreed with our investigator's proposed method for carrying out the loss calculation for manager B. He felt it wouldn't be possible for an accurate calculation to be completed on the basis she'd outlined.

As agreement couldn't be reached, the complaint has come to me for a review.

### **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'm going to uphold it. I've reached the same conclusion as our investigator. I'll explain the reasons behind my decision.

In order to be able to assess the length of any delays I consider CBL are responsible for, I first constructed a timeline of events.

#### *Timeline*

On 17 August 2020, provider A wrote to CBL to ask them to proceed to transfer all the funds in Mr T's SIPP to them.

On 21 August 2020, CBL wrote to two of the investment managers holding Mr T's assets (manager B and C) to ask them if any illiquid or suspended funds were held. Manager B responded on the same day to confirm that none were held. Manager C confirmed none were held on 26 August 2020.

On 8 September 2020 – All due diligence checks had been completed, so CBL proceeded with the next steps in the transfer.

On 10 September 2020 CBL sent the disinvestment instructions to manager D. They said

that their letter clearly stated that the payment reference needed to be included when the sale proceeds were returned to them.

On 14 September 2020 CBL sent the disinvestment instructions to manager C and manager B. CBL said that the instructions said: *"Please accept this letter as our authority and instruction to place a full disinvestment from the cash park [sic] from the above account"*.

On 15 September 2020 manager B said that they called CBL: *"to confirm we needed a new fund choice for redemption..."*. CBL said they couldn't locate either the call from manager B or a call back to them on their call recording systems.

On 28 September 2020 CBL received sale proceeds of £373,008 from manager C.

On 6 October 2020 CBL said that manager D transferred the funds to them. But failed to include a reference, or tell CBL that it'd made the payment. They said this led to the funds not being allocated to Mr T's SIPP. And the return of the funds to manager D. CBL asked manager D to resend the funds using a clear reference.

On 9 October 2020 CBL emailed manager D to chase the transfer. They were at this point unaware that manager D had already sent the funds once without a reference.

On 13 October 2020, CBL said manager B had requested further security checks before it could proceed with the disinvestment request, which they had provided.

On 14 October 2020 CBL requested a valuation from manager B. They received this the same day.

On 15 October 2020 CBL called manager B who confirmed they'd action the disinvestment.

On 18 October 2020 Mr T complained to CBL.

On 22 October 2020 CBL emailed manager D to ask them to resend the funds with the correct reference.

On 26 October 2020 Provider A emailed CBL to chase the transfer of funds. CBL said they'd only received the funds from manager B by this time.

On 27 October 2020 CBL said that manager B had told them it would process the transfer in three to five working days.

On 29 October 2020 CBL told Mr T that manager D had transferred the funds to them earlier that month. But that the funds hadn't been allocated to Mr T's account. They'd been sent back to manager D. CBL said they were expecting the funds soon. CBL said they'd been chasing manager B for updates and had been told on 27 October 2020 that the transfer would take a further three to five days.

On 9 November 2020 CBL told Mr T's IFA that manager B was still processing the transfer.

On 10 November 2020 CBL issued their final response to Mr T's complaint. On the same day, Mr T's IFA asked CBL if it would be possible to make a partial transfer to provider A of just the cash proceeds.

On 12 November 2020 CBL told Mr T's IFA that they would be able to partially transfer cash proceeds to provider A. But that they would require five years' fees to be retained, on top of an additional partial transfer fee. Mr T's IFA asked CBL if they would waive the partial

transfer fee under the circumstances. Mr T raised a further complaint with CBL.

On 13 November 2020 CBL replied to Mr T's further complaint. Mr T said this response said it directly contradicted some of what he'd been told.

On 17 November 2020 CBL told Mr T's IFA that they'd incorrectly told him they'd need five years' fees for a partial transfer. They said that the partial transfer fee would in fact be £300. They also provided an update on the progress of the transfer.

On 18 November 2020 CBL received £174,774 from manager B.

On 19 November 2020 CBL received £72,335 from manager D.

On 27 November 2020 CBL finalised the transfer and a BACS payment of £619,657 made to provider A.

