

Ombudsman's Determination

Applicant	Mr D
Scheme	Curtis Banks self-invested personal pension (the SIPP)
Respondents	Aviva, Curtis Banks Group Plc (Curtis Banks)

Outcome

1. Mr D's complaint against Aviva and Curtis Banks is partly upheld, but there is a part of the complaint I do not agree with. To put matters right (for the part that is upheld) Curtis Banks shall remedy the significant non-financial injustice it has caused to Mr D.

Complaint summary

2. Mr D contends that Friends Life and Curtis Banks were negligent in the administration of his SIPP. They failed to act when the tenant occupying the property, held in his SIPP, defaulted, causing him a financial loss.
3. Mr D says that Curtis Banks charged administration fees of £2,148 but did not carry out any work.

Background information, including submissions from the parties

4. Mr D's ex-Winterthur Life SIPP was subsequently managed by Capita on behalf of Friends Life, part of the Aviva Group.
5. In 2007 Mr D and his former business associate, Mr S, (the **Tenants**), began trading as [ABC Solicitors] (the **Partnership**). They separately purchased adjacent properties to use as offices for their business (the **Property**).
6. Property 1 was held on trust for Mr S' SIPP. Property 2 was held in respect of Mr D's SIPP. Property 2 is a listed building. A survey report checklist, dated May 2007, describes property 2 as a self-contained office building connected to property 1 "dwellings."
7. Mr S paid £120,000 towards the purchase of property 1. Mr D paid £165,000 for property 2; 58% of the total cost of £285,000 for the Property, excluding value added tax (**VAT**).

8. Mr D and Mr S signed a mirror lease agreement for each property for a term of 10 years. They were named as the "Tenant" on both leases at their respective home addresses. The annual rent for property 1 and property 2 was £10,000 and £12,500 respectively, to be reviewed on 24 September 2012.

9. Clause 3 of the lease agreement states:

"**The TENANT** hereby **COVENANTS** with the Landlord as follows [original emphasis]:

"3.1 Rent

The Tenant will pay to the Landlord the Rent and Additional Rents on the days and times and in the manner set out in this lease for payment of those sums without any deduction or set off whatsoever.

3.2 Outgoings

The Tenant will bear pay and discharge all existing and future Impositions assessed, charged or imposed on the Property except for Impositions payable by the Landlord (other than VAT) occasioned by receipt of the rents under this Lease or by any dealing with its reversionary interest."

10. The "Landlord," "includes where the context admits the person who for the time being owns the interest in the Property which gives the right to possession of it when [the] lease ends." Winterthur Pension Trustees UK Limited is named as Landlord in the lease.

11. Clause 3.3 of the lease states that the Tenant will pay daily interest on rent or other payments that have been outstanding for more than 21 days. It indicates that interest will be charged at 4% above "Lloyds TSB plc base rate", or its equivalent prevailing rate.

12. Clause 6.10: "Recovery of Rent" says:

"Without prejudice to any other remedy of the Landlord all rents and other sums which become due from the Tenant under the terms of this Lease shall in default of payment be recoverable either as rent in arrears or by action as the Landlord may from time to time decide."

13. In 2011, Mr D was expelled from the Partnership. He was later convicted of offences committed in the course of his practice as a solicitor and sentenced to three years' imprisonment.

14. Mr S continued trading from the premises under a different trading name.

15. In early February 2012, Capita obtained legal advice on whether it could accept rent from Mr S, or whether it would need to assign the lease.

