

DATA PROTECTION ACT 1998

SUPERVISORY POWERS OF THE INFORMATION COMMISSIONER

MONETARY PENALTY NOTICE

To: Valca Vehicle and Life Cover Agency Limited

Of: 281 Palatine Road, Manchester, England M22 4ET

1. The Information Commissioner ("Commissioner") has decided to issue Valca Vehicle and Life Cover Agency Limited ("Valca") with a monetary penalty under section 55A of the Data Protection Act 1998 ("DPA"). The penalty is in relation to a serious contravention of Regulations 22 and 23 of the Privacy and Electronic Communications (EC Directive) Regulations 2003 ("PECR").
2. This notice explains the Commissioner's decision.

Legal framework

3. Valca, whose registered office is given above (Companies House Registration Number: 11013461) is the organisation stated in this notice to have transmitted unsolicited communications by means of electronic mail to individual subscribers for the purposes of direct marketing contrary to regulation 22 of PECR.
4. Regulation 22 of PECR states:

- “(1) This regulation applies to the transmission of unsolicited communications by means of electronic mail to individual subscribers.
- (2) Except in the circumstances referred to in paragraph (3), a person shall neither transmit, nor instigate the transmission of, unsolicited communications for the purposes of direct marketing by means of electronic mail unless the recipient of the electronic mail has previously notified the sender that he consents for the time being to such communications being sent by, or at the instigation of, the sender.
- (3) A person may send or instigate the sending of electronic mail for the purposes of direct marketing where—
- (a) that person has obtained the contact details of the recipient of that electronic mail in the course of the sale or negotiations for the sale of a product or service to that recipient;
 - (b) the direct marketing is in respect of that person’s similar products and services only; and
 - (c) the recipient has been given a simple means of refusing (free of charge except for the costs of the transmission of the refusal) the use of his contact details for the purposes of such direct marketing, at the time that the details were initially collected, and, where he did not initially refuse the use of the details, at the time of each subsequent communication.
- (4) A subscriber shall not permit his line to be used in contravention of paragraph (2).”

5. Regulation 23 of PECR states that "A person shall neither transmit, nor instigate the transmission of, a communication for the purposes of direct marketing by means of electronic mail –
 - (a) where the identity of the person on whose behalf the communication has been sent has been disguised or concealed;
 - (b) where a valid address to which the recipient of the communication may send a request that such communications cease has not been provided
 - (c) where that electronic mail would contravene regulation 7 of the Electronic Commerce (EC Directive) Regulations 2002; or
 - (d) where that electronic mail encourages recipients to visit websites which contravene that regulation."
6. Section 122(5) of the DPA 2018 defines direct marketing as "the communication (by whatever means) of advertising material which is directed to particular individuals". This definition also applies for the purposes of PECR (see regulation 2(2) PECR; and Schedule 19, paragraph 430 and 432(6) DPA18).
7. Consent is defined in Article 4(11) the General Data Protection Regulation 2016/679 as "any freely given, specific, informed and unambiguous indication of the data subject's wishes by which he or she, by a statement or by a clear affirmative action, signifies agreement to the processing of personal data relating to him or her.
8. "Individual" is defined in regulation 2(1) of PECR as "a living individual and includes an unincorporated body of such individuals".

9. A "subscriber" is defined in regulation 2(1) of PECR as "a person who is a party to a contract with a provider of public electronic communications services for the supply of such services".
10. "Electronic mail" is defined in regulation 2(1) of PECR as "any text, voice, sound or image message sent over a public electronic communications network which can be stored in the network or in the recipient's terminal equipment until it is collected by the recipient and includes messages sent using a short message service".
11. Section 55A of the DPA (as amended by the Privacy and Electronic Communications (EC Directive)(Amendment) Regulations 2011 and the Privacy and Electronic Communications (Amendment) Regulations 2015) states:

- "(1) The Commissioner may serve a person with a monetary penalty if the Commissioner is satisfied that –
- (a) there has been a serious contravention of the requirements of the Privacy and Electronic Communications (EC Directive) Regulations 2003 by the person,
 - (b) subsection (2) or (3) applies.
- (2) This subsection applies if the contravention was deliberate.
- (3) This subsection applies if the person –
- (a) knew or ought to have known that there was a risk that the contravention would occur, but
 - (b) failed to take reasonable steps to prevent the contravention."

