DRN-6138421

The complaint

The estate of Mr N complains that Zurich Assurance Ltd (Zurich) didn't do enough in 2005 to locate Mr N so it could pay him the benefits from his pension policy.

What happened

Mr N had a Retirement Annuity Contract policy with Zurich which started on 1 November 1971. The policy was to provide him with a pension from age 65. Mr N would reach age 65 in late 1994.

Zurich said that it received the last payment into the policy on 1 February 1975. And that £400 gross was paid in total into the policy.

On 13 February 1975, the Court issued a Receiving Order for Mr N's pension. The Official Receiver sent a copy of this order to Zurich which it received on 13 March 1975. Zurich said that this meant that Mr N was no longer entitled to the benefits from his policy.

Zurich received an enquiry about Mr N's policy from the Trustee In Bankruptcy (TIB) on 14 November 1994. It requested details of his retirement options. Zurich replied on 16 November 1994. It said it didn't receive any follow up to the initial enquiry. It also didn't hear from Mr N when he reached 65.

Zurich said it followed its normal Age 75 process in late 2004 when Mr N would've reached his 75th birthday. It said it would've written to both Mr N and the TIB at this time. Zurich said that under the legislation at that time Mr N's only option would've been to take an annuity.

On 14 June 2005, the TIB told Zurich that it no longer had any interest in Mr N's policy. Zurich then wrote to both Mr N and his adviser on 28 June 2005 with Mr N's retirement options. It said he'd need to use his accrued funds to purchase an annuity. And that all the units within his policy had been cancelled awaiting his instruction.

Royal Mail returned Zurich's letter to Mr N undelivered. Zurich marked Mr N as "gone-away". It said it wouldn't continue to write to an address a policyholder no longer lived at. And that it wasn't its process to trace customers at that time. The estate of Mr N said that he lived at the same address – the one Zurich held on file in June 2005 - for 30 years before his death.

Mr N died in 2015. But Zurich wasn't notified of his death at the time. It therefore continued to hold the funds from his policy.

Zurich carried out a trace which led it to contact one of the executors of Mr N's estate on 27 January 2025. The executor replied to express surprise about the policy, noting Mr N had been dead for almost ten years and that the estate had long since been liquidated.

Zurich contacted the other executor of Mr N's estate on 10 February 2025. It said that the HMRC rules in place at the time Mr N had reached age 75 in 2004 meant that his plan could no longer continue as an investment pension. It said the funds had to be used to purchase an annuity. Therefore, the only death benefit payable was the unpaid backdated annuity

payments that would've been paid to Mr N from age 75 until his death, based on the annuity rates that were in place at that time.

On 17 February 2025, Zurich wrote to the executor of the estate to confirm that the gross annual pension would've been £1,282.73 and would've started on 1 December 2004. As such, there were eleven outstanding annual payments which totalled £14,110.03 before tax. It said basic rate tax of 20% would be applied in line with HMRC requirements.

The executor of Mr N's estate wrote to Zurich on 19 February 2025 to ask for further information about Mr N's policy.

On 11 March 2025, the executor of the estate called Zurich. He complained about Zurich's identification requirements. He said that as there was a tax liability that needed to be paid soon, there couldn't be any delays. He was also concerned that there would be a delay in him receiving information.

Zurich received the completed claim documents shortly after this call. It wrote to the executor on 17 March 2025 to explain that it would soon send the £14,110.03 (before tax) to his account. It also said that it was calculating the backdated interest that was due on the payment. It said it would confirm the details once it'd completed that calculation.

Zurich separately wrote to the executor to explain that it'd located him through a new method which hadn't been previously available to it. And that the exercise through which it'd located him hadn't been a regulatory requirement.

One of the executors then wrote to Zurich on 31 March 2025 to ask for further information about Zurich's communication with Mr N. He wanted to know if Zurich had contacted Mr N at age 65. He also wanted a copy of the letter Zurich had sent Mr N in 2005. And information about what other contact attempts had been made. He also said that the other executor had received a credit of £2,044.96 on 24 March 2025. While he'd assumed this was the backdated interest, Zurich hadn't provided details of the calculation. He asked it to. He also asked when the pension arrears would be paid.

Zurich issued its final response to the complaint on 17 April 2025. It said it'd followed the correct procedures that were in place in 2005. It said it was Mr N's responsibility to keep it updated with any address change. And that in 2005, when the letter it'd sent had been returned, it wasn't its policy to locate gone-away customers.

However, Zurich said that as new tracing options were available, it did now try to find missing customers. It said its recent block tracing had established that Mr N had died. It therefore needed to locate his next-of-kin. It did this in January 2025.

