

## **The complaint**

Mr J has complained about the handling of his request to transfer his pension benefits by James Hay Administration Company Ltd.

## **What happened**

Mr J had a self-invested personal pension ('SIPP') with James Hay. The assets under the SIPP were held with Equiniti Financial Services Limited, who also provided the dealing facilities. In April 2023 James Hay received a request to carry out an in specie transfer of the SIPP holdings to a new provider, Interactive Investor ('II').

Around a month later II told Mr J that James Hay had said there was a problem with the transfer because of a particular holding in the SIPP, which I will refer to as P shares. Mr J had previously received P shares as the result of a corporate action in 2013. It was explained to Mr J that the shares were held in physical form overseas with a bank in a vault.

Following correspondence it had with Equiniti, on 2 June 2023 James Hay told Mr J that the P shares could neither be sold nor transferred because they were physically held in a vault. It said that Mr J could gift the shares to charity, or it could arrange a partial in specie transfer to II, with the P shares remaining on the James Hay SIPP. James Hay said that £1,000 would need to be held back in cash to cover ongoing fees on its SIPP. On 6 June Mr J responded that he was not happy with the options James Hay was offering. He said that II had confirmed it could accept the P shares in specie, and he suggested that it should be possible to convert the shares to an electronic holding.

Correspondence between the parties then continued for a number of months, with II and Mr J regularly chasing for updates on the status of the transfer. In November 2023 James Hay asked Equiniti if it was possible to dematerialise the P shares. Equiniti responded that it didn't think it was, but it said it would check with its relevant team and respond. Around the same time, Equiniti told II that it was waiting on James Hay to confirm if a partial transfer without the P shares being included was possible.

On 5 December 2023 Mr J complained to James Hay about the length of time the transfer was taking. He said that he didn't want to partially transfer the holdings because he'd be liable for SIPP fees with both James Hay and II, and also felt he could not trade whilst the transfer was unresolved. Mr J asked for a waiver of future SIPP fees.

In response James Hay wrote to Mr J on 14 December, confirming that it had received the P shares into its SIPP as part of an in specie transfer in 2013. It said that from June 2023 it had told Mr J that there was an issue with this shareholding, and that this meant it could only do a partial transfer to II, but Mr J did not want to do this. As a result James Hay said it had been liaising with Equiniti to find another solution to the difficulties with the shares, and this was ongoing. It stated that one of the solutions it had been exploring was to dematerialise the shares into an electronic holding. James Hay commented that whilst its enquiries were ongoing, it could not confirm if or when the full transfer to II would occur. It said that in the meantime, fees for its SIPP would still be applied.

On 27 December 2023 II said that it was cancelling the transfer due to the length of time it had taken to date without it being completed. It asked Mr J to request the transfer again once James Hay and Equiniti had confirmed the stock transfer could proceed. On 10 January 2024 II emailed all the parties confirming that the transfer was again to take place. All stock aside from the P shares was to be transferred, and discussions about how to arrange this for the P shares was said to be ongoing.

On 19 January 2024, Mr J wrote to James Hay suggesting that Equiniti was registrar of the P shares and that as a result, it was able to convert the physical shares to an electronic holding. On the same day, James Hay told Mr J that Equiniti had found a solution for the P shares issue whereby they could be moved into a depot from where they could be transferred to II. It was said this would require wet signatures and original copies of documents and so would take a number of weeks, but it was hoped this could be resolved by Easter.

On 27 February 2024, James Hay stated that it was not possible according to HMRC rules for Mr J to gift the P shares to charity because of their value.

In March 2024, James Hay confirmed that it would no longer be charging SIPP fees. In response to Mr J's comment that Equiniti was the registrar of the P shares, it confirmed its understanding that this was not the case. James Hay later said that all SIPP fees charged since April 2023 had been refunded as cash onto the policy.

