DRN-6158440

The complaint

Mr P's complaint relates to the transfer of his SIPP with James Hay Administration Company Limited (James Hay) to another provider who I'll refer to as Provider T. Mr P says the transfer took too long and he lost out because there was a delay in his fund being reinvested. As I understand it, Mr P's fund was held in cash for 29 days before the transfer was completed.

As well as the complaint about James Hay as the ceding scheme, Mr P has also complained about Provider T as the receiving scheme and about his adviser's part in the matter. Like the investigator, I've considered all three complaints and all the evidence provided together. But I'm issuing separate decisions for each of the three firms involved.

What happened

I issued a provisional decision on 7 January 2026. I've repeated what I said about the background and our investigation.

'*The background to the transfer was that Mr P's adviser would be moving to Firm T. His old firm would no longer be providing investment advice. Clients could move to Firm T. Mr P elected to move to Firm T.*

I don't think there's any dispute about the timeline which applied to the transfer and which the investigator set out in his view. So I've adopted that here.

<u>22 October 2023</u>: Mr P started the transfer process through the link provided by Provider T.

<u>23 October 2023</u>: Provider T sent a transfer request to James Hay via Origo (an electronic transfer platform). On the same day, James Hay rejected this request as it had been for fully crystalised funds and told Provider T that the funds were held as mixed holdings.

<u>24 October 2023</u>: Provider T resubmitted the transfer request using the information it'd received from James Hay.

<u>27 October 2023</u>: James Hay responded to Provider T's request and queried whether it was requesting a transfer in order to pursue an investment pathway. Provider T responded to James Hay via Origo the same day.

<u>3 November 2023</u>: (five business days later) James Hay sent instructions to the Discretionary Fund Manager (DFM) to sell Mr P's investments and transfer the cash balance to the SIPP bank account and close the portfolio and provide closure confirmation when complete.

<u>13 November 2023</u>: Provider T chased James Hay for an update via Origo.

<u>20 November 2023</u>: Provider T chased James Hay for an update via email and James Hay confirmed that they were experiencing a delay with the investment manager.

On the same day, James Hay received the closure declaration from the DFM.

21 November 2023: James Hay received £819,380.16 into the SIPP bank account from the DFM. On the same day Mr P sent an email to his adviser asking if he'd still receive his December 2023 income payment.

22 November 2023: Mr P's adviser sent an email to James Hay saying Mr P still wanted to receive his December 2023 income payment.

27 November 2023: James Hay sent the December 2023 income payment to Mr P. It also sent a message to the adviser that it would send the remaining funds to Provider T shortly.

1 December 2023: James Hay advised Provider T that Mr P's transfer was undergoing final checks.

4 December 2023: James Hay confirmed they'd made a payment of Mr P's funds to Provider T, however they were waiting for Mr P's P45 to generate before updating the funds as sent via Origo. Provider T has said that until the funds were updated as sent via Origo they were unable to apply the funds to Mr P's Provider T account.

On the same day, James Hay sent £815,885.86 to Provider T.

6 December 2023: Mr P's transfer was marked as sent by James Hay and Provider T was able to place trades.

12 December 2023: Mr P's trades settled and his funds were fully invested with Provider T.

In response to the complaint James Hay acknowledged that it had caused a delay of two business days in sending instructions to Mr P's investment manager. James Hay carried out a loss assessment in respect of the delay it had identified which resulted in a loss of £2,576.84 which amount it sent to Provider T in March 2024. James Hay also offered Mr P £100 as compensation for the distress and inconvenience he'd experienced.

Our investigator considered the complaint against the background of the Transfers and Re-registrations Industry Group (TRIG) framework, published in June 2018, which set out a timeframe for the completion of transfers. The TRIG framework said that for cash transfers the end-to-end timeframe (including bank clearance time) was ten business days. For more complex transfers a step-by-step standard of two full working days, plus the day of receipt, for each step was established.

The investigator found a number of delays on James Hay's part:

- *James Hay should've sent Provider T its query about whether it was requesting a transfer in order to pursue an investment pathway on 26 October 2023. James Hay actually did this on 27 October 2023. That was a delay of one business day.*

- *James Hay should've sent the instructions to the DFM two business days after 26 October 2023, so on 30 October 2023 and not, as actually happened, on 3 November 2023. That was a further delay of four business days.*

- *James Hay could've reasonably ring fenced the income payment to be sent to Mr P and paid the remainder of the funds to Provider T on 24 November 2023. That had actually been done on 4 December 2023, a further delay of six business days.*

- *In total, James Hay had delayed the transfer by 11 business days.*

In connection with Mr P's complaint against Provider T, the investigator had concluded that Provider T had caused a delay of one business day which meant Mr P's transfer was delayed by a total of 12 business days. But for the delays, Mr P's pension fund would've been invested on 20 November 2023 (12 business days before 6 December 2023). The investigator said James Hay should carry out a loss assessment using that date and if a loss was identified, pay 11/12 (91.67%) of the calculated loss. He also said the £100 offered by James Hay for distress and inconvenience was insufficient. He recommended £450 instead.