12. The Commissioner has issued statutory guidance under section 55C (1) of the DPA about the issuing of monetary penalties that has been published on the ICO's website. The Data Protection (Monetary Penalties) (Maximum Penalty and Notices) Regulations 2010 prescribe that the amount of any penalty determined by the Commissioner must not exceed £500,000.
13. PECR implements European legislation (Directive 2002/58/EC) aimed at the protection of the individual's fundamental right to privacy in the electronic communications sector. PECR was amended for the purpose of giving effect to Directive 2009/136/EC which amended and strengthened the 2002 provisions. The Commissioner approaches PECR so as to give effect to the Directives.
14. The provisions of the DPA remain in force for the purposes of PECR notwithstanding the introduction of the Data Protection Act 2018 (see paragraph 58(1) of Part 9, Schedule 20 of that Act).

Background to the case

15. Phone users can report the receipt of unsolicited marketing text messages to the GSMA's Spam Reporting Service by forwarding the message to 7726 (spelling out "SPAM"). The GSMA is an organisation that represents the interests of mobile operators worldwide. The Commissioner is provided with access to the data on complaints made to the 7726 service and this data is incorporated into a Monthly Threat Assessment (MTA) used to ascertain organisations in breach of PECR.
16. Valca are a company specialising in lead generation for financial products. They currently operate as 'Debtquity' to generate leads for

Individual Voluntary Agreements (“IVA’s”) and other debt management products.

17. Valca came to the attention of the Commissioner after an initial 22 complaints were received via the 7726 complaints tool about unsolicited text messages between 15 June 2020 and 23 June 2020. These text messages contained, or contained slight variations of, the following text:

*"*firstname* Affected by Covid? Struggling with finances? lost job /furloughed? Were here to help! Gvmnt backed support see if you qualify <http://www.debtquity.org>"*

18. It was noted that these texts did not offer individuals an ability to ‘opt-out’ of future unsolicited text messages.
19. An initial investigation letter was sent to Valca on 24 June 2020, highlighting the Commissioner’s concerns with Valca’s PECR compliance and requesting information relating to the volumes of texts sent, the source of data used to send said texts, details of any due diligence undertaken, together with questions regarding the lack of an opt-out in the text messages for which there had been complaints. An appendix detailing the complaints received was also sent to Valca.
20. The director of Valca provided a partial response on 24 June 2020 stating that *“all data we use is fully compliant and purchased from credible UK data suppliers that we carried out full due diligence against prior to point of supply, in relation to not listing an opt out on said SMS messages this is down to human error and has been amended now for future broadcasts, we are happy to send out an opt out message to the complaints made to date which is a total of 23 from a one of broadcast of 30.000 lines of opted in data. We only commenced the sms*

campaign on the 15th June 2020 so we have nipped this in the bud extremely early” [sic].

21. The Commissioner, on 25 June 2020, advised Valca not to contact the complainants again, but to add them to a suppression list, and asked that Valca respond to all of the initial questions asked by the Commissioner in full.
22. A further substantive response was provided by Valca on 7 July 2020. This response advised that two platforms were used to send Valca’s direct marketing messages: [REDACTED], and [REDACTED], with reports being provided to show the volumes of messages sent via those platforms.
23. Valca confirmed that its data was purchased from a third party: [REDACTED] Limited (the “third-party data provider”), and that regarding its due diligence with the third-party data provider, it *“matched our campaign and Company requirements against fully opted in data, due diligence wise we run various checks on any Company that we consider using from the ICO MOJ and other governing bodies to ensure that there are no outstanding concerns relating to them as a potential supplier, we also look at financials, recommendations from other Companies within this arena and finally check out any online listings for any bad press”*.
24. In terms of evidencing how consent is obtained by the third-party data provider for Valca to engage in direct marketing, Valca advised that it is *“on privacy policy and other privacy policies allow for third party marketing also” [sic]*.
25. The Commissioner directed further enquiries to Valca on 8 July 2020, requesting information as to the data purchased, and the agreement with the third-party data provider. An updated complaints spreadsheet

was provided to Valca, showing that there had now been a total of 68 complaints recognised in relation to its text messages.

