The complaint

Mr F complains that James Hay Administration Company Ltd trading as James Hay Partnership ("JHAC") failed to complete the transfer and subsequent investment of some pension savings in a timely manner.

What happened

I issued a provisional decision on this complaint in February 2025. In that decision I explained why I thought the complaint should be upheld and what JHAC needed to do in order to put things right. Both parties have received a copy of the provisional decision but, for completeness, I include some extracts from it below. In my decision I said;

> *Mr F held pension savings with a firm that I will call A. In September 2023, following discussions with his financial advisor, Mr F decided to move his pension savings to JHAC in order to invest them in two fixed interest cash deposit accounts.*
>
> *Mr F opened a new self-invested personal pension ("SIPP") with JHAC in early November 2023. Shortly afterwards JHAC requested via the Origo system that A transfer Mr F's pension savings to the firm. Some delays were experienced in the transfer being completed as initially an incorrect account number had been provided. The funds were received by JHAC from A on 15 December 2023 and applied to Mr F's SIPP on 20 December.*
>
> *Mr F submitted an application for two cash deposit products (with different providers and over 3 and 5 year fixed terms) on 23 November. He later submitted a further application on 12 December following the expiry of the previously offered interest rates.*
>
> *On 21 December Mr F's financial advisor chased JHAC regarding the investment of the transferred funds. JHAC confirmed the funds were now available for investment and the investments would be completed within the next four working days. Following further discussions about the timeline with the financial advisor, JHAC sent an email confirming the investments would be completed the following day, and that it would be "honouring the cash application submitted on the 12/12". It advised that it would provide an update if for whatever reason the trades weren't placed the following day.*
>
> *JHAC failed to undertake the required trades on 22 December or contact Mr F's financial advisor. The matter was then picked up on the next working day of 27 December when JHAC sent a message to Mr F's financial advisor advising that the 3 year product was no longer available. The financial advisor responded to that message on 2 January updating the application for the 3 year product but noting that JHAC had confirmed the 5 year product remained available although at a lower interest rate. Mr F submitted a new application for products with a 1 and 3 year term on 5 January. JHAC says that it processed that application on 8 January ahead of its normal processing timescales given the earlier problems.*

Mr F complained to JHAC about what had happened. He said that the transfer had taken too long. And he said that JHAC had agreed it would honour the rates that had formed his application on 12 December. JHAC didn't agree with what Mr F said. It said its offer relating to the 12 December email was simply to progress the application, rather than providing any guarantee of the rates. But JHAC accepted that its processes hadn't been as efficient as they might have been so it offered Mr F £150 for the inconvenience he'd been caused. Unhappy with that response Mr F brought his complaint to us.

There are a number of regulated firms that have been involved in this transfer. Mr F's pension savings were originally held with A. He used a financial advisor to assist with the transfer and investment of his pension savings. And, as is the norm, as the receiving scheme JHAC was responsible for initiating the transfer and making Mr F's pension savings available to him for investment.

But this complaint is only about the actions of JHAC. So I won't be making any findings about the activities of the other regulated firms. Although in this decision I will naturally discuss their involvement in the transfer I do so without any inference of fault. If, after this complaint is decided, Mr F considers either of the other parties to have been at fault he would need to make a separate complaint about their actions.

There are two aspects to this complaint that I will deal with in turn. First I will consider the movement of Mr F's pension savings from A to JHAC. And then I will go on to look at what happened once those funds arrived with JHAC and were available to be invested by Mr F.

I think it would be helpful to first set out that I think it would be unreasonable to expect a firm to react instantly at any stage of the transfer process. There needs to be a period of time allowed for the normal processing activities of the firm to take place. Generally a period of up to five working days might be considered reasonable for a firm to act on each stage of the transfer process. But a firm also needs to be mindful of its responsibilities to treat its customers fairly. And in particular here, where activities and communication are promised for a certain date, those targets need to be met.

I haven't seen sufficient evidence to persuade me that the transfer of Mr F's pension savings from A to JHAC was unreasonably delayed as a result of something that JHAC did wrong. I think all parties would agree that the transfer might have completed sooner than it did. However it seems an initial delay was caused by a transcription error in Mr F's account number when his original request was made to JHAC. Following that being corrected it does seem that some further delays were experienced between JHAC and A in restarting the transfer process. But it is unclear given the passage of time whether those delays were the fault of A, JHAC, or simply a reflection of a complex process.

