

02 April 2024

Final report by the Complaints Commissioner**Complaint number 202300482***The complaint*

1. On 27 September 2023, you asked me to review a complaint about the FCA's decision not to waive your firm's late return fee.
2. I have reviewed the complaint, and my decision is that I agree with the FCA's decision not to uphold your complaint and I explain why below.

What the complaint is about

3. The FCA set out in its decision letter dated 25 August 2023 that, 'You are unhappy that you did not get a chance to provide your medical letter from your doctor to the Returns Compliance team who refused to waive your £250 late return fee.'

What the FCA decided

4. The FCA did not uphold your complaint. It apologised if you were having issues with your IRN number, but set out that this could have been solved if you had called or contacted the FCA before the deadline of 23 May 2023. It explained that the reporting is mandatory, and a firm commits to this when they complete their application with the FCA.

Why you are unhappy with the FCA's decision

5. In your complaint to my office made on 27 September 2023, you set out that you were dissatisfied with the FCA's conclusion not to uphold your complaint and that you believe a review is warranted due to the specific circumstances surrounding the case.

6. You set out that you had faced significant difficulties, including health issues, and had problems retrieving your IRN number which contributed to your inability to submit the CMC returns on time.
7. You said that despite providing substantial medical evidence and explaining the situation, the FCA chose to dismiss your complaint without adequate consideration of the material evidence provided by your medical consultant.
8. You believe a waiver of the £250 late return fee is reasonable given the extenuating circumstances surrounding your late submission.

My analysis

9. Below is a timeline of the key events in relation to your complaint about the FCA.

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|---------------|---|
| 31 March 2023 | The FCA sent an email to you regarding the changes that were taking place in submitting returns. |
| 23 May 2023 | The firm's return is due. |
| 25 May 2023 | Late Fee Notification was issued to your firm. |
| 23 June 2023 | You called the Supervision Hub regarding the issues you were having regarding your IRN number and registering for RegData. |
| 26 June 2023 | You called the Supervision Hub for a second time regarding the issues you were having regarding your IRN number and registering for RegData. |
| 26 June 2023 | You disputed the late return fee that had been issued to your firm. |
| 29 June 2023 | The Returns Compliance Team emailed you and set out that they were unable to waive the fee and the case was marked as resolved on the FCA system. |

- 1 August 2023 You wrote to the FCA stating that you had since been provided with material evidence from your consultant for its consideration in this matter.
- 2 August 2023 You emailed the Returns Compliance Team and called the Supervision Hub about the medical evidence at which time you were told you should make a complaint to the FCA.

10. I am very sorry to hear about the health issues you have been experiencing and I hope these have improved in the time since you made your complaint.
11. Whilst I have sympathy for your personal situation, I have reviewed the information I have been provided with including the FCA's file and I am satisfied that the FCA in reviewing your complaint did give sufficient consideration to the information you provided to it about your medical condition.
12. On 29 June 2023 the Returns Compliance Team wrote to you and set out that:
- Whilst the reporting remains outstanding, as well as taking into consideration that your firm did not register for RegData within sufficient time to complete your reporting I am unable to waive this fee. I make this decision also taking into account the health issues you have outlined. As there is not currently evidence that these tests and appointments directly impacted in you not completing this reporting within the submission period.
13. In reviewing your matter, I can see that after this date you provided a copy of the letter from your consultant to the FCA, the letter was dated 14 July 2023. In reviewing the FCA file I can see that the FCA has reviewed this letter and taken the letter into consideration as to whether it altered the position set out by the Returns Compliance Team. The FCA concluded that this did not change the position and based on the information available to me I agree.
14. Whilst the letter from your consultant dated 14 July 2023, did set out that you have experienced medical issues it provided no indication that this would have prevented you from contacting the FCA between 31 March 2023 and the 23 May 2023, being the time between the FCA sending out the email about the changes to submitting returns when your returns were due to be filed. As such

looking at the timeline above there does not appear to be extenuating circumstances to explain why you failed to contact the FCA between 31 March 2023 and 23 May 2023 about the problems retrieving your IRN number which you say contributed to your inability to submit the CMC returns on time.

15. As such I consider that the FCA was correct to not uphold your complaint and I do not find that the late fee should be waived.

My decision

16. This is my final report on your complaint. I know that my decision will disappoint you, but I agree with the FCA's decision, and I also have **not upheld** your complaint.

Rachel Kent

Complaints Commissioner

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