

## The complaint

Mr J complains about various aspects of the service he received from XPAT Limited trading as PX Pension Exchange (XPAT) when transferring his UK pension funds to Australia.

## What happened

Our investigator set out the background to this complaint in his letter of recommendation, for ease of reference I have included an amended copy of this below:

In 2015 Mr J contacted XPAT for pension advice. He lived in Australia and wanted to transfer his UK based DB scheme to a QROPS based in Australia.

XPAT provided a Fee and Service Agreement signed by Mr J on 2 June 2015. It starts by listing the scope of work XPAT would complete when giving advice and that this would cost £695. It then explains the cost of Restructuring Advice if this is required, necessary for transfers abroad. This is charged at an hourly rate (expected to take 2-3 hours), following the initial advice. In the event the transfer proceeds the following would apply:

*“Implementation Should transferring your pension(s) be in your best interest, we would arrange for the following:*

- *Implementation of the full restructuring strategy, including fund and policy splits where required;*
- *Full co-ordination and execution of any pension transfers from the UK side;*
- *Corresponding with and advising the UK and overseas schemes on the steps required;*
- *Co-ordinating and chasing up all administration at the UK and Australian ends, from each of up to eight parties per scheme, for each of your pension schemes (third party involvement);*
- *Facilitating completion of the pension transfer (third party involvement);*
- *Arranging for a meeting with our Australian affiliate following your arrival to ensure your Australian superannuation fund is properly invested for you in line with your risk profile;*
- *Arranging for the provision of high level Australian advice to set up a receiving scheme in Australia in line with your retirement requirements (prepared by our Australian based affiliates);*
- *Providing you with notification of completion of the transfer;*
- *Providing you with an estimate tax calculation outline your liability after considering the impact of Australia’s 6 month transfer tax rules.*

*To cover the implementation costs incurred by ourselves, our affiliates and any applicable pension scheme establishment costs, upon successful implementation of any pension*

*transfer an establishment fee of 2.95% of your total pension fund will apply to cover these costs (...)*

*In undertaking implementation, we may be required to establish an interim UK based pension fund to consolidate your funds prior to moving these abroad to avoid having to meet additional transfer costs. Our standard 1% p.a. ongoing adviser servicing fee will be deducted from this consolidated UK fund balance on a monthly basis to pay for ongoing advisory obligation. However, once your funds have then been consolidated, we will aim to have your funds transferred abroad as quickly as possible, minimising this fee for you. To understand the impact of this fee, if your funds were consolidated and retained in the UK for 1 month the fee deducted would be less than 0.1% of your fund balance.”*

XPAT sent a suitability report dated 15 June 2015. The adviser recommended Mr J transfer his DB scheme to a QROPS. The Cash Equivalent Transfer Value (“CETV”) at the time was £558,851.17. The report recommends transferring the funds in a phased approach because there was a cap on the amount Mr J could transfer at any one time. This would be arranged so the funds were transferred before Mr J turned 65 by the following:

*‘1. Australian 2015/16 Financial Year (FY) – Transfer A\$540,000 to Australia (it was allowed to use three years worth in one go)*

*2. Australian 2018/19 FY – Transfer A\$540,000 to Australia*

*3. Australian 2021/22 FY – Transfer A\$180,000 to Australia*

*4. Australian 2022/23 FY – Transfer balance up to A\$540,000 to Australia*

*These transfers would be undertaken as whole pension policies to Australia from the UK, which would be put into place following the pension splitting we would undertake on your behalf.’*

XPAT advised transferring the funds to a James Hay Modular iSIPP because they could allow the pension to be split for this purpose. The suitability report outlines the fees Mr J would be charged for the above services:

#### *“Remuneration*

*Our firm will receive fee as agreed with you, of 2.95% of you aggregated pension fund balance on transfer, amounts to £2,950 per £100,000 transferred.*

*As per the fee and service agreement you signed, the remaining advice fee of £695 and restructuring fee of £595 will also be deducted directly from the new UK pension plan being established on your behalf. As this is being deducted from the UK, no GST (Australian Goods and Services Tax) will be payable. After allowing for thee to be deducted from your fund balance, the total increases for 2.95% to 3.16% (...)*

*(...) For any transfers which are completed more than 6 months after your Australian arrival date, you will be required to pay for a tax calculation to determine your six-month transfer tax liability. You will be required to pay for this separately at that time.”*