Zurich acknowledged the estate of Mr N had asked it for further information. It responded to some of the questions raised. And said it would separately forward a breakdown of how it'd calculated the interest.

On 22 April 2025, the estate of Mr N responded to Zurich's final response letter. It wanted further information. This included a request for specific information about the interest payment.

The estate of Mr N didn't consider that Zurich had done enough to fulfil its obligations to Mr N. It said a single letter in 2005 didn't meet the requirements of Zurich's own Code of Conduct, nor the FCAs Treating Customers Fairly principles, which had been in effect since 2001. It also felt that Zurich hadn't paid it sufficient interest. It felt that this should've been based on 8% simple each year. It also noted several service failings.

Zurich responded to the estate of Mr N on 16 May 2025. It said that until the TIB confirmed it held no interest in the policy, it had remained vested with the TIB. It said it couldn't send any correspondence to Mr N until the TIB confirmed no further interest. As such, it couldn't write to Mr N at age 65 as he wasn't entitled to the benefits from the policy at that point. It said it wrote to Mr N once the TIB had confirmed it had no further interest in the policy.

Zurich also said that its systems in 2005 weren't sophisticated enough to allow it to trace customers as it could now. And that it wasn't its process at that time to use the electoral roll and many other tracing options. It said it wasn't legally obliged to take those steps.

Unhappy with the responses from Zurich, the estate of Mr N referred the complaint to this service. The crux of the complaint was that Zurich should've done more to contact Mr N after its 2005 letter was returned undelivered.

The estate of Mr N said it'd been disadvantaged. To put things right, it wanted Zurich to take the following steps:

- Pay interest of 8% simple each year on the delayed annuity payments from 1 December 2014.
- Reimburse it for any tax penalties or interest that were caused by Zurich's delay.
- Compensate the estate for the distress and inconvenience it had suffered due to Zurich's sustained failure to meet its obligations.

Our investigator asked Zurich about the tracing it'd carried out for Mr N. It said that it had a tracing process in place in 2005. And that it had no reason to doubt it'd followed this process when its 2005 letter had been returned undelivered. But it couldn't provide any evidence of this due to the passage of time. Zurich also said that Mr N hadn't been included in any other tracing exercises before 2025.

Our investigator felt that Zurich hadn't done anything wrong. He said that in 2005, there was no regulatory obligation to perform any tracing of gone-away customers. As such, he didn't agree with the estate of Mr N that Zurich should pay 8% simple interest on the backdated annuity payments. Nor did he consider that Zurich should cover the cost of any potential tax penalties or interest the estate of Mr N might have to pay as it didn't receive the death benefits until after the estate had been closed.

Our investigator said that there'd been no regulatory requirement for Zurich to complete the trace which had located Mr N's executor in 2025. He therefore felt that it wouldn't be reasonable for him to direct Zurich to do anything differently.

Our investigator acknowledged that the estate of Mr N felt that compensation was due to it for the distress and inconvenience Zurich had caused. But said that this service couldn't award compensation to an estate for distress and inconvenience.

Our investigator didn't think Zurich had made any errors in the management of Mr N's policy. He acknowledged that an annuity needed to be purchased following Mr N's 75th birthday. But felt that as it wasn't in contact with Mr N at the time, it wouldn't have been reasonable for it to have purchased an annuity on his behalf. He said Zurich couldn't know what his requirements would've been. He also noted that it was Mr N's responsibility to purchase an annuity at age 75, as there was no provision in his policy which required Zurich to purchase an annuity at that time.

Our investigator felt that even If Mr N had contacted Zurich before his death, any backdated

annuity payments plus interest would've been paid along with the future annuity payments. He also felt that if the estate of Mr N had located evidence of the policy before 2025, the backdated annuity payments and interest would've been calculated and paid as it had been.

The estate of Mr N didn't agree with our investigator. It felt he'd failed to reference applicable law, regulation, FCA Principles, FOS precedent, or industry code. And that this was contrary to DISP 3.6.4, which required all such factors to be considered when determining what was fair and reasonable.

The estate of Mr N asked the Ombudsman to determine whether Zurich had met its obligations under the FCA Principles, the Finance Act 2004, and established industry practice for tracing customers and managing crystallised retirement funds.

Our investigator repeated his point that there had been no specific regulatory rules for the treatment of gone-away customers in 2005. And that there was no stipulation that a business had to complete any tracing actions. He acknowledged the FCA Principles the estate of Mr N had raised. And accepted that a business could always have done more. But said that this service assessed complaints based on a business's regulatory obligations and its own internal processes. As such, he didn't think Zurich had done anything wrong in 2005. He also didn't think it would be reasonable to say that any potential actions Zurich could've undertaken in 2005 would've been successful.

