

The complaint

Mr C complained about Suffolk Life Pensions Limited trading as Curtis Banks Pensions (CB) deducting money from his pension arrangement.

What happened

Mr C started his self-invested personal pension (SIPP) some years previously with Wolanski & Co Trustees Limited. In September 2006 Wolanski & Co changed its name to Alliance Trust Pensions Limited (Alliance) following the acquisition of the business by Alliance Trust Savings Limited. And in January 2013 Alliance Trust Savings Limited sold Alliance Trust Pensions Limited to Curtis Banks Limited.

When Mr C came to close his SIPP, CB deducted a sum (a total of £4,454.40 I am told) from the total funds transferred out of the SIPP. Mr C complained about the deduction being made.

CB investigated Mr C's complaint but did not uphold it. They said the sums deducted were for the fees Mr C was obliged to pay for the services they had provided. Mr C had not paid the invoices for some years and so when he came to close the SIPP, they were entitled to deduct the outstanding sums owed due from the balance, which is what they did.

Mr C told us he was unhappy CB refused to account for the deductions they had made from his fund, and because they had alluded to the deductions as being fee payments. And he said CB refused to explain what contract existed that entitled them to deduct anything. Mr C thought CB owed him money and he said he didn't trust them. Mr C noted he held a professional financial qualification.

CB provided us with copies of original documentation from Wolanski & Co at the time of the SIPP's inception, as well as copies of invoices and the terms and conditions for the arrangement and a schedule of fees. CB also sent us a letter they sent to Mr C in respect of an earlier complaint in 2017. Mr C was provided with copies of the invoices and other documentation.

Investigator's view

The Investigator did not uphold Mr C's complaint. The Investigator set out the section of the original application form that he concluded contained an original agreement signed by Mr C in respect of the entitlement for fees and associated costs being able to be deducted in respect of the arrangement.

He didn't think CB had done anything wrong, nor did he think they had behaved unfairly or unreasonably. He concluded CB had done what they were entitled to do when it came to deducting fees properly applied to Mr C's account. He accepted what CB said about invoices and reminders having been added to Mr C's online portal, and that Mr C used his online portal.

Mr C didn't accept the Investigator's view. There was further correspondence between Mr C and the Investigator. The Investigator did not change his thinking and was satisfied there was sufficient evidence Mr C had agreed to fees being deducted, and CB had deducted what was owed in fees for administering the policy. The Investigator thought these needed to be deducted when the policy was closed as they had not been paid before. And the Investigator did not think it unusual for fees to be applied for the provision of a SIPP and related services. The invoices had not needed to be individually agreed and this wasn't unusual either. The Investigator didn't agree with Mr C's suggestion that because he hadn't seen the invoices on his online portal, they weren't properly due.

The Investigator explained that this Service does not generally assess whether fees properly applied are too high or not and noted it would have been open to Mr C to transfer his pension arrangement if he was not satisfied with the fees that applied.

Mr C's response

In summary Mr C didn't accept the Investigator's view. He disputes there is evidence of why CB were owed the sums and that CB could deduct the sums without his permission. He didn't think there was evidence he had asked CB to do anything and didn't think CB acted lawfully.

Mr C said he was happy for CB to deduct money from his account provided he agrees he owes the money. He says that CB can't make a deduction before he has agreed it can be made and he wanted the Investigator to ask CB why they knew Mr C had agreed to the deduction.

Mr C didn't think it was satisfactory or reliable to rely on the schedule of fees provided, which was applicable to the CB SIPP for 2024 and the terms and key features for the SIPP from 2023, as both of these dates were after he had closed his SIPP. Mr C stressed he had not seen the invoices for the fees previously and did not know they were available to him online.

Mr C told us that had he known he could have transferred his pension arrangement, he would have done. Mr C says he only ever wanted to have his work done at a price he agreed. And says he has never agreed matters, and the opposite can't be proved.

Provisional decision

On 26 March 2024 I issued a provisional decision. I indicated I did not intend to uphold Mr C's complaint and I explained why. In this I invited Mr C to let us know why he thinks CB did something wrong, including why he suggests CB were wrong to deduct the sums and why he says CB acted unlawfully. Mr C did not provide any response on these matters.

