

Guidance on how Companies House deals with the most common appeals

The Late Filing Penalty regime was introduced in 1992 to encourage directors of limited companies to file their accounts on time. Section 453 (1) of the Companies Act 2006 says that penalties will be imposed on any company that delivers its accounts to Companies House after the period allowed for filing. The Registrar does have a limited amount of discretion not to collect a penalty but can only do so in exceptional circumstances.

When exercising any statutory discretion, it is important to remember that each case is considered on its merits. The majority of appeals will fall into the following categories and this guide sets out some of the most frequent examples where discretion may or may not be applied. It is important to note that the lists are not exhaustive and these guidelines are designed to help our Appeals Managers make consistent decisions in all types of appeals. Our Appeals Managers are always ready to take account of any other exceptional factors that may affect their decision.

It is important that appellants bear in mind that while the Registrar of Companies does have discretion not to collect penalties, this is very limited and is only exercised in exceptional circumstances. Examples are where the company suffers a catastrophe immediately before the filing deadline or where Companies House has contributed to the late filing.

1. THIRD PARTIES

Scenario 1.1 – Accountants/Bookkeepers incompetence.

Decision – Subject to cases of individual merit, the penalty is usually collected.

Reasons for decision

While companies rely on accountants/bookkeepers to prepare accounts, the Companies Act clearly states that directors are responsible for the delivery of accounts.

A reminder letter was sent to the registered office shortly before the filing deadline, which clearly stated the last date by which the accounts should be filed and outlined the consequences of late delivery.

The Registrar is not normally able to exercise discretion in cases where accountants or bookkeepers have been incompetent.

Scenario 1.2 – The company's former accountants refused to release the books to new accountants.

Decision – Subject to cases of individual merit, the penalty is usually collected.

Reason for decision

While we recognise the difficulties the company has had with their accountants, they are not an excuse for late delivery. The directors are legally responsible for the delivery of accounts and any problems the company has had with their former accountant are between the parties concerned. If firm figures were not available, the company could have considered filing accounts that were qualified so as to provide a true and fair view. The company then has the option of filing amended accounts at a later date without incurring a penalty.

If the company feels that their former accountants are directly responsible for the late delivery, they may want to seek legal advice to establish whether a claim for damages, which could include the penalty, could be made against them. The company may also want to report the matter to the Institute of Chartered Accountants for England and Wales (or whichever professional body to which their accountants may belong).

A reminder letter was sent to the registered office shortly before the filing deadline, which clearly states the last date by which the accounts should be filed and outlines the consequences of late delivery. This letter also requests that the company contact us if they are having difficulty in meeting the deadline as they could have applied for an extension in the filing time under section 442(5) of the Companies Act 2006.

The Registrar is not normally able to exercise discretion in such cases where a former accountant will not release company papers.

Scenario 1.3 – The company’s accountant was ill or has died.

Decision – Subject to cases of individual merit, the penalty is usually collected.

Reason for decision

While we sympathise with the accountant’s illness or death it is the directors who are legally responsible for the delivery of accounts. When professional accountants take on tasks for limited companies, they should ensure that a fall back procedure is in place so that important deadlines are met if some disaster should overtake them.

A reminder letter was sent to the registered office shortly before the filing deadline, which clearly states the last date by which the accounts should be filed and outlines the consequences of late delivery. This letter also requests that the company contact us if they are having difficulty in meeting the deadline as they could have applied for an extension in the filing time under section 442(5) of the Companies Act 2006.

The Registrar is not normally able to exercise discretion in such cases where an accountant was ill or has died.

2. COMPANIES HOUSE SERVICE

Scenario 2.1 – The company claims incorrect advice given by Companies House but there is no evidence to substantiate this.

Decision – Subject to cases of individual merit, the penalty is usually collected.

Reason for decision

The Companies Act clearly states that all companies are required to file accounts for every period and all accounts delivered late will automatically incur a late filing penalty. All directors have a legal responsibility to ensure that accounts are delivered within the statutory time allowed.

While there may have been a misunderstanding, all Companies House staff are fully aware of the requirements of the Companies Act but if the company can provide details of the telephone call, further investigations will be made.

A reminder letter was sent to the registered office shortly before the filing deadline, which clearly stated the last date by which the accounts should be filed and outlined the consequences of late delivery, so there should have been little room for any misunderstanding.

The Registrar is not normally able to exercise discretion in cases where it is alleged Companies House staff gave incorrect information and there is no evidence to support the allegation.

Scenario 2.2 – The company claims incorrect advice given by Companies House and it is supported by evidence.

Decision – The penalty would not usually be collected.

