

## **The complaint**

Mr H complains that James Hay Administration Company Ltd ('James Hay') failed to process his application to take benefits from his pension. He says that delay meant that he had to take a loan and incur interest as a consequence.

## **What happened**

Mr H had a pension with James Hay that was in drawdown. On 9 February 2023 Mr H phoned James Hay to withdraw the remaining fund in his SIPP as a taxable lump sum. And he submitted the request forms that same day.

James Hay received the request form by recorded delivery on 10 February 2023. It processed the application and sent Mr H the risk warnings on 21 February 2023. And he responded on 23 February to acknowledge and agree to proceed.

James Hay continued to process the drawdown with the request to sell down the funds being placed on 1 March 2023. The trades had settled and cash was cleared by 8 March 2023 with payment of income being sent on 10 March 2023.

Mr H complained to James Hay about the length of time the process took. He said that he was told on 9 February 2023 that he would have his money within 10-15 days. So had planned a car purchase expecting his income payment at most 15 days after he applied. And he explains that he incurred £300 interest on a loan he had to take out instead. He also complained that James Hay didn't use the correct tax code and he had to pay too much tax. And he was also concerned about the drop in the amount of his fund value prior to receiving his payment.

James Hay looked into what happened. And decided that it didn't act quickly enough on receipt of Mr H's application on 10 February 2023. It said that it ought to have started to process it on 14 February 2023 instead of 21 February 2023. But thought that the rest of the process ran as expected. It therefore accepted that Mr H had been inconvenienced and should have had his payment a week earlier, on 3 March 2023.

James Hay calculated that Mr H's pension fund would have had a value that was £136.71 if it had sold down to cash a week sooner. So offered Mr H a compensation payment of £300 for both the loss the delay caused and the inconvenience it caused. It explained that it had used the tax codes that it was required to and that Mr H could claim back any overpaid tax from HMRC. And it explained that market variation and a final SIPP fee accounted for the difference in his pension fund that Mr H queried. James Hay didn't think that the week delay meant that Mr H would have had to take out a loan.

Mr H was unhappy and referred his complaint to our service.

Our investigator was unable to resolve Mr H's complaint so this case was referred for an ombudsman's decision.

I issued a provisional decision explaining my thoughts about Mr H's complaint and what I thought James Hay should do to put things right.

### **In my provisional decision I said**

"I understand that Mr H explains that he accepted the explanation given regarding the way that James Hay applied the tax code to his pension and the fluctuation his pension fund experienced. So I will merely reassure him that I think that the answer he has already been given by James Hay and our investigator was fair and reasonable.

I will now give my view on the merits of Mr H's case. James Hay have provided the timeline that it relied on in reaching its finding. On balance, I think that it's approached its review of the request to close the SIPP in a fair way. Our approach in a case like this would be to look at the steps in the process and see whether each step happened in a reasonable time. And that is what James Hay did.

I agree with its conclusion that it was initially slow to start processing Mr H's application that it received on 10 February 2023. It says it should have done that within two working days on 14 February 2023. Which was five working days sooner than it did. So I agree that would have unreasonably added a week onto the time it would take to send Mr H his pension payment.

Having looked at the remaining steps in the process I haven't identified any specific unreasonable delay. So accept that James Hay's service cost Mr H a week's delay in receiving his pension payment.

I can see that Mr H was expecting payment from his pension before 10 March 2023. And agree that he was likely entitled to expect that. But he says that he was told on his phone call of 9 February 2023 that it would take 10-15 days to receive his payment. James Hay have not commented on this or provided a copy of its call recording for that date. So I've no reason to question what Mr H recalls. I would comment however that an expectation expressed in terms like five to ten days was more likely to be an indication of the number of working days. Regardless, I think James Hay are responsible for mis-handling Mr H's expectation and updating him when time was lost in sending out the risk warning.

I've thought about whether it was reasonable, in this case, for Mr H to plan a car purchase based on an estimate of when the payment should be made. And I don't think it was. I say that because Mr H would have been aware that he didn't receive the risk warning regarding his pension withdrawal until 21 February 2023. That was already seven working days after he'd sent his application. So it ought to have been apparent that his request wasn't yet being processed. And ought to have called into question whether he'd still have the payment processed within a week from then. And he was basing his decision on a rough estimate of the timescale, which was not guaranteed.

Irrespective of that, as our investigator explained, the timing of Mr H's purchase was a matter of choice. He would have known prior to the purchase that he didn't have the income from his pension. To mitigate the impact of this I would expect to have seen Mr H had contacted James Hay to get an update on the progress of his pension payment prior to making any purchases or commitments for that money. For these reasons I don't think that it would be fair or reasonable to determine that the interest for his loan was an unavoidable consequence of the delay."

### **Responses to my provisional decision**

Mr H responded to say that he accepted the decision I'd provisionally explained. He offered no further evidence.

James Hay did not respond.

### **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 considered everything again, my final decision is the same as the provisional decision I reached. My reasoning for upholding Mr H's complaint remains the same and is as I set out above in my provisional decision. So, for the reasons I set out in that provisional decision, James Hay must compensate Mr H in the way I set out below.

### **Putting things right**

I would normally expect to see a business calculate whether a loss was suffered by the delay it caused. And that is what James Hay did. That fund loss, which it calculated as £136.71 of Mr H's fund value ought to have been paid to him with the rest of his pension on 3 March 2023.

And I would expect to see that James Hay considered whether its mistake caused additional distress and inconvenience. And I think it did that. Although it did that by rounding up the loss calculation to £300.

In Mr H's case he was impacted by the expectation he'd been given that he'd receive the funds sooner than he did. Irrespective of the mitigating actions he could have taken he was still inconvenienced in having to rethink his plans and in the end finding an additional way to fund his purchase. But I agree with James Hay that a figure of £150 is in line with our awards for this level of distress and inconvenience.

So I think that James Hay's offer to round up the loss to £300 in total was a fair and reasonable way to put things right in this case.

### **My final decision**

James Hay Administration Company Ltd has already made an offer to pay £300 to settle the complaint and I think this offer is fair in all the circumstances.

So my provisional decision is that James Hay Administration Company Ltd should pay Mr H £300.

If payment of compensation is not made within 28 days of James Hay Administration Company Ltd receiving Mr H's acceptance of my final decision, interest must be added to the compensation at the rate of 8% per year simple from the date of my final decision to the date of payment.

Income tax may be payable on any interest paid. If James Hay Administration Company Ltd deducts income tax from the interest, it should tell Mr H how much has been taken off. James Hay Administration Company Ltd should give Mr H a tax deduction certificate in respect of interest if he asks for one, so he can reclaim the tax on interest from HMRC if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or

reject my decision before 8 March 2024.

Gary Lane  
**Ombudsman**