I can see that the 26 October 2020 was noted in our investigator's view as the date when CBL received the transfer of funds from manager C. But CBL have confirmed that those funds were received on 28 September 2020. Mr T said he'd received contradictory information from CBL on this point. He said he'd received an email stating otherwise on 26 October 2020. And that if the proceeds from manager C had been received on 28 September 2020, he would've expected to have been told at that point. He said in that event, he would probably have considered a partial transfer of his SIPP to minimise time out of the market.

I asked CBL to confirm that date they received the funds from manager C. They confirmed they'd received £373,008 from manager C on 28 September 2020. They provided the SIPP bank account ledger entries which confirm the funds were received on that date, not 26 October 2020. And said that Mr T would've had access to this information on the online portal at the time. CBL didn't know where the date of 26 October 2020 had come from. They said they couldn't locate the 26 October 2020 email Mr T had referred to.

Having constructed the timeline for the transfer process, I then considered whether it had been carried out in the usual timescales I'd expect to see.

As our investigator explained, good practice for a cash transfer is that it be completed within ten working days. But that where the assets aren't already in cash, as was the case here, each step in the transfer process is expected to take a maximum of two working days.

CBL told this service that their pensions transfer process broadly consisted of four steps, which I detailed earlier. Our investigator carried out a detailed analysis of where CBL had caused delays when compared to the good practice, and their required steps, as outlined above. Clearly it's difficult to know exactly what should've happened and when, and any analysis will be our best estimate of when things should've taken place.

I've carried out the same analysis. My findings are broadly the same as our investigator's. In summary, I consider that CBL caused the following delays:

- a delay in issuing the disinvestment instructions to manager B and C
- an acknowledged one-month delay due to the incorrect instructions being sent to manager B.
- a delay caused by a lack of proactivity in chasing manager D.

I next looked specifically at the manager B delays. I needed to look at these before I considered the overall delay to the transfer.

### *Manager B delays*

CBL have acknowledged that they were initially responsible for a one-month delay to the manager B transfer. They said that the initial instruction they sent manager B didn't allow them to action the disinvestment request. And that this wasn't corrected for a month.

But CBL didn't consider they were responsible for manager B's progress with the transfer after 15 October 2020. They said that although they'd chased manager B, it hadn't actioned their disinvestment request for almost a month.

I first considered the length of the delay caused by CBL here. From what I've seen, CBL sent the initial disinvestment instruction to manager B on 14 September 2020. It appears that manager B called CBL the following day for further information, although CBL don't have a record of that call.

It wasn't until the middle of October 2020 that manager B had what they needed from CBL in order to action the disinvestment. So I agree that CBL caused a month's delay here.

CBL asked manager B to provide information so that they could determine if the delays they'd caused had led to a financial loss for Mr T. As manager B had in the end taken two working days to complete their 9 November 2020 disinvestment instruction, they assessed this loss based on what would've happened if their initial disinvestment instruction from the 14 September 2020 had been completed on 16 September 2020.

CBL's loss assessment showed that the delays they'd caused with manager B hadn't led to a financial loss.

From what I've seen, CBL took reasonable steps to assess whether the delay they'd caused to the manager B transfer had caused Mr T a financial loss. Their calculations showed that it hadn't.

I acknowledge that Mr T disagreed with the proposed method for carrying out the loss calculation for manager B. He felt it wouldn't be possible for an accurate calculation to be completed. But I don't agree.

The principles behind the assessment CBL carried out are the same as those this service would've recommended. And as this showed no financial loss, I don't consider that CBL need to take any further steps in respect of this part of the complaint.

CBL didn't agree that the one-month delay they'd initially caused to the manager B transfer had impacted the overall timescale of the transfer. They said they'd not been in a position to make the final transfer payment until all funds had been received from all three managers.

As the sale proceeds from manager D were received after the sale proceeds from manager B, I agree with CBL here.

I next looked at the overall delay to the transfer caused by CBL.

