

The complaint

The estate of Mrs M complains JPMorgan Asset Management (UK) Limited (JPMorgan) didn't do enough to trace Mrs M's beneficiaries after her distribution payments were unclaimed for some time.

The estate of Mrs M is represented in this complaint by Mr M. For simplicity, I'll simply refer to Mr M as the complainant in this decision.

What happened

Mrs M suffered from Alzheimer's disease and was cared for by her husband. After her husband died in 1994, Mr M (who was Mrs M's son) arranged for Mrs M to move to a new home so she was closer to him and he could care for her. In doing that Mr M arranged, in 1994, for any post in her or her late husband's name to be redirected to Mr M for one year.

Mrs M later moved into a care home. And in 2002 she passed away.

In January 2024 JPMorgan discovered through a tracing exercise that Mrs M, who had an account with JPM, had passed away. It then got in touch with Mr M.

Mr M wasn't happy with how JPMorgan handled things. So he made a complaint.

On 11 July 2024 JPMorgan replied to Mr M's complaint. In summary it said the following:

- On 1 May 2024 it initiated a withdrawal from Mrs M's account of the balance, which was £1,961.49. But due to an administrative error it didn't release the proceeds until 30 May 2024. It apologised for that delay and arranged to pay Mr M £100 in recognition of it.
- JPMorgan hadn't known Mrs M had passed away until it carried out its tracing exercise. It updated its records after seeing her death certificate on 9 February 2024.
- Any distribution payments from Mrs M's investment that were unclaimed for six years were paid back into the underlying investment. And JPMorgan wouldn't reissue any unclaimed distribution payments that had been paid back into the underlying investment. This was in line with the fund prospectus which JPMorgan had issued to all shareholders in 2001.

Mr M says he wrote again on 5 August 2024 saying JPMorgan should pay all the income that had been unclaimed on the account since Mrs M had passed away. And on 19 August 2024 JPMorgan said it would pay him £531.89 for the past six years' unclaimed income.

Mr M wasn't satisfied. He referred his complaint to this service. He said JPMorgan should've traced him earlier, particularly given Mrs M's surname was a rare one and he'd had a public profile which made him easy to find, and various addresses used by his family were registered with Companies House. He said it should've investigated after Mrs M stopped claiming dividend payments. Mr M also said he hadn't received any post from JP Morgan

addressed to Mrs M or her late husband in the year their post was redirected to himself. And the prospectus JPMorgan mentioned couldn't apply to the agreement between JPMorgan and Mrs M because it was issued at least 21 years after she invested and one year before her death when neither she nor Mr M could've received it.

One of our Investigators looked into Mr M's complaint. He didn't think JPMorgan had done anything wrong. In summary he said the following:

- JPMorgan had applied a '*gone away*' flag to Mrs M's account on an unknown date. It wasn't notified of her passing and had no record of Mr M as her next of kin until after the tracing exercise. The tracing exercise indicated it was likely Mrs M was deceased. So JPMorgan instructed an estate trace. The trace found no probate but located Mr M as next of kin.
- Paying distributions back into the fund when they'd been unclaimed for six years was in line with the fund's prospectus as well as the rules at COLL 6.8.4 in the Handbook of the Financial Conduct Authority (FCA).
- On the balance of probabilities it was more likely than not that JPMorgan posted Mrs M a prospectus, and possibly annual statements and distribution cheques.
- During the year Mr M was having Mrs M's post redirected it was more likely than not that either Mr M received correspondence relating to Mrs M's investment, or the post wasn't correctly redirected and delivered.
- It wasn't fair and reasonable to expect JPMorgan to have identified sooner than it did that Mrs M had passed away.

Mr M disagreed with the investigator's view. In summary he said JPMorgan didn't do anything at all to trace Mrs M for 30 years after her husband died in 1994, even though cheques and correspondence would've been returned after that. He also said he didn't receive any correspondence from JPMorgan in the year he had the redirection in place. He said if he'd received anything he would've dealt with it properly and sensibly.

Because no agreement could be reached, the complaint was passed to me to review afresh and make a decision.

