

The complaint

Mrs M complains that Janus Henderson Investors UK Limited ('Janus') had written to her children about her investment, without her consent. She also doesn't believe the investment was suitable or that Janus have considered her changing circumstances since the plan was taken out.

What happened

In 1995, Mrs M invested some monies into a unit trust with a business that was subsequently acquired by Janus some 16 years later. At the time the plan was set up, Mrs M's two children were added to the investment as joint account holders with her.

I've provided a brief overview and timeline of the events that then followed which are relevant to the case:

7 March 2018 – Mrs M writes to Janus, explaining that her circumstances had changed and that she wished to change the trustees from the original names and queried what was required to do so.

16 March 2018 – Janus responded, explaining that they were unable to find the original application paperwork given the time that had passed. They also asked for a copy of the trust documents too.

10 April 2021 – Janus wrote to Mrs M's two children explaining that they needed to submit information to them to undertake their anti-money laundering checks.

30 April 2021 – Mrs M writes to Janus, stating that she was wrongly advised at the time to nominate her children as trustees. She explained that the only trustee should be her husband.

12 May 2021 - Janus responded to Mrs M, explaining that the investment was originally held with another firm they had acquired on 4 April 2011. In their letter, Janus explained to Mrs M how the account was set up and how it could be amended. Janus say that they didn't receive a response to their letter.

11 and 22 October 2021 – Janus were contacted by a firm of solicitors requesting account information. Janus explained that as they didn't have third party authority, no information could be provided to them.

16 June 2023 – Janus were again contacted by a third party, asking for account information, this time by a firm of financial advisers. Again, as no authority was in place, no information could be provided.

21 July 2023 – Mrs M writes to Janus asking them again to change the joint holders on the investment, removing her two children and replacing them with her husband.

2 August 2023 – Janus responded to Mrs M and referred to their original letter of 12 May 2021, setting out how the investment could be altered. They enclosed the relevant forms for completion and return.

15 June 2024 – Janus wrote to Mrs M's son asking him to provide details of his date of birth so they could update their anti-money laundering records.

24 June 2024 – Mrs M writes to Janus, referring to her letter of 30 April 2021, stating that no reply has ever been received to that letter which explained that the only trustee should be her husband.

26 June 2024 – Mrs M raised a complaint with this service about Janus. In summary, she said:

- She was unhappy that Janus had written to her children regarding the investment without her consent.
- She was wrongly advised in 1995 and should have been told to put her monies into a short-term, or time-limited investment.
- No specific correspondence has ever been received, asking if she was happy with the investment or offering alternatives to reflect her changing life circumstances.

24 September 2024 – Mrs M contacted our Investigator and explained that she had no recollection of any documents relating to the actual existence of trustees being given to her.

27 November 2024 – Janus wrote to Mrs M apologising for not responding to her letter of 24 June 2024. They also said, to remove her children from the investment, they still required a completed stock transfer and investment funds form. In addition, Janus explained that when her account was acquired as a result of the acquisition (in 2011), they didn't have the original application to validate what was agreed at the point of sale. As Janus didn't think they'd done anything wrong, they said that they weren't upholding her complaint.

The complaint was then considered by one of our Investigators. He concluded that Janus hadn't treated Mrs M unfairly. Mrs M, however, disagreed with our Investigator's findings. In summary, she said:

- She was wrongly advised.
- Her circumstances had changed in that her health had worsened and her son had attempted to relieve her husband and herself of their assets.
- She has no recollection of any documents relating to the original existence of trustees being forwarded to her.
- Janus had not contacted her over the years to check if she was satisfied with the current arrangements.

Our Investigator was not persuaded to change his view as he didn't believe Mrs M had presented any new arguments he'd not already considered or responded to. Unhappy with that outcome, Mrs M then asked the Investigator to pass the case to an Ombudsman for a decision.

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.

I have summarised this complaint in less detail than Mrs M has done and I've done so using my own words. The purpose of my decision isn't to address every single point raised by all of the parties involved. If there's something I've not mentioned, it isn't because I've ignored it - I haven't. I'm satisfied that I don't need to comment on every individual argument to be able to reach what I think is the right outcome. No discourtesy is intended by this; our rules allow me to do this and it simply reflects the informal nature of our service as a free alternative to the courts.

My role is to consider the evidence presented by Mrs M and Janus in order to reach what I think is an independent, fair and reasonable decision based on the facts of the case. In deciding what's fair and reasonable, I must consider the relevant law, regulation and best industry practice. Where there's conflicting information about what happened and gaps in what we know, my role is to weigh up the evidence we do have, but it is for me to decide, based on the available information that I've been given, what's more likely than not to have happened. And, having done so, I'm not upholding Mrs M's complaint - I'll explain why below.

The crux of Mrs M's complaint is that Janus keep writing to her two children, that's because they are recorded as 'trustees' on the investment she arranged back in 1995. She says that given the relationship between herself and her son has broken down, she doesn't want him having anything to do with the investment and would like him removing from it. And, in any event, she also says that she doesn't ever recall asking for him to be added when the plan was set up.

Mrs M states that the investment was originally arranged as a result of an inheritance that she received from a family member. She went on to say that "*I was directed to nominate my children as trustees in case anything untoward should befall me, and that the proceeds would cover their education needs*". Whilst I can't say for certain, I think it would be worthwhile clarifying here that I've seen nothing to confirm with certainty that the investment in question is definitely sat in a trust; rather I've only seen evidence that the monies are invested in joint names with Mrs M and her two children. What that means is, the children will likely be joint owners so if Mrs M were to die, the monies would automatically pass to them, so the end result would be the same as if the monies were in trust for their benefit anyway. Mrs M hasn't produced a trust document and Janus have made no reference to the plan being in trust other than asking Mrs M for a trust document from her in 2018 (which was never received).

