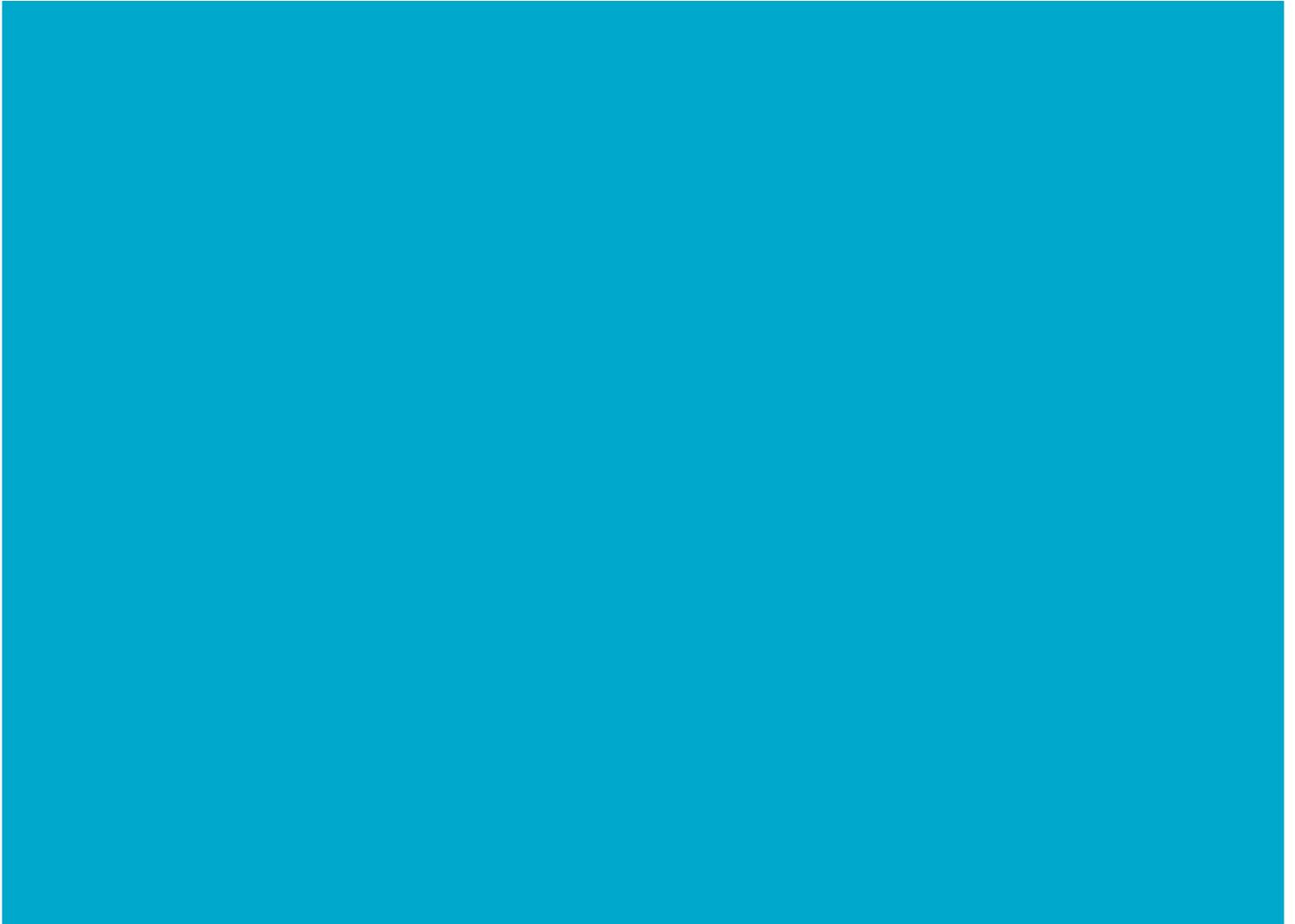




Companies House

# Late Filing Penalties

## Appeals



Version 7.2

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# Contents

<b>Chapter 1 – Introduction .....</b>	<b>4</b>
1. Background to Late Filing Penalties .....	4
2. Time allowed for the delivery of accounts .....	4
3. Provisions for extending the time allowed for filing .....	4
4. Civil penalty for the failure to file accounts on time .....	5
5. Calculation of time for delivery of accounts for companies with accounting periods starting on or after 6 April 2008 (1 October 2008 for LLPs).....	5
6. Registrar’s Discretion.....	6
<b>Chapter 2 – How the Penalty System Operates .....</b>	<b>7</b>
1. Pre-penalty procedures .....	7
2. Document Receipt Procedures .....	7
3. Electronic Filing .....	7
4. Collection Procedures .....	8
5. Collection Procedures (For E&W registered companies) .....	10
6. Appeals process.....	11
7. How to pay a Late filing Penalty .....	12
<b>Chapter 3 – Concessions introduced since the introduction of late filing penalties .....</b>	<b>13</b>
1. Companies that apply for strike off .....	13
2. Restored Companies.....	13
<b>Chapter 4 – Guidance on how to deal with the most common appeals .....</b>	<b>14</b>
1. Principles In Applying Discretion.....	14
2. Third Party – Code 3D.....	14
3. CH Service – Code CS.....	16
4. Charity – Code CY .....	17
5. Dormant – Code DO.....	17
6. Officers’ responsibility – Code DR .....	18
7. Disaster – Code DS.....	19
8. Financial – Code F.....	21
9. Flat Management – Code FM .....	21
10. Health – Code HE.....	23
11. Legislation – Code LG .....	24
12. Lost Documents – Code OA.....	27
13. Missing – Code MA .....	28
14. Official Investigation – Code OF .....	29
15. Postal Delay – Code PD.....	30
16. Personal – Code PE .....	31
17. Rejected Accounts – Code RJ.....	31
18. E- Filing (For Information. Please clear cases in relevant category) .....	34
19. Double Penalties .....	35

# Chapter 1 – Introduction

For the purposes of this manual a private limited company, a public limited company and a limited liability partnership will be generically referred to as a “company”, unless this is inappropriate. Similarly, a director or a designated member will be referred to as an “officer” unless this is inappropriate

## 1. Background to Late Filing Penalties

**Legislative Background:** The late filing penalty legislation was introduced in 1992 because of increasing public concern about the number of companies that were failing to deliver their accounts within the statutory time allowed by the Companies Act 2006. The provisions of the Act were introduced with effect from 1 July 1992 under Statutory Instrument 1991 No 2945 (C.92).

The legislation under which a penalty is now levied is section 453 (1) of the Companies Act 2006. The 2006 Act sets out the level of penalties to be levied and is specified in regulations i.e. Statutory Instrument 2008 No. 497. These regulations came in to force on 6 April 2008 and were enacted on 1 February 2009 and apply to all companies filing accounts late on or after this date.

**Policy Background:** In return for limited liability the law requires officers to provide information about their company to the public. The law clearly states that it is the personal responsibility of the officers to ensure that accounts are delivered to Companies House within the specified time allowed [section 441(1)] and where accounts are delivered late, the company will be liable to a civil penalty [section 453], or as applied to LLP's

The parameters for the late filing legislation were set by Parliament which decided that the penalties should apply to all companies, irrespective of the size of the company or the nature of its business, whether trading or not. The sole aim of the legislation is to encourage timely filing with the ultimate goal being that the revenue generated from penalties is nil because all companies will file on time. The amount of the penalty is determined by the regulations (SI 2008/497) by referring to the delay between the filing deadline and the date the accounts are delivered to Companies House [section 453(2) of the Companies Act 2006].

## 2. Time allowed for the delivery of accounts

Private limited companies and limited liability companies are given 9 months from the end of the accounting reference period to deliver their accounts to the Registrar. Public limited companies are given 6 months from the end of the accounting reference period to deliver their accounts to the Registrar.

If however a company's first accounts cover a period of more than twelve months, they must be delivered to the Registrar within 21 months of the incorporation date. Similarly, public limited companies whose first accounts cover a period of more than twelve months must deliver them to the Registrar within 18 months of incorporation.

The requirement in section 441(1) of the Companies Act 2006 to “deliver to the registrar” means that the accounts must be received by the Registrar within the time allowed for filing. Delivery therefore means the actual handing over (which is legally defined in rule 7 volume 2 of Registrar's rules) of a document at Companies House, not the posting or handing of a package to a courier. Delivery is defined in the Act in s.1071(1), which states that: “A document is not delivered to the registrar until it is received by the registrar.”

## 3. Provisions for extending the time allowed for filing

There is provision in the Companies Act for the period of delivery for accounts to be extended. Upon application, the Secretary of State may extend the time allowed for filing by whatever period is appropriate if he thinks fit [Section 442(5)] of the Companies Act 2006. Such applications must be in writing and received at Companies House prior to the expiry of the period normally allowed for filing.

#### 4. Civil penalty for the failure to file accounts on time

When the officers of a company fail to deliver accounts within the time allowed under the Companies Act, the company becomes liable for a civil penalty, the amount of which depends on how late the accounts are when they are delivered to Companies House. Section 453(2) of the Companies Act 2006 is clear that the amount of penalty incurred by a company who delivers accounts late is determined by:

- (The length of time between the due date for filing and the date the accounts are delivered to Companies House.
- Whether the company is a private (including limited liability) or a public company.

This is expanded on in SI 2008 No 497, the amount of penalty levied is determined by “Whether a company is a public company or a private company depends upon its status at the end of the financial year in question” It also specifies the level of penalty to be levied on a company who files its accounts late.

For companies who file their accounts late, the amount of penalty levied is shown in the following table:

How late are the accounts delivered	Private Company / LLP	PLC/ SE Company
Not more than 1 month	£150	£750
More than 1 month but not more than 3 months	£375	£1,500
More than 3 months but not more than 6 months	£750	£3,000
More than 6 months	£1,500	£7,500

The amounts set in the table will be doubled where the accounts are filed late under the Companies Act 2006 and previous year’s accounts under the Act were not filed on time.

#### 5. Calculation of time for delivery of accounts for companies with accounting periods starting on or after 6 April 2008 (1 October 2008 for LLPs)

The calculation of when accounts are due to be filed and when an increase in a penalty band occurs is based on a standard calendar month. Therefore a company with an accounting reference date of 28 February should be filed not later than 30 November to avoid a late filing penalty. If the accounts are filed late, increases in the amount of penalty levied will follow as set out in the tables above.