#### *Future Contact and Ongoing Services*

*An annual review will be offered following the placing of the business. You have selected the Level 2 Client Service Option as an ongoing level of service for any funds retained in the UK.*

*The current charges for this service is 1% per annum of the amount of your pension fund balance as per the terms stated in our Terms of Engagement.*

*This amount will be deducted directly from the pension fund balance on a prorated monthly basis.*

*A Terms of Engagement signed by Mr J described the following services for the ongoing fee:*

*“Reviews*

- Structured reviews to give you piece of mind*
- Assessment of your current circumstances and any changes to your plans that are needed*
- Regular updates and information regarding your holdings*
- A choice of differing levels of support depending on your needs*
- Ongoing support with correspondence and administration issues”*

Shortly after the advice HMRC announced that Australian Superannuation Funds would not be able to comply with the new QROPS requirements and would cease to be recognised as an overseas pension scheme. This meant a transfer at this point in time wasn't viable for Mr J.

In 2017 Australian QROP's started to be reintroduced, which allowed Mr J to proceed with the first transfer. Due to the changes, he would now be transferring to a Self-Managed Super-Fund ('SMSF'). The non-concessional cap ("NCC") set by the Australian government also changed. So, Mr J was able to transfer his pension in two tranches rather than the four originally expected.

The deadline for the first transfer was 30 June 2017, the end of the Australian tax year. However, there were issues with transferring those funds, so the transfer was completed in August 2017 (this aspect of the complaint is being looked at under a separate case reference). James Hay could no longer split the pension to prepare for the second transfer, it would have to go as one which would increase the tax charge due. So, to avoid a higher tax charge, the remaining funds were transferred to Royal London. With the plan then to transfer onto the QROPS at a later date.

At the start of 2020 an investment review was completed resulting in Mr J wanting his funds held in the RL Deposit Funds. This was so he could protect the value of his pension before it was transferred. During this exercise it was found an underlying property investment in one of the RL funds was temporarily frozen.

In June 2020 Mr J sent his instruction to liquidate his remaining investments in his Royal London pension to prepare for the second transfer. However, he still couldn't sell the property fund. Mr J told XPAT that he didn't want to transfer the funds until this was resolved.

In the meantime, Mr J requested income release of £20,000, which XPAT arranged for him. He was able to sell the property fund in October 2020.

On 29 October 2020 XPAT wrote to Mr J explaining that it could no longer rely on the initial fee agreement because of the regulatory changes and the extra work required. Later, XPAT sent Mr J a new fee agreement, which he signed. It meant Mr J would have to pay an

additional £5000.

In December 2020 Mr J asked XPAT to hold off on the transfer because of a change in exchange rates. He gave instructions to continue with the transfer in January 2021. XPAT then submitted this request to Royal London. A letter from Royal London dated 17 March 2021 confirmed the funds had been sent.

This took longer than expected to arrive to the Australian accounts. Royal London acknowledged this was down to their error and paid redress, including losses, into the pension.

Following the transfer XPAT completed the tax calculations Mr J required. It confirmed that whilst the fee agreement refers to an estimate calculation, this was a full calculation and is why, as per the suitability report, an extra charge would apply. This would usually be charged by the hour. But for Mr J it was now included within the £5000 fee paid upfront.

Mr J set out his complaint in July 2024 raising several concerns relating to the transfer of his pension to his Australian QROPs. This included:

- That XPAT charged an additional fee of £5000 to continue facilitating the transfers. Mr J says that the original agreement set out the fees he would expect to pay over the course of transferring his pension and it was unfair to change this part way through.
- Because the transfer has taken longer than initially agreed he's having to pay additional costs for maintaining a compliant structure in Australia for an additional two years costing around AUS\$4000 per annum.
- He kept paying ongoing adviser fees after all the funds were liquidated.
- He wants these charges refunded and compensation for the trouble and upset its caused.

XPAT responded to the complaint on 24 September 2024. It didn't uphold the complaint for the following reasons:

- The fee agreement included a Termination clause allowing both parties to cancel the agreement. Mr J was told in November 2017 that XPAT would need to charge a new fee for future transfers.
- That any complaint about the first transfer would be out of time and ought to have been raised in 2017 when complaints were raised with other parties involved. It also said that those delays were caused by the SIPP provider and its chosen bank.
- That XPAT didn't cause any avoidable delays during the second transfer. It was agreed that the transfer would be put on hold whilst the property funds were illiquid and that in December 2020 Mr J said he wanted to wait until January 2021 because of a fall in exchange rates and Brexit.

