

The complaint

Mr T has complained about the delays by Suffolk Life Pensions Limited trading as Curtis Banks Pensions (Curtis Banks) in the transfer of his Self-Invested Personal Pension (SIPP) to a Small Self-Administered Scheme (SSAS) with a new provider. He feels the transfer took far too long to complete and that Curtis Banks deliberately delayed to ensure it retained fees. He's also complained that even though he sent Curtis Banks correct information when requested, Curtis Banks didn't accept any of it and wasted time requesting more necessary information. Overall, he feels the service he received from Curtis Banks was poor.

What happened

Mr T held a SIPP with Curtis Banks. On 22 November 2022 Curtis Banks received a request from SSASCo Administration Limited (SSASCo) to transfer Mr T's SIPP to a different pension provider.

Curtis Banks replied on 25 November 2022 requesting further information before it could proceed.

SSASCo returned the information to Curtis Banks on 14 December 2022 and Curtis Banks received this on 20 December 2022.

Curtis banks wrote to Mr T on 3 January 2023 explaining that further information was needed for the transfer to proceed. Curtis Banks explained why this information was required and that it was acting in accordance with relevant legislation. It asked for the information to be provided by 27 January 2023.

Mr T responded the following day raising his frustration with the process and querying why the additional information was required.

Curtis Banks responded on 30 January 2023 explaining again why the further information was required and agreed to refund the upcoming annual fee at the end of the transfer process.

The requested information was received by Curtis Banks on 6 February 2023.

On 3 March Curtis Banks contacted Mr T to explain that the nature of the transfer and the information it had received about it meant Mr T had to attend an appointment with MoneyHelper, after which the transfer would proceed.

Mr T, his independent financial adviser (IFA) and SSASCo responded on 9 and 10 March 2023 asking why the appointment was necessary.

Curtis Banks replied explaining that the appointment was required under the most recent legislation due to some concerns it had identified in the information Mr T and SSASCo had provided – his declaration in the Transfer Out Discharge Form (discharge form) that he had not received regulated financial advice; that the SSAS was open to investing in unregulated overseas funds; and Mr T seemingly not contributing to the scheme.

On 21 March 2023 Curtis Banks received evidence from Mr T's IFA of the advice he had received regarding the transfer as well as a revised and amended Section 6 of the discharge form from SSASCo showing that Mr T had received financial advice.

Despite this Curtis Banks still required Mr T to attend the appointment with MoneyHelper. Curtis Banks sent Mr T and his IFA a link to arrange the appointment but it seemed the link was incorrect. This was corrected and Mr T did ultimately attend the appointment.

There was other correspondence about some of the assets within the SIPP but they are not a part of this decision so there is no need to go into detail here.

The transfer was eventually completed on 11 August 2023.

Mr T is unhappy with the delays and also with the fact that Curtis Banks provided him with the incorrect link for the appointment with MoneyHelper. He feels that resulted in him wasting unnecessary time.

Mr T also explained that he is an experienced wealth adviser and the "disgraceful" and "unhelpful" service from Curtis Banks has caused him considerable stress.

Curtis Banks didn't feel it had done anything wrong. It explained to Mr T that it is bound to follow relevant transfer regulations and guidance when processing a transfer request. And because of the concerns it had identified within Mr T's transfer it needed to conduct enhanced due diligence and for Mr T had to attend the MoneyHelper appointment before the transfer could proceed.

Mr T didn't accept Curtis Banks' decision and so referred the complaint to this Service where it was assessed by one of our investigators. She felt it couldn't be upheld and was satisfied that Curtis Banks had acted in line with the required legislation and that it hadn't delayed the transfer process unnecessarily.

Mr T remained unhappy and so as no agreement could be reached the complaint has been passed to me to decide.

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.

I've taken into account relevant law and regulations, regulatory rules, guidance and standards, codes of practice, and (where appropriate) what I consider to have been good industry practice at the relevant time.

Where the evidence is incomplete or inconclusive I've reached my decision based on the balance of probabilities – in other words, on what I think is more likely than not to have happened, given the available evidence and wider circumstances.

Having done so I agree with the investigator that the complaint should not be upheld.

