

The complaint

Mrs D complains that Curtis Banks Limited (“Curtis Banks”) unreasonably delayed the transfer of her pension savings to a new provider.

What happened

Mrs D held pension savings with Curtis Banks. Those pension savings were invested by another firm. And Mrs D received some advice and support on her pension savings from her financial advisor.

In March 2023 Mrs D decided to transfer her pension savings to another firm that I will call T. Curtis Banks says it first received a request for that transfer via the automated Origo Options system on 19 March. Curtis Banks accepts that the transfer process took too long, although it doesn’t think it is responsible for all the delays. It says it needed to send the instruction to the investment manager and await the return of the funds before they could be sent to T. But Curtis Banks accepts it caused part of the delay on the transfer.

When Mrs D first complained to Curtis Banks it calculated what it thought the financial impact of its delays had been. It concluded that Mrs D was slightly better off than she would have been had the transfer proceeded to a normal timetable. But it offered Mrs D some compensation for the inconvenience she’d been caused. Unhappy with that response Mrs D brought her complaint to us.

Mrs D’s complaint has been assessed by one of our investigators. The investigator thought at first that the delay Curtis Banks had calculated was fair. But she thought that the method Curtis Banks had used to calculate the financial impact was incorrect. So she asked Curtis Banks to revise its assessment of the financial impact of the delay. And the investigator asked Curtis Banks to pay Mrs D £500 for the inconvenience she’d been caused.

Curtis Banks revised its calculations, and these showed that the gain Mrs D had made was actually greater than it had first thought. But Mrs D highlighted a further delay that had been caused by Curtis Banks. The firm said that amounted to three additional days. Curtis Banks accepted that additional delay was its fault and said it would recalculate the impact on Mrs D’s pension investments. And Curtis Banks agreed to pay the additional £500 the investigator had recommended for Mrs D’s inconvenience.

But Mrs D didn’t agree with the assessment. So, as the complaint hasn’t been resolved informally, it has been passed to me, an ombudsman, to decide. This is the last stage of our process. If Mrs D accepts my decision it is legally binding on both parties.

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.

In deciding this complaint I've taken into account the law, any relevant regulatory rules and good industry practice at the time. I have also carefully considered the submissions that have been made by Mrs D and by Curtis Banks. Where the evidence is unclear, or there are conflicts, I have made my decision based on the balance of probabilities. In other words I have looked at what evidence we do have, and the surrounding circumstances, to help me decide what I think is more likely to, or should, have happened.

At the outset I think it is useful to reflect on the role of this service. This service isn't intended to regulate or punish businesses for their conduct – that is the role of the Financial Conduct Authority. Instead this service looks to resolve individual complaints between a consumer and a business. Should we decide that something has gone wrong we would ask the business to put things right by placing the consumer, as far as is possible, in the position they would have been if the problem hadn't occurred.

There are a number of regulated firms involved in the matters that form this complaint. Mrs D's pension savings were originally held with Curtis Banks. But investment activities were managed by a separate firm. Mrs D received advice and support on her pension savings from her financial advisor. And the request for their transfer was sent by the firm that was due to receive the funds – the firm I have called T.

But this complaint only considers the actions of Curtis Banks. And delays that are the fault of one of the other regulated firms are not something that I can consider here. So in this decision I will clearly set out which parts of the delay Mrs D experienced were due to something that Curtis Banks did wrong. And it is those delays that mean Curtis Banks should determine whether Mrs D has lost out.

Mrs D says that the initial transfer request was sent to Curtis Banks on 7 March 2023. But Curtis Banks says that it doesn't have any record of it being received. Its first contact from T was via the Origo Options system on 19 March. So I cannot reasonably conclude that Curtis Banks was in a position to proceed with the transfer until that request had been received on 19 March.

In order for Mrs D's transfer to proceed, Curtis Banks needed to send an instruction to the investment manager for the sale of her pension investments. And it was the failure of that request that caused the majority of the delay that Curtis Banks is responsible for. Curtis Banks used an incorrect email address when it sent the instruction on 29 March. The error wasn't identified, and the correct email address used, until almost a month later on 28 April

In looking at the length of any delays I have considered what might be considered to be good, or normal, industry practice. It is clearly unreasonable to expect firms, who might be processing instructions from many different consumers at the same time, to respond instantly to any requests. And I think the normal processing activities at the time Curtis Banks received the transfer request would have been under additional pressure due to the impending deadlines created by the end of the tax year.

So I think a period of ten days between Curtis Banks receiving the transfer request and relaying it to the investment manager for the sale of the pension assets, is reasonable. So when considering the delay I think it is fair for Mrs D's instruction to have been sent to the investment manager on 29 March (when Curtis Banks used the incorrect email address) rather than the actual date of 28 April.