Mr J was unhappy with XPAT's response and contacted this service.

Because Mr J's complaint involved events that happened more than six years ago, the investigator had to consider our jurisdiction. Although Mr J wanted this service to consider all transfers as one event, the investigator was satisfied the 2017 transfers need to be treated separately.

Other than the transfer delays in 2017, XPAT consented to this service investigating the

remainder of Mr J's concerns, including the new fee agreement in 2020, the ongoing advice fees charged after the final transfer request in 2020 and the delays finalising the final transfer.

XPAT also provided additional reasons why the transfer was more complicated than initially expected. It said:

- Previously transfers from UK to Australia were primarily undertaken into readily available retail funds, known as an Australian super fund. However, after the rules changed, instead of transfers being allowed to the Australian retail superannuation funds, UK funds would need to be transferred to a SMSF. XPAT say these funds need to be created from scratch with extra paperwork.
- That changes to Australian NCC limits required strategy reviews.
- That it needed clarity regarding the new rules with QROPS, which needed continuous review.

The investigator looked into matters and upheld the complaint in part. He recognised matters changed with regards to the QROPS transfer process but the original fee was for the full process. And the additional fee was added when Mr J was already committed to the transfer plan. However, he recognised that the new fee encompassed work that would have been charged separately, the final tax calculation. So the investigator felt £2,300 was fair a sum to be deducted from the refund.

The investigator also felt the ongoing fee, charged monthly, wasn't cancelled early enough. He said from October 2020, everything this fee covered had been carried out but the fees continued until December 2020 – so this should be refunded.

With regard to the delay to the transfer carried out in 2020 the investigator didn't think XPAT was responsible for this.

XPAT said it still felt it had acted fairly in charging an extra fee but in the interests of drawing this complaint to a close for everyone it was prepared to accept the resolution bar a few areas. It believed the investment growth added to the ongoing fee refunds should be based on the investment profile between October and December 2020.

It said it wouldn't be possible to pay compensation into the QROPS so it would follow the second option given by the investigator to pay direct to Mr J.

The investigator responded to say the investment growth added is meant to represent what Mr J lost out on, and that additional money would have been invested in the QROPS – so that should be what is used. XPAT responded again to say the investment choices were made by Mr J's Australian adviser post transfer – it had no control over this, so it didn't agree. And that the funds had to be held in cash due the property liquidity issues delaying matters which was outside of its control.

Mr J made a number of comments, I've summarised the key points within his responses:

He believes the agreement made in 2015 included the final tax calculation. And so shouldn't be subject to an additional charge.

The ongoing fee should have been cancelled from June 2020 when the bulk of the money in the UK was put in cash. He questioned the need for the fee from 1 July – XPAT didn't respond and it was him who informed XPAT the property fund had been released in October.

The exchange rate was only a minor concern. It wasn't the main reason for the delay. The instruction to proceed was given on March 2020 – but work didn't commence until the additional fee was paid in November 2020. The primary reason for delay after this was the Christmas shutdown of offices and for the businesses involved in the transfer to return to work.

He believes XPAT delayed the transfers (the earlier transfer is being considered under a separate case reference). He says the second transfer wasn't sent until six months after the fund had been fully liquidated and 12 months after the initial instruction to proceed. He believes XPAT contributed to these delays.

### **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.

Both parties have provided a lot of information, the events subject to this complaint span many years and many communications between a number of parties. So it simply isn't practical to set out all of this information, nor to comment on or set out all the arguments put forward by both sides. So I have set out a streamlined view of matters with the aim of getting to the heart of the complaint points raised. I can see both sides feel very strongly about matters here, but I am impartial and will be led by the evidence to come to what I believe to be a fair and reasonable conclusion.

#### *Was it fair for the fee to be increased part way through the process?*

The investigator set out his reasons as to why he felt a new fee being charged so late in the process wasn't fair and should be refunded. XPAT said it felt it had acted fairly but accepted the redress put forward and hasn't put forward any further arguments about this. So I won't discuss this in much detail here as it isn't necessary. But in summary I recognise that due to changes in legislation, the original plan was no longer workable and XPAT will have had to do more work to establish the best way forward for Mr J to transfer his pension to Australia. However, the fee agreement originally signed covered these aspects of the transfer arrangement and secondly the new fee was set out to Mr J at a point where he was already towards the end of the process, with only the payment of the last tranche of funds left. To engage a new adviser at this point would have added extra complexity and stress, and a likely duplication of work that he had already paid for. So he had little choice at this point but to agree to the fee. Considering this on a fair and reasonable basis, whilst XPAT no doubt had to do more work than was anticipated, the original agreement covered the implementation of the transfer, and the timing of the new fee left Mr J in an unfair position. So I agree this fee should be refunded to Mr J.

