

The complaint

The representative for The Estate of Mrs S complains that J.P. Morgan Trustee & Administration Services Limited, trading as J.P. Morgan Asset Management (J.P. Morgan):

- refused to reissue income distribution cheques payable to the late Mrs S once Letters of Administration had been obtained; and
- gave him incorrect information which led to him unnecessarily spending time collating the income distribution cheques that hadn't been presented for payment.

What happened

I understand that Mrs S died in 1970. The late Mrs S held an investment that was subsequently taken over by J.P. Morgan. Income distribution cheques in respect of the investment were issued, but not presented for payment, between early 1968 and 2002. It appears that in 2002 the investment product was converted to an open ended investment company (OEIC) and no further income distribution cheques were issued.

The information available shows that the previous product provider (Save and Prosper) contacted the late Mrs S's husband in 1973, apparently in response to a request from him to reinvest the distribution payments. It explained that this would not be possible as the payments formed part of Mrs S's estate.

The late Mrs S's husband also wrote to J.P. Morgan in October 2006, regarding the investment the late Mrs S held with it. In the letter he asked J.P. Morgan not to class his late wife's investment as an 'unclaimed asset' and acknowledged that he needed to obtain probate and hoped to do so *'early in the New Year.'*

Unfortunately, the late Mrs S's husband did not obtain probate and in 2021 the representative for the estate of Mrs S contacted J.P. Morgan as he was aware that there were a number of distribution payment cheques that had not been presented. I understand that J.P. Morgan told the representative that it would be able to pay the estate the value of the cheques.

Once the representative had obtained Letters of Administration, he sent the expired cheques together with a spreadsheet listing them to J.P. Morgan in early 2022.

J.P. Morgan then said it would not make a payment to the estate in respect of the cheques. It apologised for initially saying this would be possible and paid the representative £125 to compensate him for the time he had spent collating the cheques. It explained that unpaid distributions were returned to the fund after six years.

The representative was not satisfied with J.P. Morgan's response and referred the matter to this service.

After the complaint had been referred to this service J.P Morgan told our investigator that it was willing to pay the representative a further £200 to compensate him for the time he had spent collating the cheques.

Our investigator said he felt the offer J.P Morgan had made to pay the representative a further £200, in addition to the £125 it had already paid him was fair to compensate him for the time he had spent collating the cheques. The investigator said he didn't think J.P Morgan needed to do any more to resolve this aspect of the complaint.

In relation to whether J.P Morgan should honour the cheques; the investigator initially considered the merits of this aspect of the complaint. But as it appeared the late Mrs S's husband was aware that there might be a problem with the investment by no later than October 2006, the investigator said he had to ask J.P Morgan for its consent to consider this aspect of the complaint, as it appeared it had been brought too late for this service to be able to consider it.

He explained that, if a business objects to this service considering a complaint, we can only consider the complaint if it has been referred within six years of the event complained about or, if later, within three years of the date the complainant ought reasonably to have known that they might have cause for complaint. Or, if exceptional circumstances had prevented the complainant from bringing a complaint any sooner.

J.P Morgan said it did not consent to this service considering this aspect of the complaint as it said it felt it had been brought too late for this service to be able to consider it.

The representative did not accept that the complaint about the distribution payment cheques had been brought too late and asked for an ombudsman to consider the complaint. He also said J.P Morgan had not contacted him to offer a further £200 in connection with the time he had spent collating the unbanked distribution payment cheques.

As J.P Morgan said it did not consent to this service considering the complaint, the investigator considered whether the complaint had been brought within the timescales this service must apply. Having done so he noted it was more than six years since the distribution payment cheques were issued. He then considered when the estate of Mrs S ought reasonably to have known that there might be cause for complaint.

Having done so, he said he felt that by no later than late 2006, when the late Mrs S's husband had written to J.P Morgan about the investment, the estate ought reasonably to have known that there might be cause for complaint, particularly as the late Mrs S's husband had previously contacted the previous product provider about the distribution payment cheques.

He said that, under the rules this service must apply, the estate then had three years from this date to bring a complaint about the investment and the distribution payments if it felt J.P Morgan had acted incorrectly or unfairly. As a representative for the estate hadn't brought a complaint until 2022, over 16 years later, he said he felt the complaint had been brought too late for this service to be able to consider it.

He noted that this service can consider complaints referred out of time – but only if exceptional circumstances had prevented the complainant from bringing their complaint any sooner.

