

## The complaint

The estate of X has complained that Chester Rose Financial Planning Limited advised X to draw down on his self-invested personal pension (SIPP) before his 75<sup>th</sup> birthday to avoid a Lifetime Allowance (LTA) Charge, but that this was structured incorrectly and in any case led to an unexpected LTA charge.

## What happened

In March 2021, Chester Rose advised X to withdraw funds from his flexi access drawdown plan to avoid an LTA tax charge at age 75. Chester Rose provided a withdrawal strategy, and X was assured that the withdrawals would not result in an LTA tax charge.

Email correspondence showed that, as per Chester Rose's recommended withdrawal strategy, it advised X to make extra withdrawals of £55,000 in two consecutive tax years, aiming to limit the LTA exposure at 75.

However, despite this, X ended up exceeding the LTA. Upon turning 75, X received a £43,409.21 LTA tax bill from the SIPP provider (James Hay).

The SIPP provider (James Hay) confirmed that X's SIPP was split into five separate tranches, which had resulted in the tax charge.

The terms and conditions document from James Hay outlined general information regarding the lifetime allowance and explained that the LTA sets a limit on tax privileged pension savings, applying to the total value of benefits, regardless of whether they are held within one pension arrangement or in several arrangements. It described crystallisation events which are occasions when benefits are tested against the LTA, such as income withdrawals.

It specified that the tax charges applicable to amounts exceeding the LTA were 55% for lump sums, and 25% for income to be provided. The document said that any remaining percentage of lifetime allowance would be carried to the next crystallisation events if taking an uncrystallised funds pension lump sum after age 75, the tax-free element was limited to 25% of the remaining LTA.

But Chester Rose maintained that James Hay didn't clearly notify it of the plan being split into five tranches. It said that this resulted in Chester Rose incorrectly calculating X's withdrawal allowance and it felt that James Hay was responsible for the subsequent tax charge.

Chester Rose then submitted a complaint about James Hay, which it considered to be responsible for the error, to the Pension Ombudsman (PO). The PO relied on James Hay's terms and conditions, relevant regulations and guidelines, the annual review of 2015, benefit statements (pre and post 2015), correspondence and illustrations. James Hay's stance was supported by a resolution specialist at the PO, which concluded that James Hay's calculation had been correct and followed HMRC guidelines.

X then redirected the complaint to Chester Rose, and he sought reimbursement for the LTA tax charge and any associated investment losses.

Chester Rose declined to uphold the complaint, maintaining that James Hay bore the responsibility for not informing it of the plan's structure. The complaint was therefore referred to this service for review.

X then sadly passed away, but this service continued to consider the matter as being brought by X's estate.

Having considered the matter, our investigator thought that it should be upheld, saying the following in summary:

- The PO found no maladministration on account of James Hay and instead felt that it was Chester Rose's responsibility to fully understand the SIPP structure and its implications (multi-tranche nature) rather than relying on assumptions. It was also found that the LTA tax charges could be avoided if Chester Rose had acted proactively based on the information it had been given.
- Chester Rose had implemented a pre-75th birthday withdrawal strategy designed to avoid the LTA charge, but this strategy was based on an incorrect "single-arrangement" assumption. As X's appointed financial adviser, it was Chester Rose's regulatory obligation to fully understand James Hay's five-tranche structure and the associated implications on withdrawals as a whole (internal plus external) before providing advice.
- So, by not requesting sufficient clarifying information from James Hay regarding the multi-tranche nature and LTA calculation, and not conducting further enquiries (to understand the product structure) having received James Hay's letters of 2015 and 2017, along with annual statements which confirmed multiple tranches, Chester Rose had failed to act in X's best interests. It was known that the LTA charge could have been avoided following adoption of a different drawdown strategy taking account of the five tranches.
- Benefit statements from June 2014 and January 2015 confirmed separate tranches, and this was further reiterated in an annual review from James Hay dated 6 March 2015, showing five tranches. James Hay's Illustration dated 21 July 2017 also set out the five flexi access drawdown tranches.
- An internal note from James Hay dated 27 June 2017 said that *"The IFA has had confirmation that of 99.76% LTA, 66.01% was utilised by us and the remainder (33.75%) is outside of the scheme. Please can you confirm to them how you were informed of the 33.75% and what the breakdown of that is (if that had been provided)."*
- The combination of the two above should have triggered Chester Rose to do further investigations (avoiding assumptions) into the SIPP structure, particularly about how the LTA would be calculated to ensure X was able to take benefits in the most tax efficient way.
- The investigator acknowledged Chester Rose's concerns regarding the 2017 illustration, which calculated a potential LTA charge based on the total fund value, but he didn't consider this to be definitively misleading within the context of the overall information available. The illustration was a projection, and crucially it didn't

