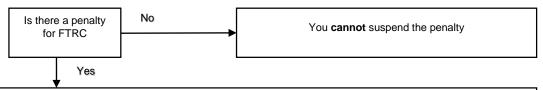
## PENALTY SUSPENSION FLOWCHART



### Is it likely the person will comply with conditions of suspension?

Factors that might ordinarily lead you to conclude that the person is unlikely to comply (CH83146) include:

- A deliberate inaccuracy for the same compliance check.
- Failure to have already remedied problems you have identified during the compliance check: (for
  example, you should have pointed out recordkeeping problems at the time they were identified). Refusing
  to fix problems at the time they are identified suggests the person is unlikely to do so once the check has
  ended.
- Poor compliance history.
- Failure to have made a complete and timely disclosure of inaccuracies identified by the compliance check.
- Returns and payments that are overdue.

Yes

# Is it likely that the underlying cause of the inaccuracy would, if not remedied, result in the same or different 'careless' inaccuracy in a future return?

You can suspend the penalty only if compliance with a specific suspension condition would help the person avoid a further penalty for a careless inaccuracy. 'Would' in this context implies a reasonable degree of likelihood.

#### Examples

Where in an ongoing business a faulty recordkeeping process is the underlying cause of a carelessly inaccurate ITSA return of trading profit, it will be relatively easy to conclude that correcting that fault would help the person to avoid a future careless inaccuracy, and you can suspend the penalty. However, if a careless inaccuracy was, and for the same reason, in that person's final self assessment return following his retirement, so that he will no longer be required to make a self assessment return, there will be no condition that could be set to help him avoid a penalty for a careless inaccuracy in future, and you cannot suspend the penalty.

The examples above illustrate the distinction you need to make between what 'would' (it is likely) and what 'would not' (it is unlikely) help avoid a further penalty for a careless inaccuracy.

Yes

## Can you set at least one 'SMART' condition of suspension?

SMART conditions (CH83153) are:

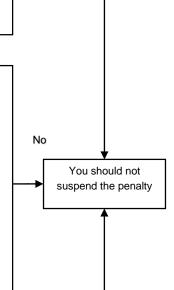
- Specific directly related to the business or individual.
- Measurable the person will need to be able to 'evidence' that the condition has been met.
- Achievable it must be in the person's power to meet the condition.
- Realistic Conditions cannot be unreasonable, (e.g. it would not be reasonable to require a small oneman business to employ a full-time bookkeeper).
- Time bound there must be a clear date by which the condition must be met.

It is crucial that compliance with the specific condition(s) is 'Measurable'. Ask yourself whether, if you returned to ask the person to evidence that they complied with the condition they would be able to do so. Meeting a condition to put in place a comprehensive recordkeeping process is something that could be evidenced by demonstrating its existence; they could show it to you. In contrast, meeting a condition that amounted to nothing more than agreeing to take better care in future cannot be evidenced.



## You must suspend the penalty and decide the suspension period.

Whilst the maximum period is 2 years, the period of suspension should be long enough to for the person to satisfy the SMART (specific) condition, but no longer. In cases where the person has already remedied the underlying problem, where the condition is likely to be that the improvement is maintained, a relatively short suspension period of a few months may be appropriate. In contrast, a condition that involves a major overhaul of business systems, perhaps at significant cost, might warrant a much longer period of suspension. The 'generic' conditions of fulfilling filling and payment obligations during the period of suspension are secondary in that the period of suspension should not be extended simply to include such a generic obligation.



No

No