

## The complaint

Mr R complained that Equiniti Financial Services Limited ('Equiniti') did not carry over his existing dividend reinvestment instruction when transferring his shares into the Corporate Nominee Service (I'll refer to these as his 'NG' shares). His intention had been to continue to receive a scrip dividend. Instead, Equiniti paid Mr R two dividend payments via cash.

To put things right, Mr R would like the two dividends he received as cash to be converted to scrip dividends instead.

## What happened

Mr R held certificated NG shares through Equiniti and he received scrip dividends in respect of these.

The NG scrip dividend scheme enables shareholders to elect to receive new fully paid ordinary NG shares instead of cash, saving on dealing costs and stamp duty which would otherwise be incurred.

Mr R phoned Equiniti on 7 September 2021 to enquire about transferring his NG certificated shares into the Corporate Nominee Service. Mr R said he was keen for his shares to be held electronically so he would no longer have to look after share certificates. He told the agent he wanted to go ahead and she arranged for a '*Request to transfer Certificated shares into the Corporate Nominee Service*' (otherwise known as '*Form D*') to be sent to Mr R.

On Form D, it stated, in capital letters and bold type as follows:

**\*\*IMPORTANT\*\***

**DIVIDEND ELECTION INSTRUCTIONS ARE NOT TRANSFERRED TO THE NOMINEE SERVICE AND YOU WILL RECEIVE YOUR CASH DIVIDENDS BY STERLING CHEQUE UNLESS YOU INSTRUCT US OTHERWISE'**

Mr R completed and signed Form D on 16 September 2021. Equiniti transferred Mr R's NG shares into the Corporate Nominee Service shortly after.

On 4 July 2022, Mr R phoned Equiniti to check how his dividends were being paid – he said things seem to have changed. The agent confirmed that since he'd moved his NG shares into the Corporate Nominee Service the dividends were being paid in cash. The agent confirmed that receiving a scrip dividend was still an option he could apply for and he sent Mr R the scrip dividend form.

Mr R phoned Equiniti again on 22 July 2022 and another scrip dividend mandate form was sent to him.

Equiniti received Mr R's completed scrip dividend mandate form on 8 August 2022 and set up his instruction for future dividends to be applied that way, rather than in cash.

When Mr R complained about what had happened, Equiniti didn't uphold his complaint. It mainly said that it had acted in line with the instructions on Mr R's signed Form D and that dividends paid in January and August 2022 were correctly paid in cash using the bank details he had provided. Equiniti said it acted on his instructions to pay scrip dividends after August 2022.

Mr R was unhappy with this response and brought his complaint to us.

Our investigator didn't feel that Equiniti had acted unfairly or unreasonably overall. Briefly, her view was that Equiniti had carried out Mr R's signed instructions on Form D and the two cash dividends had been correctly credited to his account. So she didn't uphold the complaint.

Mr R disagreed. He mainly said (in brief summary):

- Equiniti '*...unilaterally did away with my scrip dividend and paid me cash*' in breach of their terms and conditions
- Form D wasn't clear – he wasn't given a copy and as far as he was concerned, the form was called '*Request to transfer Certificated Shares....*' and the only part that applied to him was the transfer instruction. He didn't agree it was clear that doing this would mean a change to dividend payments in cash
- his original dividend mandate hadn't expired and as Mr R was the shareholder it was up to him (and no-one else) to change this.

So the complaint comes 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.

I sympathise with Mr R – I can completely understand that what's happened has been upsetting and frustrating for him. We provide an informal complaints handling service and this is reflected in the way I've approached the complaint. My role is to consider the evidence presented by Mr R and Equiniti and reach an independent, fair and reasonable decision based on the facts of the case.

Having thought about everything I've seen and been told, I've independently reached the same overall conclusions as our investigator. I'll explain why I say this.

The crux of the complaint seems to me to be whether Equiniti acted fairly and reasonably towards Mr R when it stopped paying him scrip dividends and paid him cash dividends on two occasions in 2022.

I've carefully listened to all the call recordings I've been provided with and I've taken into account that Mr R said that from his point of view, he had filled in Form D to suit his particular needs and requirements.