explicitly state that the SIPP was a single arrangement for LTA purposes. Furthermore, the illustration itself referenced “tranches,” indicating a segmented structure.

- Additionally, the SIPP Technical Guide, as well as other documentation such as the 2015 annual review and the benefit statements, provided clear indications of a multi-arrangement structure. The benefit statements consistently showed separate crystallised and uncrystallised arrangements and, critically, presented separate Benefit Crystallisation Event (BCE) calculations for each tranche. This strongly signalled that the LTA was not being applied to a single, unified fund.
- As a regulated financial firm, Chester Rose was required to conduct thorough due diligence before advising X on withdrawals to mitigate the LTA tax penalties. And, if there was any ambiguity or uncertainty about how the LTA would be calculated, given the presence of “tranches” and separate BCE calculations, it had a responsibility to seek explicit clarification from James Hay. Its 2017 query about the LTA percentage used didn’t address the fundamental structure of the SIPP.
- Ultimately, it was Chester Rose’s responsibility to provide accurate tax advice and devise an appropriate withdrawal strategy. While the James Hay’s SIPP structure may have been unusual, again, the responsibility lay with Chester Rose to fully understand the potential implications before providing withdrawal advice to X.
- X made it clear from the outset that he wished to avoid LTA charges and Chester Rose confirmed this would be the case based on its withdrawal strategy. And the fact that the charge would have been avoidable with a different withdrawal strategy further underscored that the error was in the advice provided, and not due to administration or communication by James Hay. As a result of this, X ended up incurring a tax penalty for exceeding the LTA.
- As outlined in the FCA Handbook, specifically Principles 2 and 6, an advising firm had an obligation to conduct business with ‘due skill, care and diligence’. They were also required to pay due regard to the interests of its customers and treat them fairly. A pension, being a tax wrapper, involves advising on tax efficiency especially when considering flexi access withdrawals and strategies to mitigate LTA tax liabilities. Thus, making appropriate investigations around the five separate tranches and their implications didn’t fall outside of Chester Rose’s responsibility – rather, it was central to it.
- Therefore, it would have been a reasonable expectation of Chester Rose to review the LTA position as part of the advice. And its failure to understand the structure of the James Hay SIPP, despite the available information, and failure to seek clarification when provided with clear indications of a multi-tranche structure (as evidenced by the benefit statements and the 2017 illustration), represented a clear breach of these fundamental FCA principles.

In terms of putting things right and assessing what would be fair compensation, the investigator said that his aim was to put the estate of X as close as possible to the position it would have been, but for the unsuitable advice.

He said that, firstly, Chester Rose should reimburse the estate for the primary financial loss equating to the £43,409.21 LTA tax charge, along with interest calculated at 8% (in line with our guidelines).

Income tax may be payable on any interest paid. So if Chester Rose considered that it was required by HM Revenue & Customs to deduct income tax from that interest, it should tell the estate how much it had deducted.

It should also calculate any consequential investment losses incurred as a direct result of the flawed withdrawal strategy advised in March 2021. This calculation should:

- Model the investment performance of the SIPP as if the withdrawals had been structured correctly to avoid the LTA charge. This would require a determination of the optimal withdrawal strategy that would have utilised the available LTA efficiently, taking into account the five separate arrangements within the James Hay SIPP.
- Compare the hypothetical investment performance with the actual investment performance of the SIPP, taking into account the withdrawals that were actually made.
- The difference would represent the loss which must be calculated from the date of initial advice, triggering the LTA charge, until the redress payment date.
- The redress payment would be payable directly to the estate and would include the LTA charge reimbursement, investment loss compensation, and interest (tax deductible).
- A simple, yet comprehensive, calculation breakdown should also be provided.