Responses to provisional decision

Mr C wasn't satisfied with my intended decision. He accepts CB might be entitled to some money, but he thought that any fee they applied ought to be reduced because CB hadn't fulfilled their role as they ought to have done. He did not say what he thinks they did not do. Mr C comments that my decision fails to make any finding on whether the sum was reasonable and only supposes CB were reasonable in what they did.

CB did not have any further submissions.

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 have not changed my thinking from that set out in my provisional decision. I am not upholding Mr C's complaint. I am not persuaded CB did anything wrong here. And I am satisfied there's enough to conclude CB's actions in deducting sums from Mr C's pension arrangement on closure were fair and reasonable. I think Mr C understands that should he be seeking a finding on the legality of CB's actions, this would need to be pursued elsewhere.

It is a matter for me to conclude whether I have enough information and whilst I am required to take into account any relevant law and regulations, regulator's rules, guidance and standards and codes of practice, and what I consider to have been good industry practice at the time, ultimately I make my decision on what is fair and reasonable in all the circumstances.

Where the evidence provided is incomplete, inconclusive, or contradictory, I reach my conclusions on the balance of probabilities, that is, what I think is more likely than not to have happened based on the available evidence and the wider surrounding circumstances. I make my decision on what is fair and reasonable in all the circumstances.

It isn't unusual for CB as the administrator of Mr C's SIPP to apply fees for the provision of services and the administration of his SIPP, and Mr C agrees. It is not unusual to expect to see annual (and ad hoc) fees being levied for the provision of a variety of services in respect of the provision and administration relating to a SIPP.

In my provisional decision I set out that it appeared to me that potentially Mr C was unhappy with the level of fees applied and/or whether there was a binding agreement to which he was a party, that meant CB could deduct fees without him explicitly agreeing to the deduction. I invited Mr C to tell me more about his thinking on these areas and some detail on what he was unhappy about. Mr C has not told this Service why he says CB have not done what they ought to have done, nor has he explained why he thinks the fees ought to have been reduced. Save that Mr C refers to thinking CB could not make any deduction for any invoice without his specific and explicit agreement.

When Mr C first started his pension arrangement he signed an agreement which covered the application and deduction of fees. However, the position moved on and changed, not only in respect of the party responsible for Mr C's SIPP, but also in respect of the arrangement on fees and the relevant terms.

In 2017 CB responded to a complaint made by Mr C that I previously identified as being relevant to this complaint. It might be considered surprising that neither party have commented on this correspondence given it addresses a number of the areas now complained about.

In their 2017 letter CB set out that in August 2016 they had written to Mr C in respect of their fees and the changes that were being made to their terms from October 2016. CB had said in the August 2016 letter, that if the changes were not agreed to and the SIPP was transferred away within three months of the fees taking effect, then any transfer out fees would be waived.

In the 2017 letter CB note Mr C contacted them for discharge forms in September 2016 and that these were issued to him soon after. The letter goes on to say that because his form was not received by them until 20 February 2017, (after the three-month period had finished) the full fees would apply on transfer. It also refers to Mr C's annual fee now being applicable and that this would also need to be deducted before transfer.

The 2017 letter went on to set out that details of all of CB's fees are available online, and that their latest fee schedule had been enclosed in the September 2016 letter. The letter also summarises what CB say was the history when it came to the payment of fees in respect of this arrangement.

The current complaint suggests Mr C did not proceed with the transfer in 2017. As I have set out, neither Mr C nor CB have referred to this earlier complaint and correspondence in any submissions made to us, although it looks like the 2017 letter was attached to CB's response to Mr C's complaint in 2023.

From what has been provided I conclude CB made changes to their terms and in respect of fees in 2016, which were communicated to Mr C. No complaint has been made that says they weren't entitled to do this. Equally I have not been told what these changes were or if they bear relevance to this complaint.