There was then an extended period of time before the investment manager returned the funds to Curtis Banks. Apart from the exception I will discuss below, Curtis Banks cannot be responsible for that delay. It provided an instruction to a regulated firm and needed to await the completion of that processing. If Mrs D is unhappy about how long that part of the process took she would need to complain to the investment manager directly.

But there was a small delay in the investment manager selling the investments that was as a result of something Curtis Banks did wrong. Mrs D had provided another instruction for an income payment (that I will briefly discuss later). The investment manager asked Curtis Banks for some confirmation that both the income and transfer instructions were valid. But Curtis Banks failed to respond to that query in a reasonable amount of time. That added a further three days delay to the transfer being completed.

The transfer was ultimately sent to T on 9 June 2023. If nothing had gone wrong I think that the funds would have been transferred on 2 May. So Curtis Banks needs to work out whether that delay has caused Mrs D to lose out.

I appreciate that Mrs D says the value of her pension savings fell markedly between when the transfer instruction was first given to Curtis Banks, and when the transfer actually took place. And I am sure that would have been very disappointing for her. But, as I have explained above, I don't think Curtis Banks is responsible for all of the delay. And there is also the likelihood that the investments made by Mrs D after the transfer would have been cheaper if the markets had fallen.

So I think the basic methodology that Curtis Banks has said it will adopt when working out whether Mrs D has lost out is correct. It needs to assess the amount that would have been transferred to T had it not caused any delays. But it also needs to assess what investments those funds would have been able to purchase, making a reasonable assumption that Mrs D would have invested them in the same way, had the new investments also been made earlier. I will direct Curtis Banks to provide Mrs D with a fully explained calculation, but based on what I have seen to date, it is possible that calculation will show Mrs D has gained as a result of the delay.

Mrs D has also mentioned that, when it became clear there might be a delay on the transfer, she requested an income payment from her pension savings. I understand that request was sent to Curtis Banks on 27 March and was for £18,000. Mrs D says that was her remaining basic rate allowance for that tax year.

As I said earlier, the end of the tax year is a very busy processing time for pension firms. So, like most other firms, Curtis Banks announces a cut off date for requests to be received in order for payments to be made before the end of the tax year. In 2023 that cut off date was 14 March. So Mrs D's instruction was received almost two weeks after that date. I don't think it was reasonable to expect Curtis Banks to process the payment before the end of the tax year just over a week later.

There is little doubt that the extended period for the transfer has caused some distress and inconvenience to Mrs D. She has explained that she wanted access to some of her pension savings to help pay for a forthcoming family wedding. Our investigator recommended that Curtis Banks should pay Mrs D £500 for her distress and inconvenience. And having thought about all the circumstances here I think an award of that amount would be appropriate.

In summary I think that Curtis Banks is responsible for a part of an unreasonable delay in the transfer of Mrs D's pension savings to T. So it needs to calculate whether Mrs D has lost out as a result of the delay by following the methodology set out below.

Putting things right

In order to put things right Curtis Banks should calculate what Mrs D's pension savings would be worth now, had it not caused any delays. To do that Curtis Banks should assume that the other parties involved in the transfer took the same amount of time as they actually did. And it should assume that Mrs D invested her pension savings in the same way as she did following the transfer (albeit a little earlier.) So Curtis Banks needs to;

- Assess what the transfer value of Mrs D's pension savings would have been had it not delayed the instruction being provided to the investment manager, and had it dealt with the request about the conflicting instructions within a reasonable three-day turnaround.
- Assuming a similar reinvestment approach and timeline, assess what the nominal value of Mrs D's pension savings would be now had the transfer taken place without the delays noted above.
- In the notional value is greater than the actual value, Mrs D has lost out as a result of the delay and Curtis Banks should pay her compensation equal to that difference. Curtis Banks should pay into Mrs D's pension plan to increase its value by the total amount of the compensation. The amount paid should allow for the effect of 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 Curtis Banks is unable to pay the total amount into Mrs D's pension plan, it should pay that amount direct to her. 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. This is an adjustment to ensure the compensation is a fair amount – it isn't a payment of tax to HMRC, so Mrs D won't be able to reclaim any of the reduction after compensation is paid.
- The notional allowance should be calculated using Mrs D's actual or expected marginal rate of tax at her selected retirement age. I think it reasonable to assume that Mrs D is likely to be a basic rate taxpayer at the selected retirement age, so the reduction should equal the current basic rate of tax. However, as Mrs D would have been able to take a tax-free lump sum, the reduction should be applied to 75% of the compensation.
- Curtis Banks should set out the full calculation for Mrs D in a clear and easy to understand format.
- Curtis Banks should additionally pay Mrs D £500 for the distress and inconvenience she has been caused.

My final decision

My final decision is that I uphold Mrs D's complaint and direct Curtis Banks Limited to put things right as detailed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs D to accept or reject my decision before 2 December 2024.

Paul Reilly
Ombudsman