

The complaint

Mr F's representative has complained, on his behalf, that James Hay Administration Company Ltd caused delays in transferring his Self Invested Personal Pension (SIPP) to another provider.

What happened

The investigator who considered this matter set out the background to the complaint in her assessment of the case. I'm broadly setting out the same background below, with some amendments for the purposes of this decision.

James Hay received a transfer discharge form from Hargreaves Lansdown on 12 September 2022. James Hay contacted Mr F's Investment Manager (IG) the following day and requested a valuation.

On 30 September 2022, Mr F made a complaint to James Hay regarding the delay in the transfer of his SIPP to Hargreaves Lansdown.

On 3 October 2022, James Hay chased IG for the outstanding valuation and this was provided to it on 5 October 2022 and forwarded to Hargreaves Lansdown.

James Hay chased Hargreaves Lansdown on the 7 and 13 October 2022 and a query was raised by Hargreaves Lansdown on 17 October 2022.

On 20 October 2022, James Hay instructed IG to transfer stock to Hargreaves Lansdown and provided authority to IG to liaise directly with Hargreaves Lansdown. James Hay also instructed IG to return any cash to it.

On 15 November 2022, James Hay provided its final response to Mr F's complaint. In summary, it said that, as of 20 October 2022, when it instructed IG to transfer stock to Hargreaves Lansdown (and gave IG authority to liaise directly with HL) it was reliant on both Hargreaves Lansdown and IG to transfer and execute the in-specie transfer. It also said the in-specie transfer was on hold due to Hargreaves Lansdown being unable to accept a 'delisted' stock (Petropavlovsk PLC) at that time.

Hargreaves Lansdown agreed to take the stock on 6 December 2022 but this wasn't transferred until 6 February 2023.

The residual cash was transferred from IG to James Hay on or around 24 February 2023. This ultimately required James Hay to reissue its instructions to IG.

A closing statement was provided to James Hay by IG on 6 March 2023 and a BACS transfer from James Hay appears to have been made on 9 March 2023.

Mr F's representative referred the complaint to this service in March 2023, saying that James Hay (as Mr F's pension provider) should have been in more frequent contact with IG to ensure any causes for delay were resolved.

In a response to this service on 17 August 2023, James Hay clarified the following:

- The original complaint was regarding the progress of the transfer generally. The complaint specifically regarding the delay of cash being transferred hadn't been raised as a separate issue. In any event, as both the in-specie transfer and cash transfer were intrinsically linked, both elements had been investigated.
- It didn't have any control over external investment managers and no 'live' day-to-day visibility of stock holdings or cash held.
- It acts on client instructions in its role as the scheme administrator. In this instance, the instruction from Mr F was to transfer the investments held in his pension in-specie to Hargreaves Lansdown.
- Any delay wasn't due to its actions/inactions.

Dissatisfied with the response, however, Mr F's representative referred the matter to this service.

Our investigator considered the matter, but didn't think it should be upheld. She said the following in summary:

- It seemed that the transfer process had begun earlier than September 2022, but as James Hay first received notification of Mr F's intention to transfer on 12 September 2022, she could only consider whether it was responsible for any delays after that.
- Although she agreed that James Hay had a responsibility to ensure that the transfer progressed as quickly as possible, it was limited in its capacity as Mr F had appointed an investment manager, IG.
- After receiving the discharge forms on 12 September 2022, James Hay made the valuation request the following day. It then chased IG on 3 October 2022 and the information was then received on 5 October 2022. James Hay provided the information to Hargreaves Lansdown on 7 October 2022. And although James Hay could have chased the information sooner, there didn't seem to be any delays on its part.
- Once James Hay had then given authority to IG to liaise directly with Hargreaves Lansdown, it then became reliant on those two parties to ensure that the transfer was processed.

The investigator then set out a timeline of emails between James Hay, Hargreaves Lansdown and IG during October 2022, as follows:

13 October 2022 – James Hay to Hargreaves Lansdown

'Further to our email sent on 7 October 2022 with the IM valuation attached for your acceptance and re-reg details for [Mr F], please can you provide and update confirm urgently to move the transfer on.'

The investigator considered that this demonstrated that James Hay was keeping Hargreaves Lansdown updated and trying to move the transfer on.

17 October 2022 – Hargreaves Lansdown to James Hay (and IG)

'We have added the stock detail provided to our system, however, the value comes to £90,285.34 as of 13.10.2022, and following my call to yourselves, you have confirmed there is no cash on this account.'

