

The complaint

Ms J complains that Computershare Investor Services Plc misinformed her about action she needed to take regarding a Share Incentive Plan ("SIP") in which she had participated.

What happened

Ms J participated in the SIP through her employment with a company I'll refer to as "V". The SIP gave employees of V the opportunity to acquire shares in the company in a tax efficient manner. By 2022, having worked for V for a number of years, Ms J had accumulated a holding of just over 1,000 shares, with a market value at that time of around £110,000.

In April 2022 Ms J chose to end her employment with V as she wanted to spend more time with her family. Her plan was to use her acquired shareholding as an ongoing means of financial support.

The plan brochure explained that *"When you leave (V), your leaving details will be sent to Computershare by (V) and you will be contacted by Computershare with details of the choices available to you. You will have twenty-one calendar days from the date on the letter from Computershare to respond. Should you not respond by this time Computershare will automatically sell all your Shares and send the appropriate sale proceeds to you after the deduction of any sale costs."*

On 7 May 2022 Ms J received an email from Equateplus, Computershare's platform for administration of employee share plans like Ms J's SIP. It confirmed that there'd been a change to her employment and that she may need to take action. It instructed her to log in to her account and complete any tasks that were there, some of which might have to be completed by a deadline.

Ms J checked her account several times over the course of the following week or so but could see no tasks. On 17 May 2022 she contacted the Equateplus helpdesk via its chat service to double check the situation. During this chat she was told that everything looked OK, and that the agent couldn't see any tasks or missed tasks. On the basis of this information, Ms J was satisfied there was no need for her to take further action in respect of tasks on her account.

10 days later, on the afternoon of 27 May 2022, she logged on to her account with the intention of selling a small part of her shareholding. To her surprise, she discovered that the sale of her entire holding had been processed earlier that day. She queried this with Computershare and was told that the sale had been actioned as the default option relating to her leaving V, in line with the 21 calendar day limit set out in the SIP brochure.

Ms J complained to Computershare about its actions. But it didn't uphold the complaint, effectively on the basis that as no task had been actioned by Ms J, the sale had been carried out correctly as the default option in line with the SIP rules.

The complaint was referred to this service. The investigator noted Ms J's chat conversation of 7 May 2022 with the Equateplus and concluded, in short, that she hadn't been provided

with clear information about how she should proceed. The investigator felt that if Ms J had been better informed, she would've most likely have been in the position of having retained her shareholding, transferred it to another broker and then used it as planned to provide an ongoing source of income, disposing of shares as and when needed and the market price reasonable. The investigator therefore proposed a form of redress that involved the shareholding effectively being recreated for Ms J and a payment of £200 made to recognise the distress and inconvenience caused to her.

Computershare didn't accept the investigator's view. It acknowledged that Ms J had been incorrectly advised. But it felt she could reasonably have been expected to mitigate her position by using the funds received from the sale of the shareholding (which had been correct in respect of tax and national insurance deductions that were a requirement of the SIP rules, irrespective of sale or transfer of the shares) to repurchase the shareholding. In saying this, it highlighted a significant fall in V's share price in the weeks following the sale, pointing out that Ms J had the opportunity to purchase a greater number of shares than she'd held as of 27 May 2022.

In light of Computershare's comments, the investigator revised her view of the complaint. She accepted the mitigation point, noting Ms J's previous comments that she already had an existing broker, so a repurchase of the shares was something that she was likely to have been in a position to do. So, the investigator's revised view on redress was that solely the £200 compensation payment should be made.

Ms J didn't agree with the investigator's change of opinion. She said Computershare had failed to comply with the SIP rules as it hadn't provided her with a task to complete and reiterated her plans for how she had intended to manage the shareholding in light of her change of employment and income circumstances.

She said she didn't think it was reasonable to expect her to have carried out such a significant transaction – a repurchase of almost £100,000 worth of shares. She explained her existing broker arrangement had been simply a mechanism by which to sell shares gifted by her father. That arrangement was not an indication of a sophisticated knowledge and experience of sharedealing.

No agreement could be reached, so the matter was referred to me to review.

Having done so, I reached a similar conclusion to that of the investigator. However, my reasons for doing so differed slightly. So, I issued a provisional decision to give both parties further opportunity to comment. I said, in part:

“Computershare has accepted that Ms J was misinformed when she engaged with the Equateplus chat service on 17 May 2022. Its acceptance that a mistake was made, and therefore that the complaint should be upheld, leaves me with only the matter of what represents a fair resolution to decide.

But before I comment further on that, I think it's important for me to address some issues relating to the overall circumstances, as I think they impact in part at least on my reasoning relating to the mitigation point.

When Ms J messaged Equateplus on 17 May 2022 she was clearly seeking reassurance regarding what if any action she was required to take in light of her leaving V's employment and the receipt of the 7 May 2022 email.

The comment made by the agent, that “Everything looks OK, I can't see any tasks or missed tasks” wasn't helpful. But I note that it was followed up with a further comment from the

agent, "I apologise, I'm experiencing technical issues but I can't see any missed tasks so I would just keep an eye on your account anyway just in case but it's all good for now". Ms J responded after this comment, thanking the agent.

