

7 February 2019

**Final report by the Complaints Commissioner****Complaint number FCA00533***The complaint*

1. You wrote to me on 8 December 2018 to complain about the FCA's decision to charge you an administrative fee for the late submission of your consumer credit regulatory return.

*What the complaint is about*

2. In its letter of 14 November 2018 to you, the FCA described your complaint as follows:

*Part One*

*You are unhappy that your firm has received a £250 administrative fee invoice. The administrative fee relates to non-submission of your firm's regulatory returns. You have explained that you validated the CCR007 regulatory report in the Gabriel system before the required due date but did not submit it.*

*You do not believe the Gabriel system makes it clear when the submission process has been completed.*

*Part Two*

*You are unhappy with the complaint response you received from the team that oversees the Gabriel system because you feel this did not address your complaint about the Gabriel system being unclear in relation to submitting your return.*

*To resolve this complaint, you would like the administrative fee to be waived*

### *What the regulator decided*

3. The FCA Complaints Team did not uphold your complaint. It said that ‘the wording of the message [which you received when completing your return on-line] was sufficiently clear to confirm that the return had been validated, but not submitted’. It also said that the initial response which you had received from the team which oversees the Gabriel system had sufficiently addressed your concern by quoting from the prompt which appears on-line.

### *Why you are unhappy with the regulator’s decision*

4. In your letter to me, you say:

*Whilst the FCA investigation has captured the basic facts of the issue, they have failed to accept their liability as being in some way responsible....Furthermore in the FCA investigation response they have admitted that the Gabriel system is confusing, not intuitive and difficult to follow, necessitating a series of improvements be carried out that was post our submittal, they also admit that we validated the CCR007 on the 3<sup>rd</sup> August but failed to press the submit button. Which as admitted by the FCA above was not an easy thing to do. The prompt that the Gabriel system produces as part of the validation process was also not clear and unfortunately small in size and difficult to notice.*

### *My analysis*

5. The facts in this matter are not in dispute: you did complete the return by the due date, but you did not submit it. The issue is whether the FCA ought to accept some responsibility for this because of shortcomings in its system.
6. This is far from the only complaint I have had about this and related issues. As the FCA’s decision letter to you explains, there have been some improvements made in the system in response to earlier concerns which I had raised. In the past, there was no warning message displayed: in response to recommendations from me, the FCA agreed that, where a firm had clearly completed all the data fields in its return on time, but had simply failed to submit it, the late return fee could be waived.

7. When you prepared your returns, the system had been improved. The warning message which would have been displayed in your case stated:

*These Data item(s) have been successfully validated and must be submitted before the due date.*

8. That message (which I shall call the 'intermediate warning message') did, therefore, indicate that there was a further step to be taken. However, it was shown under a green banner marked *Validation Successful* and that, combined with the wording, made it quite likely that a reader who was not fully concentrating might assume that the process was complete.
9. It was because of that that the Complaints Team made a suggestion for further improvement which was adopted (but after the events which gave rise to your complaint). The current warning, under an amber banner headed *Your Data item has been saved*, says *Your data item has been saved but still needs to be validated and submitted*. It seems to me clear that the new wording and presentation is an improvement on the intermediate version which you encountered.

#### *My decision*

10. Your complaint relates to a problem which arose in the period between the 'old' system – in which there were no warning messages, and the FCA were prepared to consider waiving late return fees for firms which were clearly trying to be compliant – and the 'new' system, where there is a clear amber warning system.
11. It seems to me that, while a careful reading of the intermediate warning message would have alerted you to the fact that another step was required, the fact that the FCA had to improve its warning system so soon after its introduction suggests that it recognises that its first attempt at a warning notice – although doubtless well-intentioned – was inadequate.
12. My view is that the intermediate warning notice was poorly designed and drafted, although that has now been rectified. That being the case, the FCA should accept some responsibility for the problem which you encountered.
13. While there might have been an argument that the FCA should offer a refund of only half the late return fee, given that you could have identified that there was a

further step to undertake, I think that the fact that you have had to come to me to have an acknowledgement of the FCA's poor process, coupled with my view that the FCA's intermediate design was poorly designed and executed, makes a full refund justified.

14. I **recommend** that the FCA refunds the late return fee, for the reasons I have given. I am pleased to report that the FCA has accepted this recommendation.

Antony Townsend

Complaints Commissioner

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