

The complaint

Mrs B complains that she was given incorrect information by Computershare Investor Services Plc (Computershare) about the options available to her in relation to her Employee Share Scheme.

Mrs B says she was told that she could only continue contributing and exercise her option to acquire shares at a fixed price in relation to one of her Share Scheme plans, which she says caused her to surrender the other plans.

Mrs B says if she had been given the correct information, she would have instead contributed to the plans for the period allowed after which she would have exercised her option to acquire shares at a fixed price, and then she would have sold the shares immediately after, in order to make a profit on that sale.

What happened

Mrs B was an employee of a company that offered a Save As You Earn Scheme (SAYE). It allowed Mrs B to pay monies from her salary into a scheme, which upon maturity gave her the option to acquire shares at a set price and then sell those shares. Mrs B was contributing to several of these plans with varying lengths of three and five years.

Computershare provided a service administering these plans and arranging a deal in shares where the plan holder wished to exercise the option to acquire shares, and where the plan holder wished to then sell those shares.

Mrs B contacted Computershare in February 2023 after she had been informed by her employer that she was being made redundant. Mrs B wanted to find out what her options were in respect of these plans.

Mrs B said that she was informed by Computershare in that phone call that she could only continue contributing to her three-year plan, which had started in 2020, and was due to mature that year. She said Computershare's representative informed her that she would be able to exercise the option to acquire shares at the set price for that plan, because it was maturing that year. However, she was informed she wasn't able to exercise that option in respect of the other plans which matured in the following years.

Computershare doesn't agree that Mrs B was given that information as it doesn't have a record of that phone call on its system.

Following that phone call, Mrs B forfeited her other Sharesave plans, which meant that she received the cash value but didn't exercise the option to acquire shares.

Mrs B contacted Computershare on 9 March 2023 in order to set up a standing order. Mrs B says that during this call she was informed she could exercise the share option on a Sharesave plan even if it hadn't matured.

Mrs B then contacted Computershare again on the same day and relayed the information she had just received. She expressed concern that this was in conflict with the information she had been given when she'd contacted Computershare in February 2023.

Mrs B explained that she had made her decision based on the information she had been given, and she was concerned that she had missed the opportunity to make profit on the

share option as a result. Mrs B said she had only cashed in the plans because of the information she had been given. So, she made a complaint.

Computershare didn't uphold her complaint. It explained that as Mrs B was a good leaver, she could've carried on making contributions into her plans for a period of six months after her leaving date and then exercise the share option.

However, it said because it was unable to locate the February call, there was insufficient evidence that Mrs B had been provided with incorrect information, so it would close her complaint. Following that phone call Computershare wrote to Mrs B and informed her of her right to refer her complaint to our service.

Mrs B referred her complaint to our service. She said she had been paying into the Sharesave scheme for many years and after being notified of her redundancy, she contacted Computershare to find out the position regarding her plans.

Mrs B said she was informed she could keep paying into the plan that was due to mature that year, but she wasn't told that the other plans didn't need to reach maturity in order for her to exercise the share option because she was being made redundant.

Mrs B said she estimated she had lost thousands of pounds by forfeiting the four other plans. She said it was her only form of saving as it was risk free and convenient. Mrs B said she was very upset to have lost the opportunity to exercise the share option.

Our investigator considered Mrs B's complaint and was of the view that it was a complaint that we could consider. Computershare had confirmed it was the administrator of the scheme, and that it carried out the activities of safeguarding and administering the shares and arranging a deal in the shares, which it agreed were regulated activities.

The investigator said here Computershare also carried out the ancillary activity of providing information and administrative support to Mrs B in relation to how to use her savings to exercise the option to acquire the shares and then sell the shares, in connection with the regulated activities.

So, he considered the complaint was about a regulated activity or an activity ancillary to the regulated activity, and no valid exemption applied.

Computershare accepted that view and consented to our service considering Mrs B's complaint.

Our investigator then considered the merits of the complaint. He considered the parties' representations about the phone call in February 2023 and noted that there wasn't a call recording available.

The investigator considered the evidence provided by Mrs B that a call had been made to the Computershare contact line on that date and the fact she had forfeited her other plans on the same day. He found Mrs B's submission that there was no reason for her to forfeit the plans and lose the opportunity to make a profit on the shares, to be persuasive. The investigator also said he hadn't seen any evidence of financial hardship at the time, which might have been a reason for Mrs B not making any further contributions.

Our investigator noted that Mrs B had referred to the February phone call when she contacted Computershare in March 2023. He considered that there was a reasonable explanation as to why the call recording hadn't been retained because information of a general nature had been provided. So, he didn't think the absence of a call recording demonstrated that a phone call hadn't taken place.