Our investigator noted that the FCA had issued relevant guidance (FG16/18) in 2016. He said this set out what the FCA expected of firms and provided examples of potential actions they could take to re-establish contact with customers. He also recognised that the Association of British Insurance (ABI) had issued its own guidance in 2018. He said this set out an industry framework for managing gone-away customers. This included principles firms should adopt in dealing with customers labelled as gone-away. And potential tracing methods which referenced the 2016 FCA guidance. But he felt the FCA and ABI guidance wasn't a regulatory change. It therefore didn't change the regulatory obligations on businesses with regards to gone-away customers.

Our investigator said that after the guidance had been published, each provider would've determined the activities it would undertake when trying to trace gone-away customers. He acknowledged that the electoral roll and DWP data were mentioned in both guidance documents. But said that this may not have been something Zurich undertook. He therefore didn't think it was reasonable to say with 100% certainty that any traces Zurich might've completed after 2016 would've been successful. He also didn't think it was reasonable to say that Zurich should've immediately completed any tracing actions on historic gone-away customers following the guidance from the FCA or the ABI. He felt that Zurich had met the standards set out within the FCA and ABI guidance when it located Mr N's executors in 2025.

The estate of Mr N didn't agree with our investigator. It felt that the FCA Principles for Business, in particular Principles 2 and 6, were binding obligations which applied even where specific tracing rules didn't exist. It also still felt that Zurich had failed to meet statutory obligations when it'd failed to vest Mr N's benefits at age 75.

Our investigator repeated his point that the obligation to purchase an annuity at age 75 was Mr N's, not Zurich. He said the policy terms and scheme rules for Mr N's policy didn't explicitly set out what actions would occur following a member's 75th birthday. But he felt that Zurich had acted reasonably when it'd sold the funds and held them pending contact from Mr N.

The estate of Mr N felt that a single failed letter from Zurich couldn't reasonably discharge its

duty of diligence under FCA Principles 2 and 6, given the known circumstances. It said the facts were that Mr N's benefits had crystallised and Zurich knew that although payments were due, contact had failed. It said that Mr N hadn't changed address for 30 years. And that Zurich could've tried to trace him through his adviser, the TIB, and the electoral roll. The estate of Mr N also felt that our investigator had failed to identify and apply relevant law, regulation, or codes of practice under DISP 3.6.4R. It therefore felt his findings were unreliable.

The estate of Mr N felt that Zurich's prolonged failure to trace Mr N or vest the policy at age 75 had caused avoidable and ongoing tax complications for it. It said HMRC was now assessing potential income tax, inheritance tax and late-payment liabilities arising from Zurich's delay. It therefore felt that Zurich should indemnify it for any resulting costs and cooperate fully with HMRC to resolve the position.

The estate of Mr N asked me to consider: the principles, the "fair and reasonable" standard under DISP, the factual chronology of Zurich's inaction, the relevance of reasonable tracing, and the previous decisions this service had made which it felt were similar to this one.

As agreement couldn't be reached, the complaint came to me for a review.

I issued my provisional decision on 22 January 2026. It said:

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 intend to uphold the complaint. I'm not persuaded that Zurich did enough to trace Mr N after the letter it wrote to him in 2005 was returned to it. I'll explain the reasons for my decision.

I should first set out that I acknowledge I've summarised the estate of Mr N's complaint in a lot less detail than it has presented it. I've not commented on every point raised. Instead I've focussed on what I consider to be the key points I need to think about. I don't mean any discourtesy about this, but it simply reflects the informal nature of this service. I assure the estate of Mr N that I've read and considered everything it has provided.

When thinking about whether a firm has acted fairly and reasonably, this service considers the law, codes and good practice that applied at the time of the event.

There is a regulatory requirement that firms such as Zurich should comply with the Principles for Business which are set out in the FCA Handbook. The principles have been in place since 2001. They set out a general statement of the fundamental obligations of firms.

There were no specific rules in the FCA Handbook setting out requirements about the steps businesses had to take to trace gone-away customers. However, there was an expectation that businesses would have processes in place to identify gone-away customers and to take reasonable steps to try to trace them.

In 2016 the FCA published more detailed guidance about the steps it considered firms should reasonably take to trace gone-away customers. It did this because it found that in many cases processes to locate gone-away customers were ineffective and didn't use all relevant customer details to regain contact. It noted that ineffective tracing processes reduced the likelihood that customers would be reunited with their lost pension assets. The 2016 review noted that over half of the firms covered by the review demonstrated weaknesses in gone-away processes that were likely to result in poor member outcomes.

FG16/8 explicitly set out the expectation that providers of pensions "take effective action to locate and make contact with 'gone-away' customers" by having a coherent and documented strategy.