Reason for Decision

After considering the circumstances, we are willing to accept that the company was incorrectly advised. The Registrar does have discretion in the collection of late filing penalties and this can be exercised where Companies House has contributed to the late filing. Any decision not to collect a penalty is exceptional and may not be repeated for any subsequent late filing of accounts.

3. CHARITY

Scenario 3.1- The company is a charity and has no funds to pay the penalties.

Decision – Subject to cases of individual merit, the penalty is usually collected.

Reason for decision

While we accept that the company is a charity, all companies are required to prepare and deliver accounts to the Registrar and all companies that deliver accounts late are liable for a civil penalty. Although we appreciate the difficulties facing volunteers when they find themselves with legal responsibilities under the Companies Act, all directors have a legal responsibility to ensure that accounts are delivered within the statutory time allowed.

A reminder letter was sent to the registered office shortly before the filing deadline, which clearly stated the last date by which the accounts should be filed and outlined the consequences of late delivery.

The Registrar is not normally able to exercise discretion in cases of charitable companies having no funds to pay penalties. We will however accept payment by no more than ten monthly instalments upon receipt of a written request.

4. DORMANT

Scenario 4.1 – The company is dormant.

Decision - Subject to cases of individual merit, the penalty is usually collected.

Reason for decision

We appreciate that the company is dormant but all companies are required to prepare and deliver accounts to the Registrar and all companies that deliver accounts late are liable for a civil penalty. The directors have a legal responsibility to ensure that accounts are delivered within the statutory time allowed.

A reminder letter was sent to the registered office shortly before the filing deadline, which explained that accounts were required whether the company had traded or not, the last date for filing and the consequences of late delivery.

The Registrar is not normally able to exercise discretion in cases where the basis for the appeal is the dormancy of the company.

As the company is dormant, the directors may wish to apply for voluntary dissolution or if the company is required to remain on the register, we will accept payment by no more than ten monthly instalments. **Please note that Flat Management Companies should not apply for dissolution without taking legal advice.**

Scenario 4.2 – The public have no interest in dormant accounts.

Decision – Subject to cases of individual merit, the penalty is usually collected.

Reason for decision

While we appreciate that the company is dormant, all companies are required to prepare and deliver accounts to the Registrar and all companies that deliver accounts late are liable for a civil penalty. The directors have a legal responsibility to ensure that accounts are delivered within the statutory time allowed. The public have the right to view the accounts of all limited companies not later than the due date for delivery.

A reminder letter was sent to the registered office shortly before filing deadline, which clearly explained that accounts were required whether the company has traded or not, the last date for filing and the consequences of late delivery.

The Registrar is not normally able to exercise discretion on the grounds that there is no public interest in dormant accounts. The directors may wish to apply for voluntary dissolution or if the company is required to remain on the register, we will accept payment by no more than ten monthly instalments. **Please note that Flat Management Companies should not apply for dissolution without taking legal advice.**

5. DIRECTORS' RESPONSIBILITY

Scenario 5.1 – The director is ill but there are other directors.

Decision – Subject to cases of individual merit, the penalty is usually collected.

Reason for decision

While we sympathise with the director that is ill, all directors are equally responsible for ensuring that accounts are prepared and delivered within the time allowed. If one director was unable to deal with the accounts then the remaining directors should have ensured that the filing deadline was met, regardless of that their roles within the company usually are.

A reminder letter was sent to the registered office shortly before the filing deadline, which clearly stated the last date by which the accounts should be filed and outlined the consequences of late delivery.

The Registrar is not normally able to exercise discretion in cases where a director is ill but there are other directors.

Scenario 5.2 – New directors (including flat management companies).

Decision – Subject to cases of individual merit, the penalty is usually collected.

Reason for decision

All directors are legally responsible for the delivery of accounts and new directors are assumed to know what they are taking on and to have checked the company's filing

position before becoming a director. Civil late filing penalties are levied on companies and not individual directors.

The Registrar is not normally able to exercise discretion on the grounds that the directors are newly appointed.

Scenario 5.3 – The directors reside or travel overseas.

Decision – Subject to cases of individual merit, the penalty is usually collected.

Reason for decision

While the director(s) may reside or travel overseas, this is not an excuse for late filing, as this should be taken into consideration when accounts are being prepared.

The Companies Act allows private limited companies nine months (six months for public limited companies) in which to prepare and deliver accounts and directors have a legal responsibility to ensure that this deadline is met.

A reminder letter was sent to the registered office shortly before the filing deadline, which clearly stated the last date by which the accounts should be filed and outlined the consequences of late delivery.

The Registrar is not normally able to exercise discretion on the basis that the director(s) reside or travel overseas.

Scenario 5.4 – Problems with the company secretary.

Decision – Subject to cases of individual merit, the penalty is usually collected.