26. Valca provided a further response on 17 July 2020 stating that it had purchased 100,000 records from the third-party data provider which were "fully opted in for SMS". Valca was unable to produce a contract as it had been a "trial order" but did produce an invoice between itself and its third-party data provider dated 16 March 2020 confirming the purchase of 100,000 leads, and payment for a 'privacy policy edit' to [REDACTED]. Valca produced updated 'outbound SMS' reports for its [REDACTED] and [REDACTED] platforms, although it noted that [REDACTED] had been used for just one day. Valca also produced a document as purported evidence of consent for the initial 22 complaints, with each of the 22 complainant's data having been obtained through [REDACTED].
27. [REDACTED] requires users to register with it to use its services and operates by offering 'deals'. At the point of registration, users agree to a consent statement where they are able to select whether they wish to be contacted by email, SMS, post, and/or telephone, together with a further option to agree to being contacted by 'the following partners' using the agreed methods. The 'Partners' link takes users to a 'brands page' which lists 16 distinct companies, none of which are Valca. There appears to be no option for users to select/deselect partners.
28. Upon viewing [REDACTED] Privacy Policy, users are told:
- "Once you register with the our website you consent to [REDACTED], its sponsor question clients and website sponsors being able to send you communications via the channel(s) you selected as part of the sign*

up until such time as you exercise your right to opt-out of receiving such communications”

29. The Privacy Policy proceeds to provide two further lists of companies: a 'marketing service providers' list containing 7 distinct companies, and a list of 'direct clients' containing 443 distinct companies. The Privacy Policy's 'Data Collection Notice' advises that [REDACTED] and its partners operate in over 40 areas, spanning a wide range of sectors including fashion, automotive, gambling, construction, legal services etc. The Commissioner noted that Valca were not visible at all as of checks carried out on the website's privacy policy separately on 22 June 2020 but were visible as one of the 443 'direct clients' on 21 July 2020. The precise date on which Valca became visible is not known.
30. On 22 July 2020 the Commissioner served a third-party Information Notice ("3PIN") on [REDACTED] [REDACTED] [REDACTED] to establish, inter alia, the number of connected messages sent by Valca between 1 June 2020 and 20 July 2020.
31. The response to the 3PIN advised that there had been 104,550 messages sent by Valca between 15 June 2020 and 20 July 2020, of which 95,004 were delivered to a subscriber.
32. The 3PIN also provided details of the content for each of the messages sent, of which a trend could be identified that none of the messages sent contained an opt-out link until 25 June 2020 - the first day following the Commissioner's initial investigation letter. It can therefore be determined that between 15 June 2020 and 24 June 2020 there were 24,995 text messages sent without an opt-out link, of which 18,393 were delivered.

33. The Commissioner is aware, from information provided by Valca on 7 July 2020, of a further 2,025 text messages being sent by Valca over the period of contravention using the [REDACTED] platform, although this platform was used for just one day, and the number of received messages is unknown and is unlikely to be obtainable.
34. As of 20 July 2020, the Commissioner was able to identify a total of 114 complaints concerning Valca's unsolicited direct marketing text messages over the relevant period.
35. An 'end of investigation' letter was sent to Valca on 21 July 2020.
36. The Commissioner has since identified that between 21 July 2020 and 13 November 2020 there were a further 165 complaints made about Valca via the 7726 service.
37. The Commissioner has made the above findings of fact on the balance of probabilities.
38. The Commissioner has considered whether those facts constitute a contravention of regulations 22 and 23 of PECR by Valca and, if so, whether the conditions of section 55A DPA are satisfied.

The contravention

39. The Commissioner finds that Valca contravened regulations 22 and 23 of PECR.
40. The Commissioner finds that the contravention was as follows:
41. The Commissioner finds that between 15 June 2020 and 20 July 2020 there were 95,004 unsolicited direct marketing text messages received

by subscribers. This resulted in a total of 114 complaints being received via the 7726 service. The Commissioner finds that Valca transmitted the direct marketing messages received, contrary to regulation 22 of PECR.

