

complaint

Mr W complains that Curtis Banks Limited (Curtis) delayed the transfer of his Self-Invested Pension Plan (SIPP).

background

Mr W had held his SIPP, which included three commercial properties, with Curtis and its predecessors for a number of years. He says he became unhappy with Curtis and decided to move the SIPP to another business I will call B. Curtis says that he first made it aware of his intentions in November 2016.

There followed a series of actions by all the parties concerned in the transaction and their agents which I won't set out in full detail here. I trust Mr W and Curtis will understand that the following is an abbreviated summary of events.

Curtis says that B asked for the transfer to be made in February 2017 and the signed transfer forms were received from Mr W on 14 June 2017. Curtis sent Mr W a questionnaire and asked which solicitor he would be using. It sent him details of its panel of solicitors, but also offered him the opportunity to appoint one outside the panel. If he took this latter option he had to pay a fee of £200. Mr W selected a firm of solicitors from the panel, which I will call G, on 16 June.

Curtis sought confirmation from B that it would accept a property transfer and this was received on 3 July. Three days later Curtis contacted G. It then let Mr W have a fee quote from G and asked if he was content with this and he confirmed he was on 1 August. G was instructed to proceed on 9 August.

Curtis chased up G on 4th and 14th September. Mr W emailed Curtis on 25 September and it again chased up the solicitors. G then sent a list of queries to Curtis which it forwarded on to Mr W. Curtis continued to chase G which said that in early October it was awaiting answers to queries from Mr W. He told Curtis on 13 October that he had responded. It seems that Mr W had supplied the information to B. By the end of November G noted that it still needed further information about the properties to proceed.

By early December B contacted G to say it *"has received replies but these are in a different format to usual. As the information is the best she will get, she will try to proceed."* Around this time Mr W challenged G's fees which he thought were too high.

Curtis had an internal restructure and in January the work was transferred to another office. It was noted that one of the properties had a tenant but no lease agreement. Also some of the details impacting the tax position hadn't been finalised. The process was completed in February. However, Curtis had imposed its annual charges for the year at the beginning of January. Mr W didn't consider that to be fair as he believed it had delayed the transfer which should have been completed by the end of 2017.

Curtis rejected Mr W's complaint and so he brought the matter to this service. It was considered by one of our investigators who didn't recommend it be upheld. Mr W said that Curtis had delayed instructing B which was slow to begin work on the transfer. He suggested it abused its monopoly position and charged excessive fees. He also expressed his concern about Curtis's handling of his complaint and failure to give him referral rights to this service.

Then investigator said the work of B didn't fall within the remit of this service so he wasn't able to comment on this or the fees it charged. He also considered that part of the reason the matter took as long as it did was Mr W's delay in responding to queries. He concluded that Curtis couldn't be held responsible for the delays leading to the further charges.

Mr W didn't agree and felt the core of his complaint hadn't been properly addressed. He didn't consider the central three month delay between 16 June and 22 September had been fully explored. He also said that he hadn't been in email contact with G which had been selected and appointed by Curtis. This meant he wasn't responsible for any delay. He said he believed Curtis had delayed the transfer in order to benefit financially.

The investigator provided Mr W with a timeline of events for the three month period beginning on 16 June. However Mr W didn't consider this activity amounted to sound practice. The investigator later provided details of the information G had been seeking and the exchange of emails between various parties.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I would say at the outset that I am dealing with a complaint against Curtis and not any of the other parties to this transaction. The activities of G fall outside my remit and if Mr W has concerns about its actions or lack of them he must pursue those by another route. Therefore it falls to me to consider the actions of Curtis and whether it caused unnecessary delay which caused Mr W additional costs.

It has been suggested that G was selected and appointed by Curtis. That is not the case. Curtis provided Mr W with a list of solicitors on its panel which have some knowledge and expertise in pensions and property transfers. It also said he could appoint his own solicitor, but it would charge him an administration fee of £200. Mr W chose G and it was then instructed by Curtis. I don't consider that makes Curtis responsible for the actions of G. It became G's client. The process is set out in its property guide which explains how such pension funds operate.

This transaction wasn't straightforward. It involved three commercial properties, one of which was let out without a lease being in place. It involved a number of interested parties, Mr W, Curtis, B and the two firms of solicitors. It also involved tax issues and land registration. All of this meant that it wasn't surprising that the matter took some time.

Mr W has expressed his view that Curtis delayed matters by three months from 16 June. I have set out some of the actions during this period in the background section above. It not only dealt with G, but it also corresponded with B about whether it was willing to accept property – not all providers do so. It is possible it might have sped up the process slightly at this point, by running the two strands of activity in tandem. However, I don't consider it unreasonable to have sought clarification that Mr W was satisfied with G's fee structure before giving it formal instructions. Although G falls outside my remit I can see that it appears to have been working behind the scenes on a number of issues and it was in contact with B solicitors in mid August.

However, my role is to consider the actions of Curtis and I believe it took reasonable steps to chase up G and to push for progress. I also note that Mr W supplied some of the information required by G directly to B and so it took longer to reach G. The solicitor at G commented: *"It is highly unusual that when solicitors are instructed the member will provide information direct to the receiving scheme rather than through solicitors in the usual fashion"*.

Overall there are a number of contributory factors which led to the whole process taking over six months and while I can understand Mr W's frustration and his belief that Curtis was culpable for the delay I don't consider I can say that its actions were unreasonable.

I have also noted his concerns about the handling of his complaint. Curtis didn't provide full reasons within eight weeks and it wrote to Mr W to apologise and to give him details of his rights to bring the matter to this service. While that was unfortunate I appreciate that the transfer was still underway at this point and Curtis was hesitant to conclude its response. On balance I don't consider Curtis need do more on this aspect over and above the apology it gave Mr W.

In conclusion I don't believe that Curtis delayed matters unreasonably and I don't consider it did so to maximise its income. It is regrettable that Mr W has incurred additional fees, but I cannot direct Curtis to refund these. Of course it is open to Curtis to forgo these, in part at least, as a goodwill gesture if it so chooses.

my final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 28 February 2019.

Ivor Graham
ombudsman