

The complaint

Mrs A complains that Curtis Banks Limited (Curtis Banks) caused an overall delay to the transfer of her self invested personal pension (SIPP). She also complains that contributions she made to the SIPP in October and December 2020 weren't cleared for investment in her account as soon as they should have been. She says this meant that the unit price of the investments she wanted to make with the contributions fell – and she suffered a financial loss as result.

In addition she complains about a monthly SIPP fee that was applied before any of the assets had been transferred. She would like compensation for the overall delays and distress and inconvenience she suffered, as well as additional units to be applied to her SIPP for the delay in being able to invest her contributions.

What happened

In February 2020 Mrs A took out an eSIPP which was marketed and provided by the Share Centre. Curtis Banks was the operator of the SIPP and was responsible for all the administrative work.

Soon after the SIPP was set up Mrs A applied to transfer around £320,000 from her existing provider to the eSIPP. On 13 March 2020 Curtis Banks then wrote to the original provider for a list of the assets held – which effectively started the process. However the transfer – which was to be “in-specie” - didn't complete until 24 September 2020.

Mrs A made a single contribution of £16,000 to her SIPP on 29 October 2020. On 9 November 2020 the sum of £16,435.39 (after dealing commission) was invested into a US index fund.

On 6 November 2020 Mrs A complained to Curtis Banks about the time it took for the contribution she made to reach her SIPP account. She said she expected to invest the contribution soon after it was made, but the money didn't become available until 6 November 2020 which meant that when she purchased the investment its price had fallen causing her a financial loss of around £1,500. She also reiterated her previous complaint – which she had made during the transfer process; about the overall time it took to complete the transfer from the existing provider.

On 23 December 2020 Curtis Banks notified Mrs A that it had received tax relief of £4,000 from her contribution. So on 31 December 2020, £3,992.50 was invested into the same US fund – which represented the tax relief sum from the original contribution after dealing charges.

Curtis Banks said it didn't think it had caused any significant delay in transferring the SIPP assets. It said it had applied to the existing provider for information about the assets as soon as it received the transfer request but didn't get that information for around six weeks. And it said it confirmed acceptance of the transfer three weeks later, after which its involvement in the transfer process came to an end. It did accept that it should have referred the asset list it received from the existing provider in early June 2020 to the relevant department quicker

than it did – so it offered Mrs A £100 for the distress and inconvenience caused by that delay.

Curtis Banks also explained that the contribution Mrs A made in October 2020 – with the intention of investing it the following day – was invested within the timescales set out in its key features document (KFD) and other information it had provided Mrs A. So it didn't think it was responsible for any investment loss Mrs A suffered by not being able to invest when she hoped to do so.

It also explained that, while it was responsible for the administration of the SIPP, it wasn't involved with the application or collection of any fees. It said that was the responsibility of the SIPP provider and suggested that Mrs A took up the issue of the administration fee she said she had been unfairly applied, with them.

Mrs A wasn't happy with the offer of £100, so she brought her complaint to us where one of our investigators looked into the matter but said the complaint shouldn't be upheld. He made the following points in support of his assessment:

- He hadn't seen any evidence to show that Curtis Banks was responsible for the majority of any delays. He thought its payment of £100 for the delay it accepted it caused between 3 and 19 June 2020 was fair and reasonable.
- The administration fees had been charged by the SIPP provider directly, so he didn't think it was fair to address the problem with Curtis Banks and suggested that Mrs A raised a complaint with the provider.
- He wasn't able to comment on Mrs A's point about the time it took Curtis Banks to deal with her complaint as that wasn't a regulated activity and therefore not something we could investigate.
- He was satisfied with the way that Curtis Banks dealt with the contribution Mrs A made in October 2020. He thought it followed the timescales as set out in its terms and conditions (T&Cs) and made the money available in a timely fashion.