16. The legal advice stated that it was in Mr D's interest for the lease to be assigned. The advice confirmed that Capita was entitled to pursue payment of rent from either Mr D or Mr S. It stated that there was no issue accepting rent payments from either tenant, as they were "jointly and severally liable" for the rent.
17. On 9 February 2012, Capita advised that it required instructions from the Tenants to assign the lease. Mr D replied that same day and requested that a demand for payment be sent to the Partnership for the time being.
18. During exchanges with Mr D later that month, Capita advised that Mr S would "resubmit" the rent payment for the "December - March" quarter. He would then vacate the property and pay no further rent. Capita stated that the Tenants would be liable for all future rent until the lease had expired, or a new tenant could be found.
19. Capita confirmed that the Property was not currently being marketed for a new tenant. Capita advised that it would only accept instructions from the "Property Coordinator" [Mr D]. Capita stated that any rent arrears would be pursued in accordance with the lease.
20. On 22 February 2012, Mr D enquired about the overdue rent. He said that he was taking advice on whether to consent to Mr S selling the Property.
21. In August 2013, Mr D was asked to consider a sale and an assignment of the lease to a new tenant. Mr D did not agree to this due to ongoing litigation between himself and Mr S.
22. Mr S continued to pay the rent until December 2013, when it fell into arrears.
23. During exchanges with Mr D in the intervening period, Friends Life's legal advisers restated on 4 June 2014 that Mr D and Mr S were jointly and severally liable for the obligations in the lease. They advised that £3,253 was outstanding in respect of property 1, and £4,371 for property 2. The legal advisers confirmed that they had been instructed to take further action against Mr D, if payment was not made within the next 14 days.
24. On 14 August 2014, the Crown Court made a restraint order prohibiting disposal of assets under the Proceeds of Crime Act 2002 (the **Restraint Order**). It states:

"This order will remain in force until it is varied or discharged by a further order of this court."
25. The effect of the Restraint Order was that Mr D was prevented from disposing, dealing with or diminishing, the value of his assets. It barred Mr D from engaging others to act on his behalf, or on his instructions, to carry out any prohibited actions. This included assets held in his pension policy with Friends Life valued at £193,705, as at 24 July 2013.

26. On 1 December 2014, the Judge amended the exceptions to the Restraint Order. However, this did not include the restrictions in respect of Mr D's pension arrangement with Friends Life.
27. On 5 December 2014, Mr D informed Friends Life that the Property could not be sold as he was currently the subject of a restraint order. He advised that the order could last until July 2015, and possibly beyond this date, if the matter proceeded to trial.
28. On 17 December 2014, Friends Life notified Mr D that it would instruct the marketing agent to begin marketing the Property as a single unit from January 2015.
29. Curtis Banks took over as Mr D's SIPP provider in March 2015. Colston Trustees Limited, a subsidiary company, is the trustee of the Curtis Banks SIPP (the **Trustee**).
30. Curtis Banks' administration services included: issuing rent demands; receiving incoming rent; and applying it to the SIPP. Curtis Banks has, in the past, issued invoices to the Tenants using the address of the Property.
31. Section 8 of the Curtis Banks Property guide for SIPPS and SSAS properties (the **Property Guide**) states:

“The issuing of rent demands is covered by the annual property fee. Where the tenant fails to pay the rent demand and we have exhausted our internal rent chasing process, ...

We may instruct solicitors to act on our behalf. Solicitors must be instructed where the rent arrears are attached to a **connected tenant** to protect your **Pension Scheme** [original emphasis] and us from HMRC penalties...Any solicitors costs charged as a result of the rent arrears process... will be payable from your **Pension Scheme** and where possible, recharged to the tenant.”
32. The definition of “connected tenant,” includes partners in a partnership connected to the SIPP member or their relative.
33. On 9 September 2015, Mr D informed Curtis Banks that he did not agree that payment should be made from the property account. Mr D said that he had not been notified of action taken to recover the considerable arrears [from Mr S].
34. In the intervening period, Mr D made several attempts to address the issue, without resolution.
35. In June 2016, during exchanges with Mr D, Curtis Banks confirmed total outstanding rental arrears of £46,826 in respect of property 2. Curtis Banks said that it would need to obtain independent legal advice. It advised that the Trustee wanted to “regularise the position” in respect of the tenancies and divide the Property back into two buildings.
36. On 4 August 2016, Mr D complained to Curtis Banks that he was not aware of the rent arrears and had not received a statement of account. He pointed out that Friends

Life had received advice over a period of two years. He wanted to see action taken, and not just requests for him to pay for legal advice.