### *When should the transfer have completed?*

As I noted earlier, it's hard to say exactly when the transfer should've completed, but I'm satisfied that the issue with the disinvestment instruction for manager B didn't directly cause

a one-month delay to the whole process.

However, I consider that CBL could've ensured that the transfer was completed more quickly. They could've been more proactive at all stages of the transfer. They could've requested information and replied to correspondence more quickly. And they could've taken steps to identify errors like manager D's payment being sent without the correct reference more quickly. And to have chased payments – particularly from manager D after the failed first payment - more proactively. Overall, when looking at the whole sequence of events, I agree with our investigator that the transfer process could've completed around four weeks earlier if CBL had acted as I would've expected them to.

Mr T has also complained that his funds with manager C were out of the market for two months. So I next considered this aspect of his complaint.

#### *Should CBL have offered a partial transfer?*

The full transfer couldn't take place until all funds were received. But Mr T said that the manager C transfer represented 60% of his total pension investment at CBL. And that those funds had been disinvested for two months before the transfer had completed. He felt that as there was a delay in the disinvestment of the other funds, CBL should've made a partial transfer to provider A, or at least offered that as a solution.

He felt that the manager C disinvestment shouldn't have occurred until CBL were certain that the funds from managers B and D would soon be disinvested.

CBL said that they would usually expect to receive the sale proceeds within ten working days of issuing their closure instruction. But that, despite chasing them, manager B had taken much longer to complete the closure instruction.

CBL said that they couldn't be held responsible for the actions of third parties. They said that paragraph 8.14 of the Terms and Conditions confirmed that they wouldn't accept liability for the service of an Investment Manager.

I can understand why Mr T would've liked to have been given a partial transfer option, given we now know that the transfers from managers B and D took longer than expected. But he didn't ask CBL if a partial transfer was possible until 10 November 2020.

I can see that CBL gave Mr T incorrect information about the cost of a partial transfer on 12 November 2020, which they repeated the following day. This error appears to have been corrected on 17 November 2020. Mr T decided not to take this option.

I acknowledge that the incorrect information Mr T was given about the cost of the partial transfer would've been a big disincentive to go ahead with it. However, the incorrect information was corrected less than a week later, when Mr T was told the correct charge for a partial transfer was £300. This information was also available in CBL's Schedule of Fees, which confirmed that the fee was £300 for either a full or partial transfer. Mr T's IFA requested that this charge be waived. CBL refused. And Mr T decided not to partially transfer.

Mr T told this service that he felt CBL could've: *"been upfront regarding the timing issue and offered a suggestion, say in the first week of October when they had the manager C money, that there were going to be delays completing the third transaction"*. He said that if they'd offered him the partial transfer option at that time, then it was highly likely he would've taken it. He felt that the loss he'd incurred due to his manager C investment being disinvested for so long should be included in any compensation calculation.

CBL said they don't offer a partial transfer unless it is specifically requested.

While I can see the error would've caused some distress, I'm not persuaded that the incorrect information Mr T was given led to his decision not to take the partial transfer option. I say this because he didn't take that option when he was correctly told it would cost £300. Therefore, although I acknowledge that Mr T's position is that CBL should've offered him the partial transfer option earlier, I'm not persuaded that he would've gone ahead with it.

From what I've seen, CBL had no reason to offer Mr T a partial transfer. This wasn't something they ever did. And in any event, they wouldn't have known in early October 2020 that there would be significant delays with the other two managers. From what I've seen, neither manager B nor D gave CBL any reason to consider that their transfers would take longer than expected. Therefore, I'm not persuaded that CBL should've offered Mr T a partial transfer. And I don't consider that CBL should compensate Mr T for his funds with manager C being out of the market from 28 September 2020 to the date the funds were transferred to provider A.

I next considered whether CBL should refund to Mr T part of the transfer and advisory fees he'd incurred throughout the process.

#### *Advisory fees*

I understand why Mr T feels he CBL should refund part of the transfer and advisory fees. But I don't agree. I say this because his complaint is about delays to the transfer process.

