

## The complaint

Mr A has complained that after he left the services of his employer, Computershare Investor Services Plc ('CIS') didn't administer his Save As You Earn ('SAYE') scheme as it should have done. As a result, Mr A says he hasn't been treated fairly as a customer and he has lost out. He wants this put right by reinstating his ability to exercise his options at the pre-agreed price.

## What happened

Mr A was employed by a company I shall refer to as 'H' in my decision and from 2019 he participated in its SAYE scheme via CIS. The scheme was for a fixed savings period funded by a monthly deduction from Mr A's salary. Upon maturity the scheme would allow Mr A the option to buy shares in H at a pre-agreed price with the funds already contributed or take the savings in cash. If Mr A chose to exercise his options, he could then either hold or sell the resulting shares.

Mr A left the employment of H in February 2022, but CIS failed to send him 'leaver notification' regarding the scheme. In September 2022 Mr A found out he had missed the opportunity to exercise his options before the lapse date which was in August 2022. Unhappy about this, Mr A raised a complaint with CIS. CIS responded to say;

- It accepted that leaver notification hadn't been sent to Mr A and apologised for the administrative error. However, all the information Mr A needed was accessible on his EquatePlus platform – CIS's Employee Share Scheme online platform.
- Mr A hadn't been advised of the lapse date during a phone call with CIS but at that time CIS wasn't aware of his leaving date so couldn't give accurate information other than Mr A would need to make his election within six months of leaving his employer.
- All the information he needed was in his account's Library, including the Sharesave Brochure and the Sharesave Plan.
- It sent him £25 for the time and trouble caused as a gesture of goodwill.

Unhappy with the outcome Mr A brought his complaint to the Financial Ombudsman Service.

Our investigator who considered the complaint thought that it should be upheld because CIS hadn't provided Mr A with the information he needed for him to act before the deadline so he could exercise his options. She also considered whether Mr A had mitigated his loss, but she wasn't persuaded it was reasonable to have expected him to fully do so in the circumstances. She concluded by saying Mr A should effectively be allowed to exercise his options at the original price and that CIS should pay him £200 for the distress caused.

Mr A agreed with the outcome, but CIS provided additional information for the investigator to consider as it didn't think the complaint should be upheld. However, that additional information didn't change the investigator's opinion.

As the complaint remains unresolved, it has been passed to me for a decision in my role as ombudsman.

### **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.

Mr A didn't have any experience of SAYE schemes. Mr A told us;

'... at no point was the need to make this election communicated to me[,] it is not intuitive to have to make an election for a scheme I have already signed up to and made an election at the point of sign up.'

To me this indicates that Mr A wasn't clear about what action he needed to take and was looking for support and information from CIS about how he should proceed after he left his employment in February 2022. He contacted CIS for guidance on 25 March 2022.

CIS hasn't been able to provide us with a copy of that call but the caller's notes state;

'...[Mr A] called up asking about his options because he left the company. I have made him aware what his choices are. It says he still working from the company on [EquatePlus] and I have made him aware just waiting to hear from the company. He is going to send a payment over when I told him to hang fire and then we can looking into doing backdated payments if need to.'

Despite his lack of knowledge about share dealings such as this Mr A was proactive in contacting CIS, but it too was waiting for information, and Mr A was reassured he didn't need to take any action until CIS had heard from his employer with updated information about Mr A's employment status. After that, I assume the leaver notification would have been emailed to Mr A.

In its response to the complaint CIS said that the leaver notification was a general notification and no information relating to the options lapse date would have been included. It said that information would only be accessible on Mr A's EquatePlus platform account. And it also said that the information previously given to Mr A about how the scheme worked etc was available in his EquatePlus account's Library, including the Sharesave Brochure and the Sharesave Plan.

I accept that point but Mr A left H's employment three years after signing up to the scheme and receiving those documents so I don't think any of the information he read at that time would still be fresh in his mind. And those documents wouldn't have given him the exercise/lapse date of his options as that couldn't be known at the time he signed up for the scheme, so he would have been reliant upon CIS for that information. And I think the leaver notification communication would have prompted Mr A to review the information on the EquatePlus platform which is where CIS has said the exercise/lapse date information was available.

But it's clear the Mr A knew he had to take some action with the SAYE scheme as he contacted CIS in November 2021 – which I assume was during the time he was working out his notice with H – and again in March 2022 shortly after leaving his employer. During the later call he was told he had a further six month's contributions to make as at that time CIS

wasn't aware of his leaver date so understandably couldn't provide the lapse date. But from my experience of dealing with similar complaints I don't think it's just as straightforward as an ex-employee paying a further six-month contributions from the date they leave their employer as sometimes it's less depending upon the date of leaving and different dates apply etc. So, Mr A couldn't have assumed he had a further six months from the date of his leaving employment – it's not that straightforward.