However, you have also advised the estimated transfer value will be £140,000. Please could you confirm if the amount to be transferred is £90,285.34 as below...'

19 October 2022 – Hargreaves Lansdown to IG (and James Hay)

'We have all the necessary documents to facilitate the transfer, however we have a transfer value discrepancy as we've been told a couple different values.'

James Hay confirmed £140,000 to my colleague [name of colleague], however the valuation from IG only gave assets to the below £90,200 figure.

Please can you both confirm what the transfer value should be? The client also gave us an indicative value of £160,000 when requesting the transfer.'

20 October 2022 – James Hay to IG (copying in Hargreaves Lansdown)

*'Please find attached our transfer instruction for this case and authority to liaise with Hargreaves Lansdown. The IG reference is O****.'*

Please note that we require a minimum £300 to be returned to us to cover our fees.'

The investigator thought that this was evidence of the authority provided by James Hay to IG that it referred to in its final response letter. The investigator also said that she had seen a copy of the instruction itself.

21 October 2022 – IG to James Hay (and Hargreaves Lansdown)

'Kindly confirm if this is a full account transfer request.'

Cash balance in the client account is £47,614.97. Kindly confirm if we are good to arrange the transfer dates.'

26 October 2022 – James Hay to Hargreaves Lansdown (and IG)

'HL, please liaise with IG to have this transferred to you.'

IG, Please see the instruction that was sent on 20/10/22 for this FULL transfer out. Note that we require a minimum £300 to be returned to us to cover our fees, all cash to be returned to us as soon as possible, thank you.'

The investigator didn't think that the time between Hargreaves Lansdown's original query on 17 October 2022 and James Hay's responses on 20 October 2022 and 26 October 2022 was unreasonable. An important query had been raised, and James Hay responded in a timely manner.

The investigator also thought that James Hay had been clear in informing both Hargreaves Lansdown and IG of its authority for the two parties to liaise together directly, along with its instruction for a full transfer and that all cash be returned to it.

The investigator said that she'd further reviewed the email chain from November 2022 as part of her investigation, and thought the following emails were relevant:

17 November 2022 – From IG to Hargreaves Lansdown (and James Hay)

'The client holds only below stock in client account:

<i>ISIN</i>	<i>Stock Description</i>	<i>Quantity</i>
<i>GB*****46</i>	<i>Petropavlovsk</i>	<i>10,749 GBP</i>

'Kindly check and revert if you have received the below stocks.'

25 November 2022 - from Hargreaves Lansdown to IG:

'We have received the stocks. Thank you.

'Please could you let us know when the cash element of the transfer is expected to be transferred, as the client is chasing.'

The investigator thought that this demonstrated that Hargreaves Lansdown was liaising directly with IG and also that Hargreaves Lansdown was confirming that it had received the stocks (excluding Petropavlovsk PLC), along with enquiring about the residual cash. James Hay (being copied in) was aware of the progress of the transfer.

The investigator noted that IG then asked for reconfirmation from Hargreaves Lansdown, as follows:

28 November 2022 – from IG to Hargreaves Lansdown:

'Please reconfirm the cash amount need to transfer, is it full cash transfer which client holds in IG account'

The investigator said that, with any in specie transfer, assets would need to be reregistered with a new provider. One of the holdings as noted previously had been delisted and it can sometimes take time to establish whether the receiving scheme will accept the delisted stock, she said.

In other instances, the investigator added, transfers could proceed on the basis of the delisted/suspended funds being excluded from the transfer.

But in this particular instance, as the pension funds had been crystallised, a partial transfer wouldn't have been possible due to HMRC's requirements.

The investigator drew attention to the guide provided by James Hay for in specie transfers, and which read as follows:

'Transferring your SIPP away from James Hay Partnership

In-Specie transfers

Once the investments have been successfully transferred in-specie, we will forward any cash remaining in your SIPP bank account to the receiving scheme, after outstanding charges have been deducted, before closing your SIPP, unless otherwise instructed.'

The investigator said that, as was standard practice, James Hay's process was to forward any remaining cash after the in specie transfer had been made. If James Hay had transferred the cash at an earlier point, this could have represented a partial transfer, which wouldn't have been permissible under HMRC rules.

Whilst it seemed that the delisted stock wasn't transferred until 6 February 2023, despite Hargreaves Lansdown indicating that it would accept it on 6 December 2022, this was outside of James Hay's control and the evidence suggested that it may have been an error in the instruction given (not by James Hay).

