

6 February 2017

Dear Complainant

Complaint against the Financial Conduct Authority
Our reference: FCA00266

Thank you for your email of 19 December 2016. I have completed further enquiries of the FCA, and can now write to you. In reaching my final decision, I have carefully considered the points you made in your email of 24 January 2016, in which you responded to my preliminary decision, and I refer to some of them below.

How the complaints scheme works

Under the complaints scheme, I can review the decisions of the FCA Complaints Team. If I disagree with their decisions, I can recommend that the FCA should apologise to you, take other action to put things right, or make a payment.

Your complaint

You made a complaint about the FCA as you had been issued with a Late Returns Fee for not submitting your GABRIEL return by 12th July 2016, the date it was due. You stated that the fee should be waived as you had logged on to the system and saved and validated your return on 20th June 2016. You state you contacted the Consumer Contact Centre (CCC) on the day you completed the information and that they failed to inform you that you had to press 'submit' to complete the process. You did log on to the system and submit your returns on 22nd July 2016, after the due date.

You would like the FCA to cancel the Late Returns Fee, given the circumstances described above, and you further feel late submission charges should not be applied to a small family company like yours when it is submitting its initial completion of the data.

My findings

In considering your complaint, I reviewed your activities on the GABRIEL system, your correspondence with the FCA, and some screenshots of how the GABRIEL system works as you go through the steps of completing and submitting your returns.

In your complaint to me you state that this is the first time you are completing your return. However, the Gabriel records show that your firm successfully submitted a consumer credit return on 21st July 2015.

You contacted the FCA by telephone on 20 June 2016 in order to seek assistance as you were having trouble filling in your return on GABRIEL, having been emailed about the impending deadline and the need to act. I have listened to a recording of the telephone call.

You did log on, complete and validate your returns, on 20th June, whilst on the phone with an FCA representative. At that point however, as you had been on the telephone over 30 minutes, the system timed out and the FCA representative advised you that you would need to log on again. The call recording clearly shows that the FCA representative advised you to log on again, press the 'select all' button and then press 'submit'. The telephone call then terminated. I can only assume that when you next logged on, your failure to submit the return was a genuine error, for which I have sympathy, but which is not the fault of the FCA.

Additionally, your firm received two reminders on 30 June 2016 and 5 July 2016 that your return had not yet been submitted, to which you did not respond.

SUP 16.3.14R states that if a firm does not submit a complete report by the date on which it is due, it must pay an administrative fee of £250. The FCA's position is that it must have a consistent approach when dealing with firms who do not submit their returns and where there are no sufficient mitigating circumstances.

In your response to my preliminary decision you remain of the view that this is the first GABRIEL return you have completed and that you have done so correctly. However, the GABRIEL records show that although you validated the return, you did not submit it, and therefore the return was not received by the FCA. The records also show that you completed a GABRIEL return successfully on 30 July 2015.

Having regard to all of the above, I find that the FCA followed its published rules and procedures, and for that reason I am unable to uphold your complaint.

Conclusion

I believe the FCA provided you with reasonable responses and for the reasons given above, I do not uphold your complaint. I appreciate you may be disappointed in my decision, but I hope you understand why I have taken it.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Antony Townsend', with a large, stylized flourish at the end.

Antony Townsend

Complaints Commissioner