

The complaint

Ms W complains that Computershare Investor Services Plc unfairly cancelled the sale of shares she had instructed it to sell, as it had not received the relevant share certificate(s) by the required date. As a result, Ms W incurred a buyback fee of £303.05.

To put matters right Ms W wants Computershare to write off the buyback fee.

What happened

On 18 November 2022, Ms W instructed Computershare to sell shares she held. The settlement date for the trade was 2 December 2022. A contract note was made available to Ms W on 21 November 2022.

The terms and conditions Ms W accepted when she placed the trade set out:

3.4 Once we have executed your trade we will send you a Contract Note. A communication alongside the Contract Note will confirm the Sale Documents that you must send to us in order to complete your sale. Unless you hold your shares through our Corporate Nominee Service, the Sale Documents will include your share certificate(s) and a correctly completed Form of Authority.

On 24 November 2022, Computershare contacted Ms W again. It noted that it had not yet received the relevant share certificate(s). It said:

As you have sold certificated shares, please return the Sale of Shares: Authority Form together with all relevant share certificates in order to complete the transaction... Failure to provide the share certificate(s) by 30/11/2022 may lead to the sale being cancelled and the shares being bought back, an administration fee of £40.00 being charged together with a standard purchase commission fee. Additional costs relating to share price movement may also be incurred which you will be liable to cover.

Ms W says she sent the required documentation on Saturday 26 November, by first class recorded delivery. Unfortunately, the share certificate(s) were not received by Computershare until early December 2022.

As it had not received the share certificate(s) by 30 November 2022, Computershare cancelled the transaction, and this incurred a buyback fee of £303.05.

Ms W complained to Computershare. She explained that there had been a postal strike in late November 2022. (I understand the postal strike days were Thursday 24 November, Friday 25 November, Wednesday 30 November and Thursday 1 December 2022.) Ms W noted the postal strike was out of her control, and she could not be held responsible for it.

She said:

In these extraordinary circumstances one would hope that a large financial organisation such as this would have carried out a risk assessment and put procedures in place to mitigate this happening to a customer.

Computershare said that although it sympathised with Ms W's position, postal strikes were also out of its control. It noted that at the time of placing the trade Ms W had accepted its terms and conditions. These clearly set out when Computershare needed to have received the documentation for the sale of her shares.

Ms W was not satisfied with Computershare's response and referred her complaint to this service.

Having considered Ms W's complaint, our investigator said that although she appreciated the postal strikes were not the fault of either party involved, she didn't think it was fair for Ms W to have to cover the full cost of the buyback. To put matters right she said she felt it was fair and reasonable for both parties to pay half the costs involved in the buyback, £151.50 each.

Ms W accepted our investigator's view. Computershare said it did not accept the proposed resolution. In particular, it noted that Ms W had accepted the terms and conditions of the online sale and it said she had been *'...made fully aware of the timeframe within which Computershare had to receive her share certificates'*.

It said it felt it was reasonable for it *'...to expect that when postal strikes were happening that shareholders would take reasonable care and use alternative posting methods that would ensure that the required paperwork was delivered within the timeframe, so rather than using Royal Mail (which as you would expect was still heavily delayed due to the strikes) then perhaps a courier could have been used to ensure the certificates arrived within the required timeframe'*.

I issued my provisional decision on 24 October 2023. In it I explained that although I was sympathetic to Ms W's position, my provisional decision was that I couldn't reasonably require Computershare to compensate her for the costs she incurred as a result of the buyback of her shares. I explained why I had reached this provisional decision.

I noted that when Ms W instructed Computershare to sell her shares, she accepted its terms and conditions. These clearly set out:

3.5 *We must receive your Sale Documents at least three Business Days before the Settlement Date.*

3.6 *You should send the Sale Documents to the address appearing on the Contract Note and it is your responsibility to ensure that they reach us in time to complete your sale.*

4. If we do not receive your share certificates

4.1 *If we do not receive your Sale Documents at least three Business Days before the Settlement Date, we may not be able to complete the sale of your shares.*

4.2 *If we have not received your Sale Documents within seven Business Days from your Dealing Day, then you agree we may buy shares on your behalf in order to settle your trade on the Settlement Date.*

4.3 *If we buy shares on your behalf to settle your trade, then you will pay us a fee of £40 to cover the cost that we incur in addition to a dealing fee of 1.4% of the gross sale proceeds, subject to a minimum of £40. You will also pay us the amount of any increase between the price the shares were sold at on the Dealing Day and the price we purchase shares on your behalf to settle your trade. If the share price has gone down in that period then you agree that we may keep the amount of the difference. We will send you an updated Contract Note.*

In these circumstances, if your Sale Documents are received after the Settlement Date then we will return your share certificate(s) to you.