So I am currently satisfied that it would be unreasonable to conclude that the transfer of Mr F's pension savings from A to JHAC was delayed by something that JHAC did wrong. The monies arrived with JHAC on 15 December. So I think that date should reasonably be considered as the start point for the next part of my consideration of Mr F's complaint.

As I have previously said, it is reasonable to allow a period of time for processing activities to be completed. So although the pension savings were transferred to JHAC on 15 December I don't think it unreasonable that they weren't made available for investment by Mr F until a few days later. The monies were added to Mr F's SIPP *on 20 December and a discussion took place the next day between Mr F's financial advisor and JHAC.*

Mr F had already submitted investment instructions for his pension savings – both his original instruction that was sent on 23 November, and a replacement instruction sent on 12 December following changes in the available interest rates. So I think JHAC had a clear understanding of Mr F's investment intentions.

In the email discussion that took place on 21 December, Mr F's financial advisor expressed some disappointment about the time being taken to complete the investment of Mr F's pension savings. At the end of that exchange JHAC sent the following to the financial advisor. It said;

> *I can confirm they will be honouring the cash application submitted on the 12/12 and the trading team have also confirmed to Sheri and I that they will try and get the trade placed tomorrow and update us if for whatever reason they were unable to.*

Mr F says that he considers the comment above to indicate that JHAC would be making the investments in the two funds that he had selected on 12 December. JHAC says that was not the meaning of the comment – it says it simply meant that it would process Mr F's application of that date.

I think it would be difficult for me to conclude that Mr F's interpretation is correct. JHAC was not offering the investments itself – they were being offered by other financial institutions. So JHAC was not in a position to offer investments that might no longer be available given changes in the economic environment. Instead I prefer JHAC's interpretation that it was simply offering to attempt to implement the instructions Mr F had previously provided.

But that doesn't mean I think JHAC acted fairly in its discussions on 21 December regardless of any confusion its statement caused. JHAC has since told Mr F that the investments he had selected had already been withdrawn by that point - it said the 5 year rate had expired on 11 December and the 3 year rate on 19 December. So I think it might have been reasonable for Mr F to have been told that sooner.

However of greater importance is what happened (or more properly failed to happen) the following day. JHAC told Mr F's financial advisor that it would try to get the trades placed the following day. And it said that if for any reason that didn't happen it would provide an update. So when the end of the day was reached, and JHAC hadn't been in touch, I don't think it was unreasonable for Mr F to conclude that everything had been completed.

22 December was the last working day before the Christmas break. And I can see that Mr F's financial advisor had very limited cover in the period between Christmas and the New Year. I think if JHAC had let the financial advisor know that it had failed to complete the investment instructions before the Christmas break the financial advisor might have been able to react to the message sent on 27 December in a more timely manner.

By the time Mr F became aware of the failure of the investment instructions on 2 January the available products had changed considerably. Mr F has told us that he was left with little choice but to take a defensive position and place investments in products with 1 and 3 year terms. I think that it is possible he would have been able *to take different decisions had JHAC got in touch with the financial advisor as it had promised on 22 December.*

So I currently intend to uphold this part of Mr F's complaint. I think that had nothing gone wrong Mr F and his financial advisor would have been able to ask JHAC to make alternative investments on 22 December. So I think it reasonable that JHAC should either make those investments available to Mr F, or pay him compensation for any interest shortfall that he incurs.

There is little doubt that these problems will have caused distress and inconvenience to Mr F both at the time, and potentially in the future as he needs to take further investment decisions. I think that a payment of £250 would be reasonable compensation for that inconvenience.

I invited both parties to provide us with any further comments or evidence in response to my provisional decision. Both parties were in general agreement with my findings. But I have had extensive discussions with both Mr F and JHAC about what needed to be done in order to put things right.

In my provisional decision I told both parties that I thought Mr F should have been able to choose some alternative investments on 22 December. So Mr F's financial advisor asked JHAC for information about the rates that were available on that date. But it seems that the information given to the financial advisor was incorrect. JHAC later provided me, and Mr F, with the correct alternative rates he could have chosen. Mr F has told us what he would have chosen had that information been provided at the time. And JHAC has said it is willing to increase the compensation it had originally offered for Mr F's inconvenience to the £250 I set out in my provisional decision.

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.