I note that the invoices that were unpaid on Mr C's SIPP and deducted on the closure of the SIPP date from February 2017 onwards. So it might be logical to think this date is of some relevance when it comes to the non-payment of the fees and invoices on Mr C's SIPP and the changes of 2016. I commented in these terms in my provisional decision, but neither party has said anything more on this aspect. As such I don't think I need to consider why they weren't paid from 2017 onwards.

I am satisfied that the 2016 and 2017 correspondence was received by Mr C and that this provided him with the knowledge of there being fee changes which applied to his SIPP, where further information could be obtained and the ability to transfer out, even if I thought (which I don't) he might not have otherwise known.

I haven't seen anything that persuasively supports a conclusion the invoices from 2017 onwards did not represent fees properly levied by CB in respect of the SIPP and associated administration. I appreciate Mr C seems to suggest this Service ought to do more to investigate the fees applied. But I have not been told why Mr C considers the specific sums to be wrong, or even that he does. As such I don't consider it unfair or unreasonable that CB applied these fees to the SIPP. I appreciate Mr C has suggested he had not seen the invoices, but that does not mean the fees weren't properly applied or due. Mr C knew there were fees that applied to his SIPP. I accept from CB that the invoices were available on the online portal which Mr C used. I appreciate Mr C says he didn't see them there, but this doesn't change my thinking. It doesn't mean that there were not outstanding payments due to CB which they were entitled to deduct when the SIPP was closed.

Mr C has suggested the fees as set out in the invoices ought not to have been deducted without his permission. And I can see he doesn't accept CB had the authority to deduct the sums when he transferred out, without his explicit authority at that time. But I don't agree. I have seen the June 2023 terms that would have applied to Mr C's SIPP had he not closed the arrangement, and in particular what's contained at paragraphs 14 and 18 about transfers out and fees, charges and expenses.

In June 2023 the terms set out that transfers out (including thus a closure) will only be completed once all fees have been paid. Whilst I appreciate what Mr C says about these terms post-dating the closure of his SIPP, this term is sufficiently similar to the term in 2016, and sufficiently common for me to conclude that it's more likely than not there was a sufficiently similar term that applied to the SIPP at the time Mr C closed the SIPP. In any event I accept there were outstanding sums due to CB under the fees that applied to the SIPP, and it was reasonable for these to be paid to CB from the funds being transferred out when the SIPP was closed. I don't accept the suggestion that CB ought to have discussed

each fee or charge that applied to the SIPP individually and directly with Mr C. I am not persuaded CB were required to contact Mr C to seek his agreement for them to make the deductions here.

I think the information available about what happened in 2016 and 2017, and based on what Mr C has told us, suggests Mr C took an active interest in his SIPP, and the terms and fees that applied to his SIPP and thus to him. He clearly acted in 2016 and 2017 based on correspondence received and had information about changes being made and what they involved at the time and what that would mean for his arrangement.

As such, and based on everything provided, I am not persuaded CB did anything wrong when they deducted the total amount of unpaid invoices for fees from Mr C's fund value prior to closing his SIPP. I am sufficiently persuaded there was an agreement in place which enabled CB to make a deduction. It was reasonable for Mr C to be bound by the terms and fees that applied to his SIPP (in place at the time), including when it came to how transfers would be completed when it came to unpaid fees.

I am not persuaded CB behaved in a way that can be said to be unfair or unreasonable here. In addition, and based on what I have seen, I consider Mr C was aware of CB's terms and the invoices that had not been paid and knew that these would need to be paid on the closure of his SIPP. And I'm satisfied there was an agreement in place which enabled CB to make a deduction, and this was in place from at least 2016, if not, as likely, from some time previously. I am satisfied CB have sufficiently explained the deductions and what they represent.

As the Investigator explained, if Mr C's complaint includes a dis-satisfaction with the level of CB's fees, this is not something this Service generally will reach a decision about. I have not seen anything that suggests to me that CB have not applied their usual fees when it comes to the fees claimed and deducted and that these aren't the fees that are published and made readily available to their customers.

My final decision

For the reasons given I don't uphold Mr C's complaint about Suffolk Life Pensions Limited trading as Curtis Banks Pensions.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 17 June 2024.

Louise Wilson
Ombudsman