DRN-3879253

The complaint

Mrs W complains about Computershare Investor Services Plc. She said the information she was given about how to exercise the share options on her share save scheme was confusing. This led to her not purchasing shares at the time and realising any profit she could have made from this arrangement.

What happened

Our Investigator thought the complaint should be upheld. Computershare disagreed with the Investigator's opinion. The complaint was then passed to me.

I issued my provisional decision saying that Mrs W's complaint should be upheld for essentially the same reasons as our Investigator but with different compensation than the Investigator had recommended. A copy of the background to the complaint, and my provisional findings, are below in italics and form part of this final decision.

What I said in my provisional decision

Mrs W was a member of her employer's share save scheme and she retired from this employer in March 2021. She says that she understood she could continue to contribute to the scheme for six months after this. And then exercise her share options.

There are two businesses that administered the share save scheme. I've seen this described as a 'split administration' arrangement. A business I'll call Firm E was described as the 'savings carrier'. And this business looked after the contributions and was the contact point for Mrs W when she was a scheme member.

Computershare was the 'scheme administrator'. It is authorised by the Financial Conduct Authority (FCA) and is the entity that provided the online systems and dealt with the closing of the scheme. Mrs W needed to make a choice to buy the shares within six months of her leaving date to Computershare and Computershare would administer this on her behalf.

In April and May 2021, Mrs W was in contact with both Computershare and Firm E. Computershare's phone notes show she was referred to Firm E by Computershare at this time. I understand this was largely to arrange the further payments she wanted to make into the scheme.

Mrs W says that she called Firm E on 13 September 2021 to exercise her share options. She was told to put the request in writing. Mrs W did this in the email sent on 17 September 2021, and Firm E passed on Mrs W's request to Computershare on 22 September 2021. As far as I can see Computershare didn't act on this request. But it's established that Mrs W told Firm E, and Computershare, that she wanted to purchase the shares at this time.

Mrs W chased the share ownership on 4 October 2021. She was told by Computershare to make a selection to Firm E. She was not aware, or I understand told, that Computershare had received her earlier election to purchase the shares. Or that Computershare was the correct entity to make her share option choice to.

Mrs W says that in November 2021 she became worried about her options and that she may lose her savings entirely. I understand that on 5 November 2021 Mrs W logged onto the online portal and took steps to withdraw her savings.

Mrs W was also in contact with her ex-employer at this time, and I've seen the correspondence she had with the Share Plan Manager at this firm. This correspondence shows it was clear that Mrs W wanted to keep her shares rather than close her account and take the savings.

Mrs W had found this very difficult to do because of the information she had been provided. Because of this, the employer gave an authorisation to reverse the account closure and said that Mrs W should have the option to exercise her shares and sell them at an appropriate time. Her earlier instruction to receive her savings back had not been fully actioned and she had not received the funds.

The account reconstruction began shortly after this. Mrs W was contacted on 29 November 2021 and asked what she wanted to do with her shares. She responded straight away and asked that her shares be sold. The share sale took place on 8 December 2021.

Mrs W then complained to Computershare on the basis that she had found the process to obtain and sell the shares very problematic and this may have caused her a loss.

Computershare has considered Mrs W's complaint but it has not upheld it. It explained that as the plan administrator it would arrange Mrs W's leaving options and so it shouldn't have referred her to Firm E to do this on 4 October 2021. However, once it was realised that she had given an option to keep her shares her plan was 'rebuilt' and the shares were allocated to Mrs W so she has not lost out. It offered Mrs W £25 for giving her incorrect information.

In some further correspondence Computershare said that it would have informed Mrs W that she could log on to the online system and choose what to do with her shares. And she needed to have done this within six months of her leaving date. So, it would have been correct to close her share save account and return her savings. It offered a further £25 for the delayed complaint response.

One of our Investigators has considered this complaint and has upheld it. She said it was clear that Mrs W was given misleading information and that Computershare should have done more to resolve this situation. So, it should compare the situation Mrs W would be in if the shares were sold on 18 October 2021.

Mrs W accepted this, with some reservations.

Computershare doesn't agree. It maintains that as Mrs W's six-month period ended on 23 September 2021 and she didn't contact it until 4 October 2021 it was right to return her savings as she no longer had the option to sell her shares. The reconstruction was a gesture of goodwill and Computershare was not liable to do it. It had no contractual or moral obligation to do anything differently than close her account and return her savings.

As no agreement has been reached the complaint has been passed to me to consider. And I'm now contacting both parties with my provisional decision about how I think it should be resolved.

What I've provisionally decided – and why

I've considered all the available evidence and arguments to provisionally decide what's fair and reasonable in the circumstances of this complaint.