#### *Was XPAT right to charge separately for the tax calculation at the end of the process?*

I've looked at the client agreement signed on 2 June 2015 by Mr J and it says:

*“Tax Calculations: Should your funds arrive in Australia more than 6 months after you become Australian tax resident, you may require a calculation to be undertaken to determine your Australian 6 months tax bill. This calculation is not part of our service unless otherwise specified. You will be responsible for separately meeting any costs in this regard.”*

As set out in the background to the complaint above, it was also set out in the original suitability report that Mr J would have to pay separately for this. So it was always XPAT's intention that this would be charged separately and Mr J signed to agree to this. This is actually further strengthened by the fact when Mr J was asked to pay the new fee in 2020 it

said:

*'Post receipt of the transfer into Australia*

*On completion of the advice and implementation process as above, we would no longer be your financial adviser, as all of your UK funds would have transferred to Australia.*

*Hence, for any further work you would like us to undertake post arrival of the transfer in Australia, which may include a final tax calculation post arrival as well as calculation(s) on how much you can withdraw, we would need to charge you separately for this based on our hourly rates, if you require us to undertake these services for you.*

*Our hourly rates are £375 Director; £295 Adviser; £195 Administrator.*

*To complete both i) the tax calculation post transfer and ii) withdrawal calculation post transfer, noting that this is a partial transfer of a larger initial amount, and that you have had withdrawals along the way (which complicate the final calculations), I estimate that i) and ii) would take 3-6 hours; to complete in total. GST would apply in addition.*

***As agreed with you in our call of 2nd November 2020, we will include this component in the £5,000 fee as confirmed below.'***

So XPAT has been consistent in that this will be a separate charge. However, as it came to amend the initial agreement and after a discussion with Mr J it agreed to include this calculation within the fixed £5,000 fee.

I don't think it was fair to amend/cancel the original agreement and start again with a larger fee so late in the transfer process. But as XPAT always intended to charge separately for the post transfer tax calculations but agreed to bundle this in with the new fee – if we return to a position where the original fee stands, it is only fair that I take into account that XPAT would in this position have charged separately for the additional calculations post transfer.

XPAT has told us:

*'that the value added services would have cost Mr J circa a further £1,575 -£3,150 based on the amount of work undertaken (as above being 3-6 hours. An extra 10% Australian GST would have had to be added).'*

The investigator said it wasn't clear exactly how much this would have cost as it wasn't in the end charged at an hourly rate – and so it was fair to pick a cost roughly in the middle and he recommended £2300. This on the face of it does seem a bit high given the director fee was £375 and it was originally predicted it would take 3 to 6 hours – so £375 x 6 = £2,250. Plus 10% would take the fee above the £2300 recommended. But overall, I don't think this was an unreasonable estimate to put to the cost. And whilst I have said it was unfair for the additional fee to be applied, at the same time I think the evidence shows that XPAT did have to do a lot more work than it expected when it agreed the original fee. So, considering everything, I think this feels broadly fair.

Mr J has argued his initial agreement included this fee but I disagree. He has referred to the implementation work which formed part of the original agreement and this said it would included *'a estimate tax calculation outlining your liability after considering the impact of Australia's six month transfer tax rules'*. But this was a separate calculation, pre-transfer and an estimate. Whereas the additional charged services were for calculations required post-transfer with actual figures and not estimates. And as I set out above, the evidence shows this was always to be charged as a separate service.

### *Did XPAT cause unnecessary delays as part of the transfer process*

Mr J argues that XPAT caused unnecessary delays to the transfer process and this will bring additional costs to him. He says he will now have to hold his Australian pension for longer, he is required to wait five full UK tax years before drawing benefits to avoid further tax.