On 9 April 2024 Mr J emailed James Hay and Equiniti stating that both businesses had handled his transfer request inefficiently. He said that James Hay should have ensured the P shares certification was available when it had accepted the incoming in specie transfer in 2013. Mr J commented that he'd not been able to trade the cash accumulated in the SIPP over the previous year, or manage his investments, due to the delay in transferring to II. He also said he'd been incurring fees charged at II because his new SIPP had already been set up, awaiting the transfer. Mr J stated James Hay had misinformed him about the ability to gift the P shares to charity.

At the same time, Mr J brought a complaint to this service. He said that the delays to the SIPP transfer had meant that he'd been unable to manage his portfolio by changing its holdings, concerned that any changes might affect the in specie transfer. He also said that during this period, the value of P shares had fallen. Mr J commented that he'd had to send over 100 emails to the various parties in an attempt to progress matters, and he'd also been paying SIPP fees to both James Hay and II. He asked to be compensated for these issues.

On 3 June 2024 Equiniti confirmed that the P shares were in a state which allowed them to be transferred, and in July 2024 it was confirmed that all stock in the SIPP had been transferred to II.

Following the case being passed to an investigator to review, Mr J provided further comments in August 2024. He emphasised his view that when James Hay received the in specie transfer into the SIPP in 2013, it should have resolved how the P shares were certificated at that time. Mr J also provided further evidence of the correspondence that had taken place between the parties involved with the in specie transfer since it was requested in 2023, and he summarised the events that had happened. He reiterated his request to be compensated for a fall in the value of the P shares.

Mr J commented that although the SIPP holdings had been transferred, a significant cash balance had not. Our investigator explained that this issue had arisen since this complaint was brought to the Financial Ombudsman, and that consequently if Mr J was dissatisfied about it, he would need to raise a new complaint on that subject with James Hay.

The investigator upheld this complaint in part. His view was that Equiniti, rather than James Hay, was able to arrange the conversion of P shares to an electronic holding, but he considered James Hay could have helped speed up this process. In particular he noted that on 6 June 2023 Mr J had raised the possibility of dematerialising the shares, but it was not until November 2023 that James Hay asked Equiniti if this was an option. Had James Hay asked this question earlier, the investigator concluded it was likely the transfer would have completed sooner.

In terms of the time taken for the transfer to be arranged, the investigator considered this hadn't caused Mr J a financial loss because being an in specie transfer, he'd remained invested. He also stated that had Mr J wanted to trade any of his holdings or invest cash held in the SIPP, these options would still have been available to him. The investigator noted that James Hay had also refunded its SIPP fees charged since April 2023. In terms of the fall in the price of P shares that occurred whilst the transfer was pending, the investigator said that the evidence showed Mr J wanted to retain these shares, which is why he asked them to be transferred in specie. But the investigator concluded Mr J had been caused trouble and upset by James Hay's handling of the transfer, and he recommended that it pay compensation of £250 to reflect this.

Mr J disagreed with the investigator's findings. He said that both James Hay and Equiniti had provided contradictory information about the transfer, relating to where the P shares were located, whether they could be converted to an electronic holding, and whether they could be sold. Mr J questioned why it had been suggested the shares could be gifted to charity, and highlighted that he'd been asked to leave £1,000 in the James Hay SIPP to cover future fees for the holding of P shares if a partial transfer of the other holdings had taken place. He said both James Hay and Equiniti were responsible for the fall in value that occurred with the P shares whilst the transfer was delayed. Mr J also said that the evidence showed it was apparent he'd had ongoing discussions with James Hay and Equiniti since he'd requested the SIPP transfer about either transferring or selling the P shares.

The investigator responded that based on the evidence provided, his view remained that James Hay was not responsible for any fall in the value of the P shares whilst the transfer was delayed because Mr J's preference was for these shares to be moved in specie to II, rather than be sold. He said that had the P shares been transferred without delay in 2023, it was not clear that Mr J would have chosen to sell them, bearing in mind that he'd retained them for a number of years during previous periods when their value had fluctuated. The investigator remained of the view that the compensation he had proposed was fair.