In its correspondence with Mr T and this Service Curtis Banks has referred to legislation which it was obliged to adhere to. This legislation is The Occupational and Personal Pension Schemes (Conditions for Transfers) Regulations 2021 (The OPPS Regulation) which was introduced in November 2021. Alongside this The Pensions Regulator (TPR) issued new guidance that pension providers must now follow before proceeding with transfer requests –

Combating Pensions Scams: A Code of Good Practice (CPS Guide). The regulation is mandatory to follow.

This guidance and legislation essentially sets out the checks any business would have to complete before authorising a transfer, all with an aim to ensuring, as far as a business can, that the transferring member is not being scammed or defrauded. Providers like Curtis Banks are expected to respond if they think there are risk factors present when considering a transfer request. And any additional steps taken are expected to be reasonable and proportionate and are intended to act as an important safeguard to the member.

This guidance emerged due to an increasing number of pension scheme members transferring to schemes where they ended up in tax avoidance or investment scams. This was putting members' money at risk of entire loss along with high tax penalties.

Now all pension providers are required to follow the guidance and regulations when processing a transfer request to help protect members. And should providers fail to take appropriate steps before authorising a transfer they could be in breach of the regulations and held liable for any subsequent losses that the member may incur if their transfer is found to be part of a scam.

Curtis Banks said that in following the guidance detailed above it identified two specific concerns – that Mr T was not making contributions into the receiving scheme and that it could potentially invest in high risk, unregulated and overseas investments.

The effect of not being able to evidence the contributions meant Curtis Banks couldn't establish an employment link, which it had to under the regulations. And the fact investments could be into unregulated and overseas investments was a warning sign the regulations stated providers had to look out for – regardless of whether Mr T in this instance was intending to invest in these high-risk investments or not. Therefore, under sections 11 and 9.5 of the regulations Mr T was required to attend a MoneyHelper appointment for safeguarding reasons. Furthermore, it seems the transfer fell under the second conditions as per the OPPS Regulation meaning there were additional steps Curtis Banks needed to take to satisfy itself that there was an employment link for the purposes of the Act.

So it can be seen that due to the information Curtis Banks received about the transfer and the new scheme the concerns it had about the transfer were legitimate under the regulations and so Curtis Banks was obliged to recognise these and act accordingly. And Mr T's qualifications in financial matters wouldn't have negated Curtis Banks' requirements under the regulations – in fact in having these qualifications I would have thought it reasonable that Mr T was aware of such requirements and therefore would have understood why Curtis Banks making the requests that it was.

I am therefore satisfied that Curtis Banks acted in the way it had to under the regulations and acted reasonably when it requested further information and clarification from Mr T, SSASCo and his IFA.

As well as this, the guidance says:

It's important that you clearly communicate with the member that their transfer has been refused because there are circumstances present that remove the statutory right to transfer and that the member is at risk of being scammed”.

From all the correspondence I have seen Curtis Banks followed the guidance and communicated with Mr T, SSASCo and the IFA clearly explaining the reasons why it was asking for the information - even setting out the requirements under the legislation in full in

some letters. I can also see that the letters and emails were sent in a timely manner so I haven't identified any delays on its part.

I am therefore satisfied that Curtis Banks acted in accordance with the regulations which it was bound by and while I appreciate this was frustrating for Mr T its clear Curtis Banks was acting in this way for his benefit.

In terms of the wrong link being sent to Mr T by Curtis Banks for the arrangement of the MoneyHelper appointment, I can understand why this would have been frustrating for him however I am satisfied Curtis Banks acted without delay to rectify this problem. Furthermore, having looked into this specific issue it seems that the problem may have been with the third-party site rather than with the information Curtis Banks sent. Nevertheless, I am satisfied that Curtis Banks resolved the matter effectively and efficiently.

Overall, as explained above I am satisfied that Curtis Banks didn't delay the transfer of Mr T's pension deliberately. It was acting in line with the regulations it was bound to adhere to. I am also satisfied with the explanations Curtis Banks gave to Mr T SSASCo and his IFA during the process – keeping them all updated with the progress of the transfer along with why it needed the further information it was requesting.

My final decision

My final decision is that I don't uphold this complaint and I make no award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 25 October 2024.

Ayshea Khan
Ombudsman