

The complaint

Mr H complains that IPS Pensions Limited, trading as James Hay, didn't properly explain the charges he would incur on his Self Invested Personal Pension (SIPP). He also complains that when he wanted to transfer the SIPP to another business, this took too long. As the funds were held in cash, he thinks he has missed out on the investment growth he would have received if they had remained invested.

What happened

In 2015 James Hay took over Mr H's SIPP from another provider. This was part of a mass transfer. Mr H was sent a welcome pack that explained the terms and conditions of the new SIPP and he did query the charges that would be applied going forward. I understand there was no further contact about this after he received the information he requested until he made his complaint.

In December 2019 Mr H decided to transfer his SIPP to a third party which I'll call Firm A, he started the transfer process at this time.

After some ongoing correspondence about this, in May 2020, it was established that Firm A wouldn't be able to accept part of Mr H's fund as it was held in a type of investment that it couldn't hold. Mr H was unable to resolve this and eventually in July 2020 only part of his SIPP was transferred to Firm A.

In September 2020 Mr H took steps to transfer his remaining funds to Firm B. This second part of the transfer was completed in February 2021.

Mr H has made his complaint to James Hay. It has partially upheld the complaint. It didn't think it was responsible for the overall length of time the transfers took as they involved a complicated series of transactions and, at times, the instructions it received were incomplete. But it did think it's communication could have been better. Because of this it offered to refund the administration fee Mr H had paid during the year of the transfer which was £189.

Mr H didn't accept this offer and he brought his complaint to the Financial Ombudsman Service. One of our investigators considered the complaint and she thought the offer made was fair. She firstly thought the fees and charges were explained to Mr H when the SIPP was transferred in 2015. And she said that whilst the subsequent transfers to Firms A and B took a long time this was largely down to the complicated nature of part of the transfer, rather than any specific delays by James Hay. She agreed that James Hay could have communicated with Mr H better at times, but she thought the offer it had made about this was reasonable.

Mr H didn't agree with our investigator's findings. He said that:

- He didn't think that the charges were explained to him properly in 2015 when the James Hay SIPP was started.

- He didn't think that James Hay had properly processed the later transfers, they were informed at an early point that part of the fund would not be transferred but they didn't act on this. They were disorganised.
- He agreed that the transfer was complicated and Firm A may have made some errors, but these were put right relatively quickly.
- He still thought that James Hay unreasonably delayed the transfer of his funds. As his funds were in cash for some of this time he has lost out on investment growth.
- The transfer of the second part of his funds (to Firm B) was also not processed quickly.

As no agreement has been reached the complaint has been passed 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.

Both parties to the complaint have provided a lot of information and commentary about this series of transfers. But both parties are also aware of the full facts and detail of this situation, so I don't need to repeat everything here. So, I'll only provide a summary of what has led me to reach my conclusions below. But I wanted to assure both sides that, although I won't reproduce much of it here, I have read and considered all of the information that has been provided as part of this complaint.

I've firstly looked at the documentation I've been provided about the original transfer of the SIPP to James Hay in 2015. This does explain the charges that would be taken from Mr H's SIPP going forward. I can see that he did receive and consider this, as he had some questions about it. As far as I can see James Hay hasn't incorrectly charged Mr H. So, I don't think it's reasonable to say that Mr H was misled about this when the SIPP was transferred to James Hay.

Turning now the transfer Mr H wanted to make in 2019.

I'll firstly say that pension transfers are not always straightforward or quick. The business transferring the pension should take steps to ensure the scheme where the proceeds are ending up is reasonable and proper. And the transfer needs to be processed correctly. This is particularly important if the transfer concerns a significant amount of money, and a range of differing investments, as was the case here.

That said this transfer did take a long time to fully complete. But, in order to uphold the complaint made against James Hay, I need to be able to say that its actions, or inactions, were the main cause of this delay. And if it had acted differently the transfer would have progressed in a timelier manner.

Although the fund was initially held only with James Hay it was eventually transferred in separate parts to two different schemes. This was effectively two transfers and I've looked at each separately. I realise that the second transfer only came about as the first one wasn't able to complete fully. But I don't think it is unreasonable to look at them this way.

The largest and first transfer went to Firm A. From what I've seen there are two main reasons why this transfer took a long time. The first one is that James Hay didn't receive fully completed transfer forms. Whilst this transfer was started in December 2019, I can see that James Hay didn't receive fully, and correctly, completed transfer instructions until April 2020, almost four months later. Again, as I've outlined above, James Hay needed to ensure that it

was properly acting on Mr H's instructions, but if it wasn't entirely clear what these instructions were then it was right that this was clarified before going ahead with the transfer.

The second reason that the transfer took a long time is that Firm A was unable to hold one of the investments that was held in the James Hay SIPP. Whilst the transfer instruction problem, and this issue, took place at the same time. This seems to be the main reason why the transfer in its entirety took a longer time. I think it's fair to say that all the parties were trying to resolve this, but it wasn't straightforward at all. And I note this was ultimately unsuccessful in respect of the transfer to Firm A. Again, I don't think James Hay was the main cause of this situation, or the delay that resulted from this.

So, I don't think anything James Hay did, or didn't do, was the main cause of the delays in the SIPP transfer to Firm A.

In respect of the transfer to Firm B this request was received in September 2020. As this involved a second business it was essentially the process starting again. It is reasonable that James Hay completed new due diligence checks in respect of Firm B. Looking at this another way it wouldn't have been reasonable for James Hay to send Mr H's funds to a third party without making these checks. And it seems again it wasn't entirely clear to James Hay exactly what instructions Mr H had given, or he needed to give. And this was still related, in some ways to the investment that he was having problems transferring away. Again, I don't think this was due to anything James Hay did or didn't do.

As far as I can see, whilst this was not an especially quick process, there weren't any delays on the part of James Hay. The transfer was completed in early February 2021.

So, again, I don't think anything James Hay did, or didn't do, was the main cause of any delays in the SIPP transfer to Firm B.

Overall, and whilst I can see this was a frustrating time for Mr H, I don't think I can say that the delay in this transfer was caused, in the main, by the actions or inactions of James Hay. So, I don't think it is responsible for any investment loss Mr H may have suffered when the fund was in cash.

James Hay has said that it should have communicated with Mr H better over the time the transfers were ongoing. And I don't disagree that it could have done this. But I think the offer it has made to refund the fees and charges he paid for the year when the transfer took place is reasonable.

Putting things right

IPS Pensions Limited should pay Mr H £189.

My final decision

For the reasons I've explained, I agree that Mr H's complaint should be partly upheld.

If Mr H accepts this decision, then IPS Pensions Limited should put things right by doing what I've said above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 2 February 2023.

Andy Burlinson

Ombudsman