I find that Form D was reasonably clear – it drew attention to the information about how dividends would be paid after transfer to the nominee service and explicitly said that dividends would be received as cash '*...unless you instruct us otherwise.*'

I have kept in mind that during the 7 September phone call, when Mr R first enquired about transferring into the nominee service, he mentioned that he got scrip dividends and asked:

*'that would still carry on, would it?'* The agent told him 'Yes' and explained that the only change would be that Mr R would no longer have share certificates as these would be held in the Corporate Nominee Service.

Equiniti has conceded that was incorrect information at the time. Unfortunately, I think it served to reinforce incorrect assumptions Mr R held.

As I understand it, Mr R assumed his original instructions regarding scrip dividends would continue unaffected because:

- his longstanding instructions already provided for scrip dividends to be paid and in Equiniti's terms and conditions it says: *'3.1 ..... Unless you instruct us otherwise, we will continue to observe any bank mandates or other instructions you have given us or Equiniti Limited concerning your shares.'*
- only he had authority to change the mandate in respect of scrip dividends
- nothing had changed when Equiniti took over as registrar so he had no reason to think that the way he received dividends would change just because he wanted to transfer and go paperless.

I've thought carefully about all these points. Whilst I find that Equiniti did provide misleading information to Mr R during the 7 September phone call, which Equiniti concedes, this isn't enough on its own for me to be able to uphold this complaint.

I say this because the ombudsman approach is to take into account what Mr R could have done differently to mitigate any loss. Here, I think he could've seen that Form D appeared to say something different to what he'd been told over the phone – the information was highlighted prominently on the form and the way it was set out suggested it was important. So, if Mr R's thinking had been influenced by the incorrect information provided by the agent during the 7 September call, it's reasonable to think that he should have gone back to Equiniti to find out whether he could safely rely on what the agent had said or whether he should instead follow the instructions on Form D.

I think it's likely that if Mr R had spoken to Equiniti again, before signing Form D, then he would have been told (as he was in the next call he had with Equiniti) that Form D included the instructions he needed to know and that he had to take further steps if he wanted to continue to receive scrip dividends.

The fact that Mr R had arranged to receive scrip dividends some twenty years or so earlier and that arrangement hadn't been affected when Equiniti became involved with his NG shares, aren't good enough reasons for me to change my decision.

And looking at the full context of paragraph 3.1, which he relies on in support of his view, I don't read this part of the terms and conditions the same way as Mr R – I think 3.1 is referring specifically to cash dividends.

Paragraph 3.2 covers scrip dividends and says: *'We may make available a service to enable you to:*

- *reinvest any sums receivable on your shares by way of a distribution of dividend by purchasing more shares in the Company; or*
- *receive new shares instead of a cash dividend if declared by the Board of the Company; or*
- *receive any sums receivable on your dividend by way of a distribution in any alternative payment method made available by the Company.*

Provided your instruction as to how you wish to receive your dividend has been processed (subject to the Terms and Conditions of that service), and the necessary shares or funds have been received by us, we will reallocate them to you, subject to these Terms and Conditions.' (my underlining)

Looked at overall, I have concluded that:

- Form D reasonably clearly stated that Mr R needed to give instructions if he didn't want to receive cash dividends following transfer to the nominee service
- Equiniti did enough to make Mr R aware that he had to specifically give further instructions if he wanted to continue to receive scrip dividends following the transfer of his NG shares to the nominee service
- when Mr R signed Form D, he didn't give instructions for scrip dividends.

So I can't make a finding on these facts that Equiniti acted in a way that wasn't fair and reasonable overall when it paid Mr R cash dividends, in line with the instructions he provided when he signed Form D. And in August 2022, when he did provide '*instruction as to how you wish to receive your dividend*' in accordance with 3.2, Equiniti correctly paid him scrip dividends from that point on.

All in all, it follows that I haven't identified sufficient grounds to uphold this complaint.

Mr R has raised at least one other complaint point over the course of this matter which doesn't form part of the complaint I have considered. If he feels he has further cause for complaint (that goes beyond the scope of the complaint he brought to us), then he should first tell Equiniti what his concerns are, so it has an opportunity to respond. If he still feels unhappy after that, he may be able to bring a new complaint to this service. We can't investigate a complaint or award redress where the financial business hasn't first been given a chance to put things right.

I appreciate that my decision will be disappointing for Mr R but I hope that setting things out as I've done helps to explain how I've reached my conclusions.

### **My final decision**

My final decision is that I don't uphold Mr R's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 6 December 2023.

Susan Webb  
**Ombudsman**