

11 May 2023

**Final report by the Complaints Commissioner****Complaint number 202201739***The complaint*

1. On 27 February 2023, you asked me to review a complaint about the FCA.

*What the complaint is about*

2. The FCA summarised your complaint as follows:

**Part One**

You are unhappy that you have been fined with a late fee of £250 when you called in repetitively to the Supervision Hub to explain that you cannot gain access to RegData. You feel scammed out of paying money for something that is not in your control after explaining that you cannot access RegData.

**Part Two**

You are also unhappy with the letter sent on 9 January 2023. It contained the details of another complainant. You are unhappy with the breach of confidentiality and not being provided with an apology. You asked whether you should contact the complainant to let him know about this breach and whether you could be assured about your details not being sent to other complainants.

To resolve your complaint, you are seeking for your late return fee to be waived and guidance into being registered with RegData so you can complete your returns on time.

*What the regulator decided*

3. The FCA partially upheld part one and upheld part two of your complaint, it said:

202201739

I partially upheld Part One of your complaint. This is because the first return was already overdue by the time you had reported the technical issue regarding logging in. I agree that you had to wait a long time for a fix to be provided by the RegData team.

I upheld Part Two of your complaint. This is because you were sent a letter which contained the details of another individual.

Regulation Round-up is our monthly newsletter sent by email to all regulated firms who have signed-up to the service to update them on the latest news which affects the sector they practice in. We encourage firms to sign-up for Regulation Round-up as it includes news and key events affecting each portfolio of firms.

If you would like to sign up for the FCA monthly email with updates for firms, you can do so here. This would help your firm to keep updated with the requirements of being an FCA authorised and regulated firm.

### **Recommendations**

For Part One of the complaint, I will be asking the Returns Compliance team to waive the fee charged for the late submission of the REP008 which was due on 30 November 2022. I will also be providing feedback to the RegData team for the time it had taken to identify a resolution to the issue of logging in.

For Part Two of the complaint, I would like to sincerely apologise for the inconvenience it caused, feedback has already been provided to the Complaints Team to ensure incidents like this do not happen going forward.

*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:

### **Element One:**

November 2022 I received a demand for £250 late payment charge for not having filled my RegData submission on time.

Upon receiving this I immediately contacted FCA to question this charge. They informed me that I was not registered on the RegData system and that I had received an email in March 2022 to tell me how to do this.

I did try to register this in March and as far as I was aware I had done so, they told me I hadn't so I was prepared to accept the charge and pay immediately as well as complete the registration. I was then told I was registered but couldn't gain access due to a technical fault that they repeatedly told me I was doing something wrong. I.E clear cache, use google chrome, laptop only, all these things over and over which I was doing. Still no further on! It then became apparent after several calls from myself to resolve this that this was a common fault on their part as recorded phone calls will prove.

I was very concerned as it was email after email robotic emails. When I contacted the complaints via email nobody would take ownership and help me. My bill then doubled to £500 still no access. When I did speak to a few people who seemed to help a little they assured me this was a FCA fault they promised and assured me that I would not be charged any fees due to this being a common FCA fault.

### **Element Two**

I was contacted by Advisor X to say this was fixed after around 3 months there was never a time frame, never anybody contacted me unless I persuaded phone calls an email. No supervisor or manager would take ownership.

Advisor X tried to help over a period of time again telling me to clear cache, google chrome etc and every time I tried it wasn't fixed.

Somehow after 3 months they managed to fix their technical issue (not mine) (not my lack of attempt) as soon as it was fixed I filed the forms it wasn't being avoided it was impossible, they have been impossible.

### **Element Three**

In between my repeat calls to FCA expressing my worry and concern they decided to send me another FCA customers details Mr X We (massive breach of data and client confidentiality) they then realised this and emailed me telling me to delete this! Not one apology or even address my complaint but to demand I delete their huge breach in confidentiality mistake.

### **Element One:**

I have listened to the telephone calls you had with the various departments at the FCA and I have reviewed the FCA file. The first late fee of £250 was incurred before you were aware you had any issues with accessing RegData to make your annual returns.

The FCA sent your Firm an email on 3 March 2022, this email was information including the next steps. Within this email, it clearly stated you needed to register for RegData and provided you with a link:

*Register for RegData and check your reporting schedule.*

*\* - RegData is our online regulatory reporting system we use to collect, validate, and store regulatory data. You are required to report to us regularly via RegData. \* - Please note that you will be charged an administrative fee of £250 for each report that is late. It is therefore important that you register on Reg Data promptly and check your reporting schedule. \* - It may take up to 24 hours for RegData to become live from your authorisation date. You can find the link to Reg Data and additional information [here](#).*

It is the Firms responsibility to ensure all reporting and returns are made on time on the appropriate system. I have found no evidence of you contacting the FCA to advise you were having system issues until after the first late fee had been incurred, I am therefore unable to recommend the FCA waive this fee and I cannot uphold this element of your complaint.

## **Element Two**

It is extremely disappointing it took 3 months for the FCA to sort the technical issue with RegData. I do not think it is reasonable that you had to make as many phone calls as you did to rectify this issue and repeatedly having to carry out the same instructions, only to still not gain access. I can understand how inconvenient and frustrating it was spending so much time resolving this issue and the concern you had with the wording within the reminder emails you received. As a result, I uphold this element of your complaint.

When there is a known ongoing issue with RegData, I **recommend** the FCA stops further reminder emails being sent to firms advising enforcement will become involved if the fee is not paid, causing further inconvenience and concern to the firm involved.

I also **recommend** the FCA offers you an ex-gratia payment of £250 in recognition of the service and inconvenience you received.

## **Element Three**

You were sent a letter from the Complaints Department containing another complainants' details. This was due to human error; I can assure you the incident has been taken seriously within the FCA and the appropriate action taken. I am disappointed the FCA did not apologise for this error when it happened, however I note following your complaint you have now received an apology. I agree with the FCA's decision to uphold this element of your complaint.

In response to my preliminary report the FCA have provided me with further information on its processes when issuing reminder emails to Firms. Where there is a known system issue registered prior to the submission date, the FCA can stop emails being sent to a Firm whilst the investigate the issue. As you did not alert the FCA of a system issue until after the due date, this was not possible. I am satisfied with the information the FCA has provide in response to my recommendation which I now rescind.

I am pleased to advise the FCA have agreed to my recommendation of an ex-gratia payment of £250. You have asked me whether the FCA will waive the outstanding balance or make a payment to you. The FCA have informed me

they will contact you following the issuing of my final report to request your payment details.

*My decision*

6. For the reasons outlined above, I do not uphold Element One and I uphold Elements Two and Three of your complaint.

Amerdeep Somal

Complaints Commissioner

11 May 2023