

The complaint

Mr C has complained about delays he experienced in surrendering his investment with Janus Henderson Fund Management UK Limited (JH), and receiving the proceeds.

Mr C has brought his complaint through a representative. But for ease, I will refer to all actions and comments as those being of Mr C.

What happened

In March 2023, JH received several emails from Mr C and his son enquiring about the withdrawal process for Mr C's individual savings account (ISA) he held with them. JH say they put a security restriction on the account at the end of that month, as Mr C's son had contacted them purporting to him.

After failed communications in the April, a sale instruction was received in the post and actioned on 9 May 2023. However, the attached verification documents couldn't be accepted.

Mr C didn't receive the proceeds of the sale until a cheque was sent on 13 September 2023. In that time, he complained to the business. He said that there was a delay in actioning the sale and sending the proceeds, causing financial loss. He said that they hadn't communicated as they should have, including not calling him back when promised. He also complained about a delay in actioning a letter of authority (LOA) for his accountant, who had agreed to act as a representative.

JH responded to say that the delay was due to required verification and AML documents. They did however, offer Mr C £200 for not always calling back as they said they would. Mr C remained unhappy and brought his complaint to our service for an independent review. Our investigator looked into it, they said that the investment had been surrendered in a timely manner and the value had gone up by the time the surrender went through. They said delays in sending the proceeds were due to the business carrying out relevant checks and incorrect documents being provided.

Mr C responded to maintain that proceeds hadn't been sent quick enough. They also highlighted that the LOA for Mr C's rep should have been actioned in five working days but wasn't done for approximately four weeks.

I issued my provisional findings on the matter on 14 November 2024. An extract from which, forms part of my decision below.

I currently intend to reach a different outcome to our investigator. Let me explain why.

Both sides have made many arguments and I have been provided with a great deal of evidence. If I don't comment on something, it's not because I've ignored it. I haven't. Instead, I have focused on what I consider material in reaching a fair

outcome. Our rules allow me to do this, and no discourtesy is intended. It simply reflects the informal nature of our Service. I will now address the matters I consider material, in turn.

Time taken to surrender the investment

I can see that in March 2023, the business received several calls from Mr C and from who I think was his son, based on the evidence I have been provided with. Due to much confusion, a sale instruction wasn't received and accepted until 9 May 2023.

However, I don't hold JH responsible for that. They didn't receive the necessary information and a request they could accept until 9 May 2023. The confusion before then was also due to receiving calls from someone clearly purporting to be Mr C and emailing from an account not registered to Mr C. Further, even if I did hold the business responsible for not actioning the sale request sooner, I note Mr C has not suffered any financial loss. The value of the investment had increased by 9 May 2023.

Time taken to pay proceeds

Whilst the sale instruction was received and actioned on 9 May 2023, the proceeds weren't sent until 13 September 2023. This was too long and meant Mr C's amount was uninvested and he was deprived of the use of it for just over four months.

I acknowledge that much of this time was caused by confusion from contact from Mr C's son and documentation and identification being received in the incorrect format. However, I still think JH could have done more and acted quicker, to ensure Mr C had use of his funds sooner. I say this particularly in regard to:

- Certified documents first received 5 June 2023 and noted they were unacceptable 8 June 2023, but this wasn't communicated to Mr C until 22 June 2023.
- Mr C was told that photocopied documents couldn't be accepted and that email couldn't be accepted as it wasn't from the registered address. However, I can't see that he was told that the driving licence couldn't be accepted (because of an address mis-match) until the end of July 2023.
- Several calls were not returned as promised. Whilst JH have already offered fair compensation for the inconvenience of this (£200), I believe this also caused delay in the settlement and delayed payment of the proceeds, meaning Mr C suffered financial loss through loss of use of the funds.
- JH could have returned contact between 1 and 14 August 2023 but I can't see that they did.
- LOA from representative received 19 August 2023 but not acknowledged or actioned within the JH service standard or a reasonable amount of time.
- Option of a cheque settlement wasn't offered until 5 September 2023 and could have been offered sooner.

Whilst I can't be sure when the proceeds would have been sent, had JH done what they needed to, I think a fair and reasonable conclusion due to the above, is that the business are responsible for half of the delays and the proceeds still should have been received within two months. Mr C should therefore be compensated for not having use of the funds for two months longer than it should have been. Whilst I can't award compensation for inconvenience caused to a representative, I do think Mr C was inconvenienced here. There were several calls he had to make that shouldn't have been unnecessary and he no doubt had worry from being aware the proceeds hadn't been sent. I think a further £200, on top of the £200 compensation for not calling Mr C when they said they would, is fair in these circumstances.

Time taken to authorise LOA

Mr C and his representative are unhappy with how long it took for the LOA to be registered. Despite initially saying this would take 5 days, confirmation of it wasn't given until the cheques were sent in the middle of September.

Whilst I can see this took too long, and JH have apologised, I can't see that it caused Mr C any particular inconvenience that needs compensating. I am already awarding redress for the delay in payment and I can't award compensation for inconvenience suffered by a representative (they aren't the eligible consumer). I also won't be awarding costs for instructing the representative. This was the choice of Mr C, to assist him, and I don't think it would be fair therefore to ask the business to cover that cost.

In summary, whilst I don't hold JH responsible for any delay in actioning the sale, I do hold them partly responsible for the delay in Mr C receiving the funds and the amount being sat as cash for over four months. I think they should compensate him for the loss of use of funds for half of this time, with interest and pay him a further £200 compensation for this.

JH responded to say they accepted my provisional findings and had nothing further to add.

Mr C responded through his representative to say that whilst he was happy I was upholding the complaint in part, he didn't agree with the redress I set out. Firstly, he maintained I should be getting JH to refund Mr C's representative's costs. Stating the matter would be ongoing on still if he hadn't been instructed. They were also unhappy that the LOA took longer than the 5 days they were told and that they haven't been given a proper explanation for this. They said costs should be increased and awarded to deter JH from acting like this going forward.

As no agreement was reached, the case has been passed back to me.

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, and in particular the response from Mr C, I find no reason to depart from my findings and proposed redress, set out in my provisional decision.

I won't be awarding Mr C's representative's costs. He instructed him and that was his decision. I appreciate matters are likely to have been resolved quicker, that is subjective but likely. However, that is the decision he made. He could have still brought the complaint to

this service without his representative. If still ongoing I would have awarded compensation for a longer delay. Many cases are brought to this case with a representative and whilst that can provide a benefit, we don't award costs for that as a matter of course.

Mr C has asked we extend the award to act as a deterrent. However, we don't award punitive damages to punish a business. Our remit is to put things right for a customer and redress them by putting them as closely as possible to the position they would have been in, had the error not occurred.

I appreciate the LOA processing took longer than expected. I haven't been given an answer as to why that is the case. Mr C and his representative will be aware that such things can often take longer than a business anticipates, for a variety of reasons. I see no reason why Mr C needs to know the reason for the delay. As I set out previously, I can only award compensation for inconvenience to Mr C (not his rep) and I don't find that this LOA delay caused him any that warrants compensating.

Putting things right

JH should:

- Pay Mr C 8% interest on the proceeds for a two-month period, to compensate him for the loss of use of funds for the time I believe Janus Henderson were responsible for.
- Pay Mr C a further £200 (on top of the £200 already offered for not calling when they said they would) to compensate him for the distress and inconvenience caused.

My final decision

My final decision, for the reasons set out above, is that I uphold this complaint against Janus Henderson Fund Management UK Limited. They should put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 23 December 2024.

Yoni Smith
Ombudsman