

15 December 2021

Final report by the Complaints Commissioner

Complaint number FCA001406

The complaint

1. On 30 August 2021 you asked me to investigate a complaint about the FCA.

What the complaint is about

2. The FCA summarised your complaint as follows:

You are unhappy with the complaint response received from the FCA's Revenue Team, whereby your Firm had been issued an invoice for the fee year 2020/21, which you believe had been issued incorrectly following your firm's cancellation. You are unhappy that the FCA has continued to chase the outstanding balance and that you have had to spend significant time dealing with this matter.

What the regulator decided

3. The FCA partially upheld your complaint, they advised you:

Please accept my apologies for the length of time it has taken to resolve this issue, and for any inconvenience caused.

In consideration, I have reflected over the above timeline and liaised with the Cancellations Team for further advice and guidance.

When a Firm requests cancellation of permissions, this is undertaken by making an application to cancel the Firm's authorisation, using the FCA's online system Connect.

The FCA does not charge anything for cancelling your authorisation. However, the Firm or Individual would have to pay the full annual fee for the financial year in which you apply for cancellation. If you submit your cancellation application to us before 31 March, you will not have

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to pay the annual fee for the following financial year. If, however, your business continues to operate for 3 months beyond this deadline – that's to say, past 30 June – then you will have to pay the annual fee for the financial year.

On 30 March 2020, you sent in the cancellation application via email to the Hub. This was on the basis that you were advised in November when you called in, to undertake this approach. I have reviewed all case records to locate this call, to ascertain the advice that was given to you. However, I have been unable to find any records of this call being made in November 2019. Therefore, the email that was sent by the Hub on 1 April 2020, was correct, in that any cancellation applications need to be submitted through the Connect system.

However, outside of the normal process, the Hub sent through your electronic cancellation form to the Cancellations Team on 21 May 2020. This was accepted by them on 11 June 2020, and the cancellation of your Firm, (Firm X) - was confirmed on 13 August 2020.

For ease of reference, I have concluded my findings under separate headings below:

Invoice raised by the Revenue Team

I have reflected over the above timeline and engaged with the Cancellations Team and Revenue Team, in order to determine what had happened for the invoice to have been raised. The invoice being raised was due to a technical error that had occurred on the FCA system.

Unfortunately, due to issues around confidentiality, I cannot disclose the exact issue that had occurred. However, after reviewing the evidence, it is my view that the invoice was raised correctly by the Revenue Team, in accordance with the data that was available to them, at that time. I am therefore unable to uphold your complaint against the invoice being raised.

Complaint outcome by the Revenue Team

You had raised a complaint concerning the above issue, which the Revenue Team initially investigated. It is my view that the above technical error should have been discovered, which would have concluded that your cancellation request was submitted on time. And so, on this basis, I am upholding this part of your complaint.

The Revenue Team have agreed as a form of redress, to waive the concerned invoice charges as a gesture of goodwill. They will provide any applicable refund that is due under separate cover, in due course.

Conclusions

It is my view that due to a technical error with the FCA system, your application for cancellation did not show, which resulted in the invoice being raised. However, in light of the above, the invoice was raised correctly on the information available to the Revenue Team. I am therefore unable to uphold this part of your complaint.

However, as the above matter was not discovered by the Revenue Team in their investigation into your complaint, it is my view that the initial complaints response to be incorrect. I am therefore upholding this part of your complaint.

On this basis, I have therefore partially upheld your complaint.

Why you are unhappy with the regulator's decision

4. You have told me that:

I would like you to consider that I have not been treated fairly by the FCA, who have attempted to ignore 9 months of communication on my part and false information provided by the FCA which brought about an extended billing period.

I ask that you consider why the FCA's responses have been appropriate and why, as their client, I am not able to expect the same standards of professionalism I have always ensured I offer to my clients?

My analysis

5. Following communication with a member of staff at the FCA, you sent in a cancellation request by email on 30 March 2020. The following day you were sent an email to advise you could not submit your cancellation via email and you would need to complete the cancellation using the FCA Connect system.

As the cancellation took place after the deadline (which has been extended to 30 April 2020), an invoice was raised which you were advised you had to pay despite providing your email cancellation as you had been advised to on 30 March 2020.

Like the FCA, I am required to respect confidentiality. This means that sometimes I cannot report fully on the confidential material to which I have access. However, as part of the Complaints Scheme, I have access to all the FCA's complaints papers, including confidential material. This is so that I, as an independent person, can see whether I am satisfied that the FCA has behaved reasonably. Sometimes this means that all I can say to complainants is that having studied the confidential material, I am satisfied that the FCA has (or has not) behaved reasonably – but I am unable to give further details. This can be frustrating for complainants, but it is better that I am able to see the confidential material. On occasions, I have persuaded the FCA to release further confidential information to help complainants understand what has happened, but this is not always possible.

I can appreciate your frustration as you were incorrectly advised by a member of staff at the FCA that you could submit your cancellation by email. I do think the FCA acted quickly after realising this error by contacting you the following day confirming the correct process for cancelling your permissions. I also think it is reasonable that you would check your email to ensure you had confirmation of the cancellation and then you would have seen there had been an issue. However, I am pleased to learn the FCA have confirmed the error, accepted the emailed cancellation request and issued you with a refund in respect of the invoice you were told to pay. As such I cannot agree the FCA did not act fairly. You have told me that you have not had contact from the FCA regarding the refund. I have confirmed to you when this was paid to your firm's account and

advised you to contact the FCA directly the refund is still not showing in the account.

My decision

6. Whilst I cannot uphold your complaint, I am pleased to note you are happy to receive a refund of the fee and put the matter to bed.

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Complaints Commissioner

15 December 2021