37. On 16 August 2016, Mr D complained to Friends Life about its alleged failure to protect his [financial] position. The evidence suggests that he did not receive a formal response to his complaint.
38. On 4 May 2017, Curtis Banks' Property Management Team sent a rent demand to Mr D's home address. He was asked to settle £54,573, in full, within seven days. The letter said:

"Under the terms of your Lease, rent is due in advance of the designated payment dates whether formally demanded or not.

Failure to pay this amount by the stated deadline may result in solicitors being instructed to pursue the total debt, without any further notification to you, and at a cost to be borne by you as stipulated in the conditions of the Lease.

Should you wish to put forward a payment proposal, we will need this in writing by the stated deadline so that it can be given consideration for approval."

39. In a separate communication, Curtis Banks advised that it planned to sell the Property as a single unit. Curtis Banks stated that it would reach an agreed split of the sale proceeds between Mr D and Mr S. The letter said:

"...From your email dated 28 April 2017, we understand that you are considering the sale proposal of [property 1 and property 2], in order to realise the value of the SIPP asset without performing the building works to divide up the property into separate properties...

We believe we are now in a position to put forward the final proposal in relation to the Property..."

40. Curtis Banks informed Mr D that consent was required under the lease to convert the Property. However, Curtis Banks could not establish whether consent for the openings between the properties was obtained. Curtis Banks acknowledged that Mr D did not want to restore the walls dividing the properties. Curtis Banks advised that it was holding separate discussions with the Tenants. It stated that their lack of cooperation and ongoing dispute was unhelpful.
41. Mr D was asked to put forward a payment proposal. Mr D was also asked to confirm that he was happy for his SIPP to receive 58% of the sale proceeds. Curtis Banks warned that if the proposal was not agreed, it may proceed with the sale or instruct the Tenants to reinstate the internal walls.
42. Mr S vacated the Property at the end of March 2017. As the lease was not surrendered, rent continued to accrue until September 2017, when the lease expired.

The Property was sold at auction in October 2017. Mr S has since transferred out his pension pot.

43. As at 18 December 2017, the outstanding rent and insurance in respect of property 2 had accumulated to £60,378. Curtis Banks has apologised to Mr D that this was not invoiced until December 2017.
44. Curtis Banks charged an annual SIPP administration fee of £790, total property charges of £170 per quarter, £28 to submit quarterly VAT returns, and £142 SIPP property administration fee. As Curtis Banks did not act as property manager, it did not charge fees in respect of rent collection or managing tenants specifically.
45. Neither Curtis Banks nor Friends Life accept responsibility for the financial loss Mr D is claiming.
46. Curtis Banks has acknowledged that it has mismanaged Mr D's enquiries and his complaint about the issue. It has offered Mr D £350 in recognition of this.
47. Mr D says that he discovered in 2014 that Mr S had stopped paying the rent. Friends Life and Curtis Banks were conflicted. By failing to act, when he asked that they forfeit the lease and take possession of the Property, they put Mr S' financial interests above his. His property was devalued and he received no rental income for three years.
48. Mr D's position is summarised below:-
 - It is a straightforward process to bring about a forfeiture of a commercial lease. If Curtis Banks and Friends Life had forfeited the lease, as he had directed, the Property could have been sold or rented to new tenants on commercial terms. This would have benefited both SIPPs.
 - The circumstances that led to him leaving the Partnership is immaterial. Mr S continued using both buildings and paid rent for two years. Consequently, Mr S confirmed liability for the rent. It was also accepted that Mr S was liable because he was sent a rent demand.
 - He had refused to consider a sale and an assignment of the lease to a new tenant because of the litigation between himself and Mr S.
 - The Restraint Order, which was eventually lifted in 2015, meant that he could not dispose of his pension assets at the time.
 - A deal was negotiated with Friends Life's legal advisers. However, he does not know whether Mr S signed the agreement to clear the arrears and continue paying the rent.