James Hay was then waiting for confirmation that the in specie transfer had completed, the investigator explained, and that it was also waiting for the cash balance to be sent from IG, along with a closing statement. Unfortunately this was somewhat delayed by IG's request that James Hay repeat the instruction it had previously given in October 2022.

James Hay then received the cash balance on 23 February 2023, with the closing statement following on 6 March 2023. £47,411 was then sent to Hargreaves Lansdown on 9 March 2023, the investigator noted. As James Hay couldn't transfer the cash until it had received the closing statement from IG, it couldn't be held responsible for the delay in transferring the funds.

The investigator further said that the evidence indicated that James Hay had chased IG on 16 December 2022, 12 January 2023, 3 February 2023, and 20 February 2023. Its last request to IG was on 3 March 2023, and the funds were then sent on 6 March 2023.

Overall, the investigator said, she was satisfied that James Hay had performed its function in the way it was required to. It provided the relevant authority for Mr F's chosen investment manager and tried to move the transfer along as quickly as possible. Mr F rather than James Hay had instructed IG as the investment manager and James Hay couldn't be held responsible for the actions of a third party.

In response, Mr F's representative requested that the matter be referred to an ombudsman for review. It submitted further emails from Mr F which had been sent during the transfer process.

One of these set out Mr F's comments that he hadn't taken any money from his pension for three years due to the time it had taken to transfer his SIPP cash to Hargreaves Lansdown, despite wanting to gift some money to his children to help them.

Mr F had instead needed to rely upon his savings (£50,000) and this had caused him to restructure his savings.

Mr F had further said that the transfer should have taken six to eight weeks, but it still hadn't happened after seven months. Mr F added that he'd asked all three parties to have conference conversations to resolve the matter, and he and his wife had been caused great anxiety by the delays incurred.

Mr F also said that the first correspondence with James Hay was 3 January. This should then have taken a matter of weeks, but had in fact taken 14 months.

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.

And having done so, I've reached broadly the same conclusions as the investigator and for similar reasons.

To firstly address Mr F's comment relating to the email of 3 January, I've noted that this was 3 January 2023 rather than 3 January 2022. And so, as with the investigator, I think the first point from which James Hay undertook responsibility for progressing the transfer was when it received the discharge forms from Hargreaves Lansdown on 12 September 2022.

Thereafter, James Hay acted swiftly in contacting IG the next day requesting a valuation. As with the investigator, I think it ought to have been possible for James Hay to have then chased IG sooner than it did for the required information, but of the parties involved at that point, I don't think James Hay bears more of the responsibility for that information not being provided. Nor is it in any case certain that the act of chasing would have hastened the provision of the information.

To be clear, I'm making no findings against any other party in this case. My remit here is purely with regard to the complaint against James Hay. But from an initial starting point of it having received the discharge forms from Hargreaves Lansdown, I don't think it delayed matters in requesting the valuation from IG.

James Hay then promptly forwarded this to Hargreaves Lansdown once it had been received on 5 October 2022. Having then chased Hargreaves Lansdown twice on 7 and 13 October 2022, as set out in the above emails, James Hay then instructed IG to transfer stock on 20 October 2022, providing authority for IG to liaise directly with Hargreaves Lansdown.

Again there appears to have been no delay here on the part of James Hay in moving the transfer along, and authorising the other two parties to liaise directly, and so streamline proceedings, would in my view have been acting in Mr F's best interest.

IG requested confirmation as to whether it was to be a full transfer on 21 October 2022, to which James Hay then responded on 26 October 2022 (with an intervening weekend) to confirm that it would be a full transfer – as previously stated in the instruction it had sent on 20 October 2022. James Hay reiterated that IG and Hargreaves Lansdown should liaise directly to process the transfer, whilst requesting that a minimum of £300 be returned to James Hay to cover its fees.

So again, I don't think I could fairly and reasonably conclude that James Hay had delayed matters here.

Moreover, judging by the emails between IG and Hargreaves Lansdown after 26 October 2022, the two parties were liaising to process the transfer, with James Hay being included on the emails. Hargreaves Lansdown thanked IG for the valuation on 31 October 2022 and confirmed its acceptance thereof. It also provided its CREST identification and enquired as to whether any of the stocks required fax acceptance or stock transfer forms.

IG then asked Hargreaves Lansdown to suggest suitable transfer dates on 1 November 2022, and the latter proposed trade and settlement dates of 7 November 2022 and 9 November 2022 respectively. IG agreed to this on 2 November 2022, but followed this with confirmation that the Petropavlovsk stock was delisted. It enquired of Hargreaves Lansdown as to whether it would accept this, but the latter confirmed on 7 November 2022 that it wouldn't. IG then said on 9 November 2022 that it would check with Mr F to determine how he wished to proceed.