42. The Commissioner is satisfied that the contravention could have been higher, with a total of 104,550 unsolicited text messages being sent over the relevant time using the [REDACTED] platform, and a further 2,025 being sent using [REDACTED].
43. Of the messages known to have been received, 18,393 (i.e., all of those received before 25 June 2020) did not contain an opt-out link, contrary to the requirements of regulation 23 PECR.
44. Valca, as the sender of the direct marketing, is required to ensure that it is acting in compliance with the requirements of regulation 22 of PECR, and to ensure that valid consent to send those messages had been acquired.
45. Valca relied on consent obtained by another organisation for its own purposes, i.e., 'indirect consent'. The Commissioner's direct marketing guidance says "organisations need to be aware that indirect consent will not be enough for texts, emails or automated calls. This is because the rules on electronic marketing are stricter, to reflect the more intrusive nature of electronic messages."
46. It goes on to say that indirect consent can be valid but only if it is clear and specific enough. Moreover, "the customer must have anticipated that their details would be passed to the organisation in question, and that they were consenting to messages from that organisation. This will depend on what exactly they were told when consent was obtained".

47. Consent will not be “informed” if individuals do not understand what they are consenting to. Organisations should therefore always ensure that the language used is clear, easy to understand, and not hidden away in a privacy policy or small print. The Commissioner is concerned that at the point of consent being obtained, subscribers are asked to tick a box which gives a misleading impression that only a limited number of 16 organisations may contact them (duly named within the ‘partners’ link on the registration page). However, it is only if subscribers drill down into the separate privacy policy that they are advised that any one of 450 companies may in fact contact them, none of which the subscriber has any ability to refuse contact from.
48. It is the Commissioner’s position that consent will not be valid if individuals are asked to agree to receive marketing from “similar organisations”, “partners”, “selected third parties” or other similar generic description. Further, and relevantly, consent will not be valid where an individual is presented with a long, seemingly exhaustive list of general categories of organisations. The Commissioner finds that 450 organisations, concerning 40 sectors, is far too exhaustive a list to enable individuals to give valid consent.
49. During the course of the investigation, Valca provided an invoice dated 16 March 2020 between it and its third-party data provider to demonstrate that it had paid to be added to the privacy policy for [REDACTED], the website from which its third-party data provider obtained data. The date on which Valca were added to the privacy policy is unclear, however the Commissioner has evidence that it was not listed as a ‘direct client’, or apparently at all on [REDACTED], by 22 June 2020, by which point Valca had already sent 16,759 unsolicited text messages using data obtained from that site. In any event, even after Valca had been added to the privacy policy, the

Commissioner has concerns that any consents relied on by Valca cannot be said to be valid.

50. There is nothing immediately in the consent statement at registration that would inform an individual that by agreeing to the privacy policy and terms and conditions, they are in fact agreeing for their data to be passed to 450 companies spanning 40 various sectors. Whilst there is a third-party consent opt-in box, this only lists 16 companies at the point of consent and gives individuals no indication that for a more comprehensive list they will need to consult the privacy policy. This cannot constitute informed consent.
51. The Commissioner is therefore satisfied from the evidence she has seen that Valca did not have the necessary valid consent to send the 95,004 unsolicited direct marketing messages received by subscribers. This constitutes a contravention of regulation 22 PECR.
52. The Commissioner is also concerned that 18,393 of those received messages (i.e., all of those received before the Commissioner's initial investigation letter) did not contain an opt-out link. As such, the Commissioner is satisfied that the actions of Valca in respect of these 18,393 messages have also contravened regulation 23 PECR.
53. The Commissioner has gone on to consider whether the conditions under section 55A DPA are met.

Seriousness of the contravention

54. The Commissioner is satisfied that the contravention identified above was serious. This is because between 15 June 2020 and 20 July 2020 a total of 95,004 connected unsolicited direct marketing messages were received by subscribers, resulting in 114 complaints.

55. Valca has failed to provide any evidence of valid consent for any of the 95,004 unsolicited direct marketing messages received by subscribers.
56. In addition, the Commissioner is concerned by the content of the unsolicited text messages which reference the Covid-19 pandemic and appeal to individuals whose finances have been adversely affected. This, in the Commissioner's view, is a clear attempt to capitalise on, and profiteer from, the national health crisis.
57. The Commissioner is therefore satisfied that condition (a) from section 55A(1) DPA is met.

Deliberate or negligent contraventions

58. The Commissioner has considered whether the contravention identified above was deliberate.
59. The Commissioner considers that Valca deliberately set out to contravene PECR in this instance. The data relied on by Valca was not validly opted-in, and beyond paying a small sum for its inclusion on a privacy policy there is no indication that they sought to undertake any additional steps to ensure protection of individuals' privacy rights, i.e., by observing the 'customer journey'; doing so would likely have raised concerns with Valca regarding its reliance on the data being obtained. It is also concerning that Valca continued to send its unsolicited direct marketing text messages (albeit with an opt-out link) even following the Commissioner's initial investigation correspondence which highlighted real concerns with the organisation's compliance with PECR.

