

## The complaint

Mr J has complained about the time taken to complete an in-specie transfer from James Hay Administration Company Limited trading as James Hay Partnership (James Hay) to a new provider. Specifically, Mr J has said he was unable to make trades and he's lost out on significant market opportunities as a result.

## What happened

Mr J had a SIPP (self invested personal pension) with James Hay. In brief, Mr J spoke with a new provider on 8 October 2024. On 21 November 2024 the new provider received a transfer application from Mr J. The new provider emailed James Hay about the transfer request on 25 November 2024. On 7 December 2024 James Hay said it needed discharge forms or an electronic transfer request. Mr J sent discharge forms to James Hay but on 23 December 2024 the new provider told Mr J that he hadn't answered all the questions on the form. On 30 December 2024 the new provider assisted Mr J in completing the forms which were sent to James Hay. The transfer – which was in-specie and done in three tranches – wasn't fully completed until 8 May 2025.

In her first view the investigator referred to the TRIG (Transfers and Re-registration Industry Group) Framework which set out guidance as to time pension transfers should take. The investigator noted that the transfer was in specie. She identified where she thought James Hay had delayed in progressing the transfer. All in all, and taking into account the actual time taken by the other parties involved, the investigator thought the transfer could've been completed by 31 March 2025 instead of on 8 May 2025. She also said that James Hay's communication with Mr J wasn't satisfactory.

She set out how James Hay should put things right: James Hay needed to ask the new provider what Mr J's pension fund would be worth if it had been invested from 31 March 2025. If the actual current value was less than the notional value, Mr J had suffered a loss and so compensation was payable by James Hay. If it wasn't possible to obtain a notional value from the new provider, a benchmark – the FTSE UK Private Investors Total Return Index – should be used. James Hay should also pay Mr J £250 for distress and inconvenience.

I've seen that James Hay contacted Mr J's new provider for details of the trades Mr J had made and when. The provider said it didn't have instructions to invest once the transfer completed. But Mr J had traded himself on holdings as they were transferred and before the cash element was received. He'd traded further once the cash was transferred. The new provider said it would contact Mr J for confirmation he was happy for the details to be shared. However, the new provider then told James Hay that Mr J didn't want the information disclosed.

James Hay contacted us to say that, as Mr J didn't want to share details of the trades he'd placed with the new provider, the loss assessment couldn't be completed. The investigator contacted Mr J to explain that, as he'd told the new provider not to provide details of the trades, the loss assessment could only be undertaken using the benchmark she'd indicated

in her view. Mr J confirmed that he accepted the investigator's view and he wanted James Hay to use the benchmark to calculate any loss. The investigator relayed that to James Hay.

James Hay came back to us saying that as the transfer was in specie, only the growth Mr J might've missed on the cash balance of £4,306.97 had been considered. The FTSE UK Private Investors Income Index stood at 5064.1 on 31 March 2025 and 5055.92 on 8 May 2025. As there'd been a drop it appeared that Mr J hadn't missed out on any investment growth on the cash element and so no compensation was payable, aside from the £250 for distress and inconvenience.

Mr J didn't agree. He said the relevant period was from 22 October 2024 to February 2025, not March to May 2025. In response the investigator said, although Mr J had been speaking with the new provider and his adviser about the possibility of transferring his SIPP from October 2024, James Hay didn't know about any transfer until the new provider emailed on 25 November 2024. The investigator set out a timeline and said the earliest date Mr J's funds could've been invested was 31 March 2025 and so the dates James Hay had used had been correct. James Hay provided some details of its calculations which the investigator shared with Mr J.

Mr J told the investigator that he hadn't been able to trade because of the delays in the transfer, which had been completed in three stages. Around £350,000 was transferred on 20 February 2025; £150,428.44 on 12 March 2025 and an unknown amount the day before. Mr J began trading on 25 February 2025. But he said he'd have made much more money if he'd been able to trade sooner.

James Hay asked for details of what trades Mr J would've made. The investigator discussed that with Mr J who said, within 16 days of his funds being with the new provider, he'd made five trades totalling around £200,000. But he might've made totally different trades earlier. He said the markets were going up when it looked like Donald Trump would win the US Presidential Elections and continued to rise after he did but then fell when he started to impose trading tariffs. Mr J said he was unable to confirm precisely which trades he'd have made but he'd settle for £10,000.