Mrs A didn't agree. She made the following points in response:

- The transfer had been initiated in February not March 2020.
- The information that was provided on 12 August 2020 suggesting that the transfer was imminent was obviously incorrect as it took a further six weeks to complete.
- The investigator said that he'd seen an email from Curtis Banks stating that it accepted the transfer on 28 July not 23 June 2020. In light of those inconsistencies had we seen the actual acceptance letter.
- The existing provider had said that it sent the assets to the new provider in late August 2020 – but they didn't appear in the new SIPP until 25 September. We hadn't provided an explanation for the approximate four week delay in the assets being transferred.
- The investigator had said that an in-specie transfer is a complex process which can take time to complete. But she had been advised that HMRC specify such transfers should complete in 30 days – which she thought ought to be a benchmark for consideration of any delays caused in this case, particularly as the transfer took six months to complete.
- The parties involved should have collaborated to apportion the level of responsibility each had in causing the overall delay. It was difficult for her to do so in the absence of all the relevant information required from each party.
- She had been advised by the SIPP provider that, while it was responsible for collecting the monthly fee, it was for the service provided by Curtis Banks.

- She didn't accept that Curtis Banks had processed her contribution "in a timely fashion." All the information she had seen suggested the money should have been available for investment almost immediately, which had been confirmed by her bank with respect to debit card payments. She was unsure why Curtis Banks became involved in the process of administering her online payment direct to her SIPP and thought its processes had caused the problem. She wasn't aware of any other providers that operated such a "*slow system*."

The investigator responded making the following points:

- Although Mrs A may have begun the transfer in February the evidence suggested Curtis Banks only received the relevant request forms in March 2020.
- The information Curtis Banks provided in August 2020 regarding the transfer was in respect of it being told by the existing provider that only the cash element of the plan SIPP remained to be transferred.
- Curtis Banks had previously provided evidence to show that it accepted the transfer on 23 June 2020.
- From the evidence he'd been provided with he thought Curtis Banks responded to any requests without unreasonable delays.
- He thought the HMRC guidance Mrs C referred to which outlined a reasonable period in which a transfer should complete related to ISAs. He didn't think this applied to SIPP transfers and noted that Curtis Banks hadn't guaranteed a timescale in which the transfer would complete.
- Curtis Banks had explained that it didn't have any involvement with setting or collecting fees – so it wasn't responsible for any matters relating to the monthly SIPP charge.
- The process regarding Mrs C's SIPP contribution was that it may have been received into the SIPP within one or two days, but it then had to be transferred to the linked investment account held with the provider – which would normally take around a week to complete.
- Although Mrs C felt that other businesses operated more quickly than Curtis Banks, that didn't mean it had done anything wrong or that he could reasonably uphold a complaint against Curtis Banks because its competitors may have quicker processes.

Mrs A didn't agree. She made the following points:

- She still didn't believe the investigator has answered her complaint point about the transfer delays but wasn't prepared to pursue that any longer.
- But she did think that the T&Cs extract she provided was "unambiguous" in saying that an investment contribution would be applied to the fund "within 1-2 days of payment via debit card." So she thought if Curtis Banks had said something different in another document then it had published contradictory information.
- We'd failed to address the issue that the SIPP's website had an option to pay contributions to *all* accounts online. She didn't think it was fair if SIPP accounts were treated differently as it was reasonable to expect the same facility to be available to all products.
- The contribution which the investigator said was "made available" on 5 November wasn't actually available until 6 November 2020 – which meant it wasn't used for investment until 9 November 2020.
- If it had been clear there would be a delay before the contribution was available for investment, she would have made alternative arrangements to ensure the opportunity to invest in October 2020 wasn't lost.

The investigator wasn't persuaded to change his view. He made the following points:

- He thought the KFD, welcome letter, and T&Cs were sufficiently clear together in explaining how the contributions would be applied. So when Mrs A made a contribution in October 2020 it was paid into a pooled account and made available to the provider within a week – as set out in the documents.
- As Curtis Banks didn't control or have access to the SIPP provider's processes, it wasn't able to comment on the online option for making contributions. But he did think this was made clear in Curtis Banks's SIPP account T&Cs.
- He didn't think that Curtis Banks had done anything wrong when it applied the contributions despite Mrs A's view that the contribution wasn't made available until a day after he had previously suggested.
- He thought that overall, Curtis Banks had acted in line with its T&Cs and hadn't done anything wrong.

Mrs A remained dissatisfied because she thought the KFD stated that "*contributions would be credited to the SIPP between 1 and 2 days after the online payment.*" She thought that if Curtis Banks took on an administrative role for the SIPP then it should have ensured its processes were in line with those set out for the SIPP.

But as no resolution could be found the complaint has been passed to me to 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.

And having done so I agree with the outcome reached by the investigator. I know this outcome will disappoint Mrs A, and I have some sympathy for her position here, but I think Curtis Bank's offer of compensation for the delay it caused is an appropriate resolution to the complaint.

