

05 May 2023

**Final report by the Complaints Commissioner****Complaint number 202201732***The complaint*

1. On 22 February 2023, you asked me to review a complaint about the FCA.

*What the complaint is about*

2. The FCA set out in its decision letter dated 21 February 2023 that:

You are unhappy with the difficulties you've had in cancelling your permissions. A former employee applied for your firm to be authorised by the FCA without your knowledge, and you have tried to cancel these permissions since March 2022. You've had many difficulties passing security due to not being the person who applied for permissions.

As a result, you are also unhappy with being chased for late return and renewal fees as you have tried to cancel your permissions since March 2022.

To resolve your complaint, you are seeking to not pay any fees beyond March 2022.

*What the regulator decided*

3. The FCA did not uphold your complaint. It set out that it did not uphold your complaint. This is because it did not identify any error from the Supervision Hub or the Cancellations team which delayed the cancellation of the firm's authorisation. It also set out that it had not been able to identify any extenuating circumstances which would warrant waiving the fees that are currently due.

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

4. I have summarised the complaints you raised in your emails to my office dated 22 and 24 February 2023 being:
5. You do not understand why the FCA did not advise your firm in the numerous calls (and emails/Invoices) before the January 2023 calls that your cancellation was pending and not completed as you thought (element one)
6. You do not think that you should have to pay for any late returns and renewal fees that have been issued since March 2022 as you have been trying to cancel your permissions since that time (element two).
7. You think that the way the cancellation is done online does not work on all internet platforms making it even harder to cancel accounts and is misleading to users (element three).

*My analysis*

8. You have provided me with a brief summary of the situation your firm has been dealing with since March 2022. You have set out that you have had 'extreme difficulties' in cancelling permissions with the FCA. You have explained that it was a former employee of your firm that applied for the firm to be authorised by the FCA without your knowledge and you have never used the service. You believed that you had cancelled the firms' permissions in March 2022 but you continued to receive calls, emails and invoices from the FCA in relation to the permissions.
9. You also explained that you have had many difficulties setting up and getting past the security measures for the firm due to not being the person who originally applied for permissions. You were only able to do this after 17 January when you managed to log onto your actual account and see everything on the hub and you finally completed the cancellation.
10. As part of my investigation under the Complaints Scheme I have access to the FCA's investigation file including the call recordings it had with you and your firm. I note that I am satisfied that the summary of the calls set out in the FCA's decision letter provide a clear summary of the conversations that took place and do not consider it necessary to repeat the summaries in this report.

## Element One

11. You have questioned why in the numerous calls your firm had with the FCA from May 2022 to January 2023 that no one informed you that your cancellation was pending and had not been completed.
12. I am satisfied having reviewed the FCA file, including listening to the call recordings that the explanation the FCA has provided to you in its decision letter about the events relating to the calls and why your firm was not informed about the status of the cancellation are valid. The Supervision Hub was unable to inform you on the calls it had with you about the status of the cancellation, being that it was still pending because your security verification process had not been completed. It would have been a breach of the FCA's security processes had this information been provided to an individual at the firm before the verification process had been completed.
13. It is unfortunate that there were missed calls between you and the FCA to finalise the verification process, which resulted in the additional time to complete the process, but I am satisfied that the FCA did try to contact you to complete the process and that its approach was reasonable. As such I **do not uphold** this element of your complaint.
14. I note that the FCA's decision letter has looked at the conduct of the Supervision Hub and the Cancellations Team in relation to your complaint this complaint element that they failed to inform you that your cancellation was still pending. As such, my investigation has focused on your interactions with these teams. Having listened to the call recordings I have noted that you informed the Supervision Hub that your firm also conversed with the revenue team on numerous occasions as well. It is my feeling that it was the receipt of correspondence from the revenue department, most likely fee reminders and invoices, that prompted your firm to then contact the Supervision Hub which was when the cancellation status was discussed. In my preliminary report I invited you to provide any further information you had relating to your correspondence with the Revenue Team that you consider is relevant to this element of your complaint. Your response to the preliminary report did not

detail any specifics of your correspondence with the Revenue Team and as such has not altered my position on this element..