Where a company chooses an accounting reference date that falls on a date other than the end of the month, the due date for delivery corresponds to the accounting reference date. Therefore accounts for a private company with an accounting reference date of 15 March would be due to be filed nine months later on 15 December. (A company will often have an accounting reference date on a date other than the end of the month when they have extended their accounting reference period and to extend to the end of the month would have exceeded 18 months (Section 392(5) Companies Act 2006). This method of calculation is based on the corresponding date rule. This principle is taken from the House of Lords decision in *Dodds – v – Walker* (1981) 2 All ER 609.

In that case, a tenant had to give a counter notice to his landlord “not more than 4 months after the giving of the landlord’s notice.” The landlord’s notice was given on 30 September 1978 and the House of Lords held that 4 months expired on 30 January 1979. Therefore, a counter notice given on 31 January 1979 was out of time. The principles laid down by *Dodds – v – Walker* have universal application and are not limited to Tenancy Law. The Registrar’s position was upheld on 26 June 2003 in the case of *The Registrar of Companies versus Radio-Tech Engineering Limited*, which was heard at the High Court of Justice in Cardiff before His Honour Judge Moseley Q.C.

## 6. Registrar's Discretion

The Registrar has no discretion not to levy a penalty when accounts are delivered late. All companies that deliver accounts late will automatically incur a late filing penalty. This view was confirmed in the case of *The Queen on the application of (1) POW Trust Limited and (2) Al's Bar and Restaurant Limited v Chief Executive and Registrar of Companies and the Secretary of State for Trade and Industry* (2002) EWHC 72783 (Admin).

However, Section 453(3) of the Companies Act 2006 states that "the penalty may be recovered by the Registrar" which implies the Registrar has discretion as to whether or not payment of the penalty should be collected. Discretion can only be applied in exceptional circumstances, for example, where Companies House has contributed to the late filing or where an unforeseen catastrophe strikes the company immediately before the filing deadline.

The Ombudsman can determine whether or not the Registrar has properly applied discretion, as this could amount to maladministration. The Ombudsman may however decide that alternative legal remedy is more appropriate. The only issue for the Court to determine is whether or not the accounts were delivered outside the filing time. If it is found that the accounts were delivered late, then the court will have no alternative but to find in favour of the Registrar. The Ombudsman will only take a case if he or she believes that maladministration is involved.

## 7. Civil Penalty differs from Criminal Offence

It is the legal responsibility of the company's officers to ensure that accounts are prepared and delivered to Companies House, and Section 441 of the Companies Act 2006 states that it is a criminal offence to file accounts late and directors may be personally liable for a fine. Where accounts are filed late it is then the company and not the individual officers who will incur a late filing penalty. This is a civil penalty that is levied pursuant to Section 453 of the Companies Act 2006.

Section 451(2) of the Companies Act 2006 gives the officers an opportunity to provide a defence against Section 451 but there is no equivalent defence available to a company that has incurred a late filing penalty. It is therefore clear that Parliament intended that there be no similar defence available for companies that incur a late filing penalty.

# Chapter 2 – How the Penalty System Operates

## 1. Pre-penalty procedures

Reminder letters are sent to the registered office address of every company shortly before the expiry of the filing deadline. Alternatively a company may choose to have an electronic reminder, which can be sent to up to four different e-mail addresses. If it is the company's first accounts a reminder (Dir-rem) is also sent to the first named officer residing at an address other than the registered office. This states that accounts are required whether the company has traded or not, the last date by which they should be filed and the consequences of not meeting the deadline. The Registrar is under no statutory obligation to send a reminder letter but does so to help companies. The legal responsibility to ensure that accounts are prepared and delivered within the time allowed rests solely with the officers and not receiving a reminder does not excuse the company from a late filing penalty.

## 2. Document Receipt Procedures

Companies House receives mail from various sources on a daily basis. The Royal Mail is the biggest supplier and delivers every day except Sundays and Bank Holidays. Although the majority of mail received is sent by 1st class post, this does not guarantee a delivery date nor offers any compensation if the accounts are not delivered on time. For this reason, Companies House advises companies that are posting close to the filing deadline to use some form of guaranteed delivery service that offers consequential loss if they fail to deliver on time.

Companies House in Cardiff is open 24 hours a day, 365 days of the year. All mail received is taken to the Post Room where every envelope is opened and the contents are bar-coded with the actual date of receipt and this is the date used throughout the examination process. The work of the Post Room at Companies House is organised to ensure that every document is given the correct receipt date. Supervisory staff makes regular checks to ensure that bar codes have been changed when each day's mail has been opened and any superfluous bar-codes are collected and destroyed.

Documents can also be delivered to Companies House in London 24 hours a day, 365 days a year. Our London office is open 9am to 5pm Monday to Friday and outside these hours, documents can be delivered via the letterbox provided at the main entrance. All mail received up until midnight at our London office on any given day is placed in a sack and transported to our Cardiff office where each document is bar-coded with the correct date of receipt. Similar delivery arrangements to London are in place at CH Edinburgh.

Documents may only be delivered to CH Belfast. 9am to 5pm Monday to Friday, excluding bank and public holidays. CH Belfast also does not have a post box or letter box, so post cannot be delivered outside the hours stated.

## 3. Electronic Filing

### Web Filing

Companies can submit Audit Exempt Abbreviated Accounts and Dormant Company accounts (DCA format) via the Web Filing Service (e filing is only available to companies under the Companies Act 1985 and 2006, it cannot be used for companies under the NI Order 1986). These two accounts types make up the majority of accounts filed at Companies House. Both sets of accounts are provided as downloadable PDF templates and require the user to have Adobe Reader (free to download). In order to take advantage of the service a company has to register for a security code (issued by e-mail) and an authentication code (issued by post to your registered company office). Once the codes are received the company is able to file documents on-line. The service is available for the submission of data 24 hours 7 days a week. The service is not currently available for Limited Liability Partnerships (LLPs) or companies with prefixes such as FC or AC etc.

After submitting data we send 2 emails, one to confirm receipt of the data and a second to confirm if the data has been accepted or rejected.

**Email confirmation**

The confirmation of receipt email will be sent within 3 hours of the data being submitted. (If the company does not receive confirmation they should call our contact centre for advice, quoting the submission number).

**Acceptance/rejection email**

The acceptance/rejection email is normally sent within 3 working days once the document has been processed (most documents are processed within 24 hours). If the company’s data is rejected the reasons will be included in the email.

**Software Filing**

The current Software Filing service allows external companies to develop software packages, enabling either their own employees or customers of their company to manage the submission of a range of forms required by Companies House.

The Software Filing service operates by the electronic transmission of documents to Companies House via a HTTPS link using Extensible Markup Language (XML). These documents must comply with the structure approved by the Registrar for electronic submission, as documented in the Software Filing Technical Interface Specification.

eXtensible Markup Language (XML) is controlled and monitored by the World Wide Web Consortium (W3C) and is now the generally accepted mechanism for data exchange over the internet. It is also the recommended e-GIF (e-Government Interoperability Framework) standard for use by Government agencies in web applications.

The XML Gateway provides online access over the internet into Companies House databases for customers to submit as well as retrieve company information via their own applications or web pages.

**Joint Accounts Filing:**

This is a method for companies and their agents to produce and submit the different sets of company accounts they need to send to HMRC and Companies House from a single set of data.

**4. Collection Procedures**

When a penalty has been incurred, a penalty notice (PEN1A) will be sent to the company’s registered office address. The notice clearly states;

- the accounting period of the accounts; the due date for delivery;
- the date of receipt;
- the amount of the penalty;
- that payment is due immediately.
- If the payment is not received within 17 days, a final notice (PEN2A) is sent. This states;
- that if payment is not received within 7 days the matter will be referred to collection agents. In practice, no penalty is transferred to collection agents for a period of 42 days from the issue of the final notice.

Following referral to collection agents, a further letter demanding payment of the penalty is sent by the agent, The Lewis Group Limited. If the penalty remains unpaid after 10 days, the solicitors acting for the Lewis Group, Howard Cohen & Co, issue a pre-action letter. After a further 10 days, Howard Cohen & Co will issue a request to County Court Bulk Centre (CCBC) for the issue of a claim.

All actions are commenced in the County Court Bulk Centre (CCBC) in Northampton. Claim requests are sent to the CCBC electronically and the issue costs of the claim are raised on our system at this point. The amount of the costs depends on the size of the claim. The court generates the claim form allocating a case number and issues it to the company. CCBC does not provide Companies House or Howard Cohen & Co with a copy of the claim form. The case number appears on the Lewis Group’s computer system automatically once the court has issued the claim. The claim request can be withdrawn (by Howard Cohen & Co) and the issue costs reversed at any time before the case number is shown.

If the claim is not paid within 28 days of issue and no defence has been filed Howard Cohen & Co make a request to CCBC for the entry of judgement by default. This request is sent automatically but can be delayed if required (e.g. if an appeal is received) by asking Howard Cohen & Co to put a temporary