The ABI Framework was published in 2018 and it set out an industry Framework for the management of gone-away customers in the life and pensions market. This was a voluntary agreement designed to help firms to better identify, trace, verify and manage customers with whom they had lost contact and to assist them in re-engaging with such customers in a timely manner.

It's important to note that the measures listed in the FCA guidance (and the ABI Framework) weren't prescriptive. It was a matter for each provider, using its own judgement, to determine the activities it would undertake when trying to trace a gone-away customer. And, although the measures adopted were required to be designed to be "effective," that didn't mean they would always be successful. Nor did it mean businesses such as Zurich were obliged to use all the measures listed in the guidance.

The crux of the estate of Mr N's complaint is that Zurich didn't do enough to contact Mr N about his pension after its 2005 letter was returned to it. Zurich then recorded Mr N as a gone-away customer. So I first considered the actions I think Zurich should've taken between Royal Mail's return of its June 2005 letter and its contact with an executor of Mr N's estate in early 2025.

Zurich's actions between 2005 and early 2025

The estate of Mr N felt that Zurich had failed to meet Principles 2 ("A firm must conduct its business with due skill, care and diligence.") and 6 ("A firm must pay due regard to the interests of its customers and treat them fairly.") of the FCA's Principles for Business. It felt that a single failed letter from Zurich in 2005 couldn't reasonably discharge its duty of diligence under those principles, specifically noting Mr N's circumstances at the time contact had failed. It felt that Zurich should've tried to trace Mr N through his adviser, the TIB, and the electoral roll once it'd lost contact.

Zurich told this service that it had a tracing process in place in 2005. And that while it didn't doubt it'd followed that process when its 2005 letter had been returned undelivered, it couldn't evidence this due to the passage of time. It also said that it hadn't included Mr N in any other tracing exercises before 2025. Zurich felt it had consistently complied with its regulator's practices and guidelines. It said it had continued to enhance its tracing processes in line with advances in tracing technologies.

Zurich said it was Mr N's responsibility to keep it informed of any change of address. But based on the estate of Mr N's testimony, I'm not persuaded that Mr N had anything to report.

I do appreciate why Zurich felt it couldn't continue to write to Mr N at an address from which its 2005 letter had been returned by the Royal Mail. I also have no reason to doubt that Zurich failed to follow its then process for contacting Mr N after its 2005 letter was returned. While Zurich hasn't been able to provide any documentary evidence, that's not surprising given the time that has passed and given record-keeping requirements.

I appreciate that the process Zurich had in place in 2005 would've been less sophisticated than the tracing methods available to it now. And I also consider that it would've been reasonable for Zurich to wait for Mr N to contact it about claiming his benefits. As our investigator noted, it was his responsibility, not Zurich's, to ensure his funds purchased an annuity at age 75. I'll consider the estate of Mr N's complaint on this point later in my decision.

Overall, while I appreciate the estate of Mr N won't agree on this point, I'm persuaded that Zurich did enough to meet the FCA Principles until the FCA and ABI guidance specified additional steps that businesses should consider taking to trace gone-away customers.

Our investigator felt that the FCA and ABI guidance didn't change the regulatory obligations on businesses in respect of gone-away customers. He also felt he couldn't be certain that any traces Zurich might've completed after 2016 would've been successful. Our investigator felt that it wasn't reasonable to expect Zurich to have immediately completed any tracing actions on historic gone-away customers following the guidance. He felt that Zurich had met the standards set out within the FCA and ABI guidance when it located Mr N's executors in 2025.

I don't agree with our investigator that the FCA and ABI guidance didn't change the way the regulator expected businesses to consider its gone-away customers. In my view, the guidance explained that the regulator expected businesses to do more to trace gone-away customers that it had done before that guidance. Therefore I don't agree with his conclusion that Zurich met the standards of the FCA and ABI guidance because it traced Mr N's executors in 2025.

I agree with our investigator that we can't be completely certain that any trace Zurich had completed for Mr N after 2016 would've been successful. But this service operates on what we think would've been more likely than not to have happened, rather than having to be certain that something would happen. On that basis, I think that if Zurich had tried to trace Mr N after the 2016 guidance it would've been more likely than not that a trace would've been successful. I say this given how much more effective tracing has become over time.

While I can't be certain of what would've happened if Zurich had conducted a trace for Mr N before early 2025, on balance of probabilities I think if it'd tried to trace Mr N in the months after the 2016 guidance, it would've been successful. I also consider that as it'd already been 11 years since Mr N's benefits had become payable, and since the last contact attempt, Mr N should've met any reasonable criteria Zurich would've looked at when it considered which of its gone-away customers it should try to trace first.

