



24 March 2025

## Final report by the Complaints Commissioner

### Complaint number 202400600

#### *The complaint*

1. Your firm is regulated by the FCA. You are unhappy that the FCA charged your firm two fees of £250 each for two late regulatory reporting submissions on 24 June 2022. Your complaint can be summarised as follows:
  - a. *Element One: The FCA has failed to take into account extenuating circumstances:* You say that you run a small business with little administrative support and missed the deadline for submitting the reports because you were ill. You say that the FCA has not considered these extenuating circumstances. I do not uphold this complaint.
  - b. *Element Two:* The FCA fine for late regulatory returns is neither fair nor proportionate. You feel the FCA's approach to fines lacks fairness because the flat rate fee of £250 for a late return is a 'one size fits all' fine which does not take into account factors such as, for example, the size of the firm. You also feel the flat rate lacks proportionality because "the fines (discretionary) levied for a very small and justifiable delay in submission of a minor report are completely disproportionate to the circumstances". This complaint is excluded under paragraph 2.9 of the Complaints Scheme.

#### *My analysis*

##### *Element One*

2. I agree with the FCA's decision in relation to the complaint set out in its decision letter and I do not uphold your complaint. The FCA has acted in accordance with the relevant rules which are clearly set out in its Handbook. SUP 16.3.14 of the FCA Handbook that sets out the following:

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*“If a firm does not submit a complete report by the date on which it is due in accordance with the rules in, or referred to [in], this chapter or the provisions of relevant legislation and any prescribed submission procedures, the firm must pay an administrative fee of £250.”*

3. The FCA has explained to you that it is also the firm’s responsibility to ensure that it is ready and organised to comply with its regulatory returns. This extends to the firm ensuring that they have the systems and controls in place to meet their reporting requirements, are aware of their reporting schedule, and ensuring that reporting submissions are made on time. It is very clear from the FCA rules that the firm’s resources must be adequate to do this. I understand that you have found the FCA’s stance in not accepting your explanation on this occasion frustrating, but the FCA has considered your reasons for missing the deadline and decided that they do not constitute extenuating circumstances. I do not find the FCA decision unreasonable, given the strict requirements the FCA has. I note you do not agree with my decision, however, for the reasons above I am unable to uphold your complaint.

#### *Element Two*

4. In regard to your complaint requesting the FCA justify the amount of the fee, being £250, this is not something that I can review. Under the Complaint Scheme to which both the regulators and I operate to, paragraph 2.9 c sets out that I cannot review complaints about the exercise of the FCA legislative functions – such as rule-making and issuing general guidance. This includes the setting of the amount of the administrative fee and under what circumstances it should be applied. The FCA has applied its rules correctly. Therefore, your fees remain payable in the circumstances.
5. Having said that, although it is not within my remit to comment on the level of fees as this relates to the FCA’s rulemaking function, it seems to me £250 is rather high given the administrative effort involved on the part of the FCA. Other complainants have also made this point. I note the FCA consulted on the £250 fee in 2005. However, given the passage of time and the various technological improvements which potentially may help bring costs down, I previously suggested the FCA consider the continued appropriateness of level of the fee

going forward in other cases. Unfortunately, the FCA has not accepted my suggestion for the reasons it gives in its public response:

<https://www.fca.org.uk/publication/corporate/202400142-public-response.pdf>

*Decision*

6. For the reasons given above:
  - a. I agree with the FCA's decision and consequently I do not uphold your complaint and your fee is payable.
  - b. I am not able to review the level of fees the FCA as this is excluded under paragraph 2.9 of the Complaints Scheme.

*The Complaints Commissioner*

Complaints Commissioner

24 March 2025