Overall, he thought it more likely than not that Mrs B had been given incorrect information by Computershare. The investigator was of the view that if she had been given the correct information, Mrs B would have held onto those plans for the required period (noting that she was classed as a "good leaver") and she would have bought the shares at the set price and then sold them at market price.

So, the investigator said Computershare should compensate Mrs B for the profit she would have made, if she had continued contributing up until six months after her leaving date and then purchased as many shares as she could with those funds, taking into account the option prices available at the time, and the share price if she had subsequently sold those shares immediately after.

The investigator also said that Computershare should add eight percent simple interest per year on that sum from the date the shares would have been sold (immediately after purchase) until the date of settlement.

Computershare disagreed with the investigator's conclusions and in summary it said:

- It held no evidence to confirm that Mrs B had spoken with anyone at Computershare on the relevant date.
- It said the Plan Rules were clear about what happened in the case of redundancy, and Mrs B could access those rules via the Sharesave brochures, which were accessible to Mrs B as they were stored on her online account.
- Computershare said in its view Mrs B wouldn't have been given information that was so clearly incorrect by one of its representatives. It said if Mrs B had spoken with someone on the 21 February 2023, they wouldn't have been able to advise Mrs B as to her entitlement as she was still an active employee. Computershare said they would've instead directed Mrs B to review her Sharesave Plan brochure on her account to determine what options may have been available to her.
- Computershare said that it felt greater weight should be given to the information that was available to Mrs B, namely the Plan Brochure, the Plan Prospectus and the EquatePlus (online service) Terms and Conditions. It said those documents set out the available options including those at maturity which it said was early in this instance due to Mrs B's redundancy.
- Computershare noted that Mrs B had exercised options in December 2021 and January 2023 so it said, in effect, that she would have been aware of the available options which were either to exercise the options and receive shares, or to request the return of her savings.

As no agreement could be reached Mrs B's complaint was referred to me for review.

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 note that initially an issue was raised by Computershare about whether our service could consider Mrs B's complaint.

Our investigator considered Computershare's role here. Computershare had confirmed that where the option was exercised by the plan holder, allocated shares were held in a Share Plan Account and then sold through that Share Plan Account, and Computershare would arrange a deal in the securities with a broker on the plan holder's behalf. This would involve the regulated activities of and safeguarding and administering the shares and arranging a deal in the shares.

The investigator noted there was an activity which was ancillary to and carried out in connection with those regulated activities, of providing information and administrative support to Mrs B in relation to how to use her savings to acquire and sell the shares.

Accordingly, the investigator concluded that we were able to consider the complaint and Computershare then consented to our service considering Mrs B's complaint.

I agree with the investigator's conclusion that we can consider this complaint and note that Computershare has agreed that we can consider this complaint.

Mrs B says she was given incorrect information by Computershare about the options available to her in relation to her existing Sharesave plans given her impending redundancy.

Computershare says it is unable to locate a recording of a call between Mrs B and Computershare's representative in February 2023. So it says there is insufficient evidence to conclude that she was given incorrect information.

As there is no call recording of the conversation that Mrs B refers to, which would represent contemporaneous evidence of what was said at that time, I have to consider what evidence is available and whether that leads me to conclude it is more likely than not, that Mrs B was given incorrect information.

And if I do consider Mrs B was given incorrect information, the matter doesn't end there because I also have to consider what action I think it is more likely than not Mrs B would have taken if she had been given correct information.

Was Mrs B given incorrect information by Computershare in a phone call in February 2023

Mrs B has provided a screenshot from her husband's phone which shows a phone call was made to Computershare's contact line at 10.16 on 21 February 2023 and that phone call lasted 7 minutes and 15 seconds. I also note that Mrs B referred to this phone call when she contacted Computershare on 9 March 2023, some two and a half weeks later. So, I am satisfied that it is more likely than not that a phone call took place between Mrs B and Computershare on 21 February 2023.

That, of course, doesn't tell me what was said during that telephone conversation.

Computershare says it is not at all probable that a representative would've given Mrs B this incorrect information because it says, in effect, that information is so at odds with the actual position.

Mrs B says she was told that she could only carry on contributing to the one plan that was due to mature that year and that this information led her to cash in four other plans at that time. Mrs B says there was no other reason for her to forfeit those plans and lose the opportunity to make a profit on them.

I can see from the screen shot of her transaction history that her plans were forfeited on 21 February 2023 and Mrs B has also provided a bank statement showing the cash being credited to her account the next day. I also note that Computershare's representative, who initially handled her complaint, agreed that her plans had been forfeited on that day.

