

DATA PROTECTION ACT 1998

SUPERVISORY POWERS OF THE INFORMATION COMMISSIONER

MONETARY PENALTY NOTICE

To: Colour Car Sales Limited

Of: Unit 1 & 2 Mossfield Road, Stoke-on-Trent, England ST3 5BW

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

Legal framework

3. CCSL, whose registered office is given above (Companies House Registration Number: 10382413) is the organisation stated in this notice to have instigated the transmission of 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. Section 122(5) of the DPA18 defines direct marketing as "*the communication (by whatever means) of any advertising material which is directed to particular individuals*". This definition also applies for the purposes of PECR (see regulation 2(2) PECR & Schedule 19 paragraphs 430 & 432(6) DPA18).
6. Prior to 29 March 2019, the European Directive 95/46/EC defined 'consent' as "*any freely given specific and informed indication of his wishes by which the data subject signifies his agreement to personal data relating to him being processed*".
7. Consent in PECR is now defined, from 29 March 2019, by reference to the concept of consent in Regulation 2016/679 ("the GDPR"): regulation 8(2) of the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019. Article 4(11) of the GDPR sets out the following definition: "*'consent' of the data subject means 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. Recital 32 of the GDPR materially states that "*When the processing has multiple purposes, consent should be given for all of them*". Recital 42 materially provides that "*For consent to be informed, the data subject should be aware at least of the identity of the controller*". Recital 43 materially states that "*Consent is presumed not to be freely given if it does not allow separate consent to be given to different personal data processing operations despite it being appropriate in the individual case*".
9. "Individual" is defined in regulation 2(1) of PECR as "*a living individual and includes an unincorporated body of such individuals*".

10. 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*".
11. "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*".
12. The term "soft opt-in" is used to describe the rule set out in in Regulation 22(3) of PECR. In essence, an organisation may be able to e-mail its existing customers even if they haven't specifically consented to electronic mail. The soft opt-in rule can only be relied upon by the organisation that collected the contact details.
13. 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."

14. 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.
15. PECR were enacted to protect the individual's fundamental right to privacy in the electronic communications sector. PECR were subsequently amended and strengthened. The Commissioner will interpret PECR in a way which is consistent with the Regulations' overall aim of ensuring high levels of protection for individuals' privacy rights.
16. 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

17. 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.

18. CCSL are a company that act as a credit intermediary for finance on used cars. They are understood to have previously operated through several websites, including 'Immediatecarfinance.co.uk', 'carfinancetoday.net' and 'achillesuk.co.uk'.
19. CCSL are authorised by the Financial Conduct Authority ("FCA") to conduct regulated financial activities. They are registered with the FCA to conduct credit broking, debt adjustment, debt-counselling and providing credit information services. Five trading names are registered with the FCA – '*Colour Car Sales Limited*', '*Carfinancetoday*', '*Carfinancetoday.net*', '*Comapare The Lease*' [sic] and '*Compare the Finance*'.
20. Between 1 October 2018 and 26 September 2019, 34 complaints were received via the ICO Online Reporting Tool ("OLRT"), with a further 144 complaints being made via the 7726 service regarding unsolicited electronic direct marketing text messages driving people to one of the sites known to be operated by CCSL.
21. An initial investigation letter was sent to CCSL's registered office address on 14 October 2019 setting out the Commissioner's concerns regarding CCSL's compliance with PECR, providing details of the complaints that had been received, and asking for details as to its practices and direct marketing campaign. This letter was returned as undelivered on 24 October 2019 and so the Commissioner contacted the listed company Director by telephone using the FCA registered number for him. A copy of the Commissioner's initial investigation letter was subsequently emailed to an address which was provided,

which also appeared to be the email address for the company as registered with the FCA.