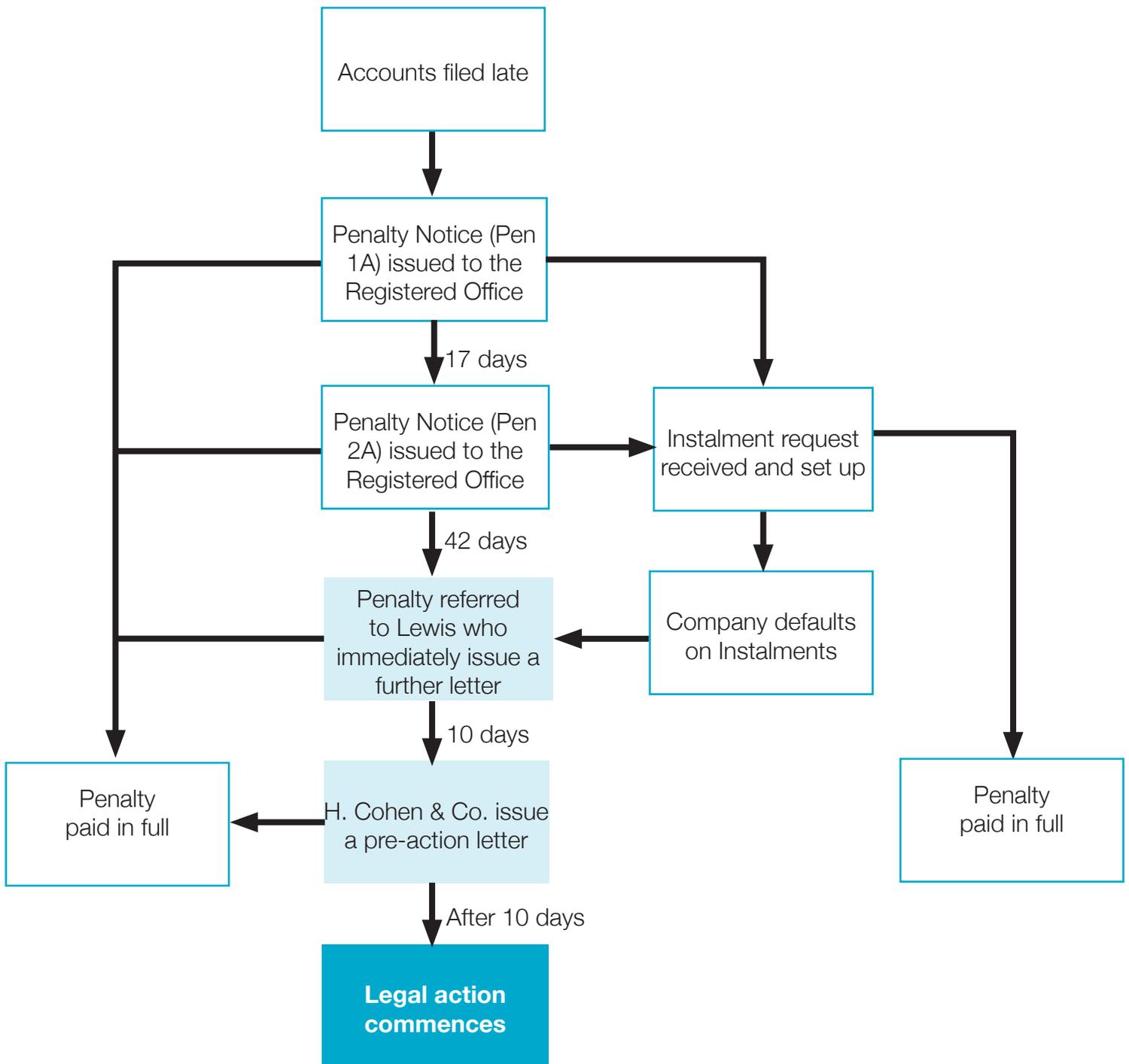
hold on their system. CCBC will send a copy of the judgement order to the defendant. No copy is sent to the claimant (Companies House) or the solicitors (Howard Cohen & Co).

If a defence to the claim is filed CCBC will transfer the case to Huddersfield County Court which is the home court of the claimants solicitors i.e. Howard Cohen & Co. Defendants can also ask for the case to be transferred to their own home court when completing the defence. CCBC will send a copy of the defence to Companies House via Howard Cohen & Co. Companies House may write to the defendant (the company) if it appears that the defence can be resolved by further correspondence. Several weeks after a defended case has been transferred to it the new court will send an allocation questionnaire to both parties before listing the case for hearing. If a case cannot be resolved and proceeds to hearing Companies House will file an affidavit with the court giving full details of the claim and exhibiting any relevant correspondence and documents. Companies House will also be represented at the hearing by Howard Cohen & Co (or by agents if the case has been transferred to the defendant's home court). The district judge will decide whether to order payment of the claim based on the evidence provided at the hearing.

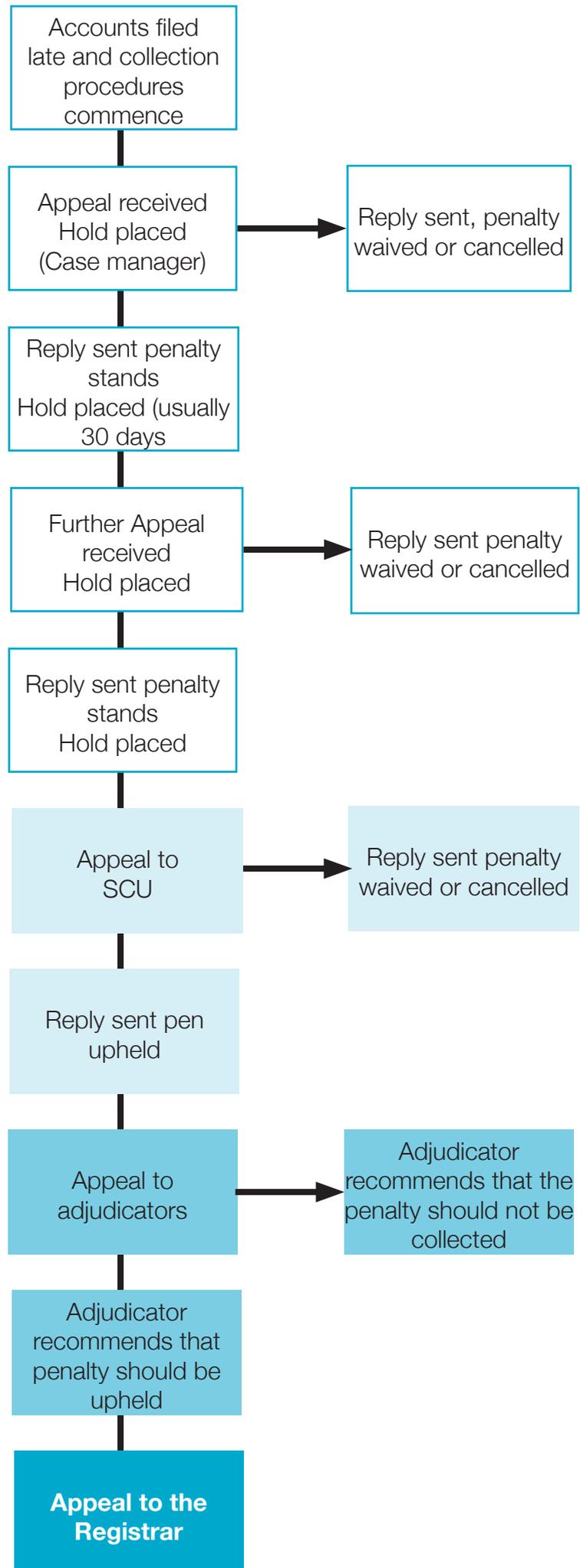
Once a claim has been issued instalments should not be suggested as the court allows a limited amount of time for the claim to be resolved. However, if a very large claim is admitted but the defendant can not pay immediately it may be possible to avoid a county court judgement by agreeing to accept payment by instalments under a consent order. This is an agreement between the parties to suspend further legal action on the condition that payments are maintained until the claim is paid in full. Howard Cohen & Co will draft a consent order and will file it with the court once it has been signed by both parties. A default in payment will result in the entry of judgement against the defendant without any hearing. Additional charges are incurred by a consent order and this should not be suggested as a routine option.

All county court judgements appear in a registry that is open to public inspection. This is routinely checked by credit reference agencies. Judgements remain on the register for six years. However, if a judgement is paid in full within four weeks the defendant can ask the court to remove the registration. The defendant will have to provide the court with a letter from Howard Cohen & Co confirming that the judgement has been paid. This is sent to the registered office automatically. If the judgement amount is paid after this four week period the defendant can ask the court to have the judgement marked as satisfied but it will still remain on the public register for six years.

## 5. Collection Procedures (For E&W registered companies)



## 6. Appeals process



## 7. How to pay a Late filing Penalty

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

### Pay by BACS

The company must quote its registration number followed by the company name in the 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

### Pay by Cheque

For English, Welsh and Northern Irish companies cheques must be made payable to Companies House with the remittance slip and sent to:

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

For Scottish companies, cheques should be sent to:

Companies House  
Fourth Floor, Edinburgh Quay 2  
139 Fountainbridge  
Edinburgh  
EH3 9FF

The company is required to write the company number and company name on the back of the cheque.

### Pay by Credit or Debit card

The company can 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

# Chapter 3 – Concessions introduced since the introduction of late filing penalties

## 1. Companies that apply for strike off

The penalty will not normally be collected if an application is made to remove (strike off) the company from the register. Where a claim form has been issued, the company will be expected to pay any legal costs that have been incurred. However, if the costs remain unpaid, the Registrar will continue with the strike off action. If the strike off action is withdrawn for any reason, then action to recover the penalty will recommence.

## 2. Restored Companies

The introduction of the 2006 Companies Act has meant that since 1 October 2009 there are two ways by which a company can be restored. It can be restored via the Courts or it can apply to administratively restore.

Companies that were dissolved following their application to do so must apply to the Courts to be restored. It is normally a condition of restoration that the company records are brought up to date in respect of accounts and annual returns. Penalties will only be levied on accounts that were overdue at the time the company was dissolved and the amount of penalty levied is calculated from the filing deadline to the dissolution date. These must be paid together with any penalties that were outstanding at the time of dissolution. Accounts that become outstanding when the company is dissolved up to the date when it is restored to the register will not incur any late filing penalties.

Companies that were dissolved by the Registrar may choose to administratively restore. To do this the company must file a RT01 accompanied by the appropriate filing fee. It must also bring itself up to date in respect of annual returns and accounts. Penalties must be paid prior to the restoration for accounts that were overdue at the time the company was struck off and the amount of penalty levied is calculated from the filing deadline to the strike off date. These must be paid together with any penalties and legal costs that were outstanding at the time of dissolution. Accounts that become outstanding when the company is dissolved up to the date when it is restored to the register will not incur any late filing penalties.

# Chapter 4 – Guidance on how to deal with the most common appeals

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## 1. Principles In Applying Discretion

Every appeal received at Companies House requesting the use of the Registrar’s discretion not to collect is different. Consequently it is important that the case manager considers all the relevant facts and merits of the case application. However, there are principles that can be applied and these should be applied in all cases.

When considering an appeal against a penalty a case manager should be fair, independent and objective. Personal views must not influence decision making. Case managers must not be affected by improper or undue pressure from any source. Discretion should only be applied if the appeal falls into a situation where it would be appropriate for the Registrar to use discretion. The majority of appeals will fall into the categories set out on the following pages and these guidelines are designed to help case managers make consistent decisions in all types of appeals. However, you should always be ready to take account of any other exceptional factors that may change your decision.

The Equality Act 2010 requires all public authorities (of which we are one) to have due regard to the need to take steps to take account of disabled persons' disabilities, or in effect to have due regard to the need to take steps to overcome the effects of disabilities. This underlines that 'equality of opportunity' cannot be simply achieved by treating disabled and non-disabled alike, but that it is probably sometimes necessary to take positive steps to overcome any barriers faced by disabled people.

For the purposes of this manual it probably means that once we have been informed that that someone is disabled, we should act in a way which is not inconsistent with The Equality Act 2010. That is by simply spelling out options and ensuring we confirm that we have given consideration to needs etc.

