

## The complaint

Mrs A has complained about the service she received from Computershare Investor Services Plc ('CIS') in its administration of her employer's Share Incentive Plan ('SIP'). It sold her shares without her knowledge or instruction. Mrs A would like for her shares to be reinstated, refund the £15.00 commission charged on the sale and pay compensation for CIS not fulfilling its responsibilities.

## What happened

Mrs A was made redundant by her employer on 31 December 2021. While employed Mrs A had participated in her employer's SIP and accumulated 9,000 shares in her employer's company. Mrs A has told us the shares cost her £5,087.33.

The SIP worked by Mrs A agreeing to a monthly deduction from her salary of £150 to buy her employer's shares at a pre-agreed price and her employer would match the number of shares she bought. After leaving the service of her employer Mrs A was no longer eligible to participate in the SIP and the shares could either be sold or transferred to another account.

In March 2021 Mrs A received a cash sum in her bank account and found that it had come from the sale of her employee shares. She contacted CIS to find out what had happened and raised a complaint as the shares in her account had been sold without her knowledge or confirmation. She hadn't been contacted by either her employer or CIS since leaving her employer.

CIS responded to Mrs A's complaint on 17 June 2021. It said;

- It had received the 'Leaver File' from Mrs A's employer at the beginning of February 2021 and her leaver status was updated on her EquatePlus account – CIS' online platform – on 12 February and a letter was sent to Mrs A the following day. If Mrs A didn't receive that letter it was out of CIS' control.
- A 'leaver task' would have been available on Mrs A's EquatePlus account from 12 February which confirmed the actions available to her during the default period. Once the task expired at the end of the default period it was removed from her EquatePlus account.
- In CIS' role as trustee for Mrs A's employer's 'All Employee SIP' it had an obligation to remove the shares from the trust – the SIP – once employment ceased.
- As CIS didn't receive an instruction from Mrs A it applied the default option, the shares were sold on 19 March 2021 and £3,834.66 was sent to Mrs A's bank account on 23 March.
- It had fulfilled its responsibilities and didn't uphold the complaint.

Unhappy with the outcome Mrs A brought her complaint to this service. CIS said that the complaint wasn't within the jurisdiction of this service, but a fellow ombudsman decided it was a complaint we could consider.

After the complaint was brought to this service CIS later confirmed that the letter dated 13 February 2021 wasn't in fact sent to Mrs A because of a technical issue. It accepted that there was conflicting information available to Mrs A in the event that it didn't receive an instruction.

But it said Mrs A had logged onto the EquatePlus account and accepted the terms and conditions which set out what would happen if EquatePlus didn't receive an instruction in that the shares would be sold. Had she logged on again after she was made redundant, she would have seen the task to take action. It also said that Mrs A hadn't lost out financially as Mrs A's ex-employer's share price had fallen since her shares were sold and it hadn't paid a dividend since 2019.

Our investigator who considered the complaint thought that CIS should do more. She said;

- The crux of the complaint was whether Mrs A received the information she needed to decide in a fair and reasonable way and she didn't think this was the case.
- It wasn't Mrs A's fault that the 13 February 2021 letter wasn't sent, and she wouldn't have known that she needed to take action on the EquatePlus platform.
- She didn't think it was fair and reasonable to expect a customer to constantly check their EquatePlus account to see if action needed to be taken and so Mrs A shouldn't lose out because the 13 February letter hadn't been sent.
- She thought that CIS should compare the price Mrs A received when the shares were sold to the current share price and if Mrs A had lost out, she should be compensated.
- And CIS should pay Mrs A £200 for the fact she didn't receive any notification or letter to take action on her account.

Mrs A didn't agree with the investigator. She thought that £200 compensation was small and CIS' actions meant she had lost the opportunity to keep the shares and sell them at a higher price. The share price almost doubled in June 2021 so CIS needed to compensate her for taking the shares from her account without her consent and its action should not be judged based on the price being lower now than the price she received for the shares. She said she would have transferred the shares to her ISA account so any gain would have been tax free unlike the cash she received from the sale of the shares.

CIS didn't reply.

As the complaint couldn't be resolved, it was passed to me for a decision. I thought the complaint should be upheld but wanted to allow the parties to provide any further information or evidence they wanted me to consider before I issued my final decision, so I issued a provisional decision. Here's what I said;

'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 provisionally reached the same conclusions as the investigator and broadly for the same reasons. I'll explain why and I also want to address the points Mrs A made in response to the investigator' assessment.

Before I do, I should first like to apologise to the parties for the delays experienced in the complaint reaching this stage.

I've seen a copy of CIS' 'Employee Share Incentive Plan' document and it's clear from that what would happen after an employee left their employer. As Mrs A was a 'good leaver' the following would apply;

'Then your Partnership Shares and Matching Shares will be taken out of the trust. They will be transferred to an investment account in your name or you can instruct Computershare to sell them on your behalf...'