James Hay didn't accept the investigator's view. The objections centred on the use of the TRIG framework to judge if the transfer had been completed in a reasonable period. In summary James Hay said:

- *The TRIG framework published in 2018 was aspirational and not intended to be used when assessing timelines. Much had changed since 2018, such as awareness of pension scams which required more time to be spent on due diligence to protect customers. Mr P's transfer was completed five years after TRIG had been published.*

- *The work involved in processing Mr P's transfer wasn't automated but done manually and while managing other customer requests. It isn't feasible to complete transfers in accordance with the timescales suggested by TRIG. Other businesses in the industry have expressed their concerns with those timescales. TRIG was superseded by STAR (Setting the Standard for Smoother Transfers).*

- *James Hay's process in 2023 was to complete vetting/due diligence and send sale instructions within five working days following receipt of the transfer instruction. James Hay agreed it hadn't met its internal service timescales but compensation had already been calculated and paid for two days' delay. The timescale the investigator had applied wasn't reasonable.*

- *Following receipt of the sale proceeds, James Hay received a request from Mr P's adviser to ensure Mr P's December 2023 income payment was made. James Hay's process is to halt the transfer if such a payment is due and so James Hay didn't proceed with the transfer until after the income payment was made on 27 November 2023. The investigator had said the income payment could've been ringfenced and the rest of the cash transferred to Provider T without delay. But it isn't for this service to say what a business's internal processes should be. James Hay has a documented transfer process in place for staff to follow to ensure a consistent approach to transfers which ensures customers aren't exposed to risk. Paying income on time is prioritised. James Hay considers it prudent to halt a transfer when an income payment is due. That's been the process for many years and remains so.*

- *James Hay referred to a view issued by another investigator which didn't refer to TRIG and accepted that James Hay's process was to pause the transfer if an income payment is due. James Hay said there were other views which didn't apply the TRIG timescales.*

- *James Hay was prepared to increase its offer for distress and inconvenience to £250.*'

I've summarised my provisional findings.

- I didn't agree with James Hay's comments about TRIG. It was published in 2018 and aimed to improve customer experience and ensure that processes surrounding transfers were improved. It sets out good industry practice and timeframes for processing pension transfers. It recognises that sometimes the timescales won't apply and that several counterparties might be involved. I thought the investigator's approach – by reference to TRIG – was appropriate.

- I also pointed out, about what James Hay had said about the need for increased due diligence because of the prevalence of pension scams, that guidance aimed at tackling pension liberation has been in place since early 2013 and subsequently widened to cover pension scams more generally. Although the guidance has evolved (and continues to do so), it was in place by 2018 when TRIG was published.
- I didn't agree that TRIG had been superseded by STAR. The two are linked. I set out what STAR's website says:

  '*Industry systems and processes are inconsistent and transfer timeframes vary between providers. Service expectations are increasing due to the relative simplicity of switching in other markets and the availability and technological advancements.*

  Registration processes in the financial services industry can take between 2 and 450 days which the regulator, industry, consumers and government believe is unacceptable.

  Leading investment and pension trade associations established the Transfers and Reregistration Industry Group (TRIG) to provide a solution. STAR was created as a partnership…to implement and deliver the TRIG framework, which is to define and shape recognised, industry-wide standards to promote good practice in transfers.'
- Although James Hay had pointed to investigators' views which don't mention TRIG, I said there were plenty of examples in our published final decisions (and which may endorse investigators' views) which refer to TRIG and use that as the starting point for assessing if a transfer has been completed within a reasonable period.

Against that background I'd considered how long the transfer took and James Hay's part in it. I didn't entirely agree with the timeframe the investigator had suggested. I set out how I thought the transfer should've been progressed.

- There was a delay at the outset of one business day as James Hay didn't send its query about whether it was requesting a transfer to pursue an investment pathway until 27 October 2023, a day later than should've been the case.
- There was then the delay which James Hay itself identified. James Hay received a transfer request via the Origo system from Provider T. The DFM was instructed to encash the funds and close the investment account. There was a two day delay in requesting closure – the instruction was sent to the DFM on 3 November 2023 but should've been sent on 1 November 2023.
- The DFM liquidated the funds and closed the investment account and sent the proceeds to James Hay, which were received in the SIPP cash account on 21 November 2023. But a secure message from Mr P's adviser was received the following day to say that Mr P's income payment was to be made to him. That was released to him on 27 November 2023 and James Hay's Transfers Team then proceeded with the final stages of the transfer with the transfer payment made to Provider T on 4 December 2023.
- I agreed that James Hay could've ringfenced the December 2023 income payment and paid the balance of the funds to Provider T on 24 November 2023, instead of 4

December 2023. But I didn't think the stance James Hay took, where the income payment was scheduled to be paid in the near future and waiting for the income to be paid before proceeding to transfer the cash to the new scheme, was unreasonable.

