

29 November 2023

Final report by the Complaints Commissioner**Complaint number case 202300381***The complaint*

1. On 14 August 2023, you asked me to review a complaint about the FCA.

What the complaint is about

2. You are a sole trader authorised by the FCA who wished to cancel your permissions. You are disputing 10 late fee invoices which the FCA has levied on you.

What the regulator decided

3. The FCA's decision summarised Part One of your complaint as follows:

You have explained that on 5 December 2021, you sent the FCA a letter, explaining your health issues and requesting the cancellation of your firms permissions. You had been in contact with the FCA prior to this about your health problems and had explained that you were unable to complete the reporting demands. You are unhappy that the FCA lost this letter and have continued to charge you penalties and annual fees

4. The FCA partially upheld this complaint. It also apologised and waived one of the late return fees it had issued you.
5. I will begin by saying that there is no good reason for the FCA to partially uphold the complaint in the way it is stated. With respect to the letter requesting a cancellation of permissions you allege to have sent the FCA, the FCA Complaints Team have informed you the FCA has no record of receiving this letter, and that in any event that is not the correct way to cancel a firm's permissions. This is because under the FCA handbook, a firm 'must submit their cancellation request by electronically submitting an application to cancel (or by

requesting a paper copy of the form in exceptional circumstances). You did not do so. It is up to an authorised firm to be aware of its obligations under the rule book and have processes and systems in place to ensure that the relevant rules are being followed. The FCA did not uphold your complaint that it had lost the letter you allege to have sent or that such a letter is sufficient for you to have cancelled your permissions, and I agree with this.

6. You did make a call to the FCA Supervision Hub on 3 December 2021 to say that you had been ill and had an operation, and could not complete your regulatory reporting for the period for that reason. You did mention during the call you would be retiring at some point but that you have some clients you wished to finish servicing first. The fact that you said to the FCA you would be retiring after you finished servicing your existing clients does not constitute a request to cancel.
7. You did however say you had been ill during the phone call, and the late Returns Team subsequently asked the Supervision Hub to contact you and tell you to submit your returns as soon as possible for the period and they would consider waiving the fee for that period. The Supervision Hub did not contact you. This is why the FCA is apologising to you now and waiving the fee for the one late regulatory return.
8. However, your complaint was that the FCA had lost your alleged cancellation letter and were repeatedly charging you late fees when you had told it that you wish to cancel your permission. That complaint is not upheld and I agree it should not be.
9. The FCA summarised Part Two of your complaint as follows:

You state that even if the FCA had lost your letter they should have written to you about not sending any regulatory reporting information for nearly 3 years. You state that the FCA have told you that they emailed centralms@btconnect.com but that this email address was closed and would have bounced back. You are unhappy that the FCA did not call or text you.
10. The FCA did not uphold this complaint. It said 'The FCA does on occasion send reminders to firms to complete their regulatory returns. This is completed on a purely courtesy basis. However, I have seen that the emails to remind you to

complete your Firm Details Attestation in 2022 were sent successfully....it is the firm's responsibility to have controls and systems in place to fulfil their reporting obligations'.

11. It is the case that the FCA is not legally required to send reminders, and the fact a firm did not receive a reminder from the FCA does not mean it is discharged of its reporting obligations.

My decision

12. I am sorry to hear about your health problems, however, for the reason above, I do not uphold your complaint..

Amerdeep Somal
Complaints Commissioner
29 November 2023