Reason for decision

While we sympathise with the problems the company have experienced with their secretary, it is the legal responsibility of the directors to ensure that accounts are prepared and delivered within the time allowed.

A reminder letter was sent to the registered office shortly before the filing deadline, which clearly stated the last date by which the accounts should be filed and outlined the consequences of late delivery.

The Registrar is not normally able to exercise discretion on the basis that there were problems with the company secretary.

6. DISASTER

Scenario 6.1 – The company suffered fire/flood/burglary shortly before the filing deadline.

Decision – The penalty should not usually be collected.

Reason for decision

We appreciate that these circumstances would have made the delivery of accounts within the time allowed very difficult.

The Registrar does have discretion in the collection of late filing penalties and this can be exercised where the company suffers a catastrophe shortly before the filing deadline. Any decision not to collect a penalty is exceptional and may not be repeated for any subsequent late filing of accounts.

Scenario 6.2 – The company suffered fire/flood/burglary many months before the filing deadline.

Decision – Subject to cases of individual merit, the penalty is usually collected.

Reason for decision

While we sympathise with the company's circumstances, as the catastrophe occurred many months before the filing deadline, the company still had sufficient time in which to prepare and deliver accounts. If firm figures were not available, the company could have considered filing accounts that were suitably qualified.

A reminder letter was sent to the registered office shortly before the filing deadline, which clearly stated the last date by which the accounts should be filed and outlined the consequences of late delivery. Had the company contacted us prior to the filing deadline, consideration could have been given to granting an extension to the filing time.

The Registrar is not normally able to exercise discretion in such cases when the catastrophe occurred many months before the filing deadline.

Scenario 6.3 – The company has suffered from computer failure.

Decision – Subject to cases of individual merit, the penalty is usually collected.

Reason for Decision

While we sympathise with the company's computer problems, there should be a back up system in place. It is the directors' responsibility to ensure that accounts are prepared and delivered within the time allowed. If firm figures were unavailable, they could have considered filing qualified accounts.

A reminder letter was sent to the registered office shortly before the filing deadline, which clearly stated the last date by which the accounts should be filed and outlined the consequences of late delivery. Had the company contacted us prior to the filing deadline, consideration could have been given to granting an extension to the filing time.

The Registrar is not normally able to exercise discretion in cases of computer failure.

7. FINANCIAL DIFFICULTIES

Scenario 7.1 – The company has no funds to pay the penalty.

Decision – Subject to cases of individual merit, the penalty is usually collected.

Reason for Decision

The company having no funds is irrelevant in terms of meeting the statutory requirement to file accounts and late filing penalties apply to all companies whose accounts are delivered late.

The Companies Act allows private limited companies nine months (six months for public limited companies) in which to prepare and deliver accounts and directors have a legal responsibility to ensure that this deadline is met.

A reminder letter was sent to the registered office shortly before the filing deadline, which clearly stated the last date by which the accounts should be filed and outlined the consequences of late delivery.

The Registrar is not normally able to exercise discretion in cases where a company has no funds to pay a penalty.

If the company is dormant or has ceased trading, the directors may wish to apply for voluntary dissolution but if the company is required to remain on the register, we will accept payment by no more than ten monthly instalments.

Scenario 7.2 – The company goes into Creditors' Voluntary Arrangement (CVA) before the penalty is levied.

Decision – Subject to cases of individual merit, the penalty is usually collected.

Reason for decision

Explain that although the company is subject to a CVA, all companies are required to prepare and deliver accounts to Companies House. Point out that all companies are liable for late filing penalty regardless of them being subject to informal insolvency proceedings.

Point out that a reminder letter was sent to the registered office shortly before the filing deadline, which clearly states the last date by which the accounts should be filed and outlines the consequences of late delivery.

The Registrar is not normally able to exercise discretion if a company is subject to a CVA prior to a penalty being levied. We will however accept payment by no more than ten monthly instalments.

8. FLAT MANAGEMENT

Scenario 8.1– The company only exists to manage the freehold.

Decision – Subject to cases of individual merit, the penalty is usually collected.

Reason for decision

All companies are required to prepare and deliver accounts at Companies House and late filing penalties apply to all companies whose accounts are delivered late.

The Companies Act allows private limited companies nine months (six months for public limited companies) in which to prepare and deliver accounts. Although we appreciate the difficulties facing volunteers when they find themselves with legal responsibilities under the Companies Act, all directors have a legal responsibility to ensure that accounts are delivered within the statutory time allowed.

A reminder letter was sent to the registered office shortly before the filing deadline, which clearly stated the last date by which the accounts should be filed and outlined the consequences of late delivery.

The Registrar is not normally able to exercise discretion on the grounds that the company only manages a freehold. We will however accept payment by no more than ten monthly instalments.