In summary, I agree with the estate of Mr N that Zurich could've done more between 2005 and the time that 2016 and 2018 guidance came out. But I'm not persuaded that in not doing so, Zurich breached the FCA Principles or the Treating Customers Fairly guidance.

I acknowledge that the estate of Mr N considers that the 2018 ABI Framework for the Management of Gone-Away Customers merely codified standards that had long existed under the FCA Principles. It has also stated that the Treating Customers Fairly initiative from 2001 made it clear that businesses like Zurich were expected to maintain contact with policyholders and ensure benefits were claimable.

While I agree with the estate of Mr N that the FCA Principles existed in 2005, there was no specific guidance or expectations on businesses for tracing gone-away customers under them. It wasn't until the 2016/2018 guidance that the FCA and the ABI specifically addressed tracing gone-away customers. So I don't think it would be fair or reasonable to expect Zurich to have carried out the gone-away traces the estate of Mr N thinks it should've carried out in 2005 until after the 2016/2018 guidance. And I consider that Zurich acted reasonably and in line with the Treating Customers Fairly initiative in 2005. I say this because I'm satisfied that Zurich did attempt to contact Mr N about his benefits. And when it couldn't contact him, it took steps to hold those benefits safely for him until he could claim them.

I intend to uphold this part of the complaint. I'm not persuaded that Zurich treated Mr N fairly when it failed to carry out a trace for him until 2025.

I say this because in the specific circumstances of Mr N's case, where Zurich found out shortly after he reached 75 that his pension had reverted to him, I think it should've carried out a trace no later than three years after the 2016 guidance was published. This means I think it should've carried out a trace no later than December 2019.

I can't know what would've happened had Zurich carried out such a trace, but I have no reason to doubt that it would've been successful. I therefore consider that Zurich should've identified that Mr N had died no later than March 2020.

In reality, Zurich was able to contact an executor of Mr N's estate in January 2025. And it paid interest on the outstanding benefits on 24 March 2025. I understand that it paid the backdated annuity payments on 14 April 2025.

Had Zurich completed a tracing exercise by March 2020, I think it would've paid the estate of Mr N interest on the outstanding benefits around two months later, so by May 2020. And the backdated annuity payments would've followed around three weeks later. As Zurich didn't pay these amounts until 2025, the estate of Mr N has been without the use of this money for the period between May 2020 and March 2025. I therefore intend to require Zurich to take the following steps to put things right:

- *Calculate the interest at 8% simple each year on the £14,110.03 total backdated annuity payments (before tax) over the period from May 2020 to March 2025.*

- *Zurich has already paid the estate of Mr N late payment interest from 1 December 2004 to 21 March 2025. This amounted to £2,556.20 using its own late payment rates. Zurich can offset that part of this interest which relates to the period from May 2020 to March 2025. This will ensure that the estate of Mr N receives Zurich's rate of late payment interest up to May 2020 and this service's rate of late payment interest from May 2020 to March 2025.*

I understand that the executors hold Zurich responsible for avoidable and ongoing tax complications for Mr N's estate, given the late payment of his pension benefits.

While I have sympathy for the estate of Mr N that the benefits from his pension have been paid after the estate's closure, I don't intend to require Zurich to indemnify the estate of Mr N for any resulting costs.

I say this because I'm not persuaded that Zurich should've reasonably completed a trace for Mr N before his estate would've closed. However, if the executors of Mr N's estate can evidence that the estate wasn't closed before March 2020, the date by which I consider Zurich should've contacted it about Mr N's benefits, I will reconsider this point.

I next considered whether Zurich failed to meet its statutory obligations when it didn't buy an annuity for Mr N once he turned 75 in 2004.

Should Zurich have bought an annuity at age 75?

Zurich said it followed its normal Age 75 process in late 2004 when Mr N would've reached his 75th birthday. It said that under the legislation at that time Mr N's only option would've been to take an annuity.

The evidence shows that it wasn't until 14 June 2005, months after Mr N had reached age 75, that the TIB told Zurich it no longer had any interest in Mr N's policy. Although Zurich wrote to Mr N on 28 June 2005 with his retirement options, Royal Mail returned that letter undelivered.

I agree with our investigator that the requirement to purchase an annuity at age 75 was on Mr N, rather than Zurich. I also agree that the policy's rules didn't have any provision specifying what sort of annuity Zurich would purchase if a policyholder didn't make contact with it. Overall, I'm satisfied that it was reasonable for Zurich to hold the unclaimed funds until Mr N claimed them. And I don't intend to uphold this part of the complaint.

