

26 April 2024

Final report by the Complaints Commissioner**Complaint number 202300647***The complaint*

1. On 13 December 2023, you submitted a complaint to my office about the FCA.
2. I have not upheld your complaint. I explain why below.

The complaint to the FCA

3. Your firm was charged a £250 administrative fee because you did not submit a Firm Details Attestation (“Attestation”) in time.
4. You disputed this fee with the FCA on the basis that you allege not to have received an email reminder from the FCA to complete the Attestation.
5. The FCA did not uphold your complaint. It said firms are expected to have systems and controls in place to enable them to fulfil their reporting requirements. The FCA told you that it sends email reminders to firms as a courtesy in some circumstances, but it is not required to do so, and the non-receipt of a courtesy reminder is not an excuse for a firm not to complete its statutory returns and Attestation.
6. You did not accept this explanation and said that “the fact is you [the FCA] have an obligation irrespective of what you say to come back to us in respect of reports that need to be submitted.”

My analysis

7. The FCA does not have an obligation to send firms reminders to complete their returns and Attestations. The FCA is correct that it sends reminders as a courtesy, and the fact you may not have received a reminder does not mean that your obligation to fill in the Attestation on time is waived.

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8. You have made the argument that it is not good enough for the FCA to send reminders in some instances and not in others: either it should send reminders in all instances or not at all.
9. I appreciate your frustration, however, in practice there are many reasons why reminders sometimes do not reach their recipients, including at times due to IT actions the recipients themselves take. I have not reviewed the exact cause of why you did not receive the reminder (as this was not explicitly referred to by either the FCA or you in the complaint), however, the cause is irrelevant with respect to the crux of the matter, which is that submission of your Attestation is not dependent on whether you receive a reminder or not.
10. I note that this was the second year in which you failed to submit this form on time which you say is due to reminders not being received.
11. I do not uphold your complaint. However, I agree that firms should be treated equally. Therefore, the FCA should ensure that where reminders are sent, they are sent to everyone. I note that the FCA say this is a courtesy but where it is normal practice to send reminders every year, when this doesn't happen, firms can be caught out. The FCA has accepted this point and the FCA Complaints Team has given this feedback to the relevant area. I agree with the FCA, however, that this doesn't absolve firms from satisfying their obligation.

My decision

12. I understand that you are not happy with my decision however, I do not uphold your complaint for the reasons above.

Rachel Kent

Complaints Commissioner

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