Scenario 8.2– A flat management company is unaware of the requirement to file accounts or does not consider itself to be a company.

Decision – Subject to cases of individual merit, the penalty is usually collected.

Reason for decision

All companies are required to prepare and deliver accounts at Companies House and late filing penalties apply to all companies whose accounts are delivered late.

The Companies Act allows private limited companies nine months (six months for public limited companies) in which to prepare and deliver accounts. Although we appreciate the difficulties facing volunteers when they find themselves with legal responsibilities under the Companies Act, all directors have a legal responsibility to ensure that accounts are delivered within the statutory time allowed.

A reminder letter was sent to the registered office shortly before the filing deadline, which clearly stated the last date by which the accounts should be filed and outlined the consequences of late delivery.

The Registrar is not normally able to exercise discretion simply on the grounds that the company is a flat management company. We will however accept payment by no more than ten monthly instalments.

Scenario 8.3 – The company has incurred a penalty for the late delivery of accounts that cover a period before the directors were appointed. This is often for a period before they have moved into a property owned by the company.

Decision – Subject to cases of individual merit, the penalty is usually collected.

Reason for decision

All companies are required to prepare and deliver accounts at Companies House and late filing penalties apply to all companies whose accounts are delivered late.

A limited company is a legal entity in its own right and civil late filing penalties are levied on the company and not on the individual directors of a company. When directors are appointed they acquire responsibility to file accounts for the company including any that are outstanding at the date of their appointment. Directors are assumed to know what they are taking on and to have checked the company's filing position before being appointed.

A reminder letter was sent to the registered office shortly before the filing deadline, which clearly stated the last date by which the accounts should be filed and outlined the consequences of late delivery.

The Registrar is not normally able to exercise discretion simply on the grounds that the company is a flat management company. We will however accept payment by no more than ten monthly instalments.

9. HEALTH

Scenario 9.1 – A sole director falls ill shortly before the filing deadline.

Decision – The penalty should not usually be collected.

Reason for decision

We sympathise with the director's ill health and we appreciate that as he/she is the sole director, this would be considered catastrophic. In these circumstances, the Registrar may be able to apply discretion in the collection of the late filing penalty.

Any decision not to collect a penalty that has been correctly levied under the law is exceptional and may not be repeated for any subsequent late filing of accounts. The company may wish to appoint another director if their health problems are continuing.

Scenario 9.2 – A sole director or their family member has been ill for a number of years and previous penalties have not been collected.

Decision – Subject to cases of individual merit, the penalty is usually collected.

Reason for decision

While we sympathise with the directors or family member's continuing ill health, a previous penalty was not collected for this reason. The Registrar can only apply discretion where the company suffers a catastrophe shortly before the filing deadline and their illness cannot be considered as occurring shortly before the filing deadline.

The company would have been informed when the earlier penalty was not collected that this decision may not be repeated and to consider appointing another director if their health problems were continuing.

Scenario 9.3 – A sole director's immediate family member (including partners) is ill.

Decision – The penalty should not usually be collected.

Reason for decision

We sympathise with the family member's ill health and we appreciate that this would be considered catastrophic. In these circumstances, the Registrar may be able to apply discretion in the collection of the late filing penalty.

Any decision not to collect a penalty that has been correctly levied under the law is exceptional and may not be repeated for any subsequent late filing of accounts. The company may wish to appoint another director if the family member's health problems are continuing.

10. LEGISLATION

Scenario 10.1 – The company are unaware of the twenty-one month rule for first accounts (eighteen month rule for public limited companies).

Decision – Subject to cases of individual merit, the penalty is usually collected.

Reason for decision

When a company's first accounts cover a period of up to twelve months the normal time limit of nine months for a private limited company will apply (or six months for a public limited company). If, however, they cover more than twelve months, the accounts must then be delivered within 21 months of incorporation (18 months for a public limited company).

A reminder letter was sent to the registered office shortly before the filing deadline, which clearly stated the last date by which the accounts should be filed and outlined the consequences of late delivery.

The Registrar is not normally able to exercise discretion if a company is unaware of the effects of the twenty-two month rule.

Scenario 10.2 – The company is confused between criminal prosecution and civil late filing penalties.

Decision – Subject to cases of individual merit, the penalty is usually collected.

Reason for decision

Although the company may have been in correspondence with our Compliance section, any agreement made with them would have referred to possible prosecution action against the directors for the failure to file accounts. All Compliance letters clearly explain that in addition to any criminal proceedings which may be taken, accounts delivered late incur an automatic financial penalty.

A reminder letter was sent to the registered office shortly before the filing deadline, which clearly stated the last date by which the accounts should be filed and outlined the consequences of late delivery.