60. Further, and in any event, the Commissioner has gone on to consider whether the contravention identified above was negligent. This consideration comprises two elements:
61. Firstly, she has considered whether Valca knew or ought reasonably to have known that there was a risk that these contraventions would occur. She is satisfied that this condition is met, not least since the issue of unsolicited text messages have been widely publicised by the media as being a problem.
62. The Commissioner has published detailed guidance for those carrying out direct marketing explaining their legal obligations under PECR. This guidance gives clear advice regarding the requirements of consent for direct marketing and explains the circumstances under which organisations are able to carry out marketing over the phone, by text, by email, by post, or by fax. In particular it states that organisations can generally only send, or instigate, marketing messages to individuals if that person has specifically consented to receiving them. The guidance is also clear about the significant risks of relying on indirect consent, as Valca did in this instance.
63. The Commissioner also notes that the company's sole director, in a self-written biography on f6s.com, describes himself as a 'serial entrepreneur with vast experience in sales and marketing'.
64. It is therefore reasonable to suppose that Valca should have been aware of its responsibilities in this area.
65. Secondly, the Commissioner has gone on to consider whether Valca failed to take reasonable steps to prevent the contraventions. Again, she is satisfied that this condition is met.

66. Valca used a bought-in list of data and relied on indirect consent for its unsolicited direct marketing messages. It claimed during the investigation that it had carried out “full due diligence”, however the Commissioner has seen little evidence of this in ensuring the veracity of the data being purchased aside from the production of an invoice to show that Valca were to be added to the privacy policy of [REDACTED] on an unknown date (which was, in any event, evidently not before 22 June 2020).
67. Whilst Valca advised in the course of the investigation that “*due diligence wise we run various checks on any Company that we consider using from the ICO MOJ and other governing bodies to ensure that there are no outstanding concerns relating to them as a potential supplier, we also look at financials, recommendations from other Companies within this arena and finally check out any online listings for any bad press*” [sic], such checks do nothing to ensure that the data being obtained by Valca is compliant for its own marketing purposes.
68. Such reasonable steps which the Commissioner might expect in these circumstances could have included ensuring a comprehensive contract was in place with the third-party data provider for the provision of the data to be relied upon, to ensure its reliability and validity. It would also have been reasonable for Valca to carry out its own checks as to how consent was being obtained via the [REDACTED] site, notwithstanding any assurances by its third-party data provider – such checks would have alerted Valca to the inadequacy of the consents being obtained via this site for the purposes of third-party direct marketing. In short, simple reliance on assurances of indirect consent alone without undertaking proper due diligence is not acceptable.
69. In the circumstances, the Commissioner is satisfied that Valca failed to take reasonable steps to prevent the contraventions.

70. The Commissioner is therefore satisfied that condition (b) from section 55A (1) DPA is met.

The Commissioner's decision to issue a monetary penalty

71. The Commissioner has also taken into account the following **aggravating features** of this case:

- Valca failed to include an opt-out in its unsolicited direct marketing messages up until the Commissioner's initial investigation letter, in direct contravention of regulation 23 PECR;
- Thereafter, despite being under investigation by the Commissioner where concerns were raised regarding its PECR compliance, and where it was notified that a number of complaints had already been received, Valca continued to send unsolicited messages to its data set during the period of contravention;

72. For the reasons explained above, the Commissioner is satisfied that the conditions from section 55A (1) DPA have been met in this case. She is also satisfied that the procedural rights under section 55B have been complied with.

73. The latter has included the issuing of a Notice of Intent, in which the Commissioner set out her preliminary thinking. In reaching her final view, the Commissioner has taken into account the representations made by Valca on this matter.

74. The Commissioner is accordingly entitled to issue a monetary penalty in this case.

75. The Commissioner has considered whether, in the circumstances, she should exercise her discretion so as to issue a monetary penalty.
76. The Commissioner has considered the financial representations made, and the likely impact of a monetary penalty on Valca. She has decided on the information that is available to her, that a monetary penalty in the figure proposed remains an appropriate and proportionate response to the contravention.
77. The Commissioner's underlying objective in imposing a monetary penalty notice is to promote compliance with PECR. The sending of unsolicited marketing text messages is a matter of significant public concern. A monetary penalty in this case should act as a general encouragement towards compliance with the law, or at least as a deterrent against non-compliance, on the part of all persons running businesses currently engaging in these practices. The issuing of a monetary penalty will reinforce the need for businesses to ensure that they are only messaging those who specifically consent to receive marketing.
78. For these reasons, the Commissioner has decided to issue a monetary penalty in this case.