I went on to consider the estate of Mr N's complaint that our investigator's decision didn't identify the relevant law, regulation, or codes of practice he'd considered. And that this was contrary to DISP 3.6.4. It therefore felt his findings were unreliable.

The investigator's decision

DISP 3.6.4 states the following:

In considering what is fair and reasonable in all the circumstances of the case, the Ombudsman will take into account:

(1) relevant:

(a) law and regulations;

(b) regulators' rules, guidance and standards;

(c) codes of practice; and

(2) (where appropriate) what he considers to have been good industry practice at the relevant time.

Our investigator told the estate of Mr N that although he hadn't explicitly referenced specific regulations, laws, or standards in his findings, they had always formed a part of his considerations when investigating the complaint. He therefore felt his view was in line with DISP 3.6.4. He also explained that our two-stage process meant that an Ombudsman would further consider the complaint.

As I noted at the start of my decision, we're an informal service. We don't aim to comment on every point raised or specifically state every regulation we've considered. But we do read and consider everything submitted. In light of this, I'm not persuaded that our investigator failed to meet DISP 3.6.4R. But the estate of Mr N is entitled to raise a service complaint if it wants to.

I finally considered the estate of Mr N's request for compensation for distress and inconvenience.

Distress and inconvenience

As our investigator noted, I don't have the power to award the estate of Mr N any compensation for the distress and inconvenience Zurich has caused. So, while I recognise the considerable effort the estate of Mr N has put into this complaint, I'm unable to require Zurich to pay it any compensation for distress and inconvenience.

Having considered all the information provided to me, my provisional view is that Zurich didn't take the steps I would've expected it to take to trace Mr N after the 2016 guidance. I therefore intend to uphold the complaint.

Response to my provisional decision

Zurich said it was disappointed with my provisional decision. But had no additional points.

The estate of Mr N made the following points:

1. It said the Principles for Businesses – which were in force by 2005 and which are regulatory requirements - state the following:

   Principle 2: a firm must conduct its business with due skill, care and diligence.

   Principle 6: a firm must pay due regard to the interests of its customers and treat them fairly.

   It said any relevant obligations on Zurich then arose from those Principles by 2005, not from the time the FCA issued its guidance in 2016. It didn't think Zurich's conduct after its 2005 letter had been returned and it'd recorded Mr N as gone-away was fair and reasonable. Nor did it consider that Zurich had acted fairly when it'd held Mr N's matured funds without further proactive steps. It said my provisional decision hadn't addressed this. It said Zurich's initial failure and subsequent prolonged inaction had caused foreseeable detriment, including the erosion of real value through inflation and predictable tax complexity and cost.

   It said that if my final decision maintained that Zurich had done enough between 2005 and the 2016 guidance, it wanted me to explain how its actions satisfied the standards of diligence, fair treatment and acting in the customer's interests that underpinned the FCA Principles.

   It felt that the absence of guidance pre-2016 didn't negate the binding effect of Principles 2 and 6. And that this meant Zurich couldn't justify inaction in 2005 on the basis that later guidance had not yet been published. It felt the question was whether—once Zurich knew in 2005 that contact had failed—it took reasonable, proportionate steps consistent in line with Principles 2 and 6.

   The estate of Mr N wanted my final decision to address Zurich's stated position that it had taken no further action beyond the initial 2005 letter once it'd recorded Mr N as gone-away. And to explain how that approach could be regarded as consistent with Principles 2 and 6 given the foreseeable detriment from prolonged delay.

2. The estate of Mr N felt that it was more likely than not that if Zurich had attempted to trace Mr N in 2005 it would've been successful. It said that as he hadn't moved house for a long time, a basic electoral-roll check would've been likely to trace him. As such, it felt that Zurich's failure to trace wasn't due to a lack of tracing sophistication, but a failure to take basic steps once it'd marked Mr N as gone-away.

3. The estate said that in my provisional decision, I'd noted that the FCA had published its 2016 guidance because it'd found many cases where gone-away processes were ineffective. And that over half of the businesses reviewed had demonstrated weaknesses in gone-away processes likely to result in poor member outcomes. It didn't think "what other insurers were doing at the time" was a reliable benchmark for what was fair and reasonable.

4. The estate of Mr N noted that Zurich's 2005 letter had been a single notification, not a tracing attempt. It said that from the point that Zurich marked Mr N as gone-away, the question was whether it took any reasonable and proportionate steps to locate him. It felt it hadn't. It felt my provisional decision had treated the single notification letter with the "holding of benefits" as sufficient. But its dispute was about Zurich's

admitted lack of any follow-up action after it had identified Mr N as gone-away. It said Zurich's own evidence was that it didn't trace in 2005, as a matter of procedure and cost. It therefore felt that although I'd said Zurich had followed its process, that didn't help unless my final decision explained how a non-tracing/no-follow-up process could be regarded as reasonable and consistent with Principles 2 and 6.

