

12 May 2023

Final report by the Complaints Commissioner**Complaint number 202201761***The complaint*

1. On 16 March 2023, you asked me to review a complaint about the FCA.

What the complaint is about

2. The FCA summarised your complaint as follows:

Our understanding of your complaint is that you are unhappy that your firm has received three late return fines. Totalling to £750. You have explained that you have disputed all three.

You have explained that the first fine was in relation to the FCA's RegData system, which you have said that you were not able to update as your account was restricted.

You called to sort the issue out but failed security. You needed help and advice but was unable to get this.

The second fine was in relation to the FCA's Connect system. You have said that you were never updated by letter or email and as such you were not aware of anything that needed to be done. You have said that this would not have been the case if you were able to pass security.

The third fine is relating to the submission of one of your regulatory returns. You have explained this was filed on 25 October 2022.

You have explained that your experience as a whole has been appalling and that you have called several times to sort out any issues but failed security. You also did not receive any call backs after sending proof of ID. You feel the FCA could have done more to provide

help. You have currently opted to cancel your permissions not out of your own choice but down to the fact that you have received no help with your reporting requirements and the fines you are receiving have caused you stress.

You have received 3 late fee invoices from the FCA for a total of £750. These late fees are due missed reporting requirements. You have disputed these fees due to issues you have explained you experienced accessing the FCA systems to make your submissions.

What the regulator decided

3. The FCA did not uphold your complaint, it said:

I did not uphold Part One of your complaint. This is because if you were unable to pass the security verification the FCA could not assist you.

I did not uphold Part Two of your complaint. This is because the FCA is not required to send reminders of upcoming submissions deadlines; the responsibility lies with the firm to meet these requirements.

I did not uphold Part Three of your complaint. This is because although the Attestation was created on 25 October 2022, it was in draft and not submitted.

The Firm Details Attestation is a regulatory requirement and your firm failed to complete this on time. Your firm also failed to submit CCR007 and REP008.

As a regulated firm you have a reporting schedule which is mandatory and part of the responsibilities of a regulated firm

The fees under invoices SUN_00029938, SUN_0029251 and SUN_0030730 remain payable and you should pay these at the earliest opportunity.

Why you are unhappy with the regulator's decision

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

My analysis

5. You applied for your firm to be FCA approved as you were going to be offering finance to your customers. It was a requirement of the finance company that you were FCA approved, after you became approved the finance company told you they were not taking on any new clients and you would need to find an alternative finance company. The finance company you have now found do not require your firm to be approved as they have the necessary permissions in place. As a result, you have never needed to be approved and have never used your permissions.

Element One

I have listened to the telephone calls you had with the FCA. You did not pass the security questions, so the advisors could not progress with your calls. The FCA did however email you requesting document identification to verify you and assist you with your enquiry. Once in receipt of the documentation, the FCA did try and call you to verify you but were unable to reach you. You called again in January, after failing security again you were asked to send in the same documents for verification. The FCA did call you back, you were unable to speak to the advisor when he called so you returned the call the following day and were able to complete the verification process. I cannot agree the FCA were unhelpful during these calls. In fact all the advisors tried their best to assist you and find a way forward to be able to verify you and pass the required security. I am therefore unable to uphold this Element of your complaint.

Element Two

It is the Firms responsibility (and not the FCA's) to ensure all reporting and returns are made on time on the appropriate system. The FCA are not required to remind you of any reporting and returns due. As a result, I am unable to uphold this element of your complaint.

Element Three

Whilst I note you attempted to submit your Firm's Details Attestation on time, it wasn't submitted and sat in your drafts. As I have already outlined above, it is a Firms responsibility to ensure all reporting and returns are made correctly and

on time. Whilst I have sympathy, I cannot uphold this element of your complaint as the return was not submitted.

As a result of the above, I am unable to recommend the FCA waives the fees your firm has incurred.

My decision

6. For the reasons outline above, I am unable to uphold Elements One, Two and Three of your complaint.

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Complaints Commissioner

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