It is an officer’s duty to ensure that he is in possession of the full facts behind an extension request. This will enable him to apply the law properly and in accordance with the principles set out in this document. Officers must balance all issues for and against whether to collect a penalty carefully and fairly.

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## 2. Third Party – Code 3D

### Scenario 1 – Accountants/Bookkeepers incompetence.

#### Decision

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

#### Reasons for decision

The Companies Act 2006 clearly states that the officers of the company are responsible for the delivery of accounts.

#### Suggested Approach

Explain that while companies may rely on accountants to prepare accounts, the legal responsibility to deliver accounts within the time allowed rests solely with the officers.

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

Explain the circumstances where the Registrar is able to apply discretion and that they do not apply in this case.

## Scenario 2—Former accountants refused to release books to new accountants.

### Decision

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

### Reason for decision

The Companies Act 2006 clearly states that officers are responsible for the delivery of accounts.

### Suggested Approach

Explain that while you recognise the difficulties they have had with their accountants, they are not an excuse for late delivery. The officers are legally responsible for the delivery of accounts and any problems they have 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 under the accounting regulations set out in the Companies Act. The company would then have the option of filing amended accounts at a later date without incurring a penalty.

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

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. Explain that 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 to the filing time under Section 442(5) of the Companies Act 2006.

Explain the circumstances where the Registrar is able to apply discretion and that they do not apply in this case.

## Scenario 3—Accountant was ill or has died

### Decision

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

### Reason for decision

The Companies Act 2006 clearly states that directors are responsible for the delivery of accounts.

### Suggested Approach

Sympathise with their accountant's illness or death but explain that the officers are legally responsible for the delivery of accounts. Advise that the accountant should have a fall back procedure in place to ensure that important deadlines are met if some disaster should occur.

Point out that a reminder letter was sent to the registered office shortly before the filing deadline, which clearly states the last date for filing and outlines the consequences of late delivery. Explain that if the company had contacted us to explain that they were having difficulty in meeting the deadline they would have been advised that they could apply for an extension to the filing time under Section 442(5) of the Companies Act 2006.

Explain the circumstances where the Registrar is able to apply discretion and that they do not apply in this case.

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### 3. CH Service – Code CS

#### **Scenario 1 – Company claims incorrect advice given 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 2006 clearly states that officers are responsible for the delivery of accounts and it is unlikely that any member of staff would have given this advice.

##### **Suggested Approach**

Explain that the Companies Act 2006 states that all companies are required to file accounts regardless of their trading status and that all accounts that are delivered late will incur a late filing penalty. Explain that all officers have a legal responsibility to ensure that accounts are delivered within the statutory time allowed.

Explain that while there may have been a misunderstanding, Companies House staff are fully aware that all companies are required to file accounts but if they can provide details of the telephone call, further investigations will be made. Please remember that Vertex only retain call recordings for 1 year.

Point out that a reminder letter was sent to the registered office address shortly before the filing deadline, which explains that accounts are required whether the company has traded or not, the last date for filing and the consequences of late filing.

Explain the circumstances where the Registrar is able to apply discretion and that they do not apply in this case.

#### **Scenario 2 – Incorrect advice given by Companies House supported by evidence.**

##### **Decision**

The penalty should not usually be collected.

##### **Reason for Decision**

Companies House has contributed to the late filing.

##### **Suggested Approach**

Explain that after considering the circumstances, we are willing to accept that they were incorrectly advised. Explain that the Registrar does have discretion in the collection of late filing penalties and confirm that the penalty will not be collected on this occasion.

Point out that any decision not to collect a penalty is exceptional and any future case will be considered on its individual merits.

#### **Scenario 3 – No reminder letter sent by Companies House.**

##### **Decision**

The penalty should not usually be collected.

##### **Reason for Decision**

Company has been disadvantaged by not being sent a reminder.

##### **Suggested Approach**

Explain that while the Registrar is under no statutory duty to send a reminder, we appreciate that the company has been disadvantaged by not being sent one.

Explain that the Registrar does have discretion in the collection of late filing penalties and confirm that the penalty will not be collected on this occasion.

Point out that any decision not to collect a penalty is exceptional and any future case will be considered on its individual merits

## Scenario 4—A reminder letter was sent to the company but never received.

### Decision

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

### Reason for decision

There is no requirement placed upon Companies House to send a reminder to companies.

### Suggested Approach

Explain that the Companies Act 2006 states that all companies are required to file accounts regardless of their trading status and that all accounts that are delivered late will incur a late filing penalty. Explain that all officers have a legal responsibility to ensure that accounts are delivered within the statutory time allowed.

Explain that a reminder letter was sent to the company's registered office address and the date. Although the company did not receive the reminder, as we are under no obligation to send them, non receipt is not a reason for the registrar to use discretion. The company should have its own internal reminder system.

Explain the circumstances where the Registrar is able to apply discretion and that they do not apply in this case.

Explain to the company about e-reminders and that this may be an aide to the company in the future.

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## 4. Charity – Code CY

### Scenario

Company is a charity and has no funds to pay penalties.

### Decision

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

### Reason for decision

The Companies Act 2006 states that all companies are liable for civil penalties.

### Suggested Approach

Explain that while you appreciate 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.

Explain that all officers have a legal responsibility to ensure that accounts are delivered within the statutory time allowed.

Point out that a reminder letter was sent to the registered office address shortly before the filing deadline, which clearly states the last date for filing and the consequences of late delivery.

Explain the circumstances where the Registrar is able to apply discretion and that they do not apply in this case.

Confirm that we will accept payment by no more than fifteen monthly instalments upon receipt of a written request.

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## 5. Dormant – Code DO

### Scenario 1 – Company is dormant.

#### Decision

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

#### Reason for decision

The Companies Act 2006 states that all companies are liable for civil penalties.

#### Suggested Approach

Explain that while you 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.

Explain that all officers have a legal responsibility to ensure that accounts are delivered within the statutory time allowed.

Point out that a reminder letter was sent, which explains that accounts are required whether the company has traded or not, the last date for filing and the consequences of late delivery.

Explain the circumstances where the Registrar is able to apply discretion and that they do not apply in this case.

As the company is dormant, explain that they may wish to apply for strike off and offer payment by monthly instalments. However, strike off must not be offered where the company is a Flat Management Company.

## Scenario 2—No public interest in dormant accounts.

### Decision

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

### Reason for decision

The Companies Act 2006 states that all companies are liable for civil penalties and the public are entitled to inspect the accounts of all companies. Companies House has an obligation under the law to provide up to date information about the company to anyone who may need it not later than the due date for delivery.

### Suggested Approach

Explain that while you 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. Point out that the public have a right to view the accounts of all limited companies not later than the due date for delivery.

Explain that all officers have a legal responsibility to ensure that accounts are delivered within the statutory time allowed.

Point out that a reminder letter was sent, which explains that accounts are required whether the company has traded or not, the last date for filing and the consequences of late delivery.

Explain the circumstances where the Registrar is able to apply discretion and that they do not apply in this case.

As the company is dormant, explain that they may wish to apply for strike off and offer payment by monthly instalments. However, strike off must not be offered where the company is a flat management company.

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## 6. Officers' responsibility – Code DR

### Scenario 1—Officer is ill but there are other officers.

#### Decision

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

#### Reason for decision

The Companies Act 2006 clearly states that all officers are equally responsible for ensuring that accounts are prepared and delivered within the time allowed.

#### Suggested Approach

Sympathise with the officer's ill health but explain that all officers share an equal responsibility for the delivery of accounts and if one officer was unable to deal with them then the remainder should have ensured that the filing deadline was met.

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.

Explain the circumstances where the Registrar is able to apply discretion and that they do not apply in this case.

### Scenario 2—New Officers (including flat management companies).

#### Decision

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

#### Reason for decision

The Companies Act 2006 clearly states that all officers are equally responsible for ensuring that accounts are prepared and delivered within the time allowed.

#### Suggested Approach

Explain that all officers are legally responsible for the delivery of accounts and new officers are assumed to know what they are taking on and to have checked

the company's filing position before becoming a director. Point out that civil late filing penalties are levied on companies and not individual officers.

Explain the circumstances where the Registrar is able to apply discretion and that they do not apply in this case.

### Scenario 3—Officers reside or travels overseas.

#### Decision

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

#### Reason for decision

The Companies Act 2006 clearly states that all officers are equally responsible for ensuring that accounts are prepared and delivered within the time allowed.

#### Suggested Approach

Explain that while the officer may reside or travels overseas, this is not an excuse for late filing, as this should be taken into consideration when accounts are being prepared.

Explain that the Companies Act 2006 allows companies nine months (public companies – six months) in which to prepare and deliver accounts and officers have a legal responsibility to ensure that this deadline is met.

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.

Explain the circumstances where the Registrar is able to apply discretion and that they do not apply in this case.

### Scenario 4—Problems with the company secretary.

#### Decision

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

#### Reason for decision

The Companies Act 2006 clearly states that officers are responsible for the delivery of accounts.

#### Suggested Approach

Sympathise with the problems they have experienced with their secretary but explain that the legal responsibility to deliver accounts within the time allowed rests solely with the officers.

Point out that a reminder letter was sent to the registered office shortly before the filing deadline, which clearly states the last date for filing and outlines the consequences of late delivery. Explain that if the company had contacted us to explain that they were having difficulty in meeting the deadline they would have been advised that they could apply for an extension to the filing time under Section 442(5) of the Companies Act 2006.

~~Explain the circumstances where the Registrar is able to apply discretion and that they do not apply in this case.~~

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## 7. Disaster – Code DS

### Scenario 1 – Company suffered fire/flood/burglary shortly before the filing deadline.

#### Decision

The penalty should not usually be collected.

#### Reason for decision

The Registrar is able to apply discretion where the company suffers a catastrophe shortly before the filing deadline.

#### Suggested Approach

Sympathise with their circumstances and accept that it would have made the delivery of accounts within the time allowed very difficult.

Explain that the Registrar does have discretion in the collection of late filing penalties and confirm that the penalty will not be collected on this occasion.

Point out that any decision not to collect a penalty is exceptional and any future appeal against a late filing penalty will be treated on its individual merits.

## Scenario 2—Company suffered fire/flood/burglary many months before filing deadline.

### Decision

Subject to individual merit, the penalty is usually collected.

### Reason for decision

The Registrar is only able to apply discretion where the company suffers a catastrophe shortly before the filing deadline.

### Suggested Approach

Sympathise with their circumstances but point out that as they occurred many months before the filing deadline, the company still had sufficient time in which to prepare and deliver accounts. Explain that if firm figures were not available, the company could have considered filing accounts that were suitably qualified.