Mr J had previously asked for the transfer to complete quickly in October 2020 and this is when XPAT in response said a new fee agreement would be required if it was to proceed. After this was agreed, Mr J did write to XPAT on 1 December 2020 to request urgency on the transfer. And not to work to a deadline of 30 June 2021. This was following XPAT writing to Mr J asking for his confirmation for the transfer to proceed. Within this email XPAT gave Mr J information about the UK tax rules with regards to residency and Mr J's withdrawal restrictions upon transferring.

However, on 13 December Mr J then wrote to XPAT and said he did not wish to proceed at the moment due to the exchange rate not being favourable.

In late February 2021, XPAT wrote to Mr J to say it was planning on submitting his transfer pack and did he agree. Mr J said that he did.

In March 2021, the provider wrote to Mr J to confirm that the transfer had proceeded, and the funds had been sent to his Australian pension. So XPAT completed its part prior to the start of the new UK tax year.

However, in early April Mr J wrote to XPAT to say the funds hadn't been received by his Australian provider. XPAT explained that the transfer was now outside of its control as Royal London said it had sent the funds.

Mr J complained to Royal London and it agreed that it had made an error, in its final response it said:

*'It is clear that we made a mistake when sending the funds as we failed to include the BSB code and QROPS code, and I can only apologise for this. We should always take suitable care when sending payments especially overseas payments that require additional codes, and so I have upheld this complaint.'*

Had this error not occurred the funds would have been in place before the start of the new UK tax year – and so Mr J would not have to wait an extra year and incur the extra costs of running his Australian scheme. So, it is difficult to see how I could agree to Mr J's request for compensation for the extra year he'll now have to hold his Australian pension when this wasn't XPAT's fault. Mr J's claim for compensation with Royal London could have included a claim for these fees, if it didn't. As Royal London accepted it was responsible for the late payment of his pension.

Furthermore, whilst Mr J believes he should receive extra compensation for the costs of running the Australian plan for longer due to what he believes were delays XPAT caused - the initial plan set out in 2015 was for the transfer to complete in 2022/2023. Later than what did actually occur after the change of plan due to regulation changes. Seemingly with the plan then that Mr J withdraws the funds over time once invested in the Australian product and so presumably he would still then be paying charges to a provider for the product. And if Mr J was planning on taking a full withdrawal at this point – so avoiding further product costs, I think this would likely have been in breach of unauthorised payment regulations under the QROPS transfer rules. So I am not sure there is a scenario where Mr J wouldn't have been paying ongoing fees for some time in any event. However, this isn't fundamental to my decision on this matter because as I've explained I don't think XPAT were responsible for the

payment going beyond 5 April 2021. Mr J has in places argued that the transfers should have completed before April 2020 and this is where the extra two years comes into play. But as I'll explain below, I don't think this is a reasonable expectation given what occurred.

Mr J believes that XPAT were responsible for delays earlier in the process. But the key cause of this delay was the suspension of the property fund within his Royal London holdings. This delayed matters from March 2020 to October 2020. Mr J was clear he didn't want to proceed without this fund being unfrozen. And regardless of anything XPAT might have done faster, the transfer wouldn't have occurred in an earlier tax year as the fund was frozen at this time and Mr J didn't wish to proceed.

This was a complex transfer involving a number of parties – it was initially expected to occur over an eight year period. Then there were regulatory changes, alterations to the plan were then required. An illiquid property fund during covid held up matters, Mr J at various points didn't wish to proceed and other parties made mistakes in completing transfers that held up matters. Within the timeframe, there was lots of correspondence between Mr J and XPAT, if I was to apply a forensic lens to each communication and action, I could no doubt point to areas where XPAT may have responded to Mr J faster and progressed matters a bit quicker. But I also have to consider the other delays and Mr J's choice to delay matters at points. Mr J says XPAT were working to the wrong deadline but they met the deadline he feels they should have been working to, the end of the UK tax year. So, all things considered I don't think XPAT is required to do anything here to put things right. I don't agree that it is responsible for material delays to the transfer. The key delays were outside of its control, the issue with the illiquid fund and Royal London's error in making the payment.

#### *When should the ongoing advice fee have been terminated?*

The background to the complaint sets out the terms of the ongoing advice fee, the transfer was expected to take a number of years and so Mr J would receive reviews and other services such as administrative tasks done on his behalf by XPAT. As the investigator set out in September 2020 XPAT administered a drawdown request for Mr J so this would've been covered under this fee. By October 2020 all of Mr J's investments had been sold in preparation for the final part of the transfer to occur. Ongoing advice charges were taken monthly and continued to December 2020. The investigator recommended that the charges taken from October onwards were refunded.