I issued a provisional decision in which I said I was minded to uphold the complaint. I said that by 2018 it was considered good industry practice to proactively find gone away customers. I thought that in this case JP Morgan ought reasonably have taken steps to reach Mrs M or her estate in 2018. And, if it had, Mr M would've encashed Mrs M's investments in 2019. I said I was minded pay require JP Morgan to pay Mrs M's estate the difference between what it paid the estate in 2024 and what the estate would've had if it had encashed the investment in 2019, and 8% simple interest for the intervening period on the amount the estate would've been paid in 2019.

In response to my provisional decision Mr M said it was surprising JP Morgan didn't take steps to find him much earlier, when its cheques and correspondence weren't acted on from 1994. He said as a major international financial institution JP Morgan ought to have acted in or shortly after 1994.

JP Morgan said the following in response to the provisional decision:

- Guidance I'd mentioned from the Investment Association (IA) shouldn't be relied on because it was issued as encouragement and wasn't a regulatory requirement. It

outlined principles for consideration, leaving interpretation to the discretion of individual firms.

- Implementing the principles in the IA Guidance required significant time and resources, particularly when dealing with deceased estates where additional legal and procedural steps were necessary.
- JP Morgan made fair and reasonable tracing efforts. It made a concerted effort to trace and reconnect with clients at the earliest feasible opportunity.
- Clients and their estates had an obligation to inform firms of any changes to their circumstances.
- This service hadn't relied on the IA Guidance in previous decisions – this indicates JP Morgan's approach was reasonable.
- JP Morgan acted in line with regulatory and industry standards and in the best interests of clients and itself.
- It wasn't fair to pay interest on the money Mrs M's estate had been delayed claiming because there was no evidence to show the estate would've invested or earned interest on the money if it had claimed the money sooner.
- JP Morgan had already paid Mr M £100 for the delay in paying out the proceeds of the account to the estate.

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. I'll explain why.

The purpose of this decision is to set out my findings on what's fair and reasonable, and explain my reasons for reaching those findings, not to offer a point-by-point response to every submission made by the parties to the complaint. And so, while I've considered all the submissions by both parties, I've focussed here on the points I believe to be key to my decision on what's fair and reasonable in the circumstances.

As a starting point, there's an onus on the executor to notify the business when a customer of the business has passed away. In the circumstances of this complaint I can understand how Mr M could've been unaware of Mrs M's JPMorgan account. Mr M certainly has my sympathy for those circumstances. But it remains the case that it's the role of the executor to make contact with those businesses with which the deceased person held accounts. And I'm not aware of any specific regulatory requirement that existed during the relevant time and required JPMorgan to trace customers or representatives of customers who appeared to have '*gone away*'.

In the absence of a specific requirement I've considered whether to be fair and reasonable JPMorgan should nonetheless have acted sooner to reestablish contact with Mrs M or trace the representatives of her estate.

In 2018 the Investment Association published guidance for its members titled '*Principles for tracing gone away customers*'. The guidance included that authorised fund managers (AFMs) should consider steps to prevent income distributions becoming continuously

unclaimed and reverting directly to the fund after 6 years. And *'AFMs should consider initiating a tracing agency to reunite their client with their assets/cash. This could include undertaking a "gone-away" trace for a customer and/or next of kin/ executors if the customer is believed to be deceased.'*

As JP Morgan noted, and as I said in my provisional decision, guidance such as this doesn't place a requirement on JPMorgan. But it gives an indication of what was considered good industry practice at a particular point in time, and as such I've taken it into consideration in making this decision. This service considers each complaint on its own merits. And my decision relates what I think is fair and reasonable in the particular circumstances of this complaint, irrespective of decisions made in other circumstances.

For many of the 30 years Mr M was *'gone away'* there was no requirement on JPMorgan to chase gone away customers and there was no indication I'm aware of that set an expectation for JPMorgan to take action in respect of such customers. In those circumstances I don't find it unreasonable for JPMorgan to have relied on customers and their representatives to inform it of any relevant changes to a customer's circumstances. But by 2018 good industry practice according to the Investment Association was to seek proactively to reestablish contact with gone away customers.

In these circumstances I find that it's fair and reasonable to say that by 2018 JPMorgan ought to have taken action to track down Mrs M. As JPMorgan said, the IA guidance wasn't prescriptive. Individual firms that chose to implement it could use their own judgement about what activities they would undertake when trying to trace a gone away customer. And I've considered whether JP Morgan took reasonable action to address Mrs M's account. But I've seen no evidence it took any steps of any kind to find or connect with Mrs M or her estate prior to initiating a trace in 2023. Mrs M had most likely been *'gone away'* since 1994 or thereabouts. In these circumstances I don't see how JPMorgan acted at the earliest feasible opportunity or otherwise acted in Mrs M's interests or the interests of her estate.