- His persistent attempts to get Friends Life, and then Curtis Banks, to evict Mr S were ignored. Mr S was allowed to continue trading from the Property, based on the original joint lease, without paying any rent.
- He emailed Capita/Friends Life on 23 separate occasions. He was rarely responded to. When he contacted their legal advisers, he was told that they were taking instructions from their client.
- Apart from the notices served by Friends Life's legal advisers [in 2014], he was not served with any notice, or asked to pay any invoice for rent even though his home address and email address were held on file.
- As Friends Life had already instructed solicitors, he questions Curtis Bank's rent recovery process and the delay in appointing a property manager.
- He also questions who was responsible for collecting the rent once it remained outstanding? This is because Curtis Banks claims that it does not issue rent demands.
- Curtis Banks threatened him with legal action to recover the rent that was due to his SIPP. However, he did not make any payments and could not afford to do so.
- He did not agree to separate the Property due to the costs involved. The properties were 'knocked through' on two levels and in the cellars. Consequently, the cost would have been considerable. In any case, it would have been subject to listed building consent.

49. Curtis Banks' position is summarised below:-

- Mr S asked to end or assign the lease as his business had declined and he could not afford the rent. However, this was rejected by Mr D.
- Mr D considered that he ceased to be responsible for the rent as he was removed from the Partnership. However, he remained individually and jointly legally liable for the rent whether demanded or otherwise.
- The leases were in the Tenant's personal names. Consequently, the breakdown in the Partnership is immaterial as the liability for the rent is "joint and several" on both premises. There was no implied assignment of the lease to Mr S.
- Curtis Banks inherited the situation when it took over the administration from Friends Life. Despite Curtis Banks' efforts to find a mutually agreeable solution, there continued to be a dispute between the Tenants regarding the outstanding rent.

- The dispute stems from Mr D's criminal activity for which he was imprisoned. The Partnership was required to pay clients who had lost money. Mr S refused to pay the rent due on property 2 because of the losses suffered by the business.
- Mr D's actions, in taking money from the Partnership, and his subsequent sentencing, brought the Partnership into disrepute. It made it less likely that Mr S could fund all the rental arrears by himself.
- Curtis Banks is aware that a rent payment proposal was previously put forward. However, this was not finalised because of the outstanding issue of the extent of Mr D's liability.
- Mr D indicated that he was unable to make payment. Consequently, no agreement was reached before Curtis Banks took over the administration of the SIPP.
- The Property should have been sold before Curtis Banks took over. The sale was delayed because Mr D advised in December 2014 that a "freezing order" would prevent a sale.
- The Tenants could not agree on the sale or on an assignment of the lease. Consequently, the only possible option would have been to take legal action against them. However, the cost would have been met from their SIPPs. This option is no longer viable as Mr S has transferred out his pension.
- The conversion of the properties caused significant issues between the Tenants and adversely impacted the administration of the lease. It was not approved by the previous administrators nor was it documented in the lease or valuations.
- Curtis Banks took legal advice on the powers of the Trustee landlord under the lease, at its own cost. In the circumstances, it considers that the Trustee acted reasonably and commercially for the benefit of both SIPPs.
- The Trustee decided to pursue Mr S for the rent, and then the Tenants jointly. Curtis Banks later pursued Mr D for the rent due on property 2.
- Curtis Banks accepts that it could have acted more proactively and potentially put the Property on the market earlier.

50. Aviva's position is summarised below.

- It appears that Mr S agreed to pay the rent after Mr D was struck off. However, Friends Life has been unable to locate documentary evidence that such an agreement existed.

