

17 October 2022

**Final report by the Complaints Commissioner****Complaint number 202201156***The complaint*

1. On 26 July 2022 you asked me to investigate a complaint about the FCA.

*What the complaint is about*

2. In its decision letter dated 19 July 2022 the FCA described your complaint as follows:

**Part One**

On 29 November 2021 you received an invoice for £250 relating to a delay in completing your Firm Details Attestation (FDA). You, however, dispute this invoice as you didn't receive an initial notification stating that you needed to complete FDA or any reminders. The invoice was also raised 30 days after your firm's accounting end date rather than 60 and you would like the invoice to be cancelled.

**Part Two**

You have had an ongoing problem with several returns, documents and surveys which you have completed and submitted but have not been acknowledged. You have had troubles registering for FCA services and have not received the support you expect from the FCA. You have stated that the FCA should review its processes, provide better support and better quality of information and provide a more user-friendly system.

*What the regulator decided*

3. The FCA did not uphold your complaint. With regards to Part One of your complaint, the FCA stated it was unable to waive the £250 fee for the delay in completing your Firm Details Attestation (FDA). It stated that the Late Return

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Fee (LRF) was for failure to submit your FDA which was due on 28 January 2021. It also included that from 31 January 2020 Firms that come under [Sup 16.10](#) meant reporting requirements are required to check, amend or confirm the accuracy of their Firm Details annually (FDA) using the FCA's Connect portal. This is required within 60 business days of the Firms Accounting Reference Date. It referenced that your Year End Date is 31 October.

4. In Part Two of your complaint the FCA noted that it was your responsibility to register a Principal User on Connect. Failing to do so is what led to you not receiving any reminders for your regulatory returns. The FCA apologised you were unhappy with the service provided and that you felt you had not received sufficient support. The FCA pointed out that it had sent you an email on 28 July 2020 confirming your authorisation, which also provided you should register for Connect as soon as possible. It also mentioned that if there were any difficulties registering on Connect you were asked to contact the FCA contact centre by phone or email on 0300 500 0597 or [firm.queries@fca.org.uk](mailto:firm.queries@fca.org.uk) The FCA highlighted that the link that was provided in its 28 July 2020 email which you did not use, hence why you received the error message stating your email address was already in use. The FCA said had the instructions been followed you would have received reminders to complete your regulatory returns on time and the LRF of £250 could have been avoided. The FCA also confirmed that whilst you are registered for Connect now, you still need to register a Principal User which means you will continue to not receive any reminders or updates until one has been registered.

*Why you are unhappy with the regulator's decision*

5. In your complaint you have made me aware of the following points in relation to the FCA decision letter:

I refer to my previous correspondence. It is the FCA that have their own issues and failings but companies like ourselves who are penalised and fined.

I raise two points/examples in your email of 19th July 2022 alone, as follows:

1) Failure to deal with and respond to a complaint within the FCA timescales, using excuses of being 'very busy in the complaints team in recent months' ; and

2) Your email of 19th July 2022 asks for a reply to the question under Conclusions Paragraph 4 - "I would be grateful if you could let me know by 15th July 2022" which is four days prior to the date of the letter enclosed with your email sent to me! Are the FCA penalised or fined - No!

*Preliminary points (if any)*

6. I note that you have referred to your previous correspondence. I have looked at your original complaint with the FCA as well as the points you have raised with me. During my analysis of your complaint, it is my intention to look at and investigate the points that are appropriate and closely connected with the Complaints Scheme.

*My analysis*

7. I start by setting out a short overview of when your Firm became authorised. I have been provided with information and evidence from the FCA case file showing the content of the information that was provided to you in the email the FCA sent to you on 28 July 2020. In the email it set out the tasks that you were told you must undertake straightaway and some tasks that must be completed on an ongoing basis. The email outlined what needed to be done.
8. Specifically, I can see the FCA's first instructions were that you should register for access as an authorised firm to the Connect system. The FCA highlighted the importance of this and the duties that you had in relation to it. You were provided with a link to register and were invited by the FCA to contact it if you had any difficulties registering on Connect. I can also see the FCA did provide you with a telephone number and email address for contact if you had any difficulties.
9. You were asked to make annual regulatory data submissions. The FCA provided a link to its website for regulatory returns for claims management companies.

