

## **The complaint**

Mr B complains Computershare Investor Services Plc ('Computershare') sold, without his instruction, shares he held through an employee share plan operated by Computershare.

## **What happened**

Mr B was employed by a company I'll refer to as 'C'. While employed by C, Mr B acquired 1,504 shares in it through an employee share plan.

After leaving his employment with C in June 2020, Mr B was sent a letter by Computershare dated 8 September 2020. This asked him to decide what to do with his shares as he was no longer employed by C, he needed to either sell or transfer his shares out of the plan. If a selection wasn't received within 60 days, his shares would be sold on his behalf.

Mr B says he completed the required form selecting the option to transfer his shares and sent this to the return address specified on the form, doing so around four weeks before the deadline. Mr B thinking he'd done what he needed says he took no further action. In November 2020, Computershare wrote to Mr B to explain his shares had been sold and enclosed a cheque for the proceeds.

Unhappy Computershare sold his shares when he asked for them to be transferred, Mr B complained to the firm asking for the shares to be reinstated. It considered Mr B's complaint but didn't think it should be upheld. It said as Mr B's form wasn't received the default option of selling the shares was exercised as it was entitled to do. But it did agree it caused delays in answering his complaint and offered him £100 for the inconvenience caused.

As Mr B remained unhappy with Computershare's answer, he referred his complaint to our service. In doing so, he provided additional detail – which the firm has seen a copy of – about why he felt he was treated unfairly by the firm and the impact that had on him.

In summary Mr B's submissions were:

- Computershare improperly sold his shares and did so when prices were lower during the pandemic which exacerbated his losses, and also lost out on interest.
- He incurred additional tax liabilities due to the shares being sold at time he didn't choose.
- It was unreasonable for the firm to rely solely on post when sending and communicating about his options – particularly during the pandemic when postal issues were more likely to occur.
- The cheque the firm sent when it sold his shares expired.
- The firm made no attempts to contact him when it hadn't received his form or when the cheque wasn't cashed.
- Computershare should've asked C for his personal email address if it wasn't able to contact Mr B.

On referral, Computershare argued DISP 2.3.1 R would prevent us from considering the merits of Mr B's complaint. Having discussed the matter with our Investigator however, the

firm has since retracted its argument and now accepts Mr B's complaint is capable of satisfying DISP 2.3.1 R, meaning our service has the power to consider it.

Our Investigator considered the complaint but didn't think it should be upheld. In summary she said:

- Computershare was acting fairly within its discretion in how it requires information to be sent to it, and in doing so requiring the form by post was fair.
- There was no evidence of Computershare receiving the form so it wasn't unreasonable the shares were sold where that was the default option.
- The firm could've handled the complaint better but didn't say it needed to do anything more.

Mr B responded to our Investigator disagreeing with her outcome but didn't provide any new points.

As agreement couldn't be reached, the complaint has been passed to me to decide.

### **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.

When joining Computershare's service through C's employee share scheme, I think on balance Mr B likely agreed to Computershare's terms and conditions. I say this because while I've not seen such agreement, he otherwise wouldn't have been able to use that service. This document set out the responsibilities and obligations of the parties when using Computershare's service. While I understand Mr B's feelings that he had no input or leverage to amend these terms, they do form a contract between the parties and so are a relevant consideration here.

The 'Leaver Dealing' terms at 3.1 in particular say the following:

"Subject to the reason why you are no longer employed by the Company, you may instruct us to transfer all of your Securities into your own name. You will not be able to transfer them into anyone else's name. You can instruct us to do so by sending a completed Form of Direction **by post** to the address shown on [the form]." (my emphasis)

And 1.3 of the general terms says:

"We are not liable for losses or expenses suffered by you that are caused by:... (c) documents getting lost or delayed in the post..."

Mr B feels other channels such as email would be more convenient and provide more certainty around receipt of his instructions. But broadly, there are no rules or regulations which explicitly require this. It has set out clearly in these terms that it required instructions to be sent by post and wouldn't be responsible for documents that go missing by that method. I can't say these terms are unreasonable given Computershare can't fairly be held responsible for any failings by those third parties it has no control over, which may have led to Mr B's form being lost in the post. The firm is also entitled to decide the communication channels it offers for its different services. And so, it follows that in my opinion Computershare wouldn't be acting unfairly by requiring the selection form to be sent by post where it sets this out in its terms clearly.

I don't doubt Mr B sent the completed form to the correct address as he explains he did. But having considered Computershare's submissions, I'm satisfied it carried out reasonable searches to locate Mr B's form which unfortunately hasn't been found. I've also not seen persuasive evidence that the form was received by Computershare, such as tracking information to show receipt although I appreciate Mr B has said that service wasn't available at the time due to Pandemic restrictions in Australia. It follows then I'm not persuaded on balance there is evidence Computershare received Mr B's form with his instructions, and so in my opinion likely wasn't received.

I understand Mr B feels Computershare should've followed up with him as the deadline approached and it hadn't yet received the form. But I've not seen that is a service the firm offered or was obligated to. And equally, in Mr B's own testimony, he didn't contact the firm in the weeks prior to the deadline to ensure the form was received.

From the evidence provided the importance of a selection being made, and by implication received, was set out clearly on the form as it set out a time to respond by. That would mean the default position if instructions weren't received was clear his shares would be sold. And so once sending the form the onus would be Mr B's to ensure his instructions were received so the firm could act on them. I've not seen any other evidence that the firm ought to have enquired further with Mr B when it didn't receive his form, it set out a default position and fairly executed that for the reasons above.

Mr B says the cheque for the proceeds expired and hasn't been sent a new one. From the communications between the parties, I can see Computershare has offered Mr B alternatives such as adding his bank details onto the platform and has made a number of attempts to arrange the payment, and the cheque expired because it wasn't banked in time. And so, in my opinion the firm has acted fairly in dealing with the issues around the cheque. It has told Mr B what he needs to do to receive those funds, and so should he want to he can follow the instructions the firm has already given him.

As I've not seen Computershare received the instructions and wasn't required to take any more action than it did, I don't uphold this part of Mr B's complaint.

Mr B has also complained about how Computershare dealt with this issue – which the firm had offered him £100 to compensate him for. From the evidence available Computershare took over a year to respond to Mr B from the point it ought to have been clear from 21 December 2020 he was unhappy his shares had been sold despite completing his instructions.

I agree Computershare could've been more helpful here, but I've not seen the delay in responding prevented him being able to refer it to our service. However, the delays in answering Mr B's concerns about why his shares were sold has caused him frustration and inconvenience. In my opinion, the £100 Computershare has already offered him, but not yet been paid, to put that right is fair.

### **My final decision**

Computershare has already made an offer to pay £100 to settle the complaint and I think this offer is fair in all the circumstances.

So my decision is that Computershare Investor Services Plc should pay £100.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 4 February 2025.

Ken Roberts  
**Ombudsman**