22. Having received no response, the Commissioner contacted the company director by telephone on 20 January 2020 who advised that the Commissioner's initial investigation letter had not been received. An alternative email address was provided, together with an alternative mailing address.
23. In the intervening period since the initial investigation letter was first sent, the Commissioner had become aware that there had been a number of further complaints about unsolicited direct marketing messages sent on behalf of CCSL being received by individuals. The initial investigation letter was therefore resent to the newly provided email and postal addresses, together with an updated appendix containing the up-to-date complaints figures, on 22 January 2020.
24. A response to the initial investigation letter was received on 27 February 2020. CCSL explained that it used a platform called 'Text Local' to send messages to subscribers. CCSL sourced its data from individuals who had made an "application for finance" on its website and advised that the number of messages an individual would be sent would depend on the age of their application, with a total of forty-two possible messages being sent to an applicant over a four-year period.
25. CCSL stated that between 1 October 2018 and 14 October 2019 it had sent a total of 3,001,385 direct marketing messages to subscribers.
26. In response to the Commissioner's question about how it obtains consent, CCSL explained that there is a notice below the application form on its website which states that by submitting an application they agree to being contacted by CCSL or a third party by post, phone, email or SMS.

27. The Commissioner examined one of CCSL's websites, 'Immediatecarfinance.co.uk', and located the statement referred to, noting that it stated:
- "By starting an application you agree that immediatecarfinance may/will pass your details on to a third party lender or broker, and they may wish to contact you by phone, post, SMS or other electronic means"*
28. The Commissioner found an equivalent statement to be present on the other CCSL landing pages for 'AchillesUK' and 'Carfinancetoday.net'.
29. There was no specific reference to direct marketing within this statement, or indeed any indication of the purpose of the contact from these unnamed third parties. Furthermore, it did not appear possible for an individual to select who they may or may not wish to be contacted by; to specify which, if any, of the methods proposed they may wish to be contacted by; or to proceed with their application without agreeing to this statement. It is the Commissioner's understanding that CCSL used the data obtained at this point on its various websites to carry out its subsequent direct marketing campaigns, but notes that individuals were not able to refuse the use of their contact details for such direct marketing.
30. CCSL explained that in order to opt-out of receiving SMS messages an individual would need to either call the office to opt-out, or call the office and fully close down their finance application.
31. It also claimed that: *"Out of 3,001,385 text messages sent over the year, only 27 INDIVIDUAL PEOPLE have lodged a complaint [with the Commissioner] of which 10 have complained multiple times"*.

32. The Commissioner reviewed the 'immediatecarfinance.co.uk' privacy policy, which frequently referred to itself as 'carfinancetoday.net', and noted that under the section headed '*How do you use my personal information for marketing?*' it states "*We can only use your personal information to send you marketing communications if we have either your consent, or a 'legitimate business interest'*".
33. The Commissioner sent further enquiries to CCSL on 6 March 2020, requesting inter alia copies of the text messages sent to individuals, and details of CCSL's relationship with [REDACTED]. The Commissioner had noted that [REDACTED] / [REDACTED] had been named in a number of the complaints that had been received and noted that the company director for CCSL appeared to have a connection to [REDACTED] on LinkedIn. The Commissioner wished to know more about the link between the two entities.
34. Despite three chaser emails on 16 March 2020, 19 May 2020, and 12 October 2020, CCSL failed to provide any response to the Commissioner's further queries. CCSL did not engage with the Commissioner again for the duration of the investigation.
35. On 7 October 2020 the Commissioner sent a third-party information notice ("3PIN") to CCSL's text message platform, TxtLocal Ltd t/a Text Local ("Text Local"). This 3PIN advised that the Commissioner was aware that CCSL held a Text Local account and would send messages containing the URL 'immediatecarfinance.co.uk'. The Commissioner requested contact details for that account, and requested details of the volumes of messages sent, the number of those messages which had been received by a subscriber, and copies of the content of those messages.

36. The Commissioner received a response to the 3PIN indicating that the account was registered in the personal name of CCSL's company Director, but in the company name of [REDACTED]. The response also provided an Excel Spreadsheet which showed that large quantity of messages had been sent from this account which made specific reference to 'immediatecarfinance.co.uk'; 'carfinancetoday.net'; 'achillesuk.com'; 'taxifinancetoday.com', or contained one of two CLIs which had been explicitly provided in all of the messages directing individuals to 'immediatecarfinance.co.uk'. These were known trading names of CCSL. The Commissioner was able to establish that during the period 1 October 2018 to 7 January 2020, a total of 3,650,194 messages had been sent which expressly cited these trading names/CLIs. It was not possible to determine how many of those messages were subsequently received as that data was not retained.
37. The Commissioner was able to compile a full appendix of the complaints for the messages sent at the instigation of CCSL and concluded that there were 228 complaints made via the 7726 service and 46 complaints made to the OLRT between 1 October 2018 and 21 January 2020.
38. Given CCSL's lack of engagement with the Commissioner since 27 February 2020, the decision was taken to send an 'end of investigation' letter to CCSL on 19 October 2020.
39. The Commissioner has made the above findings of fact on the balance of probabilities.
40. The Commissioner has considered whether those facts constitute a contravention of regulation 22 of PECR by CCSL and, if so, whether the conditions of section 55A DPA are satisfied.