#### Element Two

15. My review of the available information has indicated that you were minded to cancel the firms permissions in the call on 31 January 2022 and the process for doing this was discussed on that call. The next call that I had access to listen to occurred in May 2022, not March 2022 which is when you have repeatedly set out that you had spoken with someone at the FCA about how to cancel your permissions.
16. The FCA has set out in its decision letter that having reviewed the timeline of events that it is clear that an application was not submitted in March 2022, nor did any conversation take place about it at that point. From the information I have been provided I am minded to agree with the FCA on this point. In my preliminary report I asked you to forward any information about what steps took place in March 2022 that led you to believe you had completed the cancellation process (screenshots, emails, letters) to me to consider. In your response you again repeated your belief that you had cancelled the firms permissions in March 2022, but you did not provide any additional evidence.
17. I note that at the end of the call that took place on 16 May 2022 it is clear that the person from your firm was aware that the cancellation had not yet taken place and intended to discuss the matter with you and that they intended to set out to you that they thought you should go ahead and cancel the authorisation the firm held. When the same person spoke to someone in November 2022, he repeated that the firm had cancelled the permissions in March 2022, despite previously acknowledging in May 2022 that the firm had not yet cancelled its permissions. The person from your firm was unfortunately unable to continue with the call at this time as he failed to get through the relevant security questions.
18. Whilst I can see from the available information that your firm was looking to cancel its permissions and association with the FCA, your firm did not follow up and take the active steps to complete the cancellation. The onus of cancelling an authorised firms' permissions lies with the firm. It is not the responsibility of

the FCA, nor would it be practical for it to follow up pending forms on firms Connect accounts.

19. I appreciate that you had taken over the firm from a previous owner. You have detailed that the account details and authorisation were set up by a person who was no longer with the firm and that you did not consider that your firm needed the permissions previously held. However, when you took over the firm you also took on the firms pre-existing relationship with the FCA. This included the responsibility for the firms' permissions and associated costs and administrative tasks which had to be attended to through the relevant FCA processes.
20. Following a call on 23 November 2022 when your employee was not able to get through the security questions, an email was sent to the firm detailing the documents that you would need to provide in order that the verification process could be completed. You sent the information on 24 November 2022 and sought an update on 29 November 2022. On 1 December 2022 a supervisor attempted to call you and spoke to an employee at the firm who took a message asking you to call back.
21. There was then a gap of nearly three weeks until the 19 December 2022 when your firm emailed the FCA seeking an update. The Supervision Hub then attempted to call you twice on 21 and 22 December 2022 respectively but they were again unable to reach you directly. I do feel that whilst it was reasonable for the FCA to accept the employee at your firm telling it that they would pass on the message for you to call back, it might have been appropriate to diarise a follow up call to you in case the call back message did not reach you. In my preliminary report I **suggested** that the supervision team may want to review whether its processes have appropriate measures in place to ensure that follow up calls to complete security document verification are followed up in case messages to call back do not reach the relevant person at a firm. The Complaints Team informed me in its response to my preliminary report that it had discussed this suggestion with the Supervision Hub and have discussed the processes they have in place. They have set out that their processes require them to speak to a senior manager/approved person to complete verification checks before proceeding with the caller's query. They have set out that they consider there is a balance to be struck between maintaining their security

standards and the number of times that they follow up on enquiries. They have set out that the three call back that it made is generally reasonable, and I am minded to agree. I am pleased that both teams took the time out to discuss my suggestion and are satisfied that the procedures in place are appropriate.

22. On 6 January 2023 your firm again called, this time to discuss correspondence from the revenue department and in this call it was explained that supervision still needed to speak directly with you to verify the documentation you had sent in before it could discuss matters further. You were able to speak directly with the supervision team on 17 January 2023 and complete the verification process and discuss the cancellation.
23. Shortly after the verification process had taken place you were able to discuss the matter with someone on the phone who informed you that your cancellation was sitting as a draft document. In the call on 20 January 2023 your firm was talked through the process and the cancellation form was fully submitted. The supervisor set out in this call that returns would still need to be completed until the cancellation was processed.
24. From my review of the information, I have not seen any fault on the part of the FCA that has led to the delay in completing the cancellation process. As such I do not consider that there is any justifiable reason for the FCA to waive any of the fees you incurred up to the date that the cancellation was completed on Connect.
25. As a result of the above, I am **unable to uphold** your complaint. It is a firm's responsibility to ensure returns and fees are submitted and paid on time until such time that it receives confirmation that its cancellation has been completed.