The investigator put that to James Hay. It said, ordinarily, where it had caused delays to a transfer, it would carry out a loss calculation based on the investments made post transfer having been made at an earlier date. Or it would compare the value of the fund with the Index. But it needed the new provider to supply values for Mr J's fund. Or it would need compelling evidence to show that there'd been financial detriment – for example, a report from a financial adviser confirming anticipated investments. Without evidence or any rationale to support the claim, James Hay wasn't in a position to offer compensation.

The investigator issued a second view on 18 November 2025. She said the transfer had been initiated on 8 October 2024 when Mr J spoke to the new provider about transferring. She referred to what had happened then, with James Hay saying, on 7 December 2024, that discharge forms were needed. The investigator said, at that point, no activity had taken place in terms of the transfer, but Donald Trump had already won the election. Mr J had signed the transfer discharge on 16 December 2024, requesting a full in-specie transfer, which was during the period he'd said he'd wanted to trade.

On 30 December 2024 the new provider assisted Mr J in completing the discharge forms and on 13 January 2025 wrote to him with an illustration. Seven working days later James Hay instructed the transfer. During February 2025 James Hay was waiting for a closing statement. Tariffs were announced in January and February 2025. Mr J's funds hadn't been transferred to the new provider. On 25 February 2025 a query arose about the remaining US dollar balance on the account which James Hay said should be converted to GBP prior to

transferring it. The same day around £350,000 was transferred which allowed Mr J to begin trading on 25 February 2025.

The investigator said Mr J couldn't have placed trades between October 2024 and January 2025 unless he'd paused the transfer in December 2024 when he had to complete the discharge forms. The investigator said James Hay didn't need to do anything more. Mr J didn't accept the investigator's further findings and requested an ombudsman's decision. Mr J maintained he'd lost out, not because of delays between March and May 2025, but because he'd wanted to trade much earlier than that. But he was unable to say what trades he'd have made.

James Hay said it wanted to be clear that it didn't dispute it had caused delays and it was willing to do a loss calculation and pay appropriate compensation if Mr J would allow his new provider to share investment and value details or provide tangible evidence to support his claim that he'd been financially disadvantaged.

### **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've set out above, James Hay accepts that it caused delays and remains willing to undertake a loss assessment. As I understand it, that would be based on the trades Mr J actually made, had they been made earlier. That's how we'd usually approach redress in a case such as this and where there's no dispute that a business has caused delays and which meant that the consumer was unable to trade until later than should've been the case.

Or, to simplify things and/or if there's uncertainty about what trades would've been made, we might say an index should be used. Here James Hay says, because the Index fell during the period it was considering – March to May 2025 – Mr J didn't suffer any loss.

Mr J's position is, first, that isn't the relevant period. He says his inability to trade dates back much earlier, to 22 October 2024, and runs to February 2025 when he became able to trade part of his fund. Secondly, he says that the trades he actually placed when he became able to trade don't necessarily represent those he'd have placed, had he been able to trade earlier.

On the second point, I do understand what Mr J is saying. As would be expected, the trades he actually placed were dependent on the prevailing financial markets. His real time decisions may have been different, depending on market conditions at the particular time. So he may have made different decisions as to what investments to buy and sell. I agree that it can be very difficult to say, after the event, what decisions would've been made and without using the benefit of hindsight as to how any investments that might've been made have actually performed.

That's why, in that sort of scenario, we'd say an index or benchmark, which broadly represents the consumer's attitude to investment risk and so reflects the sort of investments that would've been made, should be used to ascertain if any loss would've likely been suffered.

Mr J says that isn't the right period and that he wanted to place trades much earlier – as I've said above, he wanted to trade from 22 October 2024. So I've examined what happened about then and subsequently.

By October 2024 Mr J was considering transferring away from James Hay. I understand that was prompted because another party's fees had increased. Mr J spoke to the new provider on 8 October 2024 about transferring. But it wasn't until 21 November 2024 that the new provider received Mr J's transfer application. James Hay didn't know about the transfer request until 25 November 2024. I don't see how there can have been any delay on James Hay's part prior to then.