It's not clear when, if at all, the necessary task was actually added to Ms J's Equateplus tasklist on her account. But it does seem that she was put on notice that it might be a good idea to continue monitoring the account. But looking at the account activity log it doesn't appear that Ms J logged in again until 27 May 2022, the day on which she discovered the share sale had been actioned by default.

So, it may well be the case that if Ms J had further monitored the account, she would've seen the task at some point before 27 May 2022 and taken action. While the email of 7 May 2022 didn't draw attention to the 21 calendar day deadline, the limited time period was quite clearly explained in the SIP brochure's 'Leaving' section. So, I think Ms J should reasonably have been on notice that the sale of her shares could happen on or around 27 May 2022. And it doesn't appear that when she logged on to her account on 27 May 2022 she was looking to see if a task had been added, or if there was any other new instruction. Rather, she was looking to make a part sale of her holding.

The reason I've drawn attention to these circumstances is that, while it's clear that Computershare didn't do as good a job as it could've done of keeping Ms J informed, I think it's fair to say that she also appears to have missed opportunities to potentially prevent the issue arising. And I feel this feeds into the mitigation point that's now central to the matter.

I have to decide what represents a fair and reasonable resolution to the matter in all the circumstances. My view in that respect is that it is reasonable to expect Ms J to have mitigated her position. I note what she's said about the purchase of such a large shareholding being something that was unprecedented for her - that despite her having an existing share dealing account, she's in no way a sophisticated share dealer.

But Ms J was planning to use the shareholding to provide an ongoing income for her family, monitoring the share price to sell at the best times and facilitate an efficient tax position – a relatively sophisticated strategy. She's also highlighted that her husband, also an employee of V, has made profitable sales of his own shares, taking advantage of the recent increase in V's share price.

As such, I don't think it's unreasonable to expect her to have mitigated her position by simply repurchasing the shares once she was aware what had happened. I accept there may have been some costs associated with this (although it doesn't appear that her tax position would've been impacted) but these relatively minor costs could've been dealt with as part of the resolution of the complaint she could still have made about Computershare's actions.

To direct Computershare to now put Ms J back in the position she would be in if the shares had been transferred rather than sold would not in my view be a fair or proportionate resolution to the matter. I say that particularly in light of my earlier comments regarding the circumstances around the 17 May 2022 interaction. In short, I think that while Computershare failed to be as informative and accurate as it could've been, there were opportunities for Ms J to have avoided the issue occurring along with an opportunity to mitigate the impact once it had occurred.

This being so, I think that the resolution recommended by the investigator, that Computershare pay Ms J £200 in respect of it providing unclear information is fair and reasonable in the circumstances."

Ms J didn't agree with my provisional findings. She said, in brief:

- She was disappointed with my decision as she felt Computershare had breached the SIP rules.
- The only communication she received was the message of 7 May 2022. There was no detail regarding the options, which was a gross failing on the part of Computershare.
- She checked her account repeatedly after the 7 May 2022 message then contacted Computershare via the chat service on 17 May 2022.
- Her question was clearly answered during the chat and the additional comment regarding keeping an eye on her account was possibly a standard comment.
- She recalled logging on after 17 May 2022 but there was still no task visible on her account.
- She had read the SIP brochure and was aware of the 21-day period.
- The 7 May 2022 message had caused doubt as it had said she *may* need to act.
- My decision was biased towards Computershare as it focussed on what I thought were failings on her part.
- She had pro-actively checked her account and the lack of a task created confusion leading her to think that the 21-day period didn't start with the 7 May message, but potentially later.
- Her strategy of selling the shares gradually was not sophisticated. She hadn't considered buying back the shares as she'd never purchased any previously and didn't watch the price after the shares were sold.
- The proposed £200 compensation was insufficient as Computershare had not just misinformed her but had breached the plan rules.

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, I've not been persuaded to depart from my provisional conclusions.

I note all Ms J has said in her further submission. Much of this focusses on the circumstances of the complaint – what happened prior to her shares being sold. As I said in my provisional decision, I agree that Computershare didn't handle things as well as it could've done, which is the reason I think it should pay compensation to her.

However, I didn't, and still don't, think it's necessarily been shown that it breached the SIP rules. As I said, it's not clear when, or even if, a task was applied to Ms J's account. But the access logs indicate that she didn't check after 17 May 2022, after the chat in which it was suggested that she should keep an eye on her account.

Even if the task was never applied, I still don't think it would be fair to direct Computershare to now meet hypothetical losses stemming from Ms J not retaining the shares and then selling gradually over an extended period. I think that she could reasonably have been expected to mitigate her position by buying back the shares. As I said in my provisional decision, I appreciate what she's said about her lack of experience in share purchasing. But I don't think it can be reasonably concluded that she was therefore prevented from, for instance, making enquiries with her existing broker into how her position could be reinstated.

I understand she'll be very disappointed that I remain of the same opinion. But I don't feel that in all the circumstances Computershare needs to do more than make a payment of compensation to reflect the distress and inconvenience caused by the lack of clarity in its communications with her.

Putting things right

I'm satisfied the resolution recommended by the investigator, that Computershare pay Ms J £200 in respect of it providing unclear information, is fair and reasonable in the circumstances.

My final decision

For the reasons given, my final decision is that the complaint should be upheld, and that Computershare Investor Services Plc should pay compensation to Ms J as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms J to accept or reject my decision before 9 September 2024.

James Harris
Ombudsman