So, I consider that something caused Mrs B to forfeit those plans, one of which she had been paying into since 2019, and I consider it entirely plausible that the reason she did so, was that she was given information that led her to believe there was no real purpose in continuing to hold the plans. I think if Mrs B had thought she could exercise the option to acquire shares, then she wouldn't have forfeited the plans.

The reason I say this, is that exercising the option to acquire and sell shares was one of the main purposes of taking out the plan in the first place and Computershare has indicated that Mrs B had previously exercised options on other plans in December 2021, and in January 2023. In addition Mrs B was content to carry on paying into the plan that was due to mature in the same year she was due to be made redundant.

I think it more likely than not therefore that Mrs B was left with the impression that she wasn't able to exercise the share option for those plans, as a result of the information she was given in that phone call in February 2023.

I take into account the point raised by Computershare regarding the availability of written information in relation to the options available to Mrs B. It says greater weight should be attributed to that written information. However, I note it is not unusual for consumers to want to contact businesses directly to ask for information about their options if they are unsure as to the position. If that wasn't the case, then there would be no real need for a contact line for plan holders to ask questions and discuss these types of matters with a representative of Computershare.

In this case Mrs B's situation differed from the more straightforward course of events, of holding the plans until maturity. So I can see why she wanted to contact Computershare to check what the position was.

I also note that Mrs B had been given unexpected news of a redundancy and I consider it would have been a time of uncertainty for her. So, I don't think it was unreasonable for her to seek this information from Computershare via its contact line.

I note that Computershare feels the information Mrs B says she was given was obviously incorrect. However, I don't think it would have seemed strange to Mrs B that she would only be able to exercise the option for the plan that was reaching maturity in the same year that she was leaving her employment. These plans were set up with a view to contributions being made for a set term until maturity. So, I don't think the information provided by the representative about her options would've appeared so clearly incorrect to Mrs B, that she would've had cause to question it. In addition, I don't think it would've been obvious to Mrs B that her redundancy meant there was an "earlier maturity date" as referred to by Computershare. And I think her uncertainty in relation to the impact of her redundancy on her plans was what led her to seek further information in the first place.

Indeed, Mrs B has explained that the only reason she questioned the information she was given in February 2023, was that she was then given conflicting information by another representative of Computershare, when she contacted Computershare to set up a standing order for her remaining plan. And I note that she felt strongly enough about the information she had been given, that she made a complaint very shortly after the correct position was explained to her.

I have also taken into account Computershare's point that as Mrs B was still an active employee, it wasn't in a position to give her the options and it says Mrs B would've been directed to the available documentation instead. However, I don't think this corresponds with what did happen, which was that three representatives set out the correct position to Mrs B; the person who she spoke to when setting up the standing order, the person with whom she raised the issue of the conflicting information and the individual whom she spoke to in order to raise a complaint.

While I note the difficulty posed by the lack of a call recording, I have carefully considered all the other evidence that is available. And overall, I think it more likely than not that Mrs B was given incorrect information by Computershare about the options available to her, which then caused her to forfeit her plans.

What action would Mrs B have taken if she had been given the correct information about the options available to her?

As I have said, Mrs B had already exercised the share option in the past and she was content to carry on paying into the plan that was due to mature that year. In addition, Mrs B expressed her view shortly after, in March 2023, that she would've taken a different course of action and maintained the plans, if she had been given the correct information.

So I think it is more likely than not that Mrs B would've wanted to maintain these plans until she was able to exercise the share option.

I also have to consider whether she was able to do so. Mrs B has provided bank statements from the relevant period which don't indicate that she was in any sort of financial hardship. It appears from those statements that she would have been able to make the monthly payments for six months on the plans in order to benefit from exercising the option to acquire and then sell the shares.

I also note that Mrs B had been making some of these contributions for several months and one for several years, so overall they appear to have been affordable.

So, I think it more likely than not that if she hadn't been given incorrect information, she would have exercised the options to acquire shares (after making the six additional contributions from the leaving date) and at the point where she was allowed to do so, and then sold them immediately after in order to realise a profit.

Putting things right

Computershare should calculate the profit Mrs B would have made if she had maintained her plans and made the six additional contributions (or those she was allowed to make) after her employment had ceased, and then used her savings and exercised her option to purchase (or acquire) all the shares that she could, taking into account the relevant share price, with the sale of those shares then being carried out immediately after.

Interest of eight percent simple per year should be added to that amount from the date when the sale of the shares would have been completed until the date of this decision.

Computershare should pay the profit plus interest to Mrs B.

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

My final decision

My final decision is that Mrs B's complaint against Computershare Investor Services Plc is upheld.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 2 July 2024.

Julia Chittenden
Ombudsman