

The complaint

Miss B has complained that because of a failure in Solium Capital UK Limited's ('Solium') systems she was unable to exercise her share options and sell the resulting shares when she wanted to. Miss B wants to be put in the financial position she would have been in if Solium's app had been working properly.

What happened

Miss B was employed by a business which I shall refer to as 'A' in my decision. Miss B took advantage of A's Save as you Earn ('SAYE') share save scheme by making monthly contributions of £300. At the end of the savings contract for the scheme Miss B could then exercise the option to purchase shares in A at a pre-agreed discounted price or have her saved funds returned to her. If Miss B opted to exercise the share options she could then choose to sell or keep the subsequent shares.

Miss B was made redundant by A on 31 December 2021 after which Miss B could no longer make contributions via A's monthly payroll, but she was able to continue contributing into the share save scheme for a further six months. And Miss B could exercise the option to take up A's shares anytime up until the deadline of 30 June 2022 – six months after her redundancy.

Miss B contributed £6,000 into her SAYE share save account and intended on taking up the shares and selling at a profit so monitored her account during the final week of June 2022. When it came to the deadline day Solium's app on her phone wasn't working, and Miss B was unable to exercise her options and sell the resulting shares as she had planned. Miss B says she lost out on a gain of £5,000

Miss B complained to Solium, but it said it was unable to reinstate her SAYE share save scheme as she hadn't exercised her option to take up the shares before the lapse date of 30 June 2022. The first time she had contacted Solium about this was 1 July 2022, but this was after the share save scheme had lapsed. As share save schemes were governed by HMRC rules, A was unable to reinstate the scheme.

Unhappy with the outcome Miss B brought her complaint to this service. Our investigator who considered the complaint didn't think it should be upheld. He said;

- The terms and conditions and information given to Miss B made clear what was required of her and the time limits that applied.
- While the error with the app was beyond Miss B's control, he didn't think Solium needed to reinstate the opportunity Miss B had to exercise the share options.
- Miss B was aware it was the last day to exercise her share options and there was nothing to show Miss B had contacted Solium to discuss the app issue or to make her selection.
- The terms and conditions made clear what would happen if Miss B didn't act.
- Solium had fairly complied with its terms and conditions of the share save account

and hadn't done anything wrong.

Miss B didn't agree. She said that Solium's call centre was shut at the time. She couldn't understand why the app had worked when she carried out a different type of transaction on the same day but not for the share save scheme. Miss B asked that her complaint be reviewed by an ombudsman, so it has been passed to me for 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.

After doing so, I've reached the same conclusions as the investigator and broadly for the same reasons. I'll explain why.

After the maturity of Miss B's share save scheme contract – on the date of her redundancy – Miss B had six months within which she could exercise her share options prior to the deadline of 13 June 2022. It is my understanding that Miss B's options were 'in the money' in that she would be taking up the shares at a price discounted to the prevailing stock market price and so would be selling the shares once the options were exercised.

And because the options were 'in the money' I can understand why Miss B chose to make the maximum contributions she could into the share save scheme – this would be financially beneficial for her as she could exercise additional options for shares. Post redundancy, Miss B was able to make a further five monthly contributions.

After that Miss B has said she was monitoring her account during the week prior to the exercise deadline so she clearly was aware of the time limits that applied if she wanted to exercise her options and sell the resulting shares.

Miss B has said that on the evening of the exercise deadline date she tried several times using her phone app, but it wouldn't work for the share save scheme. Miss B had successfully used that app before but despite several attempts 'throughout the evening' it wouldn't work and by this time Solium's call centre was closed as it was after 6.00pm so Miss B couldn't call for support.

However, I don't agree that it would be fair or reasonable for me to ask Solium to reinstate the position Miss B would have been in but for the app not working ie she could have been able to exercise her share options and sell the resulting shares.

As explained above Miss B had any time in the six months following her redundancy and maturity of her share save scheme to exercise her share options. I can understand why Miss B left this until after the last possible monthly contribution as she could take up more share options and take more profit upon the sale of the shares.

But the decision to wait until the last day of the exercise period was Miss B's. Miss B explained that she had been checking A's shares stock market price to decide when to exercise her share options and sell the subsequent shares, however she left it to the last possible day to do this – I assume in the hope that A's share price would rise which would mean a larger gain for Miss B. But that was a risk Miss B chose to take and unfortunately in this case didn't prove to be successful as she was unable to exercise her options in the manner she thought she would be able to do.

Solium's app failed when Miss B tried to exercise her options. But no online system is infallible, and failures can and do occur. I note this is referred to in Solium's terms and

conditions and that it could not guarantee that the services it offered would be uninterrupted or error free. This was something that Solium accepted was a possibility, and I don't think this was an unrealistic or unimagined situation.

So, while Miss B might previously have had a successful experience with the app (and did use it for another service on that day) it was Miss B's decision to wait until the evening of the deadline date for the share options to be exercised which added a layer of risk in that there was always the potential that something could go wrong.

In her complaint, Miss B does refer to trying to carry out these instructions 'throughout the evening' and so she couldn't seek help from Solium's call centre as it was closed. So, Miss B was clearly aware of the call centre opening hours but chose to try to carry out her option instruction outside of those hours. As a result, Miss B wouldn't be able to call for assistance. But again, the timing of the actions she wanted to take was Miss B's choice.

Taking all of the above into account, I am satisfied that it was Miss B's choice as to when to exercise her share options. Miss B chose to leave this until the evening of the very last day which incurred the possibility of a risk of failure which did unfortunately come to fruition. But for the reasons given I don't think it would be fair or reasonable for me to find that Solium is at fault for this.

It follows that I don't uphold Miss B's complaint. I am sorry for the position she has found herself in. She clearly wanted to exercise her share options, sell the shares, and take the profit in order draw a line under that time of her life post redundancy. But this didn't turn out to be the case. So, I appreciate Miss B will no doubt be disappointed in my decision.

However, I hope I have been able to explain how and why I have reached that decision.

My final decision

For the reasons given above, I don't uphold Miss B's complaint about Solium Capital UK Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 7 May 2024.

Catherine Langley
Ombudsman