

05 September 2022

Final report by the Complaints Commissioner**Complaint number FCA001733***The complaint*

1. On 24 May 2022 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 about a fine you have received from the FCA for £500. You have explained that you relocated your studio at the end of 2019 but didn't update your details with the FCA. You were not linked as a Principal User so didn't receive any guidance.

You have explained you are now a Principal User and have updated the firm's details with the FCA. You are confident that going forward you will do better.

You were in contact with the FCA from December 2020 to January 2021 about Gabriel Reporting and subsequently a fine was waived. You believe the FCA should have made you aware that your profile was not linked so the returns could have been made.

To resolve your complaint, you are seeking for the fine to be waived. You have explained that the business is struggling, and you cannot afford the fine.

What the regulator decided

3. The FCA did not uphold your complaint, they advised you:

I am sorry to hear of the firm is struggling. I considered whether there are any processes and procedures that mean that the fine can be waived due to the extenuating circumstances you describe.

Unfortunately, there is no provision for fines to be waived due to the

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extenuating circumstances the firm has experienced. The FCA must apply its guidelines consistently and fairly to all firms so is unable to waive the fines in this case. As the REP008, CCR007 and Firm Details Attestation were not submitted on time, the firm were correctly fined.

You state that you should have been made aware when you contacted the FCA between December 2020 and January 2021 that your profile was not linked, so the returns could have been made and the late payment fees could be avoided. I can see three reminders were sent to xxxx@xxxxxx.co.uk for the REP008 and CCR007 return.

Furthermore, it is a firm's responsibility to be aware of the reporting requirements. Firms are required to pay annual fees and to submit regular reports/returns and attestations. Failure by the firm to complete those requirements on time will attract late fees.

4. I have considered everything you have said when making my decision and please be assured it is not a decision that was taken lightly.

Why you are unhappy with the regulator's decision

5. You have asked me to review the FCA's decision.

My analysis

6. You have been charged a total of £750 in late fees by the FCA and you are unhappy as you feel the fees are excessive and you should have been told when you were in contact with the FCA between December 2020 and January 2021 your accounts were not linked with you as Principal User (PU).
7. I acknowledge your firm has been struggling financially and the impact the late fees would impose. For this reason, I welcome the FCA waiving a late fee on 26 January 2021.
8. Whilst I agree it would have been helpful if the FCA had informed you that your accounts were not linked with you as PU, I cannot agree the FCA should waive the remaining late fees on this basis.
9. I can see from the FCA file you have advised you were partially to blame as you changed studio address and did not update your details with the FCA due to the pandemic.

10. I agree with the FCA it is a firm's responsibility to be aware of the reporting requirements. Firms are required to pay annual fees and to submit regular reports/returns and attestations
11. I can see the FCA sent 3 email reminders in relation to fees REP008 and CCR007 to the email address xxxx@xxxxxx.co.uk, I note this email address is detailed within the email you sent me, so there is no reason why these reminder emails would not have been received. Furthermore, having previously incurred a late fee in 2020, you were aware late fees would be incurred for late submissions and as such should have ensured the submissions were made on time.
12. I am pleased to note you are now set up as PU, so there should be no further issues with late submissions.

My decision

13. For the reasons outlined above, I am unable to uphold your complaint.

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Complaints Commissioner
05 September 2022