

9 March 2017

Dear Complainant

Complaint against the Financial Conduct Authority
Our reference: FCA00280

Thank you for your email of 13 February 2017. I have completed 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 3 March 2017, 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 received a letter on 31 May 2016 from the FCA informing you that your firm had overdue GABRIEL returns and had incurred a £250 late return administration fee. You have said that this is the only correspondence you have received since being authorised by the FCA and you were unaware that you had to register with GABRIEL and submit your returns.

The FCA did not uphold your complaint in its decision letter of 9 November 2016, and you referred it to me.

In your email of 13 February 2017 to me, you explain that the letter of 31 May 2016 is the first and only correspondence you received from the FCA since you were authorised in December 2015. The FCA had, in fact, sent an email to you with information about registering on Gabriel to the following email address : [xx] on 21 December 2015. You claim not to have read the FCA email as the address it was sent to was an old practice manager's address which was not in use. You point out that the FCA register shows the correct practice address and therefore the email should have been sent to that address.

From the evidence available to me, I can see that when you applied to be authorised, your application form contact details were filled in supplying Miss AG as the contact person and the email address given was[xx].

The application for authorisation was approved on 21 December 2015 and the FCA sent an email on that day to the email address [xx] explaining about registering with GABRIEL, the returns you were required to submit and that you would receive a £250 administration fee for each late report.

That is the only email the FCA sent to you, and it was to the address that you provided on your application form.

The FCA then sent you two reminder letters on the 6 April and 3 May 2016 which you say you did not receive as you work in a large centre with large volumes of mail passing through and it is not uncommon for mail to be misplaced.

The result of all this is that you did not read any of the FCA's correspondence to you until 31 May 2016, by which time the Gabriel return was overdue and you incurred the £250 fee.

I can appreciate you are unhappy about that. In your response to my preliminary decision you state that the fact you did not receive the reminder letters may not be the fault of the FCA, but neither is it your fault. I accept that you would not have knowingly ignored the FCA's correspondence, and that it is likely that the correspondence did not reach you personally. However, based on the evidence before me, I believe the FCA acted reasonably in trying to contact you. The FCA used an email address which you supplied in your application form to acknowledge that your application had been successful and to explain Gabriel to you. The FCA also sent you two further letters. The fact that you did not receive them, or the email before that, is not the fault of the FCA.

The unfortunate position is that your submission was received by the FCA after it was due, the FCA had followed the correct procedures, and the FCA followed the rules laid down in its rule book by imposing a £250 administration fee on your firm.

Conclusion

For the reasons explained above, I do not uphold your complaint. I appreciate you will be disappointed with this decision, but I hope you will understand why I have reached 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