

8 August 2018

Final report by the Complaints Commissioner**Complaint number FCA00471***The complaint*

1. You wrote to me in a letter dated 30 April (received in this office on 5 June) because the Financial Conduct Authority (FCA) had not upheld your complaint about a late payment fee.

What the complaint is about

2. You wished to discontinue your FCA authorisation. You applied to cancel your authorisation in September 2017, but the FCA told you that you would still have to pay your fees for the year 2017/18 as you had not cancelled by the 31 March deadline, and you were charged a late payment fee.
3. Debt collectors contacted you in order to enforce the annual and late payment fees, which the FCA states are due and you are bound to pay. You believe you do not owe them any money as you paid your fees a year in advance (October 2016) and you cancelled your authorisation on 22 September 2017.
4. You were unaware of the FCA's Revenue Operations attempts to contact you about the outstanding fees, and you believe that the FCA's record-keeping about what has gone on may well have been lacking because it did not have a record of you attending its office on 14 February 2018.

What the regulator decided

5. The FCA did not uphold your complaint, although when your complaint was dealt with by the relevant local area, it said that the late payment fee would be deducted from the total outstanding debt if you made a payment within 14 days. You decided to exercise your right to exhaust the complaints process and escalated your complaint to the FCA Complaints Team, who agreed with the local area and did not uphold your complaint. The offer to deduct the late payment fee expired during this time, and the Complaints Team did not reinstate it.
6. The FCA believes sufficient efforts were made to contact you about the outstanding fees by way of four separate emails and one phone call.
7. Furthermore, the FCA says that the fact that there is no record of your visit to their offices in February 2018 is not surprising, as they only keep a record of planned visits and visitors that are permitted access to their main building, not those that remain in reception.

*Why you are unhappy with the regulator's decision**Element one*

8. In your view you do not owe the FCA any money because you "paid [your] fees in advance and on the basis of normal/usual commercial practice would have been

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excepted to be registered until October 2017... and believe [you] do not owe anything to any institution or firm". The FCA unfairly "set" debt collectors on you without warning.

Element two

9. You also believe that as the FCA have no record of you attending their offices demonstrates that they are also unlikely to have kept a good record of all other relevant communications with your firm.

My analysis

Element one

10. The FCA has rules for authorised firms about submitting information related to them, such as a change in their contact details, and when they wish to stop being authorised. The information about these requirements and how to access them is provided to firms when they initially become authorised, and is available on the FCA's website. Furthermore, the FCA operate a Firm Contact Centre which can be contacted by telephone or email to make enquiries about what steps need to be taken to cancel one's authorisation.
11. Firms wishing to apply to cancel their authorisation need to ensure that they follow the correct procedure. In order to prevent having to pay the following year's full fees, they need to apply to cancel their authorisation by 31 March of any given year. This is the date set by the FCA and it applies to all firms. If no cancellation application is received by this date, the FCA prepares the invoice with the fees firms need to pay for the following financial year, which is then issued and a payment date is set.
12. It is clear from the complaint file and my colleague's telephone call to you that you did not attempt to contact the FCA to enquire about the de-authorisation process before deciding that you no longer wish to carry out regulated activities in September 2017. Your first attempt to cancel your authorisation was after the published deadline of 31 March 2017. You seem to have assumed, incorrectly, that if you cancelled your authorisation just before the fees for the following year became payable, you would not be liable for those fees.
13. The FCA sent you a fee notification and reminders before eventually passing the debt onto debt collection. You ignored those emails as you considered them suspicious. It is correct that you should not respond to suspicious emails giving out your banking and personal details, but you could and should have contacted the FCA to find out if the fee notifications and demands originated from them, especially as you had signed yourself up for online invoicing which means that all correspondence including letters is sent by email.
14. The FCA tried to contact you by telephone on one occasion to discuss the fees but the landline number you provided to them when you originally registered was disconnected, therefore the call was not successful. It is the responsibility of firms to update the FCA about a change to their contact details, and there was no record of you notifying the FCA of a change in telephone numbers.
15. It is my view that the FCA followed the correct procedure and charged you for the yearly fee in line with their fee rules. As such, I am unable to uphold this element of your complaint.

Element two

16. I accept the FCA's explanation that they do not keep a log of all individuals who attend the reception desk at their head office but are not there for a pre-arranged meeting and are not admitted to the building. This seems to be a reasonable practice.
17. Furthermore, as set out above, it is the responsibility of firms to notify the FCA of a change in their contact details, using the correct forms. It appears that you did not submit a form notifying the FCA of the change in your telephone number, and they did try to contact you on the number you had provided. There is also a record of the emails that were sent to you.
18. I do not believe that the lack of a record of your visit at reception is an indication that they did not keep a good record of the attempts to get on touch with you. In fact, you admit that you received correspondence from the FCA but you did not respond. For these reasons, I cannot uphold this element of your complaint.

My decision

19. I believe that the FCA followed the correct procedure in applying the annual fees for the year 2017/2018, and did take reasonable steps to inform you of the amount due. Furthermore, regulated firms have a responsibility to ensure that they operate within the rules set out in the FCA Handbook, including following the correct procedure for applying to cancel their authorisation, and it is their responsibility to ensure that they submit this in time to avoid having to pay annual fees for the following year.
20. It is also the responsibility of firms to ensure they update the FCA of their correct contact details.
21. For these reasons, I am unable to uphold your complaint.
22. I am pleased to say, however, that in response to my preliminary report the FCA has reinstated the goodwill gesture offer made by Revenue Operations to waive the late payment fee of £250, so long as you pay your outstanding annual fee within 14 days.
23. I appreciate this may not be the outcome you were hoping for but I hope you understand how I reached my decision.

Antony Townsend

Complaints Commissioner

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