Computershare has essentially said it doesn't think it should pay compensation as it provided information to Mrs W about what she needed to do, and as she didn't do this under the terms of the share save scheme, it acted correctly. It says it has no further responsibilities than this. But I think Computershare also has responsibilities in respect of how it treats its customers under the FCA's rules. I've outlined some of these below.

The FCA's principles for business (PRIN) are that a business must work within certain principles. These are contained in PRIN 2.1.1R in the FCA's handbook and are that a business must:

'…

2. Skill, care and diligence. A firm must conduct its business with due skill, care and diligence.

…

6. Customers' interests. A firm must pay due regard to the interests of its customers and treat them fairly.

7. Communications with clients. A firm must pay due regard to the information needs of its clients, and communicate information to them in a way which is clear, fair and not misleading.'

I think these overarching principles are such that Computershare needed to ensure its interactions with Mrs W were fair, that it took reasonable steps to resolve the problems she was experiencing and provide a good outcome for her. I think Computershare has failed to adhere to these principles here. I don't think Computershare has acted carefully and it hasn't acted with regard to Mrs W's interests. I don't think it communicated with her in a reasonable way.

I've outlined that series of events that led to Mrs W having the problems she did. And it's very clear that she had difficulty obtaining straightforward information about her options with the scheme. This ultimately led to her not logging on to Computershare's online portal and selecting to keep her shares. It also led to her making a choice to close the scheme as she was concerned she would not receive anything at all.

This was recognised at the time by the Share Plan Manager at Mrs W's ex employer. This employer instructed Computershare to rebuild Mrs W's account, because of what they described as Mrs W having 'quite a challenging experience'. Whilst this was the right thing to do in principle, I don't think it went far enough.

Computershare should have ensured that Mrs W was receiving the right information itself. Its own telephone notes show that it referred Mrs W to Firm E both in May and October 2021. Whilst this wasn't unreasonable given their respective roles, it should also have provided much clearer information to Mrs W about what she needed to do. I don't think the standard 'leaver pack' emails and the information on the online platform were enough here.

There also still seems to be confusion on Computershare's part about what information Firm E provided to Mrs W. As the authorised business here, Computershare needed to have got this right.

And I think this would have been crucial in late September 2021 when it received information from Firm E that Mrs W wanted to exercise her option to purchase the shares. I think it's reasonable to say that Computershare was made aware of what Mrs W wanted to do. And even if the instruction wasn't given in the usual manner (I'm assuming here it wasn't) Computershare should have recognised that the right thing to do would be to provide Mrs W with more assistance and / or act on the instruction she had given.

This wasn't a case of Mrs W not acting on information she had been given. She had been provided with confusing and contradictory information over a long period of time. Partly by Computershare. It should have recognised this and put things right for Mrs W. As far as I can see it didn't do anything here, in fact she was again directed to Firm E a short time later.

It's disappointing for Computershare to now indicate to the Financial Ombudsman Service that it considers the right thing to do would have been to return Mrs W's funds as she missed the deadline to purchase the shares. It was already recognised at the time that this wouldn't be right. And I can't see how it can reasonably say this now, I can only assume that it doesn't fully understand its responsibilities as a regulated business and administrator of this scheme.

Mrs W gave a clear indication that she wanted to purchase the shares in the share save scheme. I think, given all of the circumstances of this case, when Firm E forwarded Mrs W's request to exercise her shares to Computershare should be considered to be the time she made her decision to purchase the shares. Computershare received this before end of the six-month period, that is on 22 September 2021.

I appreciate that ordinarily Mrs W would have made this election by Computershare's online system. But I have considered the terms and conditions of the share save scheme and I don't think they are such that Mrs W could only elect to purchase the shares by this method. And given the circumstances of this compliant I wouldn't think this would be right in any event.

I think it's reasonable to say that within seven days Mrs W should have had share ownership. This would be the 29 September 2021. She made an election to sell her shares immediately when asked. And I think it's likely she would have done this if she had the shares at this earlier time. Another seven days is a reasonable time to administer the sale. So, I think the shares would have been sold on 6 October 2021. I currently think Computershare should compensate Mrs W on this basis.

I also think it's clear that Mrs W became very distressed at this situation and she was struggling to know what to do. And she's talked a number of times about the panic she felt at the end of the process when she elected to close the account. I think this could have been largely avoided if Computershare had acted properly. I think £300 is reasonable compensation for this distress and inconvenience.

Computershare might think it's unfair that it compensates Mrs W fully for her loss as two businesses were involved in the administration of the scheme. But Computershare was responsible for administering the closure, and this is where the errors that she has complained about occurred. So, I don't think this is unfair.

Developments

Computershare, and Mrs W, confirmed that they had received my provisional decision and they both commented on what I had said.