5. It said my provisional decision hadn't explained why Zurich should've expected Mr N to know that he needed to arrange an annuity at age 75. It didn't think it was fair or reasonable to assume that it was Mr N's responsibility, not Zurich's, to ensure an annuity was purchased, and that it was reasonable for Zurich to wait for him to make contact.

6. The estate of Mr N acknowledged that the estate had been closed before 2020. But felt that the tax detriment had been caused by Zurich's failings. It therefore felt that Zurich should cover the cost of any tax, interest and penalties, and reasonable professional fees. It also felt that any interest I recommended should be grossed up to allow for the tax it would have to pay.

7. It felt that the good practice benchmark was to require a further tracing attempt after around 18 months, and then every three years. As such, it felt my provisional decision's allowance of a further period of around three years after 2016 (plus processing time) was unreasonable.

8. The estate of Mr N sent a further submission which noted that my provisional decision had stated: "*I'm not persuaded that Zurich Assurance Ltd did enough to trace Mr N after the letter it wrote to him in 2005 was returned to it*." It took this to mean that I felt Zurich didn't do enough at the point that the 2005 letter was returned. It therefore couldn't reconcile that finding with my conclusion that Zurich had acted reasonably throughout the period prior to the FCA's later guidance.

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've considered the estate of Mr N's points in the order that I've set them out above.

1. In my provisional decision, I agreed with the estate of Mr N that the Principles existed in 2005. But I explained that there was no specific guidance or expectations on firms for tracing gone-away customers under those Principles. I said that the guidance explained that the regulator expected businesses to do more to trace gone-away customers that it had done before that guidance.

   I acknowledge that the estate of Mr N feels that it's not fair or reasonable for Zurich not to have done more to trace Mr N between the return of its 2005 letter and the 2016 FCA guidance. It has asked me to address Zurich's stated position that it took no further action once it'd recorded Mr N as gone-away. It also wants me to explain how Zurich's approach could be regarded as consistent with Principles 2 and 6 given the foreseeable detriment from prolonged delay.

   As I noted in detail in my provisional decision, the 2016 guidance and the 2018 ABI Framework aimed to help businesses to better identify, trace, verify and manage customers with whom they had lost contact and to assist them in re-engaging with such customers in a timely manner. But none of the measures were prescriptive. It therefore remained the case even after the guidance that it was for each business to

decide which activities it would carry out to trace its gone-away customers. Even under the FCA's 2016 guidance, businesses weren't required to take every possible action to trace a missing customer.

However, the FCA's 2016 guidance was drawn up because businesses weren't always taking successful steps to trace lost customers at that time. Therefore, while it didn't change the regulatory requirements around tracing gone-away customers, it did make it much clearer what businesses were expected to do. This is why I consider that it's reasonable to distinguish between the actions a business took before the 2016 guidance and the actions it took after that guidance was in place.

I acknowledge the estate of Mr N's point about Zurich's tracing process in 2005. But I want to make it clear that we're not the regulator. We can't tell businesses to change their processes. However, the FCA can. But from what I understand, the FCA didn't sanction Zurich for the tracing process it had in place before it issued its 2016 guidance.

It clearly wouldn't be fair or reasonable for this service - which is not the regulator - to require Zurich to have taken steps which the regulator itself did not require or necessarily expect it to take before it issued its 2016 guidance. I therefore can't reasonably agree that Zurich ought to have taken further steps to trace Mr N before the 2016 guidance was issued.

I agree with the estate of Mr N that if Zurich had done more in 2005, it's likely that certain detriments wouldn't have happened. But as Zurich wasn't required or expected to do more at that time, I can't reasonably hold it responsible for those detriments. What I can do is hold it responsible for the detriments that I consider directly stemmed from its failure to take reasonable action in the time after the FCA 2016 guidance.

The estate of Mr N noted that my provisional decision didn't address the fact that Zurich had failed to act fairly when it'd held Mr N's matured funds without further proactive steps.

In my provisional decision, I said I was satisfied that it was reasonable for Zurich to hold the unclaimed funds until Mr N claimed them. I remain of this view. I say this because I'm not persuaded that Zurich acted unreasonably. While I agree it was possible for it to have done more to trace Mr N at the time, there was no requirement or expectation from the regulator to do so at that time. And its own process didn't require it to.

I'm also satisfied that Zurich acted fairly when it held the matured funds in the way that it did. I say this because I'm not aware of any guarantee on the policy to pay benefits that were protected in real terms. And there was no requirement on Zurich to invest in a way that could lead to real increases for Mr N. I've not found any evidence that Zurich did anything wrong here.

