

complaint

Mr W has complained about James Hay Administration Company Ltd. He is unhappy with the delay in the transfer of his James Hay Self Invested Personal Pension (SIPP) to a new SIPP provider. He was particularly concerned over the delays between 5 March 2018 and 9 April 2018 during which time he lost access to his cash.

background

There were four businesses involved in the transfer transaction. James Hay, Mr W's original stockbroker who handled his personal trade requests within the SIPP, the new SIPP providers and the new SIPP administrators.

James Hay received a transfer discharge form on 10 January 2018 but this couldn't be actioned because the receiving scheme didn't complete their section and it had to be returned.

What followed involved the coordination of the transfer between the four parties and Mr W. This included his selling assets that were unacceptable to the new SIPP arrangement. The sale of these assets was a condition of the transfer.

Mr W informed the new SIPP administrators that he'd sold the unacceptable assets on the 5 March 2018 and James Hay received confirmation of this, and the outstanding re-registration details they'd previously requested, on the 6 March 2018.

It then took until 16 April 2018 for the cash to be transferred and applied to Mr W's new SIPP account.

Mr W made his first complaint to James Hay on the 26 February 2018. It responded on 8 March 2018 and gave a subsequent response on the 12 June 2018.

Mr W was dissatisfied with the response and forwarded the complaint to this service to investigate.

Our adjudicator investigated and concluded that James Hay did their best to facilitate the transfer which was held up due to no fault of theirs. He felt the the delay was largely due to the fact that Mr W held assets that were unacceptable to his new SIPP provider. He only disinvested from these on the 5 March 2018, having been notified that he needed to on the 23 January 2018.

Our adjudicator also decided that there were sufficient disclosures to Mr W that the transfer process takes time. James Hay had pointed out the reliance on third parties and also said that cash is only transferred after the stocks had been transferred in-specie.

Mr W felt there was no reason why James Hay couldn't transfer the uncrystallised element of his pension earlier as they eventually did this on the 23 March 2018. But our adjudicator said this was after James Hay had confirmation Mr W no longer held unacceptable assets and a transfer could now be readily initiated to the new provider.

Mr W didn't agree and asked for a decision from an ombudsman. He reiterated the following points:

- James Hay could have made the cash payments sooner than it did despite the terms and conditions.
- The terms and conditions aren't fair as transferring cash after the in-specie means that James Hay has the advantage of holding cash for longer and gaining interest. At the same time the cash is not usable. And Mr W was only transferring because of an increase in fees.
- The existing stockbrokers were integrated into the SIPP by James Hay and it should have taken more responsibility for their actions.
- Transferring cash last may be administratively convenient, but given the nature of the SIPP later cash payments were always likely and did take place.
- The unacceptable assets were sold at a time when the transfer could have taken place. Had they been sold sooner the cash would have been idle for longer.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I agree with the investigator and broadly with his reasoning. There is little that I can add to his view and I don't uphold this complaint.

I can appreciate Mr W's frustration when this transfer didn't proceed as quickly as he felt it could and should. There were four different businesses involved in the transfer and it may be the case that each one could have dealt with matters differently to some extent, particularly with the benefit of hindsight. But I'm not satisfied that it would be fair and reasonable to uphold the complaint and direct that James Hay pay redress.

I don't think James Hay's terms and conditions were unfair in so far as they insisted that cash would be transferred after the transfer of other assets. As Mr W seems to accept, this makes administrative sense. In this case, James Hay was told that unacceptable assets had been sold on 6 March 2018. I don't think that it could have been expected to begin any transfer before that. James Hay then contacted the stockbroker on 8 March 2018 and instructed it to commence the transfer. This appears to have been actioned with a valuation being sent to the new brokers on 14 March 2018.

And although it wasn't obliged to, James Hay did make an interim cash transfer on 23 March 2018. The remaining cash was transferred promptly once received from the stockbroker. There is some dispute as to whether that cash transfer was correctly referenced by James Hay, but I've not seen any evidence that conclusively demonstrates that it did make an error in this respect.

The transfer of stock in-specie appears to have been completed on or about the 28 March 2018. The main balance of cash was transferred on 9 April 2018. So the transfer was largely completed in just over one month from the date when James Hay was told that the unacceptable assets had been sold. I'm not satisfied that this was an unreasonably slow transaction in the circumstances.

As I've said, I can understand Mr W's frustration. He may feel that he has been penalised through no fault of his own. He says that he transferred because of an increase in fees, but then has lost out again when the transfer period deprived him of the use of his cash. However, I'm satisfied that James Hay dealt with the transfer of cash in line with its terms and conditions. I don't believe these are unfair. There is a purpose to transferring cash last as Mr W accepts. I don't believe there was any unreasonable delay in the transfer.

So for these reasons, I don't uphold the complaint.

my final decision

I don't uphold this complaint and make no award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 13 October 2019.

Keith Taylor
ombudsman