#### Element Three

26. You have set out that you consider that the way the cancelation is done online does not work on all internet platforms making it even harder to cancel accounts and misleading to users. You believe that this could have potentially been the issue back in March 2022 when you believed the cancellation had gone through as it looked like it had been completed when you completed it on internet explorer.

27. As previously set out from the information available to me from the FCA there does not appear to be any record of you contacting the FCA in March 2022 that would tie in with you saying you had tried to submit a cancellation at that time. If you have any information to support this cancellation application please provide it along with your response to this preliminary report.
28. This being said, even if I accepted that your firm was of the belief that it had submitted the cancellation in March 2022 and there was an issue with the internet browser used, I still consider that you were still responsible for all administrative tasks and for the fees levied to the firm until such time that you received confirmation that the cancellation was finalised. The FCA advised you on the call on 31 January 2022 that you would still be fully authorised until the FCA confirmed your firm was cancelled and that the firm would be required to continue to complete its returns. You had not received any confirmation of cancellation and when your firm contacted the FCA in May 2022 it was informed that the firm was still authorised. Accordingly, I consider that your firm was aware that the cancellation had not been completed and were therefore still authorised.
29. I would like to thank you for raising the issue of using a particular internet browser to complete forms as a potential issue, this is something that has been raised with my office before. I have reviewed the FCA's site that sets out the details about its Connect platform (<https://www.fca.org.uk/firms/connect>). I can see that it does set out that users will need the latest version of the relevant browser to access Connect. I am satisfied that this is clear and not misleading. In my preliminary report I **invited** the FCA to provide me with some further information about any issues it is aware of with using different browsers and older versions of browsers. The FCA has informed me that:

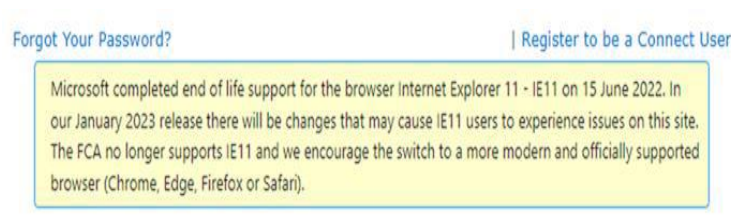
individuals who have accessed Connect through Internet explorer 11 (IE11) and other older browsers could experience the following:

- Slower response times and page load times compared to a modern browser

- Broken buttons and links as these are not tested to work in IE11
- Increased security risks as IE11 does not support Content Security Policy (CSP) to detect and mitigate certain types of attacks, including Cross-Site Scripting and data injection attacks.

30. I also asked the FCA what measures it has in place to ensure that Firms are aware (if it is a known issue) that its systems may work better on particular internet browsers than others. The FCA in its response to my preliminary report has advised the following:

The measures that have been put in place to ensure that Firms are aware that Connect may work better on one particular internet browser than another is on the login page for Connect. A message was added on 20 January 2023 to coincide with a software update on Connect which meant that it stopped supporting IE11 on 31 December 2022 (please see below the message users can see).



The area has also said on the FCA website we provide advice that users should have the recent version of modern browsers: <https://www.fca.org.uk/firms/connect> and that this has been in place since 2021.

31. I thank the FCA for providing this information to me. I am pleased that the FCA has shared the known relevant potential issues associated with the use of its systems on different browsers and the steps it has taken to alert users of these.

32. In view of the above I have **not upheld** this complaint. I do not have any information to support your assertion that you applied for cancellation in March



2022 or that you had an issue with your browser at that time. My review of the FCA site found clear instructions that Connect users should have the latest browser in order to use the site, I did not find it to be misleading.

*My decision*

This is my final report. For the reasons set out above I have not upheld your complaint elements.

Amerdeep Somal

Complaints Commissioner

05 May 2023