

The complaint

Mr W complains about the way Computershare Investor Services Plc treated him when he was given an option to buy some shares. Mr W's complained that his option could only be exercised online, and that there was a delay acting on the instruction he gave.

What happened

A company Mr W held shares in decided to issue some new shares in 2020, to raise some money. They offered existing shareholders the chance – an *“option”* – to buy a proportionate amount of the new shares, so that their stake in the company wouldn't be diluted by the new shares being issued. The company arranged for Computershare to receive the instructions from shareholders, and to operate a market for buying and selling the options.

The company limited the timescale for deciding what to do to a couple of weeks in September. In their prospectus they said this – and circumstances relating to the global coronavirus pandemic – meant shareholders would have to submit their instructions online.

Mr W had heard about the share issue, but hadn't received any details in the post. So he called Computershare on 14 September 2020. It seems to be agreed they explained that the instructions needed to be submitted online, and that Mr W had three options if he wanted to do something.

Mr W submitted his instruction online on 15 September, using a computer in a public library. He chose to do a *“cashless take up”*. That meant Computershare would sell some of his options, and use the money from that to buy the rest of the shares available to Mr W.

Mr W says he really wanted to buy all the shares available to him. But he didn't do that because he felt the details he'd need to enter online to pay for the shares wouldn't be secure with the computer he was using.

Computershare have said they acted on Mr W's instruction on 21 September. Mr W complained about this delay, saying the options had been worth much more when he gave Computershare his instruction. Computershare responded, saying they'd acted in line with their terms and conditions.

The complaint came to me for a formal decision. I explained last time that I found the decision to have instructions submitted online wasn't made by Computershare, so they weren't responsible for Mr W's dissatisfaction with that. But I did find Computershare hadn't then done enough to meet the terms and conditions of the service they did provide. Specifically, they unreasonably delayed carrying out Mr W's instructions.

In response, Mr W has written at length that he still feels Computershare were responsible for saying instructions had to be given online. Computershare have responded too, explaining that they were *“obligated to sell the shares within the deadline advised”*. They also said they provided the best possible result for shareholders by providing the best execution price, not by being account managers.

The case is now ready for me to make a final 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.

Having done so, my understanding of this case is unchanged by the comments I've received from Mr W and Computershare. That means my decision is unchanged too. So I'm going to largely repeat what I wrote last time. But I'll add to that in places, where doing so will help address the points that have been raised by Mr W and Computershare.

I'm still of the view that what's written in the prospectus that the company issuing the shares published at the time is key when considering Mr W's complaint about having to submit his instructions online.

On page three of that prospectus, the company issuing the shares explained that instructions could only be made online. On page six, they explained this in more detail, saying it was because the application deadlines didn't give shareholders much time, and because of circumstances surrounding the coronavirus pandemic.

That tells me it was the company issuing the shares that decided to make the process online only. While I appreciate that was inconvenient for Mr W, his complaint seems not to sit with Computershare. It's with the company issuing the shares, which set the timescale for his decision, and specified how his decision was to be communicated.

Mr W's commented that the prospectus says on its first page that it was prepared by Computershare. I can't see that on the version I've got. Nor is that on the version found on the share issuing company's website. Even if it did say that, I feel that overlooks all the points where the prospectus explains it is the share issuing company that's decided how to issue the shares and options. And it feels like common sense that the company issuing the shares would be the one deciding how to do that. I don't agree with Mr W that Computershare made the decision to have instructions be online only.

I also note Mr W's sent us a letter another investor platform issued about the matter. That refers to the company issuing the shares, and not once mentions Computershare. That again tells me it's the company issuing the shares that controls the process for that issue.

Mr W's taken part of that letter from the other investor platform as saying an instruction could have been received by phone. He feels that shows Computershare could – and should – have done more to take his instructions in alternative ways too. But I feel Mr W is overlooking what the rest of the document says.

The full quote talks about logging in to an online platform to submit instructions. The phone call service is only offered to people who *"have any trouble logging in"*, and notes *"when you call we'll help to get you back online"*. There is still an online element to the service provided by that other company.

As the decisions about how to submit instructions came from the company issuing the shares, I find that's where Mr W's complaint more properly sits. But we don't have jurisdiction to look at complaints about the company issuing the shares. So I'm not going to consider that part of this complaint any further.

Mr W's commented about not receiving the prospectus at the time, and a phone call he had with Computershare where he was told it hadn't been sent out to him. While I appreciate

Mr W wasn't happy about that, it doesn't change my view that the prospectus is evidence Computershare weren't responsible for saying the instructions had to be made online.