It seems that some stock was transferred during November 2022, but Hargreaves Lansdown noted on 16 November 2022 that Mr F had said he was missing some holdings from the

portfolio. James Hay became involved again on 1 December 2022 to ask about the progress of the transfer, subsequent to which Hargreaves Lansdown reiterated on 5 December 2022 that it couldn't accept the delisted stock.

Hargreaves Lansdown didn't agree to accept the delisted stock until 6 December 2022, when it said that it could accept it for "drawdown to drawdown" transfers, but I don't think James Hay should bear the responsibility for this. Similarly, as with the investigator, although there was then a two month delay in transferring this stock, this appears to have been an issue with the instructions given for that stock, which didn't involve James Hay.

This position seems to have been endorsed by the following email from IG to James Hay on 27 January 2023:

"I am emailing in regards to an ongoing case about a SIPP transfer for IG client [Mr F] who is transferring from James Hay/IG to Hargreaves Lansdown.

In short, the transfer process has been delayed because of a stock that is delisted but as the client has been waiting for this to be completed, we have received the confirmation from HL to send the cash funds with the IG SIPP to the new provider.

As per regulations, IG are not able to send the funds to the new provider and would need to return the cash funds to the SIPP administrator (James Hay). As such, IG would need to receive a withdrawal request from James Hay so that we can release the funds."

James Hay responded to say that, as per its instruction on 20 October 2022, any cash needed to be sent back to it. It enquired as to whether IG needed anything else for this to happen. In further exchanges, James Hay noted that there were ongoing discussions between IG and Hargreaves Lansdown about the last remaining asset, but it routinely reaffirmed its position that the cash should be returned to it.

IG then said on 15 February 2023 that it needed a "statement" from James Hay for it to be able to transfer the cash. James Hay enquired on the same day as to what was needed in terms of a "statement". James Hay then explained that it had provided the required notification in December 2022. But it then provided an updated version on 21 February 2023.

It therefore appears to be the case that the "statement" required by IG had already been sent by James Hay several months previously. And so I don't think I can attribute any delays relating to this to James Hay.

James Hay did then receive the cash funds from IG for transfer towards the end of February 2023, and once it had then received the closing statement from IG on 6 March 2023 (following chasers from both James Hay and Hargreaves Lansdown), it sent the funds by BACS to Hargreaves Lansdown on 9 March 2023.

I think it's worth noting the content of the email from IG on 6 March 2023, as follows:

"I am emailing to confirm that the SIPP account registered to [Mr F] has been closed with IG and you can find the IG closing statement attached.

I apologise for our Transfers Team delaying this being sent and hope that this is sufficient to resolve the transfer of [Mr F's] SIPP holdings."

And so I don't think that the available evidence supports the position that there was any delay in that part of the process on the part of James Hay.

Overall, having considered the transfer process here on the basis of the available evidence, and for the reasons given, I don't think I can fairly and reasonably conclude that James Hay was responsible for the delays incurred.

As I've said above, I can't make any findings within this complaint as to whether other parties may have been responsible for delays incurred, and it's up to Mr F to decide whether he wishes to pursue matters with another party or parties.

I have also noted the distress and inconvenience which has been caused to Mr F by the delay in finalising the transfer, and I don't doubt that the process will have been difficult and challenging. I think much of the delay may have been compounded by the delisted asset, but as I don't think James Hay contributed in any meaningful way to the delay, it wouldn't be appropriate to require it to make any payment to Mr F in respect of the distress and inconvenience caused to him.

In closing, I've noted that Mr F has said that, as he couldn't access his pension funds during the transfer, he needed to withdraw from other savings instead. For the reasons given, I don't think it can be demonstrated, on balance, that James Hay delayed matters here, and I also don't know too much about Mr F's personal financial circumstances. And so this has no bearing on the outcome of the complaint – but what I would say is that using available savings and retaining funds in a tax efficient pension wrapper, which is also outside of an individual's estate for inheritance tax purposes, can in many cases prove to be the more advantageous route of gifting money.

And whilst I accept that there may have been a loss of interest on the cash held in the SIPP (but again, not something which I think I can fairly or reasonably attribute to James Hay), as the transfer was undertaken on an in specie basis, there should have been no loss of growth on the value of the securities held.

My final decision

My final decision is that I don't uphold the complaint against James Hay Administration Company Ltd.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 12 August 2024.

Philip Miller
Ombudsman