10. The FCA asked that you made yourself aware of, and kept up to date with, your regulatory obligations. The FCA explained that for Firms who do not comply with regulatory requirements, the FCA can take enforcement action against them. It therefore highlighted the importance of you understanding your obligations. It referenced that full details of the principles of good regulation were available on its website. In particular it shared that the FCA Handbook contains rules and guidance for firms and stated you would need to review the relevant chapters of the Handbook to keep-up-to-date with any rule changes or proposed changes. The FCA also shared that you could keep up to date with the latest news, by signing up to the regulation round up available via the website.
11. The FCA ended the email by informing you that you should ensure you have been enrolled on the FCA's online fee invoicing system. The FCA added that whilst this should have been automatically done for you, if you did not receive an email within two weeks confirming you had been enrolled on the system, you could register for the system using the FCA online invoicing webpages: [www.fca.org.uk/firms/fees/online-invoices](http://www.fca.org.uk/firms/fees/online-invoices)<<http://www.fca.org.uk/firms/fees/online-invoices>> You were also informed that each year the FCA would send you an invoice. This would show the amount of the fee to be paid to the FCA. The FCA asked that you ensured the fee was paid on time and informed that otherwise you would be charged an administrative fee of £250 if the fee is paid late.
12. Overall, I can see the FCA gave you the information it should have so that you could ensure you were clear on what the next steps were and the obligations required of you once your firm was authorised. I appreciate you disagree that you should have to pay the £250 and you state you were not given any reminders. However, the FCA were very clear in the email it sent to you on 28 July 2020 and the steps you were required to take for being an authorised Firm. This is specifically with registering with the Connect system, how to do this and what to do if you had any difficulties. I am afraid the onus was on you to follow the FCA's instructions to ensure you were fulfilling your duties. I can see that you provided the FCA with a screenshot whereby you believed your Connect system had already been updated on 27 August 2020. As the FCA explained to you, you did not use the link that was provided to you in its email of 28 July

2020 and instead you tried to register as a new user which is why you received the message that ‘...A user has already been registered with this Email Address...’. As the information the FCA gave you was correct and clearly provided in its email of 28 July 2020, I do not think the FCA have made a mistake here. The responsibility falls on a Firm to follow the instructions provided. Failing that the FCA did provide details to you so you could contact it if you had any difficulties.

13. You have mentioned the point that the invoice was raised 30 days after your firm’s accounting end date rather than 60 and you would like the invoice to be cancelled. The FCA explained in its decision letter that your Year End Date is 31 October and the FDA fee was due on 28 January 2021. So, I agree with the FCA not upholding this point.
14. I am sorry to hear that you have experienced ongoing problems with several returns, documents and surveys which you have completed and submitted but have not been acknowledged. You also mention you have had trouble registering for FCA services and have not received the support you expect from the FCA. The point remains that the FCA gave you the information you needed to contact them if you had difficulties in its email on 28 July 2020. I have also listened to the call that took place between yourself and the Hub advisor on 4 January 2022 when you queried the FDA fee. Noticeably the advisor reminded you that the FCA fees team email address was on all the invoices which was [fcafees@fca.org.uk](mailto:fcafees@fca.org.uk). I have been provided with an invoice for this year showing the outstanding £250 unpaid fee and can see the invoice does show the FCA fees email address and contact number if there are any queries. This also shows further transparency from the FCA if one had any queries with fees they could contact the FCA by phone or email. So, I disagree that the FCA do not provide support or access to service if one is experiencing issues.
15. In your complaint email to me you make references to the FCA’s failure to deal with and respond to your complaint within the FCA timescales. I am pleased to see the FCA recognised this point in its decision letter by apologising for the length of time taken to deal with the complaint and additionally offering you an ex gratia payment of £50 for any inconvenience caused. I think the FCA’s

apology and ex gratia offer of £50 is fair and reasonable given the circumstances.

16. You have highlighted to me that in an email you received from the FCA dated 19 July 2022 it asked for a reply to the question under Conclusions Paragraph 4 – ‘...I would be grateful if you could let me know by 15th July 2022...’ You state this is four days prior to the date of the letter enclosed with the FCA’s email sent to you. You make the point that the FCA are not penalised or fined for this. I see here you are referring to the FCA’s decision letter where it makes the offer of the ex gratia payment. I appreciate and understand the FCA made a very small error here with the dates. However, this cross referenced with a Firm’s responsibilities once they are authorised are different matters entirely and I do not agree that the FCA should be penalised or fined for this. I would suggest however that if you have not yet accepted the ex gratia offer of £50 but would still like to accept this, the FCA ensures it honours this in light of the small mistake it made in its letter.

*My decision*

17. For the reasons above I have not upheld your complaint.

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Complaints Commissioner

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