I can see that in the September XPAT clearly did work that would be covered under this fee but after that until the December 2020 point where the fees stopped, I cannot see any further work undertaken within the terms of the agreement for this fee. Mr J says that the fee should have stopped in June 2020 when his funds were sold down (bar the frozen property fund) and he contacted it to say so in July but didn't receive a response. I don't think it would be fair to say this was Mr J asking to cancel the ongoing fee. He asked about a reduction in fee. XPAT should have responded but I can see after this point it still carried out work with the withdrawal in September and other administrative tasks in August that would've been paid for by the ongoing fee. So, I agree with the investigator that the fees are justified up until the September fee. And then from October 2020 onwards the fees should be refunded.

#### *Other matters relating to payment of compensation*

Mr J has explained that the events relevant to this complaint have caused him significant distress and inconvenience. I don't doubt his testimony and I'm sorry to hear of the health issues he has struggled with. However, I can only award compensation for these aspects if this was suffered due to the errors made by the business complained about. Whilst I've identified areas where compensation should be paid, I don't think this warrants extra compensation. It appears most of the frustration and upset was caused by the delays that

occurred and the consequences of those delays, but I don't think XPAT is responsible for that. And Mr J received considerable compensation from Royal London for the distress and inconvenience caused in relation to those delays.

Whilst I have upheld some matters against XPAT, in considering everything in the round, I think it did do a lot of work for Mr J and likely much more than it expected to do when it took him on as a client in 2015. Due to unforeseen events and regulatory changes, it had to do more work than it bargained for and what it accounted for in the fee it initially charged. Whilst I think it should have stuck to the original agreement and accepted this as a cost to it, I can understand its rationale for asking for a further fee – even if I don't think it should have done so. To award additional compensation on top of this refund doesn't feel fair, taking everything into account.

One thing XPAT didn't agree with is how to account for the investment growth Mr J would have received on the refunded fees. It thinks this should be calculated at the rate of return it would have received within the investments it had in place prior to the transfer. But this wouldn't make sense, the idea of redress is to put a customer in the position they would have been in or as close but for the error. It doesn't matter that the investment choices were not its to control after the transfer. To put Mr J in the position he would have been in, the closest position would be to increase (or decrease) any loss established by the performance of his actual investments up to the point of calculation. I note that in relation to Mr J's Royal London complaint, he was able to produce figures that allowed an investment loss calculation to be carried out and neither party has argued that this wouldn't be the case here – and Mr J accepted the methodology behind the investment growth to be applied.

### **Putting things right**

My aim in awarding fair compensation is to put Mr J back into the position he would likely have been in, had it not been for the unfair charges. This isn't designed to achieve a perfect solution exactly mirroring reality but one that is workable and allows for a refund plus potential lost growth on these sums to be compensated. This should be achieved as set out below:

- The additional £5,000 fee refunded minus the £2,300 that would have been charged for the additional calculations required. So a total of £2,700 to be refunded.
- The total of the ongoing adviser fees paid from October to December 2020 to be refunded.

XPAT then needs to account for the additional growth these sums would have achieved had they remained invested in his pension. Before the transfer occurred, these sums would have been predominately invested in cash, so little growth will have been earned on them. To keep the calculation simple as the investigator recommended, the value should be increased from the time this money would have been invested in the QROPS (so the date of the eventual receipt of the final transfer of funds within the QROPS) to the date of settlement. Again, to simplify matters XPAT should apply the overall % growth or loss the QROPS has achieved between those two dates to the total refund figure above to calculate the loss.

I understand the payment cannot be made into the QROPS. So instead it should be made directly to Mr J but should account for the tax Mr J would have paid. Both parties have agreed that this would be in the form of 15% tax made on profit, so XPAT should make a notional deduction of 15% before making any payment to Mr J to account for growth that would be considered profit within the QROPS.

If payment of compensation is not made by a deadline of 28 days from XPAT receiving Mr J's acceptance of my final decision (time can be extended by any time XPAT is awaiting

information from Mr J or his providers to do the calculation), interest must be added to the compensation at the rate of 8% per year simple from that deadline date to the date of payment.

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

### **My final decision**

For the reasons explained above upon Mr J's acceptance of my decision, XPAT Limited trading as PX Pension Exchange should put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask to accept or reject my decision before 10 March 2026.

Simon Hollingshead  
**Ombudsman**