

16 November 2022

Final report by the Complaints Commissioner**Complaint number 202201583***The complaint*

1. On 2 September 2022 you asked me to investigate a complaint against the FCA.

What the complaint is about

2. The FCA summarised your complaint as follows:

Part One

The FCA has failed to show any compassion or understanding in the late submission of your CCR007 return which was due to Covid absences.

Part Two

It is quite confusing to receive 3 emails relating to 3 different deadlines for the various reporting required. One of these emails contained 2 deadline dates written in the wrong order. It would be better if these were all due on one date rather than different ones.

The remedy you are seeking is for the fee to be waived.

What the regulator decided

3. The FCA did not uphold your complaint they advised you:

To investigate your complaint, I have considered the circumstances you provided us with along with the email exchange with regards to your request to have the fee waived and the FCA's response.

I am sorry to hear that your firm has experienced difficulties with 2 members of the finance team being off sick with Covid which impacted your ability to submit your FCA return on time.

Part One – Not upheld

The FCA has failed to show any compassion or understanding in the late submission of your CCR007 return which was due to Covid absences.

Whilst I can appreciate the difficulties these circumstances must have created; your firm is required to submit your regulatory returns on time. Your firm is expected to have systems and controls in place. This would include a business contingency plan which would take into account how unexpected illness would affect the operation of the firm.

At the time the reporting was due to be submitted (14 July 2022) the Covid related restrictions had been in place (in various forms) for over two years. I also note that your firm did not contact the Supervision Hub prior to the reporting deadline to explain the returns could not be submitted.

Part Two

It is quite confusing to receive 3 emails relating to 3 different deadlines for the various reporting required. One of these emails contained 2 deadline dates written in the wrong order. It would be better if these were all due on one date rather than different ones.

The CCR007 report is an annual requirement, and your firm should be planning for its completion. It is noted that this return has been completed within the deadline every year since 2018 so it appears the firm are fully aware of the requirement.

The reminders are not a requirement of the FCA and are sent out of courtesy. The returns are all linked to the firms end of year accounting date and the deadlines for returns can be accessed via RegData.

For the reasons given above I have not upheld the complaint.

Why you are unhappy with the regulator's decision

4. You have asked me to review the FCA's decision.

My analysis

5. You have told me:

We are a small independent business with 2 full-time employees and 5 part-time. We sell xxxx and offer 0% finance through the Arts Council backed Take-it-Away scheme, hence our requirement to report finance related activity through the CCR007 form each year, which we have completed and submitted each year without any issues. Last year we had problems logging in to submit the firm details attestation and had to repeatedly contact the FCA because we hadn't had a reply with any help.

Unfortunately this year, the two key members of staff responsible for this and finance were absent due to Covid illness leading up to the deadline, meaning that despite all these issues, the CCR007 was actually submitted only one day late on the 15th July, with a covering note explaining why this was late and how small our business is. There was also confusion over the format of their emails, which had the deadlines in the wrong order, starting with a date in August, so another member of staff read this as something that could be attended to once those key members of staff had returned to work. There are also many different emails from the FCA, which can be confusing... firm details attestation, notification of disciplinary action and the consumer credit data all came in on the same date.

We took this complaint up with the FCA, but they have not shown any compassion for this unfortunate situation and are insisting on the £250 late submission fine being paid. On their latest letter they said that we are within our rights to contact you to request a review of this decision. Please can we proceed with this and could you let us know if you require any further information.

6. I do not find the FCA's position unreasonable. I am sorry to hear your staff members were unwell, however, the FCA is right to say that your firm needs to have controls and systems in place to take account of such situations.

7. The FCA are not required to send reminders and I cannot agree the due dates on the reminders were confusing, taking the above into account. I am sorry, I cannot agree the FCA should waive the £250 late submission fee.

My decision

8. For the reasons outlined above I am unable to uphold your complaint.

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Complaints Commissioner

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