Mrs W broadly agreed with my decision, but she did think that the amount I had said was reasonable for the distress and inconvenience she had suffered should be increased.

Computershare, didn't agree with my provisional decision. It reiterated the timeline of events that took place after Mrs W left her employer in respect of the share save scheme. And it said that:

- It received Mrs W's instruction on 22 September 2021, in a non-standard format, (by email from Firm E) less than twelve hours before her options were due to expire. As she needed to exercise this via its online system there was not enough time to contact her and arrange this.
- An email was sent Mrs W to say her options had been made available on 30 September 2021. But when she called on 4 October 2021, she was directed to Firm E incorrectly.
- By this time she had already received instructions, via email, that signposted her to the online platform and told her what she needed to do.
- Computershare disagrees that she was provided with confusing and contradictory information.
- And it did the right thing when it offered her further options after the deadline date had passed.

As no agreement has been reached, I've gone on to issue my 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.

I'll firstly say that whilst Computershare has provided a full response there isn't any new information or points raised in it as such. So, my decision remains the same as outlined in the provisional decision for essentially the same reasons. I'll respond to some of the issues Computershare has raised below.

It's established that Mrs W was confused about the process she needed to follow and was finding it very difficult to put in place what she wanted to do. This is shown in the communications I've seen, and it should have been clear to Computershare. It was evident to Mrs W's ex employer who felt it was reasonable to ask that her account was reconstructed after she withdrew the funds from it. With this background in mind, I don't think it's unreasonable to say that Computershare, as the business that was administering her share scheme options, should have done what it could to resolve the issues Mrs W was experiencing. I still don't think it did this.

Computershare received an email from Firm E on 22 September 2021. It has said this was a 'non-standard' communication and it was close to the deadline Mrs W had for choosing her share scheme options. I think this is at the heart of the issue here. Which is did Computershare act fairly and reasonably, given the circumstances, when it received this email.

Computershare contacted Mrs W (also by email) with details about how she should make her choice using its online platform. But it already had information about what Mrs W wanted to do with her scheme savings, even if this hadn't been provided by the online system. Computershare was essentially asking Mrs W to provide the same information a different way. I don't think this was treating her fairly.

I still don't think the terms and conditions of the scheme that say it needed to do this. And after Mrs W's account was reconstructed Computershare acted on an email instruction to sell the shares. So, I don't think it needed to direct Mrs W to the online platform.

I don't disagree that the email correspondence Computershare provided to Mrs W did give her correct information. But I don't think this was enough here. This is because the telephone conversations didn't always give correct information, for example the call on the 4 October 2021 incorrectly redirected her to Firm E. And it has to be borne in mind that it seems Mrs W was making these calls as she was confused. And she was contacting Firm E as she thought this is what she should have been doing. She had been directed to Firm E by Computershare in the past. And that it continued to do this makes me think there may have been a lack of clarity about the correct process Mrs W needed to follow at Computershare itself.

Computershare did provide assistance to Mrs W when the account was finally closed in late November and early December 2021. What I am essentially saying here is that Computershare should have provided this assistance in September 2021. It could have acted on the email correspondence differently, as it eventually did, or corresponded with her in a way that ensured she was clear about what she had to do. I don't think it did this in September 2021.

I still think if Computershare had acted correctly Mrs W would have had enough time to obtain and sell the shares by 6 October 2021.

I have taken on board what Mrs W has said about the distress and inconvenience she has suffered. And whilst it is clear this is significant, I do also have to bear in mind that after Mrs W's employee became involved Computershare did take steps to put this right albeit I still think this was still a little bit too late and it didn't do enough. So, overall, I still think £300 is reasonable compensation for this.

Putting things right

To compensate Mrs W fairly I currently think Computershare should determine if Mrs W has suffered a loss due to not being able to sell her share save scheme shares on 6 October 2021. Computershare should:

- Determine the amount of shares Mrs W would have purchased if she had exercised her share option on 22 September 2021. (I'm assuming this would be the same, 2844).
- Determine the share price for the shares at 6 October 2021, and use this to calculate the amount she would have received from the scheme if the shares were sold at this date.
- This should be compared with the amount Mrs W did receive from the share save scheme.
- If Mrs W would have received a greater amount from the earlier surrender, then Computershare should pay Mrs W the difference. This is the compensation amount.
- Mrs W should receive interest at the rate of 8% simple on the loss from 6 October 2021 to the date of payment.
- Pay Mrs W £300 for the distress and inconvenience caused.

If Computershare considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mrs W how much it's taken off. It should also give Mrs W a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

Computershare should provide information about the calculation to Mrs W in a clear and accessible format.

My final decision

For the reasons I've explained, I uphold Mrs W's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W to accept or reject my decision before 4 July 2024.

Andy Burlinson
Ombudsman