The Registrar is not normally able to exercise discretion if a company has become confused between the criminal and civil penalty sanctions.

Scenario 10.3 – The company has an accounting reference date that falls on a date other than the end of the month

(This often occurs when a company has extended their accounting reference date and to extend to the end of the months would have exceeded 18 months)

Decision – Subject to cases of individual merit, the penalty is usually collected.

Reason for decision

Companies House uses the method of calculating a period of months called the "corresponding date rule". The filing deadline is calculated as being the corresponding date nine months (or six months for a public limited company) from the accounting reference date. Our interpretation has been challenged but Companies House is confident it is correct, as it is supported by the House of Lords decision in *Dodds v Walker* (1981) 2 All ER 609, and has been reaffirmed in the case of *Companies House v Radiotech Limited*

A reminder letter was sent to the registered office shortly before the filing deadline, which clearly stated the last date by which the accounts should be filed and outlined the consequences of late delivery.

The Registrar is not normally able to exercise discretion if a company does not interpret the delivery date correctly.

Scenario 10.4 – The company’s accounts were made up to a date seven days either side of the accounting reference date (ARD).

Decision - Subject to cases of individual merit, the penalty is usually collected.

Reason for decision

Even though the company has taken advantage of section 390(2) of the Companies Act 2006, which allows it to prepare accounts to a date up to seven days either side of the ARD, the Companies Act states that the period allowed for laying and delivering accounts for a private company is nine months after the end of the accounting period. (nine months for public limited companies).

A reminder letter was sent to the registered office shortly before the filing deadline, which clearly stated the last date by which the accounts should be filed and outlined the consequences of late delivery.

The Registrar is not normally able to exercise discretion if a company has confused the period allowed for laying and delivering accounts under section 390 of the Companies Act 2006.

Scenario 10.5 – HM Revenue & Customs (HMRC) have agreed not to collect their penalty.

Decision - Subject to cases of individual merit, the penalty is usually collected.

Reason for decision

Companies House is a completely separate government department to HMRC and is governed by the Companies Act, which states that all accounts delivered late will incur a civil penalty. While HMRC may have agreed not to collect their penalty, they possess wider powers of discretion that are not available to the Registrar.

The Registrar cannot exercise discretion simply because HMRC have agreed not to collect a penalty.

Scenario 10.6 – The company has re-registered and a penalty has been levied in accordance with the status of the company for the period that the accounts covered.

Decision – Subject to cases of individual merit, the penalty is usually collected at the amount levied in accordance with the status of the company for the period that the accounts covered.

Reason for decision

The Companies Act is clear that the amount of penalty levied is determined by whether the company is a private or a public company and how late the accounts are when they are delivered.

A reminder letter was sent to the registered office shortly before the filing deadline, which clearly stated the last date by which the accounts should be filed and outlined the consequences of late delivery.

The Registrar is not normally able to exercise discretion in these circumstances. We will however accept payment by no more than ten monthly instalments.

11. LOST DOCUMENTS

Scenario 11.1 – The company filed a form 225 but it was not received at Companies House.

Decision – Subject to cases of individual merit, the penalty is usually collected.

Reason for decision

It is unfortunate that there is no record of the form 225 (section 392(2) of the Companies Act 2006) being received but delivery means the actual arrival of a document at Companies House. The directors are legally responsible for the delivery of documents and the Registrar can only act when a document arrives at Companies House.

Our reminder letter sent to the registered office would have clearly stated the accounting reference date and when the accounts should have been filed by. The enclosed insert would also have advised them to consider sending a SAE with a copy letter or an acknowledgement card so that we can return it as proof of delivery.

The Registrar is not normally able to exercise discretion if a form 225 (section 392(2) of the Companies Act 2006) was sent but not received at Companies House.

12. MISSING ACCOUNTS

Scenario 12.1 – The accounts were posted before the filing deadline.

Decision – Subject to cases of individual merit, the penalty is usually collected.

Reason for decision

While the accounts may have been sent on time, there is no record of them being received at Companies House. The directors are legally responsible for ensuring that accounts are delivered on time but delivery means the actual arrival of a document at Companies House.

When filing accounts in the future, the company may wish consider sending a SAE with a copy letter or an acknowledgement card, as suggested in our insert that accompanied the reminder letter. Alternatively, presenters may wish to check our website at www.companieshouse.gov.uk free of charge to see if a document as been received.

If the company can provide details of other documents sent in the same package or a Recorded or Special Delivery reference number, further investigations will be made.

The Registrar is not normally able to exercise discretion where accounts have been lost in transit.

Scenario 12.2 – The accounts were sent with the annual return (form 363)

- A. If there no history of filing together.
- B. If there is history of filing together.