- Mr S wrote to Friends Life in response to rent demands for outstanding rent. He accepted that he and Mr D were equally liable for the rent payments.
- Friends Life's legal advisers suggested that it would be in Mr D's best interests to have the lease assigned. Friends Life has seen no evidence of an implied assignment of the lease to Mr S.
- Friends Life has not located any correspondence that indicates that Mr D informed Friends Life or Capita that he could no longer meet the Tenant's obligation under the lease.

Adjudicator's Opinion

51. Mr D's complaint was considered by one of our Adjudicators who concluded that there had been some maladministration by Curtis Banks. The Adjudicator's findings are summarised below:-

- The Adjudicator was not convinced that Mr D had suffered financially as a direct consequence of administrative errors on the part of Curtis Banks and Friends Life.
- Mr D left the Partnership and vacated the Property. However, he remained individually and jointly legally liable for the rent. The evidence indicates that Mr S agreed to pay the rent. However, the lease was not formally assigned to him. So, the landlord was entitled to recover rent arrears from Mr S and Mr D, both being jointly and severally liable.
- The fact that Mr S paid the rent for both properties until December 2013, did not affect the landlord's right to enforce against the tenants in common. Mr S' sole occupancy of the Property is not sufficient proof of an implied assignment of the lease.
- The Tenants' failure to meet their contractual obligations under the lease ultimately caused Mr D's financial loss. This was outside of Friends Life's and Curtis Banks' control.
- Clause 6.10 of the lease provides that all rents due from the Tenants under the lease, which are in default of payment, are recoverable by action as the landlord may decide. This Clause, along with Section 8 of the Property Guide, permits the landlord to instruct solicitors and recover costs from the pension scheme once the internal rent chasing process has been exhausted.
- The Adjudicator considered that the Trustee should have acted much earlier in the process because the Tenants had been in breach of the conditions of the lease since December 2013.

- The evidence suggests that it was not until May 2017, that Curtis Banks' Property Management Team wrote to Mr D for settlement of the outstanding rent arrears. By this point, the arrears had accumulated to over £50,000.
 - Curtis Banks should make a distress and inconvenience award of £1,000 to Mr D for its role in what has gone wrong. This would be in line with what the Ombudsman would direct in similar cases for non-financial injustice.
 - Mr D's complaint should also be partly upheld against Friends Life to the extent that it failed to formally respond to Mr D's complaint. However, the Adjudicator did not consider that the mistake justified the minimum award of £500 the Ombudsman would normally direct for non-financial injustice.
52. Curtis Banks and Mr D did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr D and Curtis Banks have provided their further comments, but these do not materially change the outcome. I agree with the Adjudicator's Opinion, except that a distress and inconvenience award of £500 would be appropriate in the circumstances. I will therefore only respond to the key points made by Curtis Banks and Mr D for completeness.
53. Curtis Banks says that it does not entirely agree with the Adjudicator's findings. Nor does Curtis Banks agree with the increased award of £1,000 proposed by the Adjudicator. Curtis Banks considers that it is being "penalised" for a situation Curtis Banks inherited. A situation that has arisen directly from the unwillingness of connected parties, to meet their financial liabilities arising from their tenancy of commercial properties held as joint investments.
54. Curtis Banks says that it also does not accept that Mr D was unaware that the rent was accruing, since this was the basis of his initial complaints. Furthermore, the situation had been a matter of dispute for some time before Curtis Banks took over the administration of the SIPP. Curtis Banks had to obtain independent legal advice to establish the best course of action to try and resolve matters. Throughout the process, neither tenant was willing to accept financial responsibility for the rent due.
55. Curtis Banks maintains that there is nothing to suggest that Mr D has suffered significant distress as a direct result of Curtis Banks' administration of the SIPP. The position with the rent is one of Mr D's own making. Full consideration should be given to the actions of the Tenants. Regardless of when Mr D was informed of a precise sum of unpaid rent, the evidence is clear that there would have been no resolution to this matter.
56. Regarding the Property, Mr D contends that there is a "factual error" on the part of either Friends Life or Curtis Banks, or their respective surveyor [when describing the property]. At the time of the purchase, the Property consisted of two buildings. Property 2 was a three storey listed building. Property 1, the adjoining two storey terrace, was bought by Mr S' SIPP, funded by money he lent to Mr S.