- James Hay released the income payment on 27 November 2023. The funds were released to Provider T on 4 December 2023, which was five business days later. I said James Hay could've released the funds to Provider T two working days after the income payment had been made on 27 November 2023, so on 29 November 2023 and not 4 December 2023. That was a delay of 4 working days.
- So, in total, James Hay had delayed the transfer by seven working days.
- I'd also considered Mr P's complaint against the receiving scheme, Provider T. I'd said it caused a delay in requesting Mr P's transfer when it used the incorrect information in its Origo request of 23 October 2023. Provider T had to resubmit the request the next working day so there was a delay of one business day. I didn't find that Provider T had caused any other delays.
- So, overall, Mr P's transfer was delayed by eight working days, of which James Hay was responsible for seven days. I said James Hay should carry out a loss assessment to compare the current value of Mr P's pension with Provider T with the value it would hypothetically be, had a transfer taken place with no delays. So the money would've been invested in Mr P's Provider T pension eight working days earlier, on 28 November 2023, not 6 December 2023.
- I also said the delay would've caused Mr P distress and inconvenience. The investigator had suggested £450 which I agreed was fair and reasonable.

In response, James Hay said it still didn't accept what I'd said about TRIG but was prepared to accept the provisional decision.

Mr P pointed out that eight working days before 6 December 2023 was 24 November 2023, not 28 November 2023. He also noted that I'd said something different to the investigator about when the instruction to the DFM should've been sent, without explaining why.

I agreed with Mr P that the date should've been 24 November 2023. I said I'd considered again what had happened with the disinvestment instruction to the DFM. There was a one working day delay between 26 and 27 October 2023 as James Hay didn't send its query about whether the transfer was requested to pursue an investment pathway. The investigator had said there was then a delay of four working days before the closure instructions were sent to the DFM (according to the timeline James Hay set out in its final response letter) on 3 November 2023. But the investigator had taken the date of 26 October 2023 instead of using the 27 October 2023 which was the date as things happened. So the delay was three working days.

Adding that to the one working day delay gave a total of four working days. Taking into account the delay of three working days between 29 November and 4 December 2023 was a total delay of seven working days. That meant 27 November 2023 was the date for the loss calculation. James Hay was responsible for 6/7th of any loss (less any sums already paid).

We told James Hay that, in the light of Mr P's response to my provisional decision, I'd reconsidered my assessment of the case, particularly in relation to the timelines. We explained to James Hay the revised timeline that I thought should apply and which meant that the total delay was seven working days so 27 November 2023 was the date for the loss calculation and James Hay was responsible for 6/7th of any loss (less any sums already paid). James Hay accepted that.

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'm upholding the complaint for the reasons I set out in my provisional decision (which I've summarised above) and my further reasoning in response to the points made by Mr P about my provisional decision.

There were delays in dealing with Mr P's transfer. But for those delays, and taking into account what I've said about the adjustments to the timescale I set out in my provisional decision, Mr P's transfer would've completed on 27 November 2023, seven working days earlier than was actually the case. James Hay is responsible for six days' delay.

Putting things right

My aim in awarding fair compensation is to put Mr P back into the position he'd likely be in, had it not been for James Hay's errors in delaying the transfer of his pension.

James Hay should therefore carry out a loss assessment which compares the current value of Mr P's pension with Provider T with the value it would hypothetically be, had a transfer taken place with no delays (and so the money would've been invested in Mr P's Provider T pension seven working days earlier so on 27 November 2023 as opposed to 6 December 2023). Realistically I'd expect that calculation to be undertaken by Provider T and shared with James Hay.

For the avoidance of doubt, any contributions or withdrawals that have actually been made into or taken from the pension with Provider T should be assumed to have occurred at the same time in respect of the hypothetical value calculation.

If the hypothetical value is higher than the current value, then that's the loss Mr P has suffered. I've said above that James Hay is responsible for 6/7th (85.71%) of the calculated loss so that's the sum James Hay should pay Mr P. Any compensation already paid by James Hay can be taken into account.

The final compensation amount should, if possible, be paid into Mr P'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 P as a lump sum after making a notional reduction to allow for future income tax that would otherwise have been paid.

If Mr P has remaining tax-free cash entitlement, 25% of the loss would be tax-free and 75% would've been taxed according to Mr P's 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 provide details of its calculations to Mr P in a clear and simple format.

James Hay should also pay Mr P £450 for the distress and inconvenience caused.

My final decision

I'm upholding the complaint in part.

James Hay Administration Company Limited must redress Mr P as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 17 March 2026.

Lesley Stead
Ombudsman