Decision

- A. Subject to cases of individual merit, the penalty is usually collected.
- B. Subject to cases of individual merit, penalty should not usually be collected.

Decision A

While we accept the company believes the accounts were sent with the annual return, there is no record of the accounts being received at Companies House.

When filing accounts in the future, the company may wish consider sending a SAE with a copy letter or an acknowledgement card, as suggested in our insert that accompanied the reminder letter. Alternatively, the company could check our website www.companieshouse.gov.uk free of charge to see if a document as been received.

If the company can provide any documentary evidence that both documents were sent together, such as a copy of their original covering letter or an entry from their post book, the matter will be reviewed further.

The Registrar is not normally able to exercise discretion where accounts have been lost in transit.

Decision B

There is no record of the accounts being received with the annual return (form 363) but taking into account the company's previous filing history, the penalty may not be collected.

The Registrar does have discretion in the collection of late filing penalties and this can be exercised in these circumstances. Any decision not to collect a penalty is exceptional and may not be repeated for any subsequent late filing of accounts so in future the company may wish to consider sending a SAE with a copy letter or an acknowledgement card.

Scenario 12.3 – The accounts were posted before the filing deadline – There is no Companies House record of them being delivered but the company has evidence of delivery.

Decision – Accounts maybe date credited with original date of receipt and any penalty cancelled.

Reason for decision

Although there is no record of the accounts being received, as evidence of delivery has been provided then arrangements maybe made for the accounts to be given the original date of receipt. This will result in the penalty being cancelled.

We would apologise for the inconvenience that has been caused.

13. OFFICIAL INVESTIGATION

Scenario 13.1 – The company has been subject to a HM Revenue and Customs (HMRC) or police investigation.

Decision – Subject to cases of individual merit, the penalty is usually collected.

Reason for decision

A HMRC police or other third party investigation does not exempt the company from filing accounts at Companies House within the time allowed under the Companies Act. HMRC or the police rarely refuse access to the records. If firm figures were not available, the company could have considered filing accounts that were suitably qualified.

A reminder letter was sent to the registered office shortly before the filing deadline, which clearly stated the last date by which the accounts should be filed and outlined the consequences of late delivery. The company could have contacted us prior to the filing deadline, so that consideration could have been given to granting an extension to the filing time.

The Registrar is not normally able to exercise discretion in the cases involving such investigations.

14. POSTAL DELAY

Scenario 14.1 – The accounts were delayed in transit (Royal Mail, DX, courier etc).

Decision – Subject to cases of individual merit, the penalty is usually collected.

Reason for decision

While the accounts may have been posted in time, it is the date of delivery at Companies House that is all-important. Directors are legally responsible for ensuring that accounts are delivered and this is only satisfied when the accounts arrive at Companies House.

The Information insert sent with our reminder letter would have warned that postal delays are not an excuse for late filing and suggests that companies use a guaranteed delivery with a consequential loss service if posting close to the deadline.

Companies House in Cardiff is open 24 hours every day of the year for the delivery of documents. Our receipting procedures are designed to ensure that every document is given the correct receipt date, regardless of when it is processed. All mail received is segregated by date and each document is bar-coded to ensure that it is given the correct date of receipt. The front page of the accounts clearly shows the delivery date.

The Registrar is not normally able to exercise discretion where accounts were delayed in transit.

Scenario 14.2 – The accounts were delayed by unannounced strike action by the Royal Mail.

Decision – The penalty should not usually be collected

Reason for decision

While the accounts may have been posted in time, it is the date of delivery at Companies House that is important and in normal circumstances a postal delay would not be grounds where the Registrar would be able to apply discretion.

However, we accept that an unannounced post strike shortly before the filing deadline is catastrophic. This is a case where the Registrar maybe able to apply discretion so the penalty may not be collected on this occasion.

Any decision not to collect a penalty that has been correctly levied under the law may not be repeated in the event of any future late filing of accounts.

Scenario 14.3 – The accounts were sent by Special Delivery but were delayed in transit.

Decision – Subject to cases of individual merit, the penalty is usually collected.

Reason for decision

While the accounts may have been posted in time by Special Delivery, it is the date of delivery at Companies House that is important. The insert sent with our reminder letter shortly before the deadline would have warned that postal delays are not an excuse for late filing. It also suggests that companies take out consequential loss if posting close to the

deadline. The directors are legally responsible for ensuring that accounts are delivered and this is only satisfied when the accounts arrive at Companies House.

Companies House in Cardiff is open 24 hours every day of the year for the delivery of documents. Our receipting procedures are designed to ensure that every document is given the correct receipt date, regardless of when it is processed. All mail received is segregated by date and each document is bar-coded to ensure that it is given the correct date of receipt. The front page of the accounts clearly shows the delivery date.