Delays in the overall transfer

I've seen a copy of the letter that Curtis Banks sent to the existing provider on 13 March 2020 requesting the in-specie transfer of Mrs A's SIPP. The letter also included a request for details of the assets that were contained in the SIPP – so that it could confirm they were acceptable to Curtis Banks.

I've also seen that the existing provider acknowledged that request on 14 April 2020, but said it was working on applications that were around four weeks old. And despite further chases from Curtis Banks for the information it had requested, on 6 and 26 May and 1 June, the information wasn't provided until 3 June 2020.

So, based on the evidence that I've seen, I'm satisfied that Curtis Banks had done everything required of it to that point and wasn't responsible for any delays up to that time. Curtis Banks accepts that from 3 June to 19 June 2020 it had received the required information but didn't pass it to the appropriate team for processing, so I think Curtis Banks was responsible for the delay during that period.

Curtis Banks wrote to the existing SIPP provider on 23 June 2020 confirming it was able to accept the transfer. By 12 August 2020 the provider said most of the assets had been transferred and it was only waiting to transfer the cash component. But thereafter it said it was waiting for Curtis Banks to formally accept the transfer – although it later accepted that notification had in fact been provided on 23 June 2020. I've seen evidence that Curtis Banks did send notification to the existing provider.

It took a further six weeks for the transfer to complete after 12 August 2020 – and I have carefully considered the actions of each party during this time. But I can't reasonably attribute any delays to Curtis Banks, because after 23 June 2020 – when it confirmed it would accept the transfer – Curtis Banks wasn't responsible for the administration of the transfer. That was between the old and new SIPP providers who had to transfer the available assets and cash between plans. I know Curtis Banks became involved during this time and attempted to confirm the position for Mrs A when she contacted it, but effectively Curtis Banks had no further "administrative involvement" from that point. I note that in its acceptance letter to the existing provider Curtis Banks said, *"please communicate with the Share Centre, their email address is included in this email."*

I know Mrs A is frustrated by the time taken to complete the transfer and I understand why she would consider the delay to be unacceptable. It did after all take somewhere around six months to complete. But the evidence I've seen doesn't support the claim that Curtis Banks caused the delay – except for a period of 16 days when it accepts it should have acted upon instructions quicker. I have considered whether that delay may have caused any investment loss but as this was an in-specie transfer I'm not persuaded that was the case. However, Curtis Banks has offered £100 for any distress and inconvenience caused by its delay and in the circumstances I think that's a fair and reasonable offer.

Delays in applying Mrs C's contribution

Mrs A says that when she made a single contribution to her SIPP on 29 October 2020, she expected it to be ready for investment by the next day. She says the T&Cs of the plan state that a debit card payment *"will be in the fund within 1-2 days of payment"*. She says that, following the delay in being able to invest, the unit price of the fund she wanted to invest in fell – costing her around £1,580 at that time. She thought the same applied to her December contribution.

So I've looked carefully at both the T&Cs and KFD that were applicable at the time to see if Curtis Banks did cause a delay by not following its processes.

The SIPP T&Cs were enclosed with the "welcome to Curtis Banks" letter and membership schedule that was sent to Mrs A on 12 March 2020 to confirm her acceptance into the SIPP.

Section 4 covered the matter of *"contributions and transfers in"*. Point 4.7 stated that, *"we may accept contributions via an online debit card and direct debit facility. Funds will only be credited to your SIPP fund when the funds have been received into your SIPP bank account. This usually takes between 1 and 2 working days after your online payment has been authorised by our authorisation agent and the bank from which the money is coming."*

So I don't think that made any guarantees that the money would be available to invest the following day, but it set out Curtis Banks' process of crediting the SIPP a day or two after the money had been *"authorised"*. No specific time was given as to how long it would take for the money to be authorised, but point 8.1 and 8.2 gave further explanation of the process itself.

Point 8.1 stated that *"the trustees operate a pooled banking account in respect of the SIPP membership, using accounts with banks or building societies which are regulated by the Financial Conduct Authority.... the trustees are the sole authorised signatory to such accounts."*

8.2 says that, *“all monies going into your SIPP fund are held in sterling in a pooled account and will be clearly designated as relating to your arrangements. This account will be your SIPP bank account through which all contributions, transfers, investments and benefit payments must be channelled for audit purposes.”*

So the reason the money wasn't credited to Mrs A's SIPP account straight away was that all monies received by Curtis Banks were paid into a pooled account, from which the individual credits were checked, authorised and allocated.