Point out that a reminder letter was sent to the registered office shortly before the filing deadline, which clearly states the last date for filing and outlines the consequences of late delivery. Explain that if the company had contacted us to explain that they were having difficulty in meeting the deadline they would have been advised that they could apply for an extension to the filing time under Section 442(5) of the Companies Act 2006.

Explain the circumstances where the Registrar is able to apply discretion and that they do not apply in this case.

## Scenario 3—Company has suffered from computer failure.

### Decision

The decision will depend upon when the computer failure occurred. (a) If it happened within 5 working days of the deadline we would not normally collect. (b) if it happened longer than 5 working days we would collect.

### Reason for Decision

- a. The registrar has discretion for disasters that occur shortly before the deadline.
- b. The company had sufficient time to have applied to the Secretary of State for an extension to the filing time.

### Suggested Approach

- a. Sympathise with their circumstances and accept that it would have made the delivery of accounts within the time allowed very difficult.

Explain that the Registrar does have discretion in the collection of late filing penalties and confirm that the penalty will not be collected on this occasion.

Emphasise the need to back up computer records in order to minimise the risk of this re-occurring. Point out that any decision not to collect a penalty is exceptional and any future appeal against a late filing penalty will be treated on its individual merits.

- b. Sympathise with the company's computer problems but explain that they should have a back up system in place. Explain that it is the officers' responsibility to ensure that accounts are prepared and delivered with the time allowed. Point out that if firm figures were unavailable, they could have considered filing qualified accounts.

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

Explain that if the company had contacted us to explain that they were having difficulty in meeting the deadline they would have been advised that they could apply for an extension to the filing time under Section 442(5) of the Companies Act 2006.

Explain the circumstances where the Registrar is able to apply discretion and that they do not apply in this case.

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## 8. Financial – Code F

### Scenario 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 Companies Act 2006 states that all companies are liable for civil penalties.

#### Suggested Approach

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

Explain that the Companies Act 2006 allows limited liability companies and private limited companies nine months (public companies – six months) in which to prepare and deliver accounts and officers have a legal responsibility to ensure that this deadline is met.

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.

Explain the circumstances where the Registrar is able to apply discretion and that they do not apply in this case.

If the company is dormant, explain that they may wish to apply for strike off and offer payment by monthly instalments.

### Scenario 2 – Company goes into Company Voluntary Arrangement (CVA) before the penalty is levied.

#### Decision

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

#### Reason for decision

The Companies Act 2006 states that all companies are liable for civil penalties.

#### Suggested Approach

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.

Explain the circumstances where the Registrar is able to apply discretion but point out that this cannot be applied on the grounds of financial difficulty.

Offer to accept payment by monthly instalments.

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## 9. Flat Management – Code FM

### Scenario 1 – The company only exists to manage the freehold

#### Decision

Subject to individual merit, the penalty is usually collected.

#### Reason for decision

The Companies Act 2006 states that all companies are liable for civil penalties

#### Suggested Approach

Explain that all companies are required to prepare and deliver accounts to the Registrar and all companies that deliver accounts late will incur are liable to a civil penalty.

Explain that the Companies Act allows limited liability companies and private limited companies nine months (public companies - six months) in which to prepare and deliver accounts and officers have a legal responsibility to ensure that this deadline in met.

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.

Explain the circumstances where the Registrar is able to apply discretion and that they do not apply in this case.

Offer to accept payment by monthly instalments.

### **Scenario 2—Company unaware of the requirement to file accounts or does not consider itself to be a company**

#### **Decision**

Subject to individual merit, the penalty is usually collected

#### **Reason for decision**

The Companies Act 2006 states that all companies irrespective of whether they are trading or not should deliver accounts and will be liable to a civil penalty if they are filed late.

#### **Suggested Approach**

Sympathise with the company's position and explain that the problems of property management companies are frequently used as the basis of appeals concerning late filing penalties, and that it is unfortunate that individuals are required to discharge the responsibilities of company officers simply because of where they live.

Explain that 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.

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

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.

Explain the circumstances where the Registrar is able to apply discretion and that they do not apply in this case.

Confirm that we will accept payment by monthly instalments upon receipt of a written request.

### **Scenario 3—The Company has incurred a penalty for the late delivery of accounts that cover a period before the officers were appointed. This is often for a period before they have moved into the property owned by the company**

#### **Decision**

Subject to individual merit, the penalty is usually collected

#### **Reason for decision**

A company is a legal entity in its own right and civil late filing penalties are levied on the company and not on the individual officers of a company

#### **Suggested Approach**

Sympathise with the company's position and explain that the problems of property management companies are frequently used as the basis of appeals concerning late filing penalties, and that it is unfortunate that individuals are required to discharge the responsibilities of company officers simply because of where they live.

Explain that 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.

Explain that a company is a legal entity in its own right and civil late filing penalties are levied on the company and not on the individual officers of a company. Explain that when they were appointed as officers they acquired the responsibility to file accounts including any that were outstanding at the date of their appointment. Explain that new officers are assumed to know what they are taking on and to have checked the company's filing position before becoming a director.

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.

Explain the circumstances where the Registrar is able to apply discretion and that they do not apply in this case.

Confirm that we will accept payment by monthly instalments upon receipt of a written request.

## 10. Health – Code HE

### Scenario 1 – The sole director of a limited company or PLC falls ill shortly before the filing deadline.

#### Decision

The penalty should not be collected.

#### Reason for decision

The Registrar is able to apply discretion where the company suffers a catastrophe shortly before the filing deadline.

#### Suggested Approach

Sympathise with the director's ill health and explain that the Registrar is able to apply discretion in such circumstances. Confirm that the penalty will not be collected.

Explain that this decision may not be repeated in the event of any subsequent late filing of accounts as all cases are treated on their individual merits. Suggest that they may wish to appoint another director if their health problems are continuing.

### Scenario 2 – Sole designated member of an LLP falls ill shortly before the filing deadline.

#### Decision

The penalty should be collected.

#### Reason for decision

The Registrar is unable to apply discretion where an LLP suffers a catastrophe of this nature shortly before the filing deadline as the company chose to be in the position of having a sole designated member.

#### Suggested Approach

Sympathise with the designated member's/family member's continuing ill health but explain that LLPs differ from private limited companies. An LLP must have two designated members. If a designated member resigned for whatever reason the situation can only exist for six months. As the company chose to be in this position it must bear the consequences. Point out that the Registrar can only apply discretion where the company as a whole suffers a catastrophe shortly before the filing deadline and the illness to a sole designated member or a member of their

family cannot be considered as a catastrophe to the company.

Confirm that the penalty must be paid and offer to accept payment by monthly instalments

### Scenario 3 – Sole director of a limited company or PLC has been ill for a number of years and previous penalties have not been collected.

#### Decision

Subject to individual merit, the penalty is usually collected.

#### Reason for decision

The Registrar can only apply discretion where the company suffers a catastrophe shortly before the filing deadline.

#### Suggested Approach

Sympathise with the director's/family member's continuing ill health but explain that a previous penalty was not collected for this reason. Point out that 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.

Explain that they were informed when the earlier penalty was not collected that this decision might not be repeated as cases are treated on their individual merits and to consider appointing another director if their health problems were continuing.

Confirm that the penalty must be paid and offer to accept payment instalments.

### Scenario 4 – Sole director's immediate family member (including partners) is ill.

#### Decision

The penalty should not be collected.

#### Reason for decision

The Registrar is able to apply discretion where the company suffers a catastrophe shortly before the filing deadline.

#### Suggested Approach

Sympathise with the family member's ill health and

explain that the Registrar is able to apply discretion in such circumstances. Confirm that the penalty will not be collected.

Explain that this decision may not be repeated in the event of any subsequent late filing of accounts as all cases are treated on their individual merits. Suggest that they may wish to appoint another director if the family member’s health problems are continuing.

**Scenario 5—Sole designated member of an LLP dies shortly before the filing deadline.**

**Decision**

The penalty should be collected.

**Reason for decision**

The Registrar is unable to apply discretion where a sole designated member dies shortly before the deadline as the members of the company are expected to take over its running.

**Suggested Approach**

Sympathise with the correspondent but explain that LLPs differ from private limited companies. An LLP must have two designated members. If a designated member resigned for whatever reason the situation can only exist for six months. As the company chose to be in this position it must bear the consequences. Point out that when an LLP has no designated members the members are expected to take over its running. Point out that the Registrar can only apply discretion where the company as a whole suffers a catastrophe shortly before the filing deadline and the death of a sole designated cannot be considered as a catastrophe to the company.

**Reason for decision**

The Companies Act 2006 states that all companies who deliver accounts late are liable to a civil penalty accounts delivered late are liable for a civil penalty

**Suggested Approach**

Explain the 21/18 month rule (as the case maybe) applies for filing first accounts and point out that officers have a legal responsibility to ensure this deadline is met.

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.

Explain the circumstances where the Registrar is able to apply discretion and that they do not apply in this case.

**Scenario 2—Company confused between criminal prosecution action and civil late filing penalties.**

**Decision**

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

**Reason for decision**

The Companies Act is clear that criminal prosecution against directors for the failure to file accounts is a separate matter to civil late filing penalties. All companies who deliver accounts late are liable to a civil penalty.

**Suggested Approach**

Explain that although they have been in correspondence with Compliance, any agreement would have referred to possible prosecution action for the failure to file accounts. Point out that all Compliance letters clearly explain that in addition to any criminal proceedings which may be taken, accounts that are delivered late will incur an automatic financial penalty.

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.

Explain the circumstances where the Registrar is able to apply discretion and that they do not apply in this case.

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**11. Legislation – Code LG**

**Scenario 1 – Company unaware of 21/18 month rule (as the case maybe) (section 442(3) of the Companies Act 2006) for first accounts.**

**Decision**

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

**Scenario 3— 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 month would have exceeded 18 months (Section 392 (5) Companies Act 2006)). Although accounts may be made up to a date 7 days either side of the accounting reference date (Section 390(2) (b) of the Companies Act 2006) the due date for delivery corresponds to the accounting reference date. Therefore accounts for a private company with an accounting reference date of 15 March, for example, would be due to be filed nine months later on 15 December.**

#### **Decision**

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

#### **Reason for decision**

The Companies Act 2006 states that private limited companies have nine months and public limited companies have six months in which to prepare and deliver accounts. The method of calculating the period of months used by Companies House is called the "corresponding date rule", which is supported by *Dodds v Walker*.

#### **Suggested Approach**

Explain Companies House's interpretation of the calculation of time and point out that their filing deadline was the corresponding date nine/ six months from the accounting reference date.

Explain that 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.

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.