But, if the monies were sat in a trust, given they were ultimately intended to pass to the children on her death (which Mrs M made reference to in her letter), it's more likely than not that they would be beneficiaries of the trust, rather than trustees (the latter of which is responsible for ensuring the trust assets are distributed to the intended beneficiaries – who in this case, Mrs M's letter suggests is the children). I also suspect that's why she has no recollection of ever receiving any documents relating to the actual existence of trustees being given to her, because there possibly isn't a trust in place (although to be clear, I'm not saying that there isn't one). But, if a trust did exist, the trust document is usually a separate standalone instrument within which the investment sits in, so by that I mean it's totally separate to the investment itself. In any event, whether a separate trust document was created or not is largely immaterial to my decision. That's because Janus say the investment is in joint names with the children, so for Mrs M to take back full control, she only needs her

two children removing from it – and if she wishes, her husband's name can then be added to the account. If a separate trust was created which has Mrs M's children as trustees, she simply needs to complete a Deed of Retirement and Appointment to alter who she wants to be a trustee.

From the letters on the file, Mrs M has asked Janus on multiple occasions to replace both her children with her husband. And, on each of those occasions, Janus have written back to Mrs M with instructions on how to do that. But, without the completed paperwork from Mrs M, they're unable to act. Whilst I appreciate that Mrs M's relationship with her son may not be particularly positive, without the necessary paperwork, Janus can't make the amendments she wants to the investment.

I'm satisfied that Janus are not standing in the way of Mrs M being able to make the changes that she wants to the investment and once they have the paperwork that they've asked for, the alterations that she wants can be made. Janus' letters to Mrs M set out exactly what's needed and I don't doubt that if she needs any assistance in how the forms should be completed, their customer helpline would be happy to provide that information.

So, whilst Mrs M may be unhappy that Janus have sent correspondence to her two children, given that they're named on the investment, I don't think that they've acted unreasonably in doing so because they needed to update their anti-money laundering records, which is a regulatory requirement. Janus say that they've not provided any information about the account to Mrs M's son because they've not been able to undertake the anti-money laundering checks necessary to validate his identity. I appreciate that this particular issue has been ongoing for some time, and I do want to acknowledge that Mrs M has asked Janus on multiple occasions to make the amendments, but given the time frame between her first request (in 2018) and the last one some six years later, I think on balance she must've known that the change hadn't been made given that she continued to make the same request over the years. But, it was within her gift to try to resolve the matter by asking her children to complete the forms that Janus had asked for, so I don't think it would be fair to hold Janus accountable for not making the amendment.

In her complaint to this service, Mrs M stated that she has no recollection of any documents relating to the original existence of the trustees being forwarded to her, and she's also questioned the suitability of the original recommendation. However, for me to be able to conclude that Janus have done something wrong, I'd need to be satisfied that they'd not acted in Mrs M's best interests. Janus have explained that they have no record of the original point of sale paperwork because the investment was arranged by a firm that they subsequently purchased in 2011 and their records don't go back that far. However, firms aren't required to hold on to paperwork indefinitely, normally, businesses are only expected to retain paperwork for up to six years, so just because Janus doesn't have the original records from 1995 when the plan was taken out, it doesn't mean that they've done something wrong.

Mrs M doesn't have any documentation to evidence that she was provided with advice in 1995, other than a name on a statement, so there's no clear evidence that advice was actually given at the time. Even if advice was given, I can't reasonably conclude that the use of a trust would've been inappropriate at the time. That's because it would've met Mrs M's need that she's stated she had back then – of helping pass monies on to her children. And, even if a trust wasn't used, I think on balance, it's more likely than not that the merits of placing the investment in joint names with her children was discussed and agreed upon with Mrs M, because I don't think that they would've been added to the plan had a conversation not taken place about it. I say that because the individual who set the plan up at the time, wouldn't have known about Mrs M's children had she not shared their details with them. But, if Mrs M thought that the plan wasn't arranged with her best interests in mind, she could've

pursued the issue further in 2018 (at which point the plan was 23 years old) when she wrote to Janus about the investment, but she chose not to pursue the matter any further until three years later. And, whilst Mrs M says that she never received a response to many of her letters at that time, she could have mitigated her situation by telephoning Janus at any point to follow the issue up, but she chose not to.

I do appreciate that Mrs M's circumstances are now very different to what they were in 1995; the relationship with her son isn't now where she'd wish it to be and her health has deteriorated. But, without the benefit of hindsight, I can't conclude that Janus have done something wrong just because her circumstances are now different to what they were when the plan was originally set up. However, it's important to recognise that 30 years have passed since the plan started, so I think it's reasonable to conclude that most consumers' circumstances would've changed in that time period too.

And, Mrs M has set out that given her circumstances have altered, Janus have failed to contact her to check to see if she's happy with the arrangement. But, as I understand it, Janus aren't providing Mrs M with any advice, the decision on whether the investment remains appropriate and aligned to her and her husband's wider finances is a decision for her to make, so I can't conclude that Janus have done something wrong just because they've not solicited feedback from her. Had Mrs M been unhappy with the investment and wanted to place the monies in a short-term deposit account at any time, that was within her gift to arrange but again, she chose not to.

As I've not been persuaded that Janus have done anything wrong, it therefore follows that I'm not upholding Mrs M's complaint.

My final decision

I'm not upholding Mrs M's complaint and as such, I won't be instructing Janus Henderson Investors UK Limited to take any further action.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 19 December 2025.

Simon Fox
Ombudsman