If the transfer hadn't been delayed, Mr T wouldn't have had cause for complaint. And wouldn't have asked for a refund of the transfer and advisory fees. This decision aims to resolve the issues caused by those delays. And to put Mr T back to the position he would've been in had the delays not occurred. As such, I don't agree that any part of the transfer or advisory fees should be refunded.

I finally considered the distress and inconvenience CBL caused Mr T.

#### *Distress and inconvenience*

Mr T said that his underlying investments were highly liquid with short settlement periods, so the transfer should've processed quickly. He said that CBL had been unable to provide his financial advisers with specific information and that this had caused him significant stress.

CBL said that they'd not received a reason for the delays from manager D. And while they acknowledged that they'd initially caused a one-month delay with the transfer from manager B, CBL said that manager B hadn't told them why the sale hadn't been processed in a more timely manner.

From what I've seen, I'm not persuaded that Mr T was regularly updated about the progress of his transfer. Updates were only provided when Mr T's IFA chased for them, and were extremely basic. So I can understand why this would've caused Mr T distress.

Mr T also said that CBL didn't acknowledge his formal complaint in a reasonable timeframe.

CBL also gave Mr T incorrect information on 12 November 2020, when they told him they'd require five years' fees to be retained, on top of an additional partial transfer fee. Although I covered what I felt was the financial impact of this error earlier in my decision, I also need to consider the distress and inconvenience impact on Mr T.



I acknowledge that the transfer process would've been stressful for Mr T, given the amount he wanted to transfer and the time it took. I understand why he would've been distressed by CBL's lack of updates under the circumstances. And the incorrect information he was given.

I agree with our investigator that CBL should pay Mr T £200 compensation for the distress and inconvenience they caused.

Overall, I consider that CBL could've taken steps to ensure that the transfer progressed more quickly than it did. So I'm of the view that they did cause some delays to the process. I also feel that they could've updated Mr T more regularly, especially in the earlier stages of the transfer. I uphold this complaint. And require CBL to pay the compensation outlined below.

### **Putting things right**

From what I've seen, some of the delays were outside of CBL's control. But I consider that they were responsible for other delays. I'm of the view that the total delay could've been reduced by four weeks if CBL had been more proactive in processing the transfer. I consider that if CBL had been more proactive, the transfer would've completed on 30 October 2020.

Therefore I require CBL to carry out a loss calculation to establish whether the delays caused Mr T a financial loss.

### **What must CBL do?**

To compensate Mr T fairly, CBL must:

- Calculate what the value of his funds would've been if they'd have been transferred on 30 October 2020. This is "A".
- Confirm the current value of Mr T's funds at the date of my final decision. This is "B".
- Subtract "B" from "A" to get "C".
- If "C" is a positive number, that is the loss that Mr T suffered. If "C" is a negative number, no compensation is payable.

If CBL doesn't make the payments within 28 days of when we tell it Mr T accepts my final decision, they should add interest at 8% per year simple until they do make the payments.

If there's a loss, CBL should pay into Mr T's SIPP to increase its value by the total amount of compensation and any interest. The amount paid should allow for the effect of any 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 CBL is unable to pay the total amount into Mr T's SIPP, they should pay that amount directly to him. But had it been possible to pay into the plan, it would have provided a taxable income. Therefore, the total amount should be reduced to notionally allow for any income tax that would otherwise have been paid.

The notional allowance should be calculated using Mr T's actual or expected marginal rate of tax at his selected retirement age. For example, if Mr T is likely to be a basic rate taxpayer at the selected retirement age, the reduction would equal the current basic rate of tax.

However, if Mr T would have been able to take a tax-free lump sum, the reduction should be applied to 75% of the compensation.

Income tax may be payable on any interest paid. If CBL deducts income tax from the interest, it should tell Mr T how much it has taken off. CBL should give Mr T a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

I also require CBL to pay Mr T £200 compensation for the stress and inconvenience caused by the delay.

### **My final decision**

For the reasons I've given above, I uphold this complaint. I require Curtis Banks Limited to pay the amount calculated as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 16 November 2022.

Jo Occleshaw  
**Ombudsman**