I carefully considered the points Ms W had made in relation to the postal strikes that took place around the time she instructed Computershare to sell her shares. However, I said I was mindful that Ms W did not post the documentation required by Computershare until Saturday 26 November 2022, over a week after she had instructed it to sell her shares. In the terms and conditions she agreed to when she placed the trade it explained:

3.5 We must receive your Sale Documents at least three Business Days before the Settlement Date.

and,

4.2 If we have not received your Sale Documents within seven Business Days from your Dealing Day, then you agree we may buy shares on your behalf in order to settle your trade on the Settlement Date.

In view of this, I said that even if there hadn't been planned postal strikes, I thought Ms W was leaving it very late not to have made arrangements to send the required documentation before Saturday 26 November 2022. I noted that Monday 28 November was the seventh working day since the day Ms W had placed the trade. The terms and conditions clearly set out that if the documentation was not received '*within seven Business Days from your Dealing Day*', Ms W agreed that Computershare could buy shares on her behalf to settle the trade on the settlement date.

I said it was not clear to me why Ms W did not take steps to send the documentation to Computershare sooner than she did, particularly in light of the planned postal strikes in late November 2022. And I said I was satisfied that Ms W had been made aware when she placed the trade of the deadline for her to provide Computershare with the required documentation. I noted that the terms and conditions also clearly set out the costs involved if Computershare needed to carry out a buyback of the shares.

I said it was, of course, Ms W's prerogative to send the documentation over a week after she had placed the trade, but I said I couldn't reasonably require Computershare to contribute towards the costs Ms W had incurred as a result of not sending the documentation sooner than she did.

Ms W did not accept my provisional decision. She said, in summary that she felt the investigator's view was fair and although she accepted that the terms and conditions, I had referred to in my provisional decision applied, she felt I had not given sufficient weight to '*mitigating human circumstances*' that were outside her control.

In particular, Ms W reiterated that she had sent the documentation required to Computershare '*...within the required timeframe and if there had not been a postal strike the required documentation would have been received on time. So why should I bear the total cost of the failure in the postal system and not fairly share the cost...*'

Ms W also said that she hadn't sent the necessary documentation to Computershare any sooner as she was not living in her home at the time and was only returning at weekends. Ms W also provided details of a personal matter that had caused her worry and distress.

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, although I am sympathetic to Ms W's position, my decision is that I do not uphold this complaint as I cannot reasonably find that Computershare has acted incorrectly in this matter or treated Ms W unfairly.

I have carefully considered the points Ms W has made in response to my provisional decision. Ms W has explained that she didn't send the documentation to Computershare sooner than she did as she was not living in her home at the time. I appreciate that this would have made it harder for Ms W to keep on top of matters, but I can't reasonably hold Computershare responsible for this.

Likewise, although I am sorry to hear about the personal matter that was causing Ms W worry and distress – and I do hope it is no longer a cause for concern for Ms W – I can't reasonably say that Computershare should have made allowances for this, as I have not seen anything to show that Computershare was aware of this personal matter.

As I set out in my provisional decision, the terms and conditions that Ms W accepted when she placed the trade clearly set out that Computershare must receive the sale documents at least three business days before the settlement date. And that if it had not received the sale documents within seven business days from the dealing day, Ms W agreed it could buy shares on her behalf in order to settle her trade on the settlement date.

As Computershare did not receive the documentation before the settlement date, I cannot reasonably find that it acted incorrectly by buying back the shares on Ms W's behalf in order to settle the trade on the settlement date.

I do understand that this is not the decision Ms W was hoping for, but I am required to be fair to both parties and I have not seen anything that shows or suggests that Computershare was responsible for the delay in receiving the documentation it required.

My final decision

My decision is that, for the reasons I have set out above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms W to accept or reject my decision before 23 December 2023.

Suzannah Stuart
Ombudsman