The Registrar is not normally able to exercise discretion in cases where a company has used Special Delivery but the accounts have been delayed in transit.

15. PERSONAL

Scenario 15.1 – Married directors are getting divorced and one director had difficulty in obtaining the information from the other.

Decision – Subject to cases of individual merit, the penalty is usually collected.

Reason for decision

The directors' marital difficulties do not excuse the late filing of accounts. If firm figures were unavailable, they could have considered filing qualified accounts.

A reminder letter was sent to the registered office shortly before the filing deadline, which clearly stated the last date by which the accounts should be filed and outlined the consequences of late delivery. If the company had contacted us prior to the filing deadline, consideration could have been given to granting an extension to the filing time.

The Registrar is not normally able to exercise discretion in cases where married directors are separating and the separation hindered the delivery of the company's accounts.

16. REJECTED ACCOUNTS

Scenario 16.1 – The company's accounts were rejected but were not received back by the company or the presenter.

Decision – The penalty should not usually be collected

Reason for decision

The accounts were received before the deadline but were rejected and returned for amendment. As they were not received in an acceptable format until after the filing deadline, the company has incurred a late filing penalty.

We accept that the company was unaware of the rejection until receiving an overdue accounts notice. In these circumstances, the Registrar may be able to apply discretion in the collection of the late filing penalty.

Any decision not to collect the penalty that has been correctly levied under the law may not be repeated for any subsequent late filing of accounts.

Scenario 16.2 – The company’s accounts were received on time but were rejected. Amended accounts were returned within the filing time but were rejected for a different reason.

Decision – The penalty should not usually be collected.

Reason for decision

The accounts were received before the deadline but rejected on two occasions. As they were not received in an acceptable format within the statutory time allowed, the company has incurred a penalty. Ultimately it is the legal responsibility of the directors to ensure that acceptable accounts are delivered within the time allowed.

Having reviewed the case, we accept that had we pointed out all the errors when the accounts were initially rejected, the penalty may have been avoided. In these circumstances, the Registrar may be able to apply discretion in the collection of the late filing penalty.

Any decision not to collect a penalty that has been correctly levied under the law is exceptional and may not be repeated for any subsequent late filing of accounts.

Scenario 16.3 – The company’s accounts have been rejected but were accepted in the same format in previous years.

Decision – The penalty should not usually be collected.

Reason for decision

The accounts were received before the deadline but were rejected and returned for amendment. The accounts were re-filed after the due date for filing and the company has therefore incurred a late filing penalty.

We have checked the previous accounts and can confirm that they had been incorrectly accepted and the format of the latest accounts is correct. The Registrar does have discretion in the collection of penalties and having reviewed this case Companies House would accept that the earlier accounts were accepted incorrectly and understand that this may have caused confusion. In these circumstances, the Registrar may be able to apply discretion in the collection of the late filing penalty.

Any decision not to collect the penalty that has been correctly levied under the law may not be repeated for any subsequent late filing of accounts.

17. E- FILING

Scenario 17.1 – The company’s computer crashes or gets a virus and they can not file their accounts via the Company House web filing service.

Decision – Subject to cases of individual merit, the penalty is usually collected.

Reason for decision

The Companies Act allows private limited companies nine months (six months for public limited companies) in which to prepare and deliver accounts and directors have a legal responsibility to ensure that this deadline is met. If directors were unable to file their accounts via the web filing service then they should ensure that a paper version was filed at Companies House within the time allowed. If filing was left until the last moment it should be accepted that this was risky.

A reminder letter was sent to the registered office shortly before the filing deadline, which clearly stated the last date by which the accounts should be filed and outlined the consequences of late delivery. Had the company contacted us prior to the filing deadline, consideration could have been given to granting an extension to the filing time.

The Registrar is not normally able to exercise discretion in these circumstances.

Scenario 17.2 – The company attempted to file accounts via the Companies House web filing service on a Sunday or a Bank Holiday

A. The company’s accounts were filed on the first available day (Monday in the case of Sundays) acc

B. The company’s accounts are not filed on the first available day.

Decision A - The penalty should not usually be collected.

Decision B - Subject to cases of individual merit, the penalty is usually collected

Reason for decision A

We understand that the company was placed at a disadvantage by Companies House when the web site was not available on Sundays or Bank Holidays. We accept that they then filed the accounts at the first opportunity. In these circumstances, the Registrar may be able to apply discretion in the collection of the late filing penalty.

Any decision not to collect a penalty that has been correctly levied is exceptional and may not be repeated for any subsequent late filing of accounts. Companies should be aware for future filing that the Companies House web site is not available on a Sunday.