As Mrs A took the opportunity to participate in the SIP, I don't think it's unreasonable for me to assume that she had read this information before joining the scheme in August 2018. But equally I accept that Mrs A didn't hear anything from her ex-employer or CIS about the timescales that would apply after she left her employment. And I think it unlikely she would recall the details included in the 'Employee Share Incentive Plan' document from three years earlier.

However, CIS has said that Mrs A had previously logged onto her EquatePlus account and had accepted the terms and conditions that applied to the SIP and what would happen if no response was received and had she logged on to her account post redundancy she would have seen the 'leaver task'. But like the investigator I agree that Mrs A wouldn't have known that she needed to take any action or recall the detail of those terms as she hadn't been prompted to do so.

CIS did have Mrs A's email address, but I can't see that she was alerted by email of the need to take action on her account. And CIS' terms state that its contact with users of its service would be by email. So, CIS missed two opportunities by which it could have contacted Mrs A – the 13 February letter not being sent or contacting Mrs A by email. And I also note from the agreement CIS had with Mrs A's employer stated that part of CIS' role was to 'Make Leaver Information available to the Leaver...' which I don't think it did do in this case.

So, I'm satisfied that CIS didn't fulfil its obligations in contacting Mrs A. While it has said the information was available to her on its EquatePlus platform I think it could have done more in prompting her that action was needed by her, and in particular the timescales involved as the action needed was time sensitive. As a result, I need to decide what CIS needs to do to put the matter right.

In response to the investigator Mrs A has said she missed out on the opportunity to keep the shares and sell them at a higher price 'during all this time or even in the future'. Mrs A's 9,000 shares were sold at a price of .41186p when they were sold on 19 March 2021. I can see that subsequent to the sale the share price peaked at around .62p on 4 June 2021 before falling again and are now trading at around .28p.

We asked Mrs A when she thought she would have sold the shares and she told us she may have sold them at the end of May or start of June 2021. So, when they were at their peak.

While I accept what Mrs A has said, I have to equally acknowledge that this potential sale date can only be viewed with the benefit of hindsight in how the share price performed, and it would be difficult for me to justify asking CIS to reinstate the sale trade in around June 2021 without any evidence that was Mrs A's intention. While I accept it would be difficult for Mrs A to provide such evidence, I haven't seen anything to suggest that Mrs A contacted CIS around that time to say that she would have sold her shareholding if the shares were still in her account.

So, from what I've seen, I don't think Mrs A formed a firm intention to carry out a sale in late May/early June 2021. There would have been no way for Mrs A to have foreseen whether the share price would have fallen in value or continued to rise after that date. So, I do not think it would be fair or reasonable to award her compensation for not having been able to carry out the sale at that time. I haven't enough to conclude that more likely than not the result would have been a sale transaction from which she would most likely have profited. Overall, I'm not persuaded that Mrs A would have sold her shares when she says she may have done.

When Mrs A brought her complaint to this service on 18 June 2021, she said that to remedy the complaint she would like for her shares to be reinstated. So, I assume she was aware of the increase of the share price by that time but didn't provide comment that she intended to sell the shares at that time/price. And looking at the overall situation I can't agree that Mrs A has suffered an actual financial loss. I say this because currently the sale proceeds she received in March 2021 are worth more than the current value of 9,000 shares. That position may change if the share price were to rise in the future. However, the current share price will allow Mrs A to reinstate the shares at a lower cost to her account if she wishes to.

Mrs A has said she wanted to transfer the shares to her ISA where any gains on the shares would have been free of tax unlike the share sale proceeds she received which was outside of her ISA wrapper. But Mrs A has told us that the shares cost her £5,087.33. The sale proceeds she received totalled £3,834.66, so there's no taxable gain.'

In conclusion, I provisionally upheld the complaint and thought that CIS needed to do more. For clarity I said it should compare the price Mrs A received in March 2021 to the current share price and compensate Mrs A if there was any loss. It should also pay Mrs A £200 for not communicating with her it should have done after she left her employer's service.

Mrs A wasn't happy with my provisional decision but didn't have anything further to add. CIS confirmed that it accepted the provisional decision and at the time of its writing said that the shares were trading at around .2575p compared to the sale price of .41186p.

### **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.

As neither party to the complaint has given me anything further to consider, I see no reason to depart from my provisional decision. So, I confirm those findings and uphold the complaint.

CIS should put the matter right.

### **Putting things right**

- While I appreciate CIS has provided the recent share price which is lower than when Mrs A's shares were sold, for the sake of clarity CIS should again compare the price that Mrs A received in March 2021 to the current share price. If Mrs A has lost out – in that the current price is higher than when the shares were sold – then Mrs A should be compensated for that, and the difference paid to her.
- CIS should pay Mrs A £200 compensation for not communicating with her as it should have done after she left her employer's service.

**My final decision**

For the reasons given, I uphold Mrs A's complaint about Computershare Investor Services Plc and the matter should be put right as outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs A to accept or reject my decision before 24 July 2024.

Catherine Langley  
**Ombudsman**