The same call Mr W's referred to also did enough to put right any delay in the document reaching Mr W. The call explained his options to him well enough that he was then able to take action the next day. Even if Mr W had received the prospectus – which appears to have been written only a few days before he called Computershare – I can't see his actions would have been much different, given the tight timescales for the whole process. As such, I don't see any further action is needed from Computershare to address this delay point.

The prospectus above explained the main service Computershare were providing to Mr W – they would be his agent when executing the instruction he'd submitted. Complaints about that service are within our jurisdiction, so that's the focus of the rest of my review.

The prospectus tells me Mr W had to submit his instructions by certain cut-off dates. If he did, Computershare would then instruct a broker to sell the options on the business day after the cut-off date he'd met. I agree with Computershare's comments that these terms created an obligation for them to sell the shares within the deadlines set.

Here, Mr W's instruction on 15 September met the "*Interim Cut Off Date*" of 16 September. So Computershare should have instructed the broker on 17 September. But it looks like they didn't – the sale didn't start until 21 September.

That means there has been a delay here. The question for me is whether that delay was reasonable, given all the circumstances of the case.

There were other terms in the prospectus that explained Computershare might not instruct the broker by the date they'd said. The terms said they reserved a right to instruct a broker at any date before the "*Final Dealing Date*" – 21 September for the cashless take up.

A further term said that after instructing a broker, "*Computershare and the Broker will then take all sufficient steps to obtain the best possible results*" for the customer.

So from these terms I conclude Computershare could delay the instruction of a broker, but it would only be reasonable if they thought doing so would obtain the best possible result for Mr W. Computershare have said about having to give their customers the best execution price to achieve that. I accept that's an important factor to consider, but the term doesn't limit them to just that.

I've had our investigator ask Computershare why there was a delay in this case. They said:

"...due to the high volume of the number of trade instructions received for the Capital Increase, all sale instruction were aggregated... this is not only the reason for the delay seen between the dates, but also... ensure[d] that the best possible result [was] obtained for the shareholder."

This tells me Computershare's reason for delaying acting on Mr W's instruction wasn't driven by an attempt to get the best execution price for their customer. Instead, it was because they'd received a lot of instructions from a range of customers.

The terms said Computershare could aggregate instructions from different customers, if they wanted to. In that case, each individual customer would receive an average price. The terms said that "*may result in a more or less favourable price*" for the customers.

I can't see that Computershare had seen anything to suggest that delaying or aggregating Mr W's instruction would achieve a better execution price for him, or more generally the best possible result their terms said they'd achieve. That leads me to conclude that Computershare acted unreasonably in this case, because they didn't do enough to consider all the factors needed to ensure they met their terms and conditions. Specifically, the term that said they would take sufficient steps to obtain the best possible result for Mr W.

Putting things right

To resolve this complaint, my aim will be to put Mr W in the position he would have been in, if Computershare had instructed a broker on the working day after the interim cut-off date. That's what their terms tell me should have happened in this case.

That means that the broker would have been instructed here on 17 September. A simple approach will therefore be to value Mr W's options on that date, instead of at the 16p per option value they had on 21 September. If the value was greater on 17 September, Mr W would have been able to sell fewer options, and buy more shares.

So to put things right, Computershare should work out how many more shares Mr W would have bought in September 2020, and then buy that many shares for him – at today's price. So that Mr W can check Computershare have done that, they should also provide him with a copy of their calculation, and provide him with evidence for the 17 September 2020 valuation they've given the option, and the price of the shares when they buy them.

In addition, I've thought about whether compensation should be paid for the trouble and upset Computershare have caused for Mr W. I provisionally find some compensation is justified, but it should be limited.

That's because some of Mr W's upset in this case was with having to give his instructions online. But as I've discussed, that wasn't due to any failing by Computershare.

But the subsequent delay in carrying out Mr W's instruction would have added to his overall frustration with the situation. A modest figure of £100 compensation would reflect that additional impact, and balance it against the fact this was a loss of a potential asset, rather than affecting money Mr W was relying on for day-to-day living expenses.

My final decision

I partly uphold Mr W's complaint about Computershare Investor Services Plc. To put this right, they should do the following:

- Pay Mr W £100 compensation for the trouble and upset caused.
- Provide Mr W with the shares he would have been able to buy in September 2020 under the cashless take-up option, if his instruction had been carried out on 17 September.
- Give Mr W a copy of the calculation they've done and evidence they've relied on when working out the value of his options on 17 September 2020, and details of the price paid for the shares purchased.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 18 March 2022.

Paul Mellor
Ombudsman