Mr J replied that the frustration caused by the delays "*encouraged us to want to sell* [the P shares] *from June 2024 onwards*". He said that James Hay had been unprofessional and not looked after his interests. In later submissions, he forwarded correspondence he'd had in April 2024 which he said indicated the P shares were to be sold at this time, with the other holdings in the SIPP being transferred in specie.

The investigator confirmed that this complaint would be passed to an ombudsman for review.

I should explain that Mr J has also brought a complaint to this service about the actions of Equiniti in this matter, and that has been considered under a separate case reference.

### **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.

It is clear that the transfer of Mr J's SIPP assets to II took significantly longer than it should have done. Under this complaint, I need to consider whether the actions of James Hay in this matter caused any financial loss to Mr J, and also whether it caused him any unnecessary difficulties.

Like the investigator, my view is that James Hay could not arrange the conversion of the P shares into an electronic form without the involvement of Equiniti, because Equiniti held the SIPP assets on its dealing platform. In terms of the initial transferring in of holdings to the James Hay SIPP in 2013 via an in specie transfer, my view is that James Hay was not at fault for allowing the P shares into the SIPP as a certificated holding, even taking into account that this was held securely in a vault.

But I do consider that James Hay could have asked Equiniti at an earlier date about dematerialising the P shares, after Mr J had suggested this in June 2023. And like the investigator, I consider that on balance this would likely have resulted in the transfer being completed at an earlier date.

Mr J says that delays caused by James Hay led to a financial loss for him, because this prevented him managing his SIPP assets, including investing cash that was accruing on the account. I note Mr J's comments in this regard, but based on the evidence provided, my view is that he was still able to trade on his SIPP account whilst he awaited the transfer to take place. And bearing in mind that Mr J had requested an in specie transfer, it would seem that he was seeking to retain his existing holdings during this time. As I understand it, a key reason for Mr J wishing to transfer related to the level of fees he was paying under his SIPP.

James Hay refunded Mr J's SIPP fees with effect from April 2023. Mr J has highlighted that he's been paying SIPP fees to II since taking out a policy with it, but in light of James Hay's fee refund, it seems that Mr J has only paid for one set of fees. In my view, it would not be reasonable to require James Hay to reimburse Mr J for any of the fees he was charged by II, because if the transfer had completed at an earlier date, he would still have been required to pay for one set of SIPP fees whilst holding his assets in the investment wrapper.

Mr J has highlighted the fall which occurred in the value of his P shares whilst he awaited the SIPP transfer. He has asked to be compensated for this, on the basis that he says he would have sold the shares had the transfer completed earlier, and he has referred to conversations with James Hay and Equiniti about such a sale. I have carefully considered Mr J's comments in this regard, including that frustrations about the transfer delays encouraged him to want to sell the P shares.

But having considered the content of the communications between Mr J, James Hay and Equiniti that have been provided, I'm not persuaded that it's been shown Mr J was looking to sell the P shares prior to their transfer to the II SIPP. On balance it seems to me that Mr J asked for these shares to be transferred in specie because he wanted to retain them in the II SIPP. Consequently I do not consider it would be fair to require James Hay to compensate Mr J for the fall in the value of the P shares which occurred whilst he waited for the SIPP transfer to complete.

Whilst I appreciate that Mr J is likely to be disappointed with my findings on this matter, in summary my view is that James Hay's actions in regard to the transfer have not caused Mr J a financial loss. But I do consider that James Hay has caused Mr J unnecessary distress and inconvenience, due to the amount of time and effort he has had to expend seeking completion of the transfer. Mr J has also highlighted inconsistent information he was given about the P shares, including the suggestion that they could be gifted to charity. Taking into

account awards made by this service on cases with similar circumstances, I consider the investigator's proposal of £250 compensation to reflect James Hay's handling of the transfer is fair.

### **My final decision**

My final decision is that I uphold this complaint in part, and require James Hay Administration Company Ltd to pay Mr J £250 in respect of distress and inconvenience caused to him.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 10 April 2025.

John Swain  
**Ombudsman**