The KFD replayed this information within its *“how can I make a contribution?”* section, which stated that *“contributions can be made via online debit card, direct debit or cheque. Funds will only be credited to your SIPP when the funds have been received into your SIPP bank account. This usually takes between 1 and 2 working days after your online payment has been authorised by our authorisation agent and the bank from which money is coming.”*

And the section around *“How will the funds be invested?”* noted that, *“payments into the SIPP are initially paid into a pooled client bank account in the name of the esipp. They will then be moved to the share centre for you to invest, normally within a week.”*

So I think that, based on the evidence I've seen, Curtis Banks did make Mrs A aware of its process for making contributions to the SIPP and when such payments might be available for investment. It also confirmed that the process might take up to a week to complete but that there were no guarantees of when money might be available.

I appreciate that Mrs A expected her contribution to be available for investment the following day as it was made through a debit card. But Curtis Banks didn't allow for the money to be available instantly. It operated a process of pooling all incoming contributions before going on to allocate them to individual SIPP accounts. I have some sympathy for Mrs A's position as she wasn't able to invest when she wanted to, but although she would have liked Curtis Bank's processes to be quicker that doesn't mean they aren't fair. We wouldn't normally tell a business how it should carry out its everyday commercial activities and Curtis Banks is free to set its banking and allocation processes how it sees fit.

What I would have expected Curtis Banks to do was to have made Mrs A of how contributions would be treated – which I'm satisfied it did through the raft of literature it issued. So I can't reasonably say Curtis Banks did anything wrong here or treated Mrs A unfairly, and I couldn't reasonably uphold a complaint on the basis that Curtis Banks processes weren't in line with Mrs A's expectations of how she would have liked them to work or how they compared alongside other financial institutions.

The administration fee that was charged before the transfer completed.

Mrs A has commented on the £15 administration fee that was applied to the account before the transfer completed. She said it wasn't fair to deduct that charge as the administration up to that point had been poor.

So I've looked at the Key Features Illustration Curtis Banks provided, which noted the SIPP had an annual fee of £144 and an assumed retained interest charge of 0.9% of the bank account. It was also confirmed that a “fee schedule” was available on the Share Centre website.

I've looked carefully at that schedule, and the particular charge that was questioned here was set out as a *“monthly administration fee”* of £12 plus VAT. The fee was taken on the 26th

of each month after the SIPP was set up but it wasn't related to the administration that Curtis Banks was carrying out around the transfer. It was a monthly fee that became payable after the SIPP was established and wasn't related to any particular task, but simply for administering the plan.

But even if I am wrong in my assumption there, Curtis Banks has told us that, although it administers the SIPP on behalf of the provider, the £12 plus VAT per month platform charges are not applied by or received by Curtis Banks. And as I've seen how the charges are set out in the SIPP's fee schedule, it would appear that they are applied and collected by the provider who then pays Curtis Banks for the administration of the plan but not using the monthly administration charge. That's a separate arrangement between the two parties. So I don't think Curtis Banks needs to do anything about that charge.

Mrs A was also frustrated about the length of time it took to receive a response from Curtis Banks to her complaint. However, as complaint handling itself isn't a regulated activity, it's not something I can consider further.

Putting things right

I don't think Curtis Banks caused a delay in processing Mrs A's SIPP contributions from October and December 2020 – so I don't think it needs to compensate her for any investment loss she may have suffered as a result. I think it did what it said it would in its literature. I also don't think Curtis Banks was responsible for most of the delay resulting in the transfer of Mrs A's SIPP taking around six months to complete. But there was period when Curtis Banks could have been quicker to move the information it received from the ceding SIPP provider internally for processing. I haven't seen any evidence to show this caused an investment loss, but Curtis Banks has offered £100 for the distress and inconvenience that delay may have caused – which I think is fair and reasonable.

My final decision

Curtis Banks Limited has already made an offer to pay £100 to settle the complaint and I think this offer is fair in all the circumstances.

So my decision is that Curtis Banks Limited should pay £100.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs A to accept or reject my decision before 8 December 2022.

Keith Lawrence
Ombudsman