As I set out in my provisional decision, in deciding this complaint I've taken into account the law, any relevant regulatory rules and good industry practice at the time. I have also carefully considered the submissions that have been made by Mr F and by JHAC. Where the evidence is unclear, or there are conflicts, I have made my decision based on the balance of probabilities. In other words I have looked at what evidence we do have, and the surrounding circumstances, to help me decide what I think is more likely to, or should, have happened.

And I repeat my reflections on the role of this service. This service isn't intended to regulate or punish businesses for their conduct – that is the role of the Financial Conduct Authority. Instead this service looks to resolve individual complaints between a consumer and a business. Should we decide that something has gone wrong we would ask the business to put things right by placing the consumer, as far as is possible, in the position they would have been if the problem hadn't occurred.

The additional information provided by both parties has not caused me to alter my underlying conclusions about what happened here. I am satisfied that JHAC was not responsible for the majority of the delays in transferring Mr F's pension savings. But I don't think JHAC treated Mr F fairly when it failed to complete the investment of his money on 22 December, or at the very least ask him for revised instructions.

So I am satisfied that the rates that Mr F should be allowed to choose are those that would have been offered on 22 December. I have noted that JHAC says there would also have been a delay until those investments were applied by the relevant third party. But I am also pleased that it has confirmed there were no changes to the rates during that time. So any processing window makes no difference to my findings here – the rates that should have been available for Mr F to select are those that applied on 22 December.

It is regrettable that Mr F’s financial advisor was given some incorrect information about what those rates were. I would note that JHAC isn’t sure, at this stage, which part of its organisation supplied that information to Mr F. And it has said that it will investigate the error further. But that has no bearing on this complaint. As I have previously explained, it is only the actual rates that were available on 22 December that I can consider when deciding the redress that JHAC should pay.

When Mr F selected his new investments, in January 2024, he chose investments with a one and three-year term. That was different to his original intention to utilise a five-year term, but Mr F explained that was because of the rates becoming less attractive. The rates that applied to his investments were 5.24% for the one-year product, and 4.35% for the three year product.

Mr F has considered the rates that were available on 22 December. He has told us that he would again have chosen investments with a one and three-year term. And I note the interest rate on the one-year investment was unchanged. So the delay in making that investment hasn’t caused Mr F to lose out. But the interest rate Mr F could have received on the three-year product would have been 4.7%. So it does seem that the delay has caused Mr F a loss in that regard.

Mr F wished to invest £85,000 in each product. So his investment in the three-year product is likely to be worth £96,582.02 at the end of the term. But had it been invested at the higher interest rate available on 22 December, it would have been worth £97,557.12 at the end of the term. So the delay will cause a loss of £975.10 to Mr F.

These problems will have caused some distress and inconvenience to Mr F. Although he will not now lose out financially compared to the rates available on 22 December he has needed to spend time and effort to achieve that resolution. I can see that JHAC has accepted my provisional award of £250 in that respect, and so I will direct that amount to be paid.

Putting things right

As I have set out above, the delay in the investment of Mr F’s pension savings means he will lose out on interest of £975.10. JHAC should pay compensation equal to that loss into Mr F's pension plan. The amount paid should allow for the effect of charges and any available tax relief. Compensation should not be paid into the pension plan if it would conflict with any existing protection or allowance.

If JHAC is unable to pay the total amount into Mr F's pension plan, it should pay that amount direct to him. But had it been possible to pay into the plan, it would have provided a taxable income. Therefore the total amount should be reduced to notionally allow for any income tax that would otherwise have been paid. This is an adjustment to ensure the compensation is a fair amount – it isn’t a payment of tax to HMRC, so Mr F won’t be able to reclaim any of the reduction after compensation is paid.

The notional allowance should be calculated using Mr F's actual or expected marginal rate of tax at his selected retirement age. I think it reasonable to assume that Mr F is likely to be a basic rate taxpayer at the selected retirement age, so the reduction should equal the current basic rate of tax. However, if Mr F would have been able to take a tax-free lump sum, the reduction should only be applied to 75% of the compensation.

JHAC should additionally pay Mr F £250 to reflect the distress and inconvenience this matter will have caused to him.

My final decision

My final decision is that I uphold Mr F’s complaint and direct James Hay Administration Company Ltd trading as James Hay Partnership to put things right as detailed above.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr F to accept or reject my decision before 20 May 2025.

Paul Reilly
Ombudsman