57. Mr D explains that the previous owner joined the two properties by removing the intervening party wall, at cellar and first floor level, so that they could be used as one office. After he and Mr S bought the Property, they applied for listed consent, and planning permission to remove the party wall in a back room at ground floor level. The conversion made the offices more convenient for their use. The suggestion that he and Mr S removed the party wall at all floor levels after they bought the Property, is totally wrong. He has repeatedly confirmed the position in writing to Friends Life and Curtis Banks. They have ignored his confirmation of what actually occurred.
58. Mr D had clarified that between February 2012 and August 2013, "Nothing happened." During this period, he was taking legal action against Mr S and Mr S was obstructing disclosure. Due to a re-interpretation of the law by a senior court, he was subsequently arrested in December 2013, two years after he had been excluded from the Property. At that point, Mr S immediately stopped paying rent and applied to stay the high court case.
59. Mr D has advised that he was eventually charged in August 2014, on bail until April 2015, and then in custody until June 2016. He subsequently took up the issue [with the rent] more intensely.
60. Mr D casts doubt on the assertion that Mr S could not afford to pay the rent due to loss to clients. To his knowledge, he repaid all the clients in full on the conclusion of the case and lifting of the Restraint Order. Mr S did not pay monies to any of the clients concerned.
61. Mr D has advised that he does not know whether Friends Life did in fact market the Property. He was completely ignored by Capita, acting for Friends Life. Capita failed to take any action, and this continued right up to the transfer of the SIPP to Curtis Banks. As he has previously stated, forfeiture of commercial leases is a straightforward process. This would have allowed him to re-let [property 2] and limit any loss to his SIPP.
62. Mr D maintains that following the transfer of the SIPP to Curtis Banks, no action was taken until he came out of custody in June 2016, and started to pursue the matter further. Even then, Curtis Banks failed to act for another year, until June 2017. As the administrators of the SIPPs, he considers that Friends Life and Curtis Banks were bound to act in the interests of both parties. However, they failed to do so. There was a clear conflict of interests.
63. Mr D questions why Friends Life and Curtis Banks could not have assigned one of the SIPPs to a different administrator. There would then have been at least some degree of independence. Instead, Friends Life and Curtis Banks continued to charge both SIPPs, and do nothing but allow the rental arrears to accumulate and Mr S to trade [from the Property], rent free, for four years. In all likelihood Mr S generated a healthy income, benefitted from vastly reduced overheads, while the investment in respect of property 1 shrank, earned nothing, and deteriorated in condition and value.

64. Mr D states that no one has been able to explain to him how this "conflict of treatment" can be regarded as anything other than "prejudiced to Mr [S'] benefit and to [his] detriment."
65. Mr D argues that had Friends Life and Curtis Banks been proactive, the matter would have been resolved years earlier, and with limited loss [to him]. To leave the issue unresolved for several years is evidence of "clear negligence" on the part of Friends Life and Curtis Banks. Their continued representation of the SIPP, charging both SIPP, when there was a conflict, is simply wrong.
66. Mr D has pointed out that Friends Life did not reply to The Pensions Ombudsman originally, and certainly failed to reply [to his complaint]. Nonetheless, he finds it extraordinary that Curtis Banks has blamed Friends Life. Once Curtis Banks inherited the situation, Curtis Banks was dismissive, partial, prolonged the matter, and made it worse.
67. Mr D contends that, at the very minimum, Friends Life and Curtis Banks should repay the administration charges deducted from his SIPP from December 2013 to October 2017, since they both charged for a service they failed to provide. In his view, both companies should make an award in respect of the distress and inconvenience their "dismissive" attitude throughout has caused to him.