2. Under the circumstances the estate of Mr N had outlined, I agree that even with the more basic tracing techniques available in 2005, it may have been possible for Zurich to have traced Mr N in 2005. However, as I noted above, the regulator didn't expect Zurich to immediately trace Mr N once it had marked him as gone-away. Therefore I can't reasonably agree that Zurich did anything wrong when it didn't attempt to trace Mr N in 2005.

3. I made this point to highlight the fact that despite various tracing options being

available to firms before the 2016 guidance, the evidence collected by the regulator showed that over half of firms had weak gone-away processes that were likely to result in poor member outcomes. Therefore, while I acknowledge that other firms might've had more effective tracing processes than Zurich's between 2005 and the 2016 guidance, there's no evidence that the FCA took any action against it or required it to change its process, even though the Principles for Businesses applied at the time.

4. I acknowledge that Zurich's 2005 letter was sent to notify Mr N about his benefits. And that it wasn't a tracing attempt. I've responded to the additional points raised under this point under 1.

5. The evidence showed that Zurich tried to notify Mr N about his benefits. This was what it was expected to do at the time. My provisional decision stated that it was Mr N's responsibility – not Zurich's - to arrange an annuity at age 75. While this is correct, I acknowledge that the estate of Mr N didn't think it was reasonable for Zurich to wait for Mr N to make contact. However, I've already explained why I consider this was a reasonable position to take given the regulator's expectations at the time.

6. I appreciate that the estate of Mr N considers that Zurich should cover the cost of any tax, interest and penalties, and reasonable professional fees. And that any interest I recommend should be grossed up to allow for the tax it would have to pay. But I don't have much further to add to what I said on this point in my provisional decision. I don't consider it would be fair or reasonable to require Zurich to cover the cost of any additional professional fees or tax caused by the estate being closed as I haven't concluded that it should've traced Mr N before the estate was closed. In my view, the costs would've been incurred even if Zurich had done nothing wrong. And I don't consider that the interest I recommend should be grossed up as that is not how this service awards interest.

7. I've tried to fairly and reasonably assess when Zurich should've traced Mr N, based on his specific circumstances and the regulator's expectations. This is not an exact science as we can't know what would've happened if Zurich had taken the steps I expected it to take. I've suggested that it should've tried to trace Mr N within three years of the FCA's 2016 guidance as that also allowed for the ABI framework to be issued, leading to further clarity about what firms were expected to do.

8. With apologies for the lack of clarity, I meant this to read as "in the time from the 2005 letter being returned to the time Zurich eventually traced one of the executors". I didn't mean at the time in 2005.

Having carefully considered the points raised, I remain of the view I set out in my provisional decision.

Putting things right

For the reasons I've explained above, I think Zurich should've carried out a trace no later than three years after the 2016 guidance was published. This means I think it should've carried out a trace no later than December 2019.

I can't know what would've happened had Zurich carried out such a trace, but I have no reason to doubt that it would've been successful. I therefore consider that Zurich should've identified that Mr N had died no later than March 2020.

Zurich did contact an executor of Mr N's estate in January 2025. It paid interest on the outstanding benefits on 24 March 2025. I understand that it paid the backdated annuity payments on 14 April 2025.

Had Zurich completed a tracing exercise by March 2020, I think it would've paid the estate of Mr N interest on the outstanding benefits around two months later, so by May 2020. And the backdated annuity payments would've followed around three weeks later. As Zurich didn't pay these amounts until 2025, the estate of Mr N has been without the use of this money for the period between May 2020 and March 2025.

I therefore require Zurich Assurance Ltd to take the following steps to put things right:

- Calculate the interest at 8% simple each year on the £14,110.03 total backdated annuity payments (before tax) over the period from May 2020 to March 2025.

- Zurich has already paid the estate of Mr N late payment interest from 1 December 2004 to 21 March 2025. This amounted to £2,556.20 using its own late payment rates. Zurich can offset that part of this interest which relates to the period from May 2020 to March 2025. This will ensure that the estate of Mr N receives Zurich's rate of late payment interest up to May 2020 and this service's rate of late payment interest from May 2020 to March 2025.

If Zurich deducts income tax from the interest, it should tell the estate of Mr N how much has been taken off. Zurich should give the estate of Mr N a tax deduction certificate in respect of interest if it asks for one, so it can reclaim the tax on interest from HMRC if appropriate.

My final decision

For the reasons explained above, I uphold the complaint. Zurich Assurance Ltd must take the actions detailed under "Putting things right".

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mr N to accept or reject my decision before 10 March 2026.

Jo Occleshaw
Ombudsman