Explain the circumstances where the Registrar is able to apply discretion and that they do not apply in this case.

**Scenario 4—Accounts were made up to 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**

The Companies Act 2006 states that accounts for companies must be filed within nine months of the accounting reference date (six months for public companies).

#### **Suggested Approach**

Explain that the company has taken advantage of Section 390(2) (b) of the Companies Act 2006, which allows it to prepare accounts to a date up to 7 days either side of the ARD. Point out however that the Companies Act 2006 states that the period allowed for laying and delivering accounts is 9 / 6 months (as the case maybe) after the end of the accounting period, and not 9 / 6 months (as the case maybe) after the made-up date of the accounts.

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.

Explain the circumstances where the Registrar is able to apply discretion and that they do not apply in this case.

**Scenario 5—HM Revenue & Customs (HMRC) have agreed not to collect a penalty but the circumstances do not meet the criteria for the Registrars discretion not to collect a late filing 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.

#### **Suggested Approach**

Explain that Companies House is governed by the

Companies Act 2006, which states that all accounts that are delivered late will automatically incur a late filing penalty. Point out that while HMRC may have agreed not to collect their penalty, they are a completely separate government department and are allowed wider powers of discretion.

Explain the circumstances where the Registrar is able to apply discretion and that they do not apply in this case.

**Scenario 6—A 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. The company suggests that the amounts of penalty collected should be in line with the company’s new status.**

**Decision**

Subject to cases of individual merit, the penalty will be collected at the amount levied in accordance with the status of the company for the period that the accounts covered

**Reason for decision**

The decision is based on the construction of Section 453 (2) of the Companies Act 2006 which states that “(a) the amount of penalty shall be determined by the length of the period between the end of the period for filing the accounts and reports in question and the day on which the requirements are complied with. (b) Whether the company is a private or public company.”

This is expanded on in Statutory Instrument 2008 No 497; the amount of penalty levied is determined by “Whether a company is a public company or a private company depends upon its status at the end of the financial year in question”

**Suggested Approach**

Explain that while you appreciate that the company has re-registered the amount of penalty levied is determined by the status of the company for the period that the accounts covered.

Explain the circumstances where the Registrar is able to apply discretion and that they do not apply in this case.

Confirm that we will accept payment by monthly instalments upon receipt of a written request.

**Scenario 7—The company appeals that when they filed their accounts previously they only received a penalty of, for example, £100 while this year they have received a higher penalty.**

**Decision**

Subject to individual merit, the penalty is usually collected.

**Reason for decision**

The Companies Act 2006 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.

**Suggested Approach**

Explain that the Companies Act 2006 states that all accounts delivered late are liable for a civil penalty.

Explain that following the introduction of the Companies Act 2006 the penalty amounts have increased. Explain that this is the first time that the penalty amounts have been increased since the introduction of penalties in 1992. Point out that amounts levied are not negotiable and are specified in Statutory Instrument 2008 No.497

Explain the circumstances where the Registrar is able to apply discretion and that they do not apply in this case.

Confirm that we will accept payment by monthly instalments upon receipt of a written request.

**Scenario 8—A 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 individual merit, the penalty is usually collected.

**Reason for decision**

The Companies Act 2006 clearly states that accounts must be delivered to Companies House within the

statutory time allowed, and while companies were previously allowed ten and seven months to file their accounts the Companies Act 2006 now only allows a company nine or six months in which to file their accounts.

### **Suggested Approach**

Explain that the Companies Act 2006 states that all accounts delivered late are liable for a civil penalty. That all companies with accounting periods starting on or after 6 April 2008 have nine (six months for public companies) to file their accounts.

Explain that while we accept that the time allowed for delivery has changed that a reminder letter was sent to the company which clearly gives the last date for filing and the consequences of late delivery.

Explain the circumstances where the Registrar is able to apply discretion and that they do not apply in this case.

Confirm that we will accept payment by monthly instalments upon receipt of a written request.

### **Scenario 9—A company has incurred a higher penalty for filing its accounts two months late and is aware that previously the penalty would not have increased until they were over three months late.**

#### **Decision**

Subject to 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.

#### **Suggested Approach**

Explain that the Companies Act 2006 states that all accounts delivered late are liable for a civil penalty.

Explain that following the introduction of the Companies Act 2006 the penalty bands have changed and that a company will now incur a higher penalty if accounts are delivered over one month late.

Explain the circumstances where the Registrar is able to apply discretion and that they do not apply in this case.

Confirm that we will accept payment by monthly instalments upon receipt of a written request

### **Scenario 10—The company writes to enquire how the date the accounts were due to be filed is now calculated as being the end of the month while in previous years they have been required to file by the date that corresponds to the date of the accounts.**

#### **Suggested Approach**

Explain that for companies with accounting periods starting on or after 6 April 2008 the calculation of when accounts are due to be filed and when an increase in a penalty band occurs is now defined in Section 443 of the Companies Act 2006 and is in terms of months. It is aimed to end confusion and is based on a standard calendar month and not on the corresponding date rule as previously applied.

Explain that the corresponding date rule only now applies for accounts that are made up to a date other than the end of the month.

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## 12. Lost Documents – Code OA

### **Scenario 1—A company filed a form AA01, under Section 392 (2) of the Companies Act 2006, but it was not received at Companies House, resulting in the company's Accounting Reference Date not being changed. Subsequent accounts are then rejected as they would not be made up to the correct Accounting Reference Date.**

#### **Decision**

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

#### **Reason for decision**

Companies House can only act upon receipt of a document.

#### **Suggested Approach**

Explain that there is no record of the form AA01, under Section 392 (2) of the Companies Act 2006,

being received and delivery means the actual arrival of a document at Companies House. Explain that the officers are legally responsible for the delivery of documents and the Registrar can only act when a document arrives at Companies House. The accounting reference date was not changed and the accounts have been correctly rejected.

Point out that 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.

Explain the circumstances where the Registrar is able to apply discretion and that they do not apply in this case.

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## 13. Missing – Code MA

### Scenario 1 – Accounts were posted before the filing deadline.

#### Decision

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

#### Reason for decision

The Companies Act 2006 clearly states that accounts must be delivered to Companies House within the statutory time allowed. Delivery means the actual handing over of a document to Companies House, not merely posting or handing it to a courier.

#### Suggested Approach

Explain that while the accounts may have been sent on time, there is no record of them being received at Companies House. Point out that the directors/members are legally responsible for ensuring that accounts are delivered on time but delivery means the actual handing over of a document at Companies House as set out in section 1071.

Check the date the company signed the accounts off to ensure that they were posted prior to the deadline.

Point out that when filing accounts in the future, they may wish consider sending a SAE with a copy letter or an acknowledgement card, as suggested in our insert that accompanied the reminder letter.

Request details of any other documents the accounts were sent with or a copy of the Royal Mail receipt if they were sent Recorded or Special delivery. Explain that the Registrar can only apply discretion if proof of delivery prior to the filing deadline can be provided.

### Scenario 2 – accounts were sent with the annual return (form AR01)

- a. if there is no history of filing together
- b. if there is history of filing together

#### Decision

- a. further evidence should be requested
- b. penalty should not be collected

#### Suggested Approach

- a. Explain that while you accept the company believes the accounts were sent with the annual return there is no record of them being received at Companies House.

Check the date the company signed the accounts off to ensure that they were posted prior to the deadline.

Point out that when filing accounts in the future, they may wish consider sending a SAE with a copy letter or an acknowledgement card, as suggested in our insert that accompanied the reminder letter.

Explain that the Registrar is only able to apply discretion where evidence can be provided of delivery prior to the filing deadline. Point out that if they 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

- b. Explain that there is no record of the accounts being received with the annual return (form AR01) but taking into account the company's previous filing history, the penalty will not be collected.

Point out that this decision might not be repeated as all cases are treated on their individual merits, so in future they may wish to consider sending a SAE with a copy letter or an acknowledgement card.

### Scenario 3—Accounts posted before the filing deadline – There is no Companies House record of them being delivered but the company has clear evidence of delivery.

#### Decision

Accounts should be date credited with original date of receipt and penalty should be cancelled.

#### Reason for decision

Companies House have lost the accounts

#### Suggested Approach

Explain that there is no record of the accounts being received but given the evidence provided, arrangements have been made for them to be given the original date of receipt which will cancel the penalty.

Apologise for the inconvenience that has been caused.

#### Suggested Approach

- a. Explain that although there has been a HMRC/Police investigation, this does not exempt the company from filing accounts at Companies House within the time allowed under the Companies Act. Point out that HMRC/Police would rarely refuse access to the records.
- . Wherever possible we should attempt to contact the authority that was dealing with the company's case and establish whether or not the company had access to its documents.

Assuming that the documents were made available but the company did not request copies. Explain that they should have obtained these copies. Alternatively, explain that if they did not want to obtain copies, the company could have considered filing accounts that were suitably qualified.

Point out that a reminder letter was sent to the registered office shortly before the filing deadline, which clearly states the last date for filing and outlines the consequences of late delivery. Explain that if the company had contacted us to explain that they were having difficulty in meeting the deadline they would have been advised that they could apply for an extension to the filing time under Section 442(5) of the Companies Act 2006.

Explain the circumstances where the Registrar is able to apply discretion and that they do not apply in this case.

- b. If the company would not have been allowed access the penalty should not be collected

Sympathise with their circumstances and accept that it would have made the delivery of accounts within the time allowed very difficult.

Explain that the Registrar does have discretion in the collection of late filing penalties and confirm that the penalty will not be collected on this occasion.

Point out that any decision not to collect a penalty is exceptional and any future appeal against a late filing penalty will be treated on its individual merits.

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## 14. Official Investigation – Code OF

### Scenario—Company has been subject to HM Revenue and Customs (HMRC)/police or other 3rd party investigation.

#### Decision

- a. The books would be released - the penalty is usually collected.
- b. The books would not be released – the penalty is not usually collected

#### Reason for decision

The Companies Act 2006 states that all companies are required to prepare and deliver accounts to the Registrar and an investigation of this nature does not exempt companies from this. However in some cases the investigating authority may not be in a position to make the books available. Consequently effort must be made to contact the investigating authority, wherever possible.

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## 15. Postal Delay – Code PD

### Scenario 1 – Accounts were delayed in transit (Royal Mail, DX, courier etc).

#### Decision

Subject to individual merit, the penalty is usually collected.

#### Reason for decision

The Companies Act 2006 clearly states that accounts must be delivered to Companies House within the statutory time allowed. The Registrar cannot be held responsible for delays in transit.

