

28 August 2018

Final report by the Complaints Commissioner**Complaint number FCA00485***The complaint*

1. On 20 July 2018 you complained to me that the FCA is incorrectly pursuing your firm for a late return fee, and has upset a member of your staff..

What the complaint is about

Part one

2. Your firm received a call from the FCA's Revenue team on 30 April 2018. You are unhappy that during this call confidential information about your firm's fees was disclosed to a member of your staff. You are also unhappy that the Revenue team did not carry out checks to confirm that they were speaking to a member of your staff at the beginning of the call. This member of staff was upset following the conversation with the Revenue team due to the information disclosed to her.
3. The FCA contacted your office three times on that day chasing the outstanding fee, and informed your member of staff that if it did not receive payment by 5 pm on the day it would refer the case to debt collectors.

Part two

4. You received a call from the FCA in November 2017 to inform you of an outstanding fee of £151, which you subsequently paid in full. You have since found out there is another fee of £250 still outstanding. You are unhappy that the FCA is pursuing the fees now, in April 2018, when you believed the matter had been resolved in November 2017.

Part three

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5. You are unhappy with the level of communication and lack of assistance from the FCA when you tried to submit your regulatory CCR007 return. You have said that you left a number of voicemails and sent emails to a member of the Threshold Conditions Team (TCT), but didn't receive any response.

What the regulator decided

6. In its decision letter, the regulator told you that it had partially upheld your complaint about discussing the overdue bill with a member of your staff as 'it would have been more appropriate for them to have discussed the outstanding debt with someone who was aware of the situation'.
7. The FCA further commented that 'it was disproportionate to chase the fee this many times, by telephone and twice by email, in the space of just over two hours. The FCA said that that it was also incorrect to have told the member of your staff that payment must be received by 5pm or the matter would be referred to an external debt collection agency, as the Revenue team have said that this would not have been the case'.
8. The FCA did not uphold your complaint that the matter of your outstanding fee had been resolved in November 2017, and that it did not assist you in submitting your regulatory CCR007 return.

Why you are unhappy with the regulator's decision

9. You are unhappy that the FCA distressed a member of your staff and feel that the '*FCA did not follow the right process, which they admitted, yet they still insist that the fine stands. This is not right and just shows no common sense.*'

My analysis

10. It is a matter of fact that your firm owes a fee of £250 to the FCA. The FCA's decision letter is clear that you were made aware of this in November 2017.
11. Your complaint to me is that as the FCA did not follow its own processes in chasing the fee, and distressed a member of your staff while doing so, the fee should be waived.

My decision

12. Your firm is bound by the rules of the FCA as part of your authorisation. You were late in submitting your regulatory return. The records show that the FCA took reasonable steps to inform you about, and remind you of, your obligations. The late returns fee is designed to recover administrative costs from firms which do not follow the processes, so that firms which do comply are not subsidising those which do not. Therefore, the FCA is entitled to charge you this fee. I am unable to uphold your complaint about that matter.
13. The FCA undertook a thorough investigation into your complaint, and has already accepted that aspects of the process for warning your firm about the recovery of the debt should have been better managed. I agree with the FCA's response, and do not consider that the deficiencies in the management of the process change the fact that the fees levied on your firm were correct.
14. I am sorry to send what will be a disappointing reply.

Antony Townsend
Complaints Commissioner
28 August 2018