Ombudsman's decision

68. Mr D has asked that I reconsider the extent of the total losses to his SIPP in light of the alleged maladministration on the part of Friends Life and Curtis Banks. Having considered the sequence of events, I am satisfied that neither Friends Life nor Curtis Banks is directly responsible for the financial loss Mr D has suffered in this case.
69. The root cause of the shortfall in the value of Mr D's SIPP, stems from the failure of the Tenants to meet their contractual obligations under the terms of the lease agreement. Consequently, even if I were to accept that Friends Life and Curtis Banks should have been more proactive in pursuing Mr S, neither Friends Life nor Curtis Banks can reasonably be held liable for Mr D's loss of rental income or any decrease in the value of his investment. Mr D was equally liable to pay the rent in respect of the Property.
70. With regard to whether Friends Life or Curtis Banks should have forfeited the lease. I accept that this would not necessarily have been a protracted process. I also acknowledge that under clause 6.10 of the lease agreement, the Landlord can exercise discretion and forfeit the lease where rent remains in arrears for more than 21 days. That said, the Landlord is not compelled to do so.
71. Mr D has not provided compelling evidence that Friends Life and Curtis Banks were negligent in the administration of his SIPP by allowing Mr S to remain in the Property. In my view, this was a reasonable decision given the position Friends Life, and then Curtis Banks, found themselves in.

72. Notwithstanding this, it would have been a matter for the Trustee of the SIPP, in its capacity as the Landlord, to decide what action to take to recover rental arrears after taking into account all relevant factors, including the financial interests of Mr D's and Mr S' respective SIPPs.
73. To avoid ongoing liability for the rent, Mr D should have formally reassigned the lease by obtaining the Landlord's written consent to do so. This may have mitigated Mr D's financial loss. However, I recognise that the Restraint Order would likely have prevented Mr D from doing so while it remained in force and included assets held in his SIPP.
74. Since the lease had not been reassigned by the time Mr S ceased to pay rent in December 2013, the Landlord was entitled to recover rent arrears from Mr S and Mr D, individually and jointly, in accordance with the provisions in the lease agreement.
75. Where there is convincing evidence that distress and inconvenience has been caused to an applicant that is sufficiently serious to justify an award for non-financial injustice, I would normally direct that the respondent(s) remedy that injustice.
76. I accept that the time taken for Curtis Banks and its predecessor Friends Life to progress matters was likely a contributing factor in the overall time taken to resolve the financial position. I acknowledge that Mr D considers he was largely ignored by Friends Life and then by Curtis Banks. The evidence tends to support this view.
77. I have also taken into account that Curtis Banks has acknowledged that it did not invoice Mr D for the outstanding rent and insurance due on property 2 until December 2017. This is some two years after Curtis Banks took over the book of business that included Mr D and Mr S' respective SIPPs.
78. That said, the ongoing dispute between Mr D and Mr S was by far the single most significant contributing factor in what has gone wrong. In view of this, I find that an award of £500 would be appropriate in respect of Curtis Banks' mishandling of Mr D's enquiries and his complaint.
79. There were service failings on the part of Friends Life in its management of Mr D's enquiries and it failed to provide Mr D with a final response to his complaint. However, although Mr D would have suffered some distress and inconvenience, as a result of the way in which Friends Life has handled his SIPP, I do not find that it would have been significant and so do not make an award against Friends Life.

Directions

80. Within 21 days of the date of this Determination, Curtis Banks shall pay an overall distress and inconvenience award of £500 to Mr D, this includes the £350 which Curtis Banks has already offered, in respect of the significant distress and inconvenience which he has suffered.

Anthony Arter

Pensions Ombudsman
19 December 2019