Reason for decision B

Although the company was placed at a disadvantage by Companies House when the web site was not available on a Sunday or a Bank Holiday the company should have ensured that the accounts were filed at the earliest available opportunity.

The Registrar is not normally able to exercise discretion in cases where accounts have been filed later than one day after web filing service was unavailable.

Scenario 17.3 – The company has general difficulties filing accounts via the Companies House web filing service (for example the Adobe version used is less than version 7.09)

Decision – Subject to cases of individual merit, the penalty is usually collected.

Reason for decision

The Companies Act allows private limited companies nine months (six months for public limited companies) in which to prepare and deliver accounts and directors have a legal responsibility to ensure that this deadline is met. If directors were unable to file their accounts via the web filing service then they should ensure that a paper version was filed at Companies House within the time allowed. In the case of the company's Adobe version not being compatible, it should be noted that the minimum requirements for web filing are given on the Companies House web site. If the directors had contacted Companies House to explain they were experiencing difficulties they would have been advised to download the appropriate version of Adobe Reader (Adobe Reader version 7.09) which is free of charge.

A reminder letter was sent to the registered office shortly before the filing deadline, which clearly stated the last date by which the accounts should be filed and outlined the consequences of late delivery. Had the company contacted us prior to the filing deadline, consideration could have been given to granting an extension to the filing time.

The Registrar is not normally able to exercise discretion in these circumstances.

Scenario 17.4 – The company's accounts have been rejected because the authentication code has not been updated.

Decision – The penalty should not usually be collected.

Reason for decision

Authentication codes are received and updated every day. Occasionally an error will occur and a code will get missed resulting in the accounts being rejected for filing. The accounts were re-filed after the due date for filing and the company has incurred a late filing penalty.

Companies House would accept that our error placed the company at a disadvantage and in these circumstances, the Registrar may be able to apply discretion in the collection of the late filing penalty.

Any decision not to collect a penalty that has been correctly levied is exceptional and may not be repeated for any subsequent late filing of accounts.

18. NEW REGIME APPEALS

Scenario 18.1 – When the company filed its accounts previously they received only a penalty of for example £100. This year they have received a much higher penalty

Decision – The penalty should usually be collected.

Reason for decision

The Companies Act states that all companies are required to prepare and deliver accounts to the Registrar, and that all companies are liable for civil penalties if the accounts are filed late.

The amount of penalty is not negotiable and is determined by how late the accounts are when they are delivered for filing, and whether company is a private company or a public company.

The Registrar is not normally able to exercise discretion in such cases. We will however accept payment by no more than ten monthly instalments

Scenario 18.2 – A private company has filed its accounts ten months after the accounting reference date (seven months in the case of a public company) and is surprised to receive a late filing penalty.

Decision – Subject to cases of individual merit, the penalty is usually collected

Reason for decision

The Companies Act clearly states that accounts must be delivered to Companies House within the statutory time allowed. While private companies were previously allowed ten months (seven months for public companies) to file their accounts, the Companies Act 2006 states all companies with accounting periods starting on or after 6 April 2008 have nine months (six months for public companies) to file their accounts.

A reminder letter was sent to the registered office shortly before the filing deadline, which clearly stated the last date by which the accounts should be filed and outlined the consequences of late delivery.

The Registrar is not normally able to exercise discretion in these circumstances. We will however accept payment by no more than ten monthly instalments.

Scenario 18.3 – A company has incurred a higher penalty for filing its accounts two months late

Decision – Subject to cases of individual merit, the penalty is usually collected

Reason for decision

The Companies Act 2006 has changed the penalty bands so that a company filing its accounts over one month late will incur a higher penalty than if it had filed within the first month

The Registrar is not normally able to exercise discretion in these circumstances. We will however accept payment by no more than ten monthly instalments.

How to pay your Late Filing Penalty

There are three ways in which a company can pay a Late Filing Penalty.

1. Pay by BACS

Please quote the company number followed by the company name in your transaction reference to enable Companies House to allocate your payment properly.

- Bank – National Westminster Bank
- Account Name – Late Filing Penalties Receipts
- Account Number – 41005309
- Sort Code – 52 - 21 - 07
- Swift Code (for overseas payments) – NW BK GB 2122X
- IBAN – GB34NWBK52210741005309

2. Pay by Cheque

Please send your cheque (made payable to Companies House) with your remittance slip to:

Companies House
P O Box 710
Crown Way
Cardiff
CF14 3UZ

Please write the company number and company name on the back of the cheque.

3. Pay by Credit or Debit card

Please phone our Finance team on one of the following direct numbers

029 2038 0358
029 2038 0307
029 2038 0274
029 2038 0181
029 2038 0343