In response to the investigator CIS said that the scheme brochure, the option certificate and plan rules would have notified Mr A he had a limited time period within which he could exercise his options. But like my above comments these didn't provide Mr A with the exercise/lapse date and because no leaver notification was sent to him, he wasn't prompted to seek out that information on his EquatePlus account.

CIS also told us that further to Mr A's call with CIS in November 2021<sup>2</sup> he was informed that he would be receiving documents advising him about his options. And CIS said he should have taken further action if he didn't receive that information. But Mr A did call again in March 2022 when he was informed that CIS was still waiting to hear from his ex-employer about his employment status.

However, I do accept CIS' point that potentially Mr A could have done more and contacted CIS again. But looking at the circumstances overall I think the onus was on CIS to provide the information to Mr A in the form of the leaver notification which I'm satisfied would most likely have caused him to look at his EquatePlus account for the additional information about the lapse date etc.

I say this because since signing up to the scheme in 2019 Mr A hadn't needed to be proactive. The contributions were taken monthly from his salary and during this time there was no further engagement needed by him. Under the normal course of events that situation would have remained the same until the maturity of the scheme in November 2022.

However, Mr A left his employment before the scheme matured so needed guidance and information about what action he should take. And here I think CIS' engagement with Mr A would have been critical, bearing in mind the consequences of Mr A not taking any action ie the options would lapse and Mr A would only have his contributions returned to him rather than taking advantage of exercising his options at a hoped for discounted price compared to the prevailing market price. And Mr A's testimony suggests that he wanted to exercise his options and hold the shares pending a suitable selling opportunity.

As I've mentioned above, there's nothing to suggest that Mr A was experienced in SAYE schemes which I don't find unusual bearing in mind that SAYE schemes are quite often the first time members are introduced to investments. So, to me I think this emphasises the need for CIS to ensure that the scheme member is communicated to in a way that's clear, fair and not misleading and to act in its customer's best interests and, in particular, at the time that the customer needs to take some action. In my opinion the onus was CIS, and, in this case, I don't think CIS carried out its obligations as it should have done.

In conclusion, I don't think it's unreasonable for Mr A to have been reliant upon the leaver notification which would have flagged up to him his need to review the updated information on his EquatePlus Account once CIS was aware of the date he left his employment. He would then have been aware of the relevant dates and could have acted as he wanted to. I think CIS' lack of action caused him to miss the opportunity to exercise his options as he had planned. In this case, CIS didn't provide the information Mr A needed in order for him to be able to act in his own best interests.

I've considered whether Mr A had the opportunity to mitigate his losses. He told us that if he had been able to exercise his options, he 'would have probably held on to the shares for some time until I thought the sale price was high enough to sell them.' Mr A also told us that he wasn't aware of other opportunities to buy the shares for the same price or better than his option price which was £4.692.

After Mr A found out he had missed the exercise date in September 2022 I can see that the share price dipped below the option price on certain dates in October 2022 so Mr A could potentially have bought his shares at a lower price than the price pre-agreed option price. But after that the shares continued to rally and by this time Mr A had complained and was looking to CIS to put the matter right. So, I don't think Mr A had the time to potentially mitigate his losses and bearing in mind I don't think he had any previous investment experience, I'm not convinced he would have known how to go about that in such a short space of time.

My role is to be fair and reasonable in reaching a decision after considering all of the information and evidence presented to me. In the particular circumstances of this complaint, I'm satisfied that Mr A lost out because of CIS' failure to provide him with timely and appropriate information. So, I think CIS needs to do more than it has already offered in order to put the matter right.

And I also think CIS needs to make payment to recognise the distress Mr A would have suffered when he couldn't exercise his options as he had wanted to and for the inconvenience he has been caused. I think a sum of £200 is a fair reflection of that.

### **Putting things right**

- CIS should make arrangements for Mr A to 'exercise' his share options at £4.692 per share with the funds he contributed to the SAYE scheme to reflect the number of shares he would have been able to purchase on the August 2022 exercise date. If the funds have been removed from the scheme Mr A will have to pay this amount to CIS.
- Compensate Mr A for any missed dividends between the date he would have exercised his options in August 2022 and the date of payment. And interest at a rate of \*8% simple per year should be added to those dividend amounts from the dividend payment dates to the date of payment to Mr A by CIS as he has been out of pocket during that period.
- Pay Mr A the sum of £200 for the distress and inconvenience he was caused because of the lack of information he was given which meant he was unable to exercise his options as he wanted to.

\*If Computershare Investor Services Plc considers that it is required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr A how much it has taken off. It should also give him a tax deduction certificate if requested, so Mr A can reclaim the tax from HM Revenue & Customs if appropriate.

### **My final decision**

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 25 October 2024.

Catherine Langley  
**Ombudsman**