

Final report by the Complaints Commissioner, 8th November 2017

Complaint number FCA00391

The complaint

1. On 6th September 2017 you asked me to investigate a complaint about the FCA. I have carefully reviewed the papers sent to me by you and by the regulator. I sent you and the FCA a preliminary report and invited comments, but neither you nor the FCA commented.

What the complaint is about

2. You wished to cancel the authorisation of your firm but claim that, because of delays and failings by the FCA, your application for cancellation was delayed, leading to you having to pay £150 for a year's authorisation in 2016/17 which you did not need.

What the regulator decided

3. The FCA did not uphold your complaint. It said that, when your firm was first authorised by the FCA in 2015, the system had been explained, including the fact that you would be liable to pay a full year's authorisation fee unless your authorisation was cancelled before the start of the authorisation year; that you did not begin to register on the GABRIEL system until April 2016, that you did not discuss cancellation with the FCA until August 2016 (when the 2016/17 year had already started); and that you did not actually submit your application for cancellation until 26th April 2017 (meaning that you were liable for fees for both the 2016/17 and 2017/18 years).

Why you are unhappy with the regulator's decision

4. In your email to me, you say:

We cease[d] trading back in Aug 2016, we notified the FCA in June 2016 that we no longer required authorisation, we informed them verbally and I also filled out the forms and made a payment for the full term. The forms did not submit for whatever reason and unbeknown to me, stayed on our records as a draft. It was a new system and was rarely used. We were locked out of the account after I had filled out the forms for the cancellation and submitted them. (Or so I thought.)

My next contact from FCA was April 2017 asking for a return, I contacted them straight away to tell them again about the cancellation. It took 3/4 telephone calls to get the account unlocked and for us to fill out the forms again for the cancellation. it does not allow you to backdate the forms to prior to 31/3/17 and you have to agree to all terms.

Due to them contacting me after the cut off date for the billing period, they are forcing me to pay full fees for the period 1/4/17-31/3/2018 because the cancellation requested took place after the 31st March 2017. I cannot understand how they can charge for a period we do not have authorisation for. I received an email confirming the cancellation was accepted. The end date they gave was May 17.

Fair practice would be to contact customers/businesses in advance of the cut off billing period to enable them to advise or confirm changes before being forced into an unnecessary payment. Technical system errors/glitches should also been taken into account as it was a new system at the time of the original cancellation.

My analysis

5. I do not think that there is much dispute about the facts of this case. Put simply:
 - a. You did not apply for cancellation of your authorisation until after the start of the 2016/17 year;

- b. In April and August 2016 you and your wife had telephone conversations with the FCA in which the system was explained;
 - c. You thought you had submitted your application for cancellation in August 2016;
 - d. It was not until April 2017 (i.e. into the 2017/18 year) that you discovered that your application had not been formally submitted. Cancellation was finally approved in May 2017, leaving you liable for fees for two years.
6. The FCA's position is that you knew, or should have known, how to cancel your authorisation, but delayed doing so. You are therefore liable for the fees.
 7. Your position is that the FCA's systems were difficult to navigate, and you should have been issued with reminders in advance of the end of the authorisation years.

My decision

8. I have looked carefully at all the documents. I have sympathy for your situation, since you clearly did not wish to have continuing authorisation, and believed that you had cancelled it. I also recognise that the FCA's systems may not be particularly user-friendly.
9. However, the fact remains that the records clearly show that your application for cancellation was not submitted until April 2017, after the start of the 2017/18 authorisation year. I note, also, that between August 2016 and April 2017, you do not appear to have taken any steps to check that your cancellation had been approved.
10. The FCA were entitled to charge you a fee for 2017/18, in accordance with the system which had been explained to you by the FCA. In the circumstances, I am afraid I cannot uphold your complaint.

Antony Townsend

8th November 2017