Chester Rose disagreed, however, requesting that the matter be referred to an ombudsman for review. In support of its position, it said the following:

- The investigator had said that, as a regulated financial firm, it was its responsibility to conduct thorough due diligence before advising X. But it believed James Hay, as the product provider, had a duty under Consumer Duty Rules – Consumer Understanding and Consumer Support - to provide X and it with the required information at the right time well in advance so that they could make an informed decision, along with presenting the plan information in a way which could be understood - thereby providing the appropriate level of support.
- James Hay wrote to X in 2021 with 6 months to go before his 75th birthday, saying that an LTA test would be carried out and that it required the current remaining LTA information. It could and should have detailed the LTA calculation based on his plan and the actual tranches he had and what this meant with regard to the expected LTA charge.
- This should have been done in good time and in advance, so that X could have made an informed decision and taken action before he was 75 to mitigate his LTA charge. As the investigator had acknowledged, the James Hay structure was unusual and James Hay was likely to have known this. It therefore had an obligation and responsibility to clearly and fully provide X with details of this 'unusual' way of structuring its plan and how LTA calculations were carried out, along with the effect that this might have.
- If the plan was unusual or unique, there was a very high probability that no one had come across it before and wouldn't know how it worked. It would therefore be James Hay's duty to make all parties as clear as possible so that they could make an

informed decision about a course of action, and whether it was going to be beneficial or detrimental to them.

As requested, the matter was referred to me for review.

I issued a provisional decision on the matter on 5 August 2025, in which I set out my reasons for upholding the complaint. The following is an extract from that decision.

*“I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.*

*And having done so, I’ve reached broadly the same conclusions as the investigator, and for similar reasons.*

*I’ve firstly noted Chester Rose’s comments relating to the obligations of James Hay, the SIPP provider, but I can only consider the complaint which has been referred to this service, and that is the one against Chester Rose.*

*If I considered that Chester Rose didn’t have a case to answer, then it’s fair to say that it would be possible for me to “signpost” the estate of X to the party I thought perhaps did have liability for the error, albeit without drawing any conclusions on that matter until both parties had had an opportunity to make their representations.*

*But, as with the investigator, having considered the available evidence, I do consider that Chester Rose has liability for X’s predicament here. The structure of the pension plan may not have been “typical”, but as set out by the investigator, I do think there were sufficient indications, including benefits statements and illustrations, that this was the case such that Chester Rose ought reasonably to have been in a position to make further enquiries as to how benefit crystallisation events would be applied to the plan.*

*And I’m satisfied that, had this happened and the format of the withdrawals been appropriately structured, X wouldn’t have incurred the LTA charge.*

*As such, as with the investigator, I’m satisfied that the complaint should be upheld. If Chester Rose considers that James Hay has a case to answer, then it may pursue that directly with the latter.*

#### Putting things right

*As set out by the investigator, my aim here is to place the estate of X as closely as possible in the position it would have been, had the error not been made.*

*But I consider that there’s a more straightforward way of ensuring this. My understanding is that the LTA charge was deducted directly from the plan, although investments needed to be encashed to fund this.*

*As such, Chester Rose Financial Planning Limited should determine the notional value of the pension plan, as at the date of any final decision along these lines, had the withdrawals been taken as they should have been to avoid the LTA charge – and consequently on the basis that no investments needed to be encashed to pay the LTA charge. This will effectively involve a reconstruction of the plan to arrive at a notional value, which will in all likelihood need to be referred to James Hay for it to calculate.*

*That established notional value should be compared against the actual value of the pension plan at the same date, and Chester Rose Financial Planning Limited should make up the*

*shortfall between the two values.*

*If it's not possible to pay directly into the plan, then the amount of compensation should be paid directly to the estate, with a deduction for any tax which would in any case be payable by the estate on a payment from the plan."*

Chester Rose submitted no further comments. The representative of the estate of X said the following in response:

- They queried as to whether the proposed redress calculation strategy would take into account any and all unnecessary withdrawals X was advised to take to avoid any LTA charge and consequently the further tax charge of £43,409.21.
- They also queried as to whether a new calculation would be undertaken, according to the structure of the SIPP, i.e. five tranches, along the lines of how it should have been done in the first place.
- It seemed that the withdrawal strategy devised by Chester Rose at the time was calculated on a false premise. And so the representative enquired as to whether the new calculations be checked further by James Hay as faith in Chester Rose had been somewhat diminished. And they queried as to whether they would they have sight of the calculations.
- The aim was to reinstate X's estate as closely as possible to the position it would have been in, had the LTA calculations prior to and at 75 been correct and X being advised accordingly.