I'd add that it was Mr J's decision to go ahead with the transfer application at a time when the USA political situation meant the financial markets were rising. Mr J was protected to some extent as the transfer was in-specie so he'd remain invested throughout – his funds weren't out of the market for any period and so investment values would reflect any market increases. But he wanted to make changes to his investments, which he couldn't do until they'd been transferred to his new provider. It was only then that he was able to make fund switches with that portion of his fund that had been transferred – as noted above, the transfer was done in three tranches.

Transfers, whether in cash or in-specie, involve a number of parties and don't always proceed smoothly. So there may be a longer than expected period during which the investor won't be able to trade. In deciding to go ahead with the transfer, Mr J would've known that he'd be unable to trade for a period. If he thought he'd want to make substantial changes to his investments to benefit from upward market movements, it might've been preferable to have waited until things had settled before transferring.

Although he'd initiated the transfer with the new provider on 21 November 2024, things got off to a slow start. James Hay required discharge forms. Mr J signed those on 16 December 2024 but they weren't correctly completed and so they were returned to him. I think that gave him an opportunity to pause and, in the light of the then current market conditions and any views he may have had as to how the markets might perform going forwards, reconsider if transferring at that particular time was the best thing to do. But Mr J wanted to go ahead and the transfer forms were returned to James Hay on 30 December 2024. The transfer didn't really get off the ground until then, which I don't think was James Hay's fault.

As to what happened afterwards, Mr J was entitled to expect his transfer to be completed without any avoidable delays by James Hay, as the ceding scheme. As I've said, James Hay accepts there were delays on its part. The investigator concluded, taking TRIG into account, that, but for James Hay's delays, the transfer could've been completed by 31 March 2025 (instead of 8 May 2025 as was actually the case). I don't disagree with the timeline the investigator suggested should've applied and which takes into account the actual time taken by other parties.

James Hay says the Index suggested by the investigator doesn't show that Mr J would've suffered any investment loss during the period of delay which the investigator identified – 31 March to 8 May 2025 – as the Index fell between those dates. I'm unsure if James Hay was only considering trades Mr J could've placed using the cash account. But the same would apply to any other trades he might've placed using other funds. For clarity, I'd point out that the FTSE Private Investor Index series includes capital and total return versions. The Index the investigator suggested was the FTSE Private Investors Income Total Return Index. If the loss calculation hasn't been undertaken using the right Index, James Hay should revisit it.

James Hay remains willing to carry out a loss calculation based on the trades Mr J actually made, once he was in a position to trade, to ascertain if he's suffered any financial loss in consequence of not being able to place those trades until later. However, Mr J hasn't been prepared to share details with James Hay. In case Mr J has changed his mind, I've included a direction below. I appreciate Mr J's position is that the wrong period was referenced but I've explained above why I don't consider that James Hay is responsible for any losses

dating back to October 2024. I've included a payment for distress and inconvenience although my understanding is that James Hay may already have paid that to Mr J, in which case a further payment isn't required.

### **Putting things right**

My aim in awarding fair compensation is to put Mr J back into the position he'd likely be in, had it not been for James Hay's delays. I think this would have meant he'd have fully invested with the new provider on 31 March 2025.

Any loss Mr J has suffered should be determined by obtaining the notional value of his pension fund with the new provider on the basis that it had been fully invested from 31 March 2025 and subtracting the current (actual) value of the pension from this notional value. If the answer is negative, there's a gain and no redress is payable.

If it's not possible to obtain the notional value from the new provider, James Hay should use the FTSE UK Private Investors Income Total Return Index as a benchmark. The compensation amount should if possible be paid into Mr J's pension plan. The payment should allow for the effect of charges and any available tax relief. The compensation shouldn't be paid into the pension plan if it would conflict with any existing protection or allowance.

If a payment into the pension isn't possible or has protection or allowance implications, it should be paid directly to Mr J as a lump sum after making a notional reduction to allow for future income tax that would otherwise have been paid.

If Mr J has remaining tax-free cash entitlement, 25% of the loss would be tax-free and 75% would've been taxed according to his likely income tax rate in retirement – presumed to be 20%. So making a notional reduction of 15% overall from the loss adequately reflects this.

James Hay should pay £250 for trouble and distress or distress and inconvenience the delays caused him, unless that sum has already been paid.

### **My final decision**

I uphold the complaint in part. James Hay Administration Company Limited trading as James Hay Partnership must redress Mr J as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 12 February 2026.

Lesley Stead  
**Ombudsman**