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.

distribution payments from 1968 to 2002

This service does not have the power to consider every complaint referred to us. In particular, the rules set by the industry regulator the Financial Conduct Authority (the FCA), in the Dispute Resolution Sourcebook (DISP) say:

The Ombudsman cannot consider a complaint if the complainant refers it to the Financial Ombudsman Service:

(2) more than:

(a) six years after the event complained of; or (if later)

(b) three years from the date on which the complainant became aware (or ought reasonably to have become aware) that he had cause for complaint;

unless the complainant referred the complaint to the respondent or to the Ombudsman within that period and has a written acknowledgement or some other record of the complaint having been received;

Unless a business consents, or exceptional circumstances apply, we're unable to consider a complaint made outside these time limits.

It is not in dispute that this complaint was made more than six years after the distribution payment cheques were issued to the late Mrs S. The cheques in question were issued between 1968 and 2002. The representative brought a complaint about J.P Morgan's refusal to pay the estate the value of these cheques in 2022, around 20 years after the most recent cheque had been issued.

I must therefore consider whether the complaint was brought within three years of the date a representative for the estate of Mrs S knew, or ought reasonably to have known, that there might be cause for complaint.

I note the representative says he only became aware that he might have cause for complaint in late 2021. But the test I must apply is when the estate of Mrs S *ought reasonably to have become aware* that there might be cause for complaint.

I have carefully considered the information available. Having done so I think that a representative of the estate ought reasonably to have become aware that it might have cause for complaint by no later than late 2006, when the late Mrs S's husband wrote to J.P Morgan asking it not to treat his late wife's investment as an 'unclaimed asset'.

In reaching this view I have taken into account that the previous product provider (Save and Prosper) also wrote to the late Mrs S's husband in 1973, apparently in response to a request from him for it to reinvest the distribution payments. It explained that this would not be possible as the payments formed part of Mrs S's estate. So as early as 1973, a representative for the estate of Mrs S was aware there was an issue with the distribution payments.

In response to our investigator's view the representative for the estate of Mrs S said:

My complaint is essentially in chief about the refusal to pay the dividends now that Letters of Administration have been obtained for my mother's estate. The refusal only happened in 2022 - prior to this there was no apparent refusal. The exchange of two letters between my

father (his letter of 30/10/2006) and JP Morgan (their letter in reply of 1/11/2006, acknowledging receipt of my father's letter), contained no such statement of refusal from JP Morgan...

I appreciate the representative's position. But as I set out above, the rules I must apply allow *'three years from the date on which the complainant became aware (or ought reasonably to have become aware) that he had cause for complaint'*. The late Mrs S's husband contacted the previous product provider about the distribution payments in 1973, and then contacted J.P Morgan in 2006, asking it not to treat the investment as an 'unclaimed asset'. In view of this, I cannot reasonably agree that a representative of the estate of Mrs S was unaware that there might be cause for complaint about this investment before 2022.

As a representative of the estate of Mrs S did not refer a complaint about the distribution payments to this service until 2022, over 16 years after the second time a representative had contacted the product provider with concerns about the investment, and as the representative has not provided anything to show that exceptional circumstances prevented a representative of the estate of Mrs S from bringing a complaint any sooner, my decision is that this aspect of the complaint has been brought too late for this service to be able to consider it.

I do understand that this is not the decision the representative was hoping for, but as I set out above, this service does not have the power to investigate complaints referred to us outside the timescales we must apply, unless the business consents.

time spent by representative collating distribution payment cheques

In response to the investigator's view the representative said J.P Morgan had not contacted him to offer to pay him a further £200, for the time he had spent collating the distribution payment cheques.

I apologise if there was any confusion caused by this service on this point. I can see from the information we have in relation to this complaint that J.P Morgan told this service that it wanted to offer the representative a further £200 in relation to this aspect of the complaint.

I think J.P Morgan's offer to pay the representative a total of £325 for the time he spent collating the distribution payment cheques is fair and I simply leave it to the representative to decide if he now wishes to accept this offer.

My final decision

My decision is that I think the redress J.P. Morgan Trustee & Administration Services Limited, trading as J.P. Morgan Asset Management, has offered to pay the representative for the time he spent collating the distribution payment cheques is fair.

I don't think it needs to do any more to resolve this aspect of the complaint I simply leave it to the representative to decide if he now wishes to accept the addition £200 J.P Morgan has offered to pay him, in addition to the £125 it has already paid him.

In relation to the aspect of the complaint relating to whether J.P Morgan should pay the estate the value of the distribution payment cheques, as I have set out above, this aspect of the complaint has been brought too late for this service to be able to consider it.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mrs S to accept or reject my decision before 5 January 2024.

Suzannah Stuart
Ombudsman