At my request, the investigator then contacted both parties to say the following:

*"Following my provisional decision, [the estate representative] has asked whether the proposed redress solution would take into account the withdrawals made by [X] upon the advice of Chester Rose. To clarify, yes it would, to the extent that [X] (and so the estate) had the cash benefit of those withdrawals. And my understanding is that the same withdrawals could have been made to avoid the LTA, but in a different way across the different tranches.*

*But it should be noted that, if the withdrawal solution which would have removed the liability to the LTA had been implemented, and this would have resulted in higher overall withdrawal payments to [X], then these should be paid by Chester Rose to the estate in addition to any amount needed to make up the plan to the notional value it should currently have.*

*And if a lower amount of withdrawals would have been made, then the difference between this and the actual amount paid to [X] may be deducted from any redress amount which may be required to make up the plan to the notional value it should currently have."*

In response, the representative of the estate said that they agreed with the provisional decision.

Chester Rose said the following:

- It had no objection to my proposed amendment as set out above. However, the overriding issue in this case was in relation to the tranche structure of the James Hay SIPP and my decision had said that "It was known that the LTA charge could have been avoided following adoption of a different, drawdown strategy taking account of the five tranches".

- It had reviewed a secure message from James Hay dated 11 June 2021 confirming that an online income change was completed the day before, following the call with their contact team, of £58,333.33 gross, which was after it had informed James Hay that it couldn't action an ad hoc income request of £58,333 gross as the income instruction tool wasn't working for some reason.
- It therefore had reason to believe that James Hay rather than Chester Rose may have decided what tranches(s) some of the withdrawals should be taken from and it wished to pursue that line of enquiry.
- The reason for this was that if James Hay made the decision on one or more occasions as to which tranche(s) to take withdrawals from, then it should be taking some responsibility for the redress due.
- It had therefore asked James Hay to confirm from its records whether it decided, or Chester Rose instructed, which tranche(s) the withdrawals were to be taken from and once it had that information, it would then confirm its findings.

Chester Rose requested an extension of two weeks to obtain the information, which the investigator confirmed as being acceptable. It also said that it had simultaneously requested the necessary information from James Hay to be able to calculate any redress due.

But it then said that it was experiencing difficulties in obtaining the requested information from James Hay. As such, our investigator put the request to James Hay on Chester Rose's behalf.

James Hay responded to say that all income requests were made online by Chester Rose and when making the requests, it had specified which tranche from which the income should be taken. It attached the income requests, which indicated that they had been made by Chester Rose via the online portal. The income requests also specified the tranches from which the income should be withdrawn.

The investigator forwarded this information to Chester Rose, inviting any further comments, but it hasn't responded.

### **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.

And having done so, I see no reason to depart from my provisional findings on this matter. I've noted Chester Rose's further comments as set out above, but I'm satisfied that the information provided by James Hay means that it was more likely than not that, when submitting the income withdrawal instructions, Chester Rose also specified the tranches from which it should be withdrawn.

As such, my view remains that the complaint should be upheld.

## **Putting things right**

Chester Rose Financial Planning Limited should undertake the direction as set out in the provisional decision and as subsequently amended.

Any required redress should in any case be completed within 60 days of the date that Chester Rose Financial Planning Limited is notified of the estate's acceptance of this decision. If it isn't, then interest at the rate of 8% simple pa should be added to the loss amount from the date of this decision to the date of settlement.

If Chester Rose Financial Planning Limited needs a letter of authority to obtain the relevant details from James Hay to calculate redress, the estate representative should provide this promptly.

The 60 day period referenced above may be extended by any number of days exceeding a reasonable turnaround time, which I consider to be four working days, for a letter of authority to be returned after it's requested by Chester Rose Financial Planning Limited.

## **My final decision**

My final decision is that I uphold the complaint and direct Chester Rose Financial Planning Limited to undertake the above.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of X to accept or reject my decision before 3 December 2025.

Philip Miller  
**Ombudsman**