#### Suggested Approach

Explain that while the accounts may have been posted in time, it is the date of delivery at Companies House that is important. Point out that the insert sent with our reminder letter warned that postal delays are not an excuse for late filing and suggests companies use a guaranteed delivery with consequential loss service if posting close to the deadline.

Check the date the company signed the accounts off to ensure that they were posted prior to the deadline.

Explain that officers are legally responsible for ensuring that accounts are delivered and this is only satisfied when the accounts arrive at Companies House as set out in section 1071.

Give details of our receipting procedures if necessary and send a copy of the front page of the accounts to show the delivery date.

Explain the circumstances where the Registrar is able to apply discretion but point out that this cannot be applied where accounts are delayed in transit.

### Scenario 2 – Accounts delayed by strike action by the Royal Mail.

#### Decision

The penalty should not be collected.

#### Reason for decision

The Registrar is able to apply discretion in these circumstances, as this would be considered to be a catastrophe occurring shortly the filing deadline.

#### Suggested Approach

Explain that while the accounts may have been posted before the due date time, it is the date of delivery to 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.

Point out that because of the unannounced strike action, the Registrar is able to apply discretion in this case and confirm that the penalty will not be collected.

Point out that this decision might not be repeated in the event of any future late filing of accounts as all cases are treated on their individual merits.

### Scenario 3 – Accounts sent Special Delivery but delayed in transit.

#### Decision

Subject to individual merit, the penalty is usually collected.

#### Reason for decision

The Companies Act 2006 clearly states that accounts must be delivered to Companies House within the statutory time allowed. The Registrar cannot be held responsible for delays in transit.

#### Suggested Approach

Check the date the company signed the accounts off to ensure that they were posted prior to the deadline

Explain that while the accounts may have been posted in time by Special Delivery, it is the date of delivery at Companies House that is all-important. Point out that the insert sent with our reminder letter would have warned that postal delays are not an excuse for late filing and suggest companies take out consequential loss if posting close to the deadline.

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

If necessary give details of our receipting procedures and send a copy of the front page of the accounts to show the delivery date.

Explain the circumstances where the Registrar is able to apply discretion but point out that this cannot be applied where accounts are delayed in transit.

## 16. Personal – Code PE

### Scenario 1 – Married officers are getting divorced and one of them had difficulty in obtaining the information from the other.

#### Decision

Subject to individual merit, the penalty is usually collected.

#### Reason for decision

The Companies Act states that all officers are legally responsible for the delivery of accounts. The Registrar cannot become involved in such disputes.

#### Suggested Approach

Explain that the officers' marital difficulties do not excuse the late filing of accounts. Point out that if firm figures were unavailable, they could have considered filing qualified accounts.

Point out that a reminder letter was sent to the registered office shortly before the filing deadline, which clearly states the last date for filing and outlines the consequences of late delivery. Explain that if the company had contacted us to explain that they were having difficulty in meeting the deadline they would have been advised that they could apply for an extension to the filing time under Section 442(5) of the Companies Act 2006.

Explain the circumstances where the Registrar is able to apply discretion and that they do not apply in this case.

## 17. Rejected Accounts – Code RJ

### Scenario 1 – Accounts rejected but not received back by company or the presenter.

#### Decision

Will be dependent upon when the accounts were received in Companies House. Please see scenarios a & b below.

#### Reason for decision

- a. The accounts were rejected 2 – 3 days before the due date. Even had the accounts been received back there was little possibility of them being received back, amended and then filed with us before the due date.
- b. The accounts were returned to the company for amendment in good time for the company to amend them and return them to Companies House. If they were not received back, the company would not be aware that the accounts had been rejected until receiving an overdue accounts notice so would not be in a position to re-submit amended accounts by the deadline.

#### Suggested Approach

- a. Check the date the company signed the accounts off to ensure that they were posted prior to the deadline or whether they could have filed electronically. Also check that we were correct to reject the accounts.

Explain that while the accounts may have been posted in time, accounts are only deemed to be filed when they are accepted in an acceptable format. If the company could have filed the accounts electronically this should be pointed out.

Explain that you accept that the company was unaware of the rejection of the accounts until receiving an overdue accounts notice. However, because they were received so late even had they received the rejected accounts back a late filing penalty was inevitable.

By leaving the filing until the end of the period the company was running a risk that an unforeseen event could cause late filing.

- b. Explain that the accounts were received before the deadline but were rejected and returned for amendment. Explain that as they were not received in an acceptable format until after the filing deadline and the company has incurred a late filing penalty.

Explain that you accept that the company was unaware of the rejection of the accounts until receiving an overdue accounts notice. Confirm that the Registrar is able to apply discretion in this case and that the penalty will not be collected on this occasion.

Point out that this decision might not be repeated in the event of any future late filing of accounts as all cases are treated on their individual merits.

### Scenario 2—Accounts received on time but rejected. Amended accounts returned within the filing time but rejected again for a different reason.

#### Decision

The penalty should not be collected.

#### Reason for decision

Companies House has contributed to the late filing.

#### Suggested Approach

Explain that the accounts were rejected on two occasions and as they were not received in an acceptable format within the time allowed, the company has incurred a late filing penalty. Point out that ultimately it is the legal responsibility of the officers to ensure that acceptable accounts are delivered within the time allowed.

Explain that the Registrar does have a degree of discretion and having reviewed the case you accept that had we pointed out all the errors when the accounts were initially rejected, the penalty may have been avoided. Confirm that the penalty will not be collected on this occasion.

Point out that this decision might not be repeated in the event of any future late filing of accounts as all cases are treated on their individual merits.

### Scenario 3—Accounts have been rejected but were accepted in the same format in previous years.

#### Decision

The penalty should not be collected.

#### Reason for decision

Companies House has contributed to the late filing by accepting accounts in an incorrect format in previous years.

#### Suggested Approach

Explain that the accounts were received on time but rejected and as they were not received in an acceptable format within the time allowed, the company has incurred a late filing penalty. Point out that ultimately it is the legal responsibility of the directors to ensure that acceptable accounts are delivered within the time allowed.

Explain that you have checked previous accounts and you can confirm that they had been incorrectly accepted and the format of the latest accounts is correct. Explain that the Registrar does have a degree of discretion in the collection of penalties and having reviewed this case, you accept that the acceptance of the earlier accounts placed the company at a disadvantage. Confirm that the penalty will not be collected on this occasion.

Point out that this decision might not be repeated in the event of any future late filing of accounts as all cases are treated on their individual merits.

### Scenario 4—CH took longer than five working days to examine and reject the accounts, but they were rejected more than one week before the filing deadline

#### Decision

The penalty should be upheld

#### Reason for decision

The accounts were returned in time for an amendment to be made.

#### Suggested Approach

Check the date the company signed the accounts off to ensure that they were posted prior to the deadline or whether they could have filed electronically. Also check that we were correct to reject the accounts.

Explain that while the accounts may have been posted in time, accounts are only deemed to be filed when they are accepted in an acceptable format. If the company could have filed the accounts electronically this should be pointed out.

If they could not file electronically explain that there was enough time for the company to arrange for the accounts to be delivered by a guaranteed service, such as by courier

### **Scenario 5—CH took longer than five working days to examine and reject the accounts, but they were initially received five (or fewer) days before the filing deadline.**

#### **Decision**

The penalty should be upheld.

#### **Reason for decision**

Even if CH had examined and returned the accounts within five working days, the accounts would still have been late.

#### **Suggested Approach**

Check the date the company signed the accounts off to ensure that they were posted prior to the deadline or whether they could have filed electronically. Also check that we were correct to reject the accounts.

Explain that while the accounts may have been posted in time, accounts are only deemed to be filed when they are accepted in an acceptable format. If the company could have filed the accounts electronically this should be pointed out.

By leaving the filing until the end of the period the company was running a risk that an unforeseen event could cause late filing.

### **Scenario 6—CH received the accounts two weeks before a filing deadline, but they were not examined and rejected until the filing deadline had passed.**

#### **Decision**

The penalty should not be collected.

#### **Reason for Decision**

Companies House service contributed to late filing.

#### **Suggested Approach**

Explain that the accounts were correctly rejected and as they were not received in an acceptable format within the time allowed, the company has incurred a late filing penalty. Point out that ultimately it is the legal responsibility of the officers to ensure that acceptable accounts are delivered within the time allowed.

Explain that the Registrar does have a degree of discretion and having reviewed the case you accept that had we met our target for processing documents when the accounts were initially rejected, the penalty may have been avoided. Confirm that the penalty will not be collected on this occasion.

Point out that this decision might not be repeated in the event of any future late filing of accounts as all cases are treated on their individual merits.

### **Scenario 7—CH received the accounts two weeks before a filing deadline, but they were not examined and rejected until immediately before the filing deadline, ensuring that the company had no chance of meeting the deadline.**

#### **Decision**

The penalty should not be collected.

#### **Reason for Decision**

Companies House service contributed to late filing.

#### **Suggested Approach**

Explain that the accounts were correctly rejected and as they were not received in an acceptable format within the time allowed, the company has incurred a late filing penalty. Point out that ultimately it is the legal responsibility of the officers to ensure that acceptable accounts are delivered within the time allowed.

Explain that the Registrar does have a degree of discretion and having reviewed the case you accept that had we met our target for processing documents when the accounts were initially rejected, the penalty may have been avoided. Confirm that the penalty will not be collected on this occasion.

Point out that this decision might not be repeated in the event of any future late filing of accounts as all cases are treated on their individual merits.

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## 18. E- Filing (For Information. Please clear cases in relevant category)

### Scenario 1 – General difficulties encountered with web filing (for example the Adobe version used is less than the current one we are recommending)

#### Decision

Subject to individual merit, the penalty is usually collected.

#### Reason for decision

The Companies Act 2006 clearly states that accounts must be delivered to Companies House within the statutory time allowed.

#### Suggested Approach

Explain that while you appreciate the difficulties the company has encountered all companies are required to prepare and deliver accounts to the Registrar not later than the due date for filing.

Explain that the Companies Act 2006 states that all accounts delivered late are liable for a civil penalty.

In the case of the company's Adobe version not being compatible. Explain that the minimum requirements for web filing accounts are given on our web site. Explain that if the directors had contacted our web filing department they would have been advised to download the appropriate version of Adobe Reader required which is free of charge.

Explain the circumstances where the Registrar is able to apply discretion and that they do not apply in this case.

### Scenario 2 – Authentication Code cancelled due to age but the company is not informed.

#### Decision

The penalty should not be collected.

#### Reason for decision

The company is placed at disadvantage, because we failed to notify them of the cancellation of the auth code.

