

## **The complaint**

Mrs K complains that James Hay Administration Company Ltd trading as James Hay Partnership (James Hay) delayed the payment of her pension benefits during which time the value fell. She would like compensation for the losses.

## **What happened**

Mrs K had a Self-Invested Personal Pension Plan (SIPP) through James Hay which invested in shares held via stockbroking firm Stocktrade. She decided she wished to take her benefits as a lump sum (flexible access) and James Hay received her application for this on 1 September 2023. It sent Mrs K various risk warnings as it was required to on 7 September 2023 which suggested she either take advice or consult with the Pension Wise service. She emailed James Hay saying she wanted to waive the cooling off period set out in the risk warning, which it received on 11 September 2023. It says it completed its internal processes and on 18 September 2023 emailed a letter requesting Stocktrade to sell the investments and close the account.

On 19 September 2023 Stocktrade emailed back saying it would take a maximum of nine working days to close the account. The same day Stocktrade emailed James Hay requesting Mrs K's date of birth, which was provided that day. On 20 September 2023 Stocktrade says it requested her national insurance number. Mrs K was checking for updates and on 22 September 2023 Stocktrade said it was waiting for the national insurance number. She called James Hay to chase this up, it said it hadn't been requested but following the call emailed it to Stocktrade. The shares were sold on 26 September and the proceeds received by James Hay on 4 October 2023. Mrs K had raised a complaint on 26 September 2023 saying the investments had fallen in value during the delay. She says the loss was around £335.39, compared to the value of the shares on 25 September 2023.

James Hay didn't uphold the complaint. It said closing a SIPP was a complicated process involving several different teams and that it had processed her requests within a reasonable timeframe. A complaint was also raised with Stocktrade, who also didn't uphold it.

Mrs K referred her complaint to our service. Our investigator looked into the complaint, but he didn't uphold it.

Our investigator said he'd considered the timeline of events and James Hay hadn't caused unreasonable delays. He said it was required to issue the risk warnings under the Financial Conduct Authorities rules. And it had issued these within four working days of receiving her application. He said Mrs K had waived the 14-day cooling off period on 1 September 2023 and the request to sell the shares was made five working days later. He said even if James Hay wasn't aware of Stocktrade's request to send the national insurance number on 20 September, it had still been provided within two working days of then following Mrs K's telephone call, which was still a reasonable timeframe. And he said the shares had been sold and settled within the nine-working day timeframe Stocktrade had confirmed to James Hay on 18 September 2023.

Mrs K didn't agree. She said when she spoke to James Hay on 18 September 2023 it had told her the account would be closed in five rather than nine working days. And if she hadn't called Stocktrade the delay would have been even longer because James Hay had told her it didn't request updates from Stocktrade until after two weeks. And she said she hadn't actually received her funds until 18 October 2023 despite the funds being with James Hay on 4 October 2023.

As Mrs K doesn't agree it has come to me to decide.

### **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 I am not upholding the complaint.

I've taken account of all the points made by Mrs K, but I don't think James Hay has treated her unfairly or caused unreasonable delays here. I understand the frustration she experienced in seeing the value of the shares fall pending the sale instructions being processed. I haven't seen evidence of the valuations she refers to. But I note that the closing statement reflects sales commission of £136.72 payable to Stocktrade. So, it maybe that this accounts for some of the reduction she refers to. With hindsight, instructing the sale of the share before requesting the payment of benefits might have completed the sale transactions sooner. As it would avoid the need to issue risk notices and so on. However, James Hay wasn't providing Mrs K with advice and can only reasonably be expected to act on the instructions it received from her in a timely manner, which I think it did.

As James Hay explained in its final response letter because of the way it's SIPP operates closing it down to fully pay out benefits is a fairly complex process. And it also involved a third party in Stocktrade. That's quite different from most personal pension plans where the same provider also holds the investments. And whilst there appears to have been a problem of some sort regarding the request for Mrs K's national insurance number this was, through her intervention, resolved within a reasonable time frame of two days from when Stocktrade says it requested it. So, it doesn't appear that this unreasonably delayed the sale of the shares.

Once the investments were sold it is typically three days before the proceeds are received, which then needed to be reconciled by Stocktrade and the trading account closed before sending the funds to James Hay by BACs, which normally takes between three to five days. In terms of what James Hay may have told Mrs K about timeframes with Stocktrade, it's likely it gave an indicative time of five working days based on typical experience. But that timeframe was out of its control and the exercise was completed within the period Stocktrade indicated it would be.

In terms of the actual payment of Mrs K's benefits to her, these were subject to PAYE, so James Hay had to operate payroll and deduct tax as necessary. So, when, and how frequently the pension provider runs payroll is an important factor in when funds will actually be available to the client. James Hay has explained that it normally only runs payroll on the first day of the month. And funds weren't received by it until 4 October 2023, missing the October payroll. I can see that there was some consideration of whether the funds should be sent by same day transfer, at additional cost. But even if they had I think it's unlikely they would have been received before the payroll cut off as Stocktrade wasn't ready to make payment until the afternoon of Friday 29 September 2023. However, as a concession James Hay arranged a further payroll run to enable Mrs K to be paid her benefits on 18 October

2023. So, she received these around two weeks earlier than she would have otherwise, which I think was good customer service.

Considering everything together I don't think James Hay unreasonably delayed the sale of the investments or the payment of Mrs K's benefits, and I do not uphold this complaint.

### **My final decision**

My final decision is that I do not uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs K to accept or reject my decision before 25 July 2024.

Nigel Bracken  
**Ombudsman**