The amount of the penalty

79. Taking into account all of the above, the Commissioner has decided that a penalty in the sum of **£80,000 (eighty thousand pounds)** is reasonable and proportionate given the particular facts of the case and the underlying objective in imposing the penalty.

Conclusion

80. The monetary penalty must be paid to the Commissioner's office by BACS transfer or cheque by **23 March 2021** at the latest. The monetary penalty is not kept by the Commissioner but will be paid into the Consolidated Fund which is the Government's general bank account at the Bank of England.
81. If the Commissioner receives full payment of the monetary penalty by **22 March 2021** the Commissioner will reduce the monetary penalty by 20% to **£64,000 (sixty-four thousand pounds)**. However, you should be aware that the early payment discount is not available if you decide to exercise your right of appeal.
82. There is a right of appeal to the First-tier Tribunal (Information Rights) against:
- (a) the imposition of the monetary penalty
and/or;
 - (b) the amount of the penalty specified in the monetary penalty notice.
83. Any notice of appeal should be received by the Tribunal within 28 days of the date of this monetary penalty notice.
84. Information about appeals is set out in Annex 1.
85. The Commissioner will not take action to enforce a monetary penalty unless:

- the period specified within the notice within which a monetary penalty must be paid has expired and all or any of the monetary penalty has not been paid;
- all relevant appeals against the monetary penalty notice and any variation of it have either been decided or withdrawn; and
- the period for appealing against the monetary penalty and any variation of it has expired.

86. In England, Wales and Northern Ireland, the monetary penalty is recoverable by Order of the County Court or the High Court. In Scotland, the monetary penalty can be enforced in the same manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.

Dated the 18th day of February 2021

Andy Curry
Head of Investigations
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

ANNEX 1

SECTION 55 A-E OF THE DATA PROTECTION ACT 1998

RIGHTS OF APPEAL AGAINST DECISIONS OF THE COMMISSIONER

1. Section 55B(5) of the Data Protection Act 1998 gives any person upon whom a monetary penalty notice has been served a right of appeal to the First-tier Tribunal (Information Rights) (the 'Tribunal') against the notice.

2. If you decide to appeal and if the Tribunal considers:-

a) that the notice against which the appeal is brought is not in accordance with the law; or

b) to the extent that the notice involved an exercise of discretion by the Commissioner, that she ought to have exercised her discretion differently,

the Tribunal will allow the appeal or substitute such other decision as could have been made by the Commissioner. In any other case the Tribunal will dismiss the appeal.

3. You may bring an appeal by serving a notice of appeal on the Tribunal at the following address:

General Regulatory Chamber
HM Courts & Tribunals Service
PO Box 9300
Leicester

LE1 8DJ

Telephone: 0300 123 4504

Email: grc@justice.gov.uk

- a) The notice of appeal should be sent so it is received by the Tribunal within 28 days of the date of the notice.
 - b) If your notice of appeal is late the Tribunal will not admit it unless the Tribunal has extended the time for complying with this rule.
4. The notice of appeal should state:-
- a) your name and address/name and address of your representative (if any);
 - b) an address where documents may be sent or delivered to you;
 - c) the name and address of the Information Commissioner;
 - d) details of the decision to which the proceedings relate;
 - e) the result that you are seeking;
 - f) the grounds on which you rely;
 - g) you must provide with the notice of appeal a copy of the monetary penalty notice or variation notice;

h) if you have exceeded the time limit mentioned above the notice of appeal must include a request for an extension of time and the reason why the notice of appeal was not provided in time.

5. Before deciding whether or not to appeal you may wish to consult your solicitor or another adviser. At the hearing of an appeal a party may conduct his case himself or may be represented by any person whom he may appoint for that purpose.

6. The statutory provisions concerning appeals to the First-tier Tribunal (Information Rights) are contained in section 55B(5) of, and Schedule 6 to, the Data Protection Act 1998, and Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 (Statutory Instrument 2009 No. 1976 (L.20)).