#### Suggested Approach

Explain that the authentication code was cancelled for security reasons which resulted in the company being unable to use our WebFiling facility. Explain that the Companies Act 2006 states that all accounts delivered late are liable to a civil penalty.

Explain that after considering the circumstances, we accept that the company was placed at a disadvantage. Explain that the Registrar does have discretion in the collection of late filing penalties and confirm that the penalty will not be collected.

Point out that any decision not to collect a penalty is exceptional and any future case will be considered on its individual merits.

### Scenario 3 – The company attempted to file accounts but unable to file as Error Code 1 (unable to connect) or Error Code 777 (server busy) kept being regenerated.

#### Decision

The penalty should not be collected.

#### Reason for decision

Error code 1 or 777 is caused by a failure of the Companies House WebFiling system

#### Suggested Approach

Check that the servers were busy at the relevant times. Explain why the company received an error code message. Explain that the Companies Act 2006 states that all accounts delivered late are liable for a civil penalty.

Explain that after considering the circumstances, we accept that the company was placed at a disadvantage. Explain that the Registrar does have discretion in the collection of late filing penalties and confirm that the penalty will not be collected.

Point out that this decision might not be repeated in the event of any future late filing of accounts as all cases are treated on their individual merits.

### **Scenario 4— The company filed its accounts electronically but they were not confirmed as received until 1 minute etc, after midnight.**

#### **Decision**

Subject to individual merit, the penalty is usually collected.

#### **Reason for decision**

The Companies Act 2006 clearly states that accounts must be delivered to Companies House within the statutory time allowed.

#### **Suggested Approach**

Prior to drafting the IT Service desk should be contacted and the web-applications team asked to provide a detailed report. Once this has been received we should explain that while the company may have been logged into our system before midnight the accounts were not received and accepted until after midnight. Explain that it is the date of delivery at Companies House that is important.

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## 19. Double Penalties

### **Scenario 1— A company has filed its accounts late and thought that it was going to receive a £150 penalty.**

#### **Decision**

Subject to individual merit, the penalty is usually collected.

#### **Reason for decision**

Accounts must be delivered to Companies House within the statutory time allowed. The Companies Act 2006 makes it clear that companies filing late in consecutive years under the Companies Act 2006 will be subject to a double penalty.

#### **Suggested Approach**

Explain that the Companies Act 2006 states that all accounts delivered late are liable for a civil penalty. That all companies filing accounts late in consecutive years (under the 2006 Companies Act) will have their penalties doubled.

Explain that while we accept that the company may have been unaware of this, a reminder letter was sent to the company which clearly gives the last date for filing and the consequences of late delivery.

Explain the circumstances where the Registrar is able to apply discretion and that they do not apply in this case.

Confirm that we will accept payment by instalments upon receipt of a written request.

### **Scenario 2— The company wants to know why it has received a double penalty even though they suffered a catastrophe the previous year and we decided not to collect the previous year's penalty.**

#### **Decision**

Subject to individual merit, the penalty is usually collected.

#### **Reason for decision**

Accounts must be delivered to Companies House within the statutory time allowed. The Companies Act 2006 makes it clear that companies filing late in consecutive years under the Companies Act 2006 will be subject to a double penalty.

#### **Suggested Approach**

Explain that the Companies Act 2006 states that all accounts delivered late are liable for a civil penalty. Even though we took a decision not to collect the previous year's penalty the accounts were still filed late. That all companies filing accounts late in consecutive years (under the 2006 Companies Act) will have their penalties doubled.

Explain that while we accept that the company may have been unaware of this, a reminder letter was sent to the company which clearly gives the last date for filing and the consequences of late delivery.

Explain the circumstances where the Registrar is able to apply discretion and that they do not apply in this case.

Confirm that we will accept payment by instalments upon receipt of a written request.

**Scenario 3— The company failed to file the previous year’s accounts and wants to know why they have received a double penalty on the most recent years’s.**

**Decision**

Subject to individual merit, the penalty is usually collected.

**Reason for decision**

Accounts must be delivered to Companies House within the statutory time allowed. The Companies Act 2006 makes it clear that companies failing to deliver accounts on time in consecutive years under the Companies Act 2006 will be subject to a double penalty.

**Suggested Approach**

Explain that the Companies Act 2006 states that all accounts delivered late are liable for a civil penalty. In cases where there was a failure to comply with the filing requirements for the previous financial year the penalty is doubled.

Explain that while we accept that the company may have been unaware of this, a reminder letter was sent to the company which clearly gives the last date for filing and the consequences of late delivery.

Explain the circumstances where the Registrar is able to apply discretion and that they do not apply in this case.

Confirm that we will accept payment by instalments upon receipt of a written request.

**Scenario 4— The Company failed to file the previous year’s accounts on time and was penalised. The company files the next financial year’s accounts late and appeals. The appeal falls within the registrar’s powers of discretion, as set out in various scenarios earlier in this manual.**

**Decision**

Subject to individual merit, the double penalty is not usually collected.

**Reason for decision**

The company’s reason for the late filing falls within the boundaries of the registrar’s discretion.

**Suggested Approach**

Sympathise with their circumstances and accept that it would have made the delivery of accounts within the time allowed very difficult.

Explain that the Registrar does have discretion in the collection of late filing penalties and confirm that the penalty will not be collected on this occasion.

Point out that any decision not to collect a penalty is exceptional and any future appeal against a late filing penalty will be treated on its individual merits. As the accounts were filed late the company will be subject to a double penalty if it files the next financial year’s accounts late.

**Scenario 5— The company was penalised for filing the previous financial year’s accounts late. The company appealed but this was turned down. The company files late in the current financial year and receives a double penalty. The company appeal the earlier penalty.**

**Decision**

Subject to individual merit, the penalty is usually collected.

**Reason for decision**

Accounts must be delivered to Companies House within the statutory time allowed. The Companies Act 2006 makes it clear that companies failing to deliver accounts on time in consecutive years under the Companies Act 2006 will be subject to a double penalty.

**Suggested Approach**

Explain that the previous year's papers have been reviewed and there is little more that you can do to the letters that the company previously received. The penalty was correctly levied and it follows that the penalty on the current financial year's accounts was correctly doubled.

Confirm that we will accept payment by instalments upon receipt of a written request. As the accounts were filed late the company will be subject to a double penalty if it files the next financial year's accounts late.

**Scenario 6—The company was penalised the previous financial year. The penalty was not collected but nevertheless a double penalty has been levied on the company for the late filing of the current financial year's accounts. After investigation it is decided that the earlier penalty should have been cancelled.**

**Decision**

Subject to individual merit, the earlier penalty should be date credited which will reduce the most recent penalty back to a single penalty.

**Reason for Decision**

Subject to individual merit, the accounts were received in Companies House before the filing deadline and either mishandled or incorrectly bar coded.

**Suggested Approach**

Explain that there is no record of the accounts being received but given the evidence provided, arrangements have been made for them to be given the original date of receipt which will cancel the penalty.

Apologise for the inconvenience that has been caused. As the accounts were filed late the company will be subject to a double penalty if it files the next financial year's accounts late.

**Scenario 7—The company was penalised the previous financial year. The penalty was not appealed. The accounts are filed late in the next financial year and are given a double penalty. The company supply evidence that the previous year's accounts were mishandled by Companies House.**

**Decision**

Subject to individual merit, the earlier penalty should be date credited which will reduce the most recent penalty back to a single penalty.

**Reason for Decision**

The accounts were received in Companies House before the filing deadline and either mishandled or incorrectly bar coded.

**Suggested Approach**

Explain that there is no record of the accounts being received but given the evidence provided, arrangements have been made for them to be given the original date of receipt which will cancel the penalty.

Apologise for the inconvenience that has been caused. As the accounts were filed late the company will be subject to a double penalty if it files the next financial year's accounts late.

**Scenario 8—The company's accounts were filed on time in the previous financial year but rejected. The same accounts were re-filed on time and rejected for another reason. Eventually the accounts are filed late and penalised. The penalty was not collected. The accounts are filed late in the next financial year and the company is double penalised**

**Decision**

Subject to individual merit, the double penalty should be upheld.

**Reason for decision**

Although we did not provide all the reasons why the accounts were unacceptable the previous year the fact remains that the accounts were filed late and so we were correct to penalise the company. The double penalty is therefore correct.

### **Suggested Approach**

Apologise for the way we handled the accounts the previous year and explain that this was taken into account when we decided not to collect the penalty

Explain that the Companies Act 2006 states that all accounts delivered late are liable for a civil penalty. That all companies filing accounts late in consecutive years (under the 2006 Companies Act) will have their penalties doubled.

Explain the circumstances where the Registrar is able to apply discretion and that they do not apply in this case.

Confirm that we will accept payment by instalments upon receipt of a written request. As the accounts were filed late the company will be subject to a double penalty if it files the next financial year's accounts late.

reminder letter, the comp 1 and our website also explain the way the double penalty system works.

Explain the circumstances where the Registrar is able to apply discretion and that they do not apply in this case.

Confirm that we will accept payment by instalments upon receipt of a written request.

### **Scenario 9 – The company was penalised the previous financial year. The penalty was not collected but nevertheless a double penalty has been levied on the company for the late filing of the current financial year's accounts. After investigation it is found that the company was never told about double penalties in our letter dealing with the previous year's accounts**

#### **Decision**

Subject to individual merit, the penalty should be upheld.

#### **Reason for Decision**

The lack of warning did not cause the company to file late.

#### **Suggested Approach**

Explain that the Companies Act 2006 states that all accounts delivered late are liable for a civil penalty. In cases where there was a failure to comply with the filing requirements for the previous financial year the penalty is doubled.

Explain that while we accept that the company may have been unaware of this, a reminder letter (alternate reminder) was sent to the company which clearly gave the last date for filing and the consequences of late delivery. Apologise for the lack of warning the previous year but point to the fact that as well as the



## how to contact us

contact centre: **0303 1234 500**

(For training and quality purposes your call may be monitored)

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**Cardiff:** Companies House  
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139 Fountainbridge, Edinburgh, EH3 9FF.

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21 Bloomsbury Street, London, WC1B 3XD.

**Belfast:** Companies House  
Second Floor, The Linenhall,  
32-38 Linenhall Street, Belfast, BT2 8BG.

For the most up to date version of this booklet please visit our website at:

[www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)

**Disclaimer - Company information supplied by Companies House**

Companies House is a registry of company information. We carry out basic checks to make sure that documents have been fully completed and signed, but we do not have the statutory power or capability to verify the accuracy of the information that companies send to us. We accept all information that companies deliver to us in good faith and place it on the public record. The fact that information has been placed on the public record should not be taken to indicate that Companies House has verified or validated it in any way.