Mr M has reiterated that he believes JPMorgan should've acted as early as 1994 to trace Mrs M or her estate. But as I've said I don't find that prior to about 2018 there was any particular requirement or industry standard that created any expectation that JPMorgan ought to do that. And I so I haven't concluded that JPMorgan acted unreasonably in that period when it relied solely on Mrs M or her estate to inform it of any relevant changes of circumstance.

If JPMorgan had taken action in 2018 to trace Mrs M – which is what I've concluded it ought to have done in the particular circumstances of this complaint – then it would most likely have located and contacted Mr M by 2019. In saying this I've taken into account the time and resources JP Morgan has said are required to trace a deceased customer's estate. And I've taken into account that JPMorgan in fact located Mr M in 2024 after initiating its tracing exercise in 2023.

If Mr M had been notified in 2019 that Mrs M held the JPMorgan investment I find he would've cancelled the units at that time – as he did in 2024 when JPMorgan contacted him – and withdrawn the capital at that point. Based on what he did when he was notified of the investment I don't think Mr M would've left the investment in place and collected distributions until 2024 if he'd been told about the investment in 2019. Mr M didn't comment on this point in my provisional decision so I'm satisfied this is a reasonable assumption.

To put things right here I'm requiring that JPMorgan puts Mrs M's estate in the position it would've been in if it had redeemed her units on the same date in 2019 instead of 2024. I'm also requiring JPMorgan to pay 8% simple interest on the amount the estate ought to have been able to claim in 2019, from the date it would've been paid to the date the investment

units were in fact redeemed in 2024. Although JPMorgan has pointed out there's no evidence Mrs M's estate would've invested or earned interest on the money paid out had it received that money in 2019, the award of interest is simply to compensate for the fact the estate lost the use of the money for a period of time, irrespective of how the money would've been used.

I know JPMorgan has already paid Mr M £100 to acknowledge a delay in paying out money to the estate. But that payment related to a delay in 2024 between Mr M requesting the payout and JPMorgan making the payout. That is a different matter from the one I'm considering here which is the failure to take any action to trace Mrs M or her estate prior to 2023.

I've thought about Mr M's request that the JPMorgan reimburse all the dividends that were missed, and his comments about the prospectus which JPMorgan referred to. But whether or not the 2001 prospectus reached Mrs M, I'm satisfied that returning dividends to the fund after they'd been unclaimed for six years was a reasonable course for JPMorgan to take. I've seen that it's what the regulator's rules required as far back as 2004 and probably earlier, given JPM's prospectus contained the same provision from at least 2001.

I also find that if Mrs M didn't receive the prospectus in 2001 that didn't necessarily mean JPMorgan could or should act in a way that was inconsistent with the prospectus – particularly if the same provision appeared in the regulator's rules too.

So if JPMorgan had've contacted Mr M in 2019, he would've been able to claim the dividends that had been missed in the six years prior to 2019. But I can't reasonably say he would've had the right to be paid any of the dividends that had been missed in years prior to that.

Putting things right

To put things right for the estate of Mrs M I require JPMorgan Asset Management (UK) Limited to do the following:

1. Calculate what the redemption value of the investment would've been if the units had been redeemed on the same date in 2019 instead of 2024, and add 8% simple interest to that for the period from that date in 2019 to the same date in 2024.
2. Calculate what the value of the previous six years' dividend payments would've been if Mr M had claimed them in 2019 and add 8% simple interest to that for the period from 2019 to the date the investment units were redeemed in 2024.
3. Add together the amounts calculated at (1) and (2) above.
4. If the resulting amount at (3) above is greater than the amount JPMorgan paid Mr M for redeeming the units and claiming missed dividend payments in 2024 then JPMorgan must pay Mr M the difference.

My final decision

For the reasons I've set out above, my final decision is that I uphold this complaint.

JPMorgan Asset Management (UK) Limited must take the steps set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mrs M to accept or reject my decision before 29 September 2025.

Lucinda Puls
Ombudsman