The contravention

41. The Commissioner finds that CCSL contravened regulation 22 of PECR.
42. The Commissioner finds that the contravention was as follows:
43. The Commissioner finds that between 1 October 2018 and 21 January 2020 there were 274 direct marketing text messages received by subscribers which are capable of being evidenced by complaints. The Commissioner finds that CCSL instigated the transmission of the direct marketing messages sent, contrary to regulation 22 of PECR.
44. The Commissioner is not assisted by CCSL's failure to engage with her during this investigation to explain the relationship between CCSL and [REDACTED]. However she is satisfied that for the purposes of the direct marketing messages sent from [REDACTED] Text Local account, CCSL positively encouraged the sending of those messages. She makes this finding in light of the information provided by Text Local in response to the Commissioner's 3PIN, and in view of the content of the unsolicited direct marketing messages sent which resulted in 274 complaints.
45. CCSL, as the instigator 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.
46. In this instance, individuals applying for finance via one of CCSL's sites were given no option but to agree to receive direct marketing from CCSL and its unnamed third parties. Indeed, the statement that would accompany the applications did not indicate in any manner that the

individual's personal details would be used for direct marketing purposes. Furthermore, individuals could not specify the type of direct marketing that they might be willing to receive, rather they were required to agree to a suite of contact methods, from an unknown number of third parties.

47. For consent to be valid it is required to be "freely given", by which it follows that if consent to marketing is a condition of subscribing to a service, the organisation will have to demonstrate how the consent can be said to have been given freely. In this instance, CCSL has failed to explain how its consent could be said to be freely given.
48. Consent is also required to be "specific" as to the type of marketing communication to be received, and the organisation, or specific type of organisation, that will be sending it. Again, this requirement does not appear to be met in CCSL's case.
49. 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. 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.
50. The Commissioner is satisfied that CCSL cannot avail itself to the "soft opt-in" exemption provided by regulation 22(3) PECR. This exemption means that organisations can send marketing messages by text and e-mail to individuals whose details had been obtained in the course or negotiation of a sale and in respect of similar products and services. The organisation must also give the person a simple opportunity to refuse or opt out of the marketing, both when first collecting the details

and in every message after that. It is apparent from the sign-up page on CCSL's websites that individuals were not provided a simple opportunity to refuse or opt out of the marketing, nor were they offered an opt-out in the subsequent direct marketing messages that they received. The Commissioner therefore finds that CCSL is unable to rely on this exemption.

51. The Commissioner is satisfied that this contravention could have been far greater, since there is evidence that a total of 3,650,194 direct marketing messages were sent to individuals at the instigation of CCSL over the contravention period. However, because of CCSL's lack of engagement, and the Communications Service Provider's failure to retain such records, it has not been possible to determine the exact number of those messages which were received by subscribers. The full extent of the contravention is therefore unknown.
52. The Commissioner is satisfied from the evidence she has seen that CCSL did not have the necessary valid consent for the 274 direct marketing messages received by subscribers.
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 1 October 2018 and 21 January 2020, a confirmed total of 274 direct marketing messages were sent at the instigation of CCSL. These messages contained direct marketing material for which subscribers had not provided valid consent.

55. The Commissioner takes the view that the serious nature of the contravention extends wider than the number of complaints. In particular, the Commissioner has regard to the significant number of 3,650,194 direct marketing messages sent over the period of contravention, for which CCSL has made no attempt to evidence consent.
56. The Commissioner is therefore satisfied that condition (a) from section 55A(1) DPA is met.

Deliberate or negligent contraventions

57. The Commissioner has considered whether the contravention identified above was deliberate.
58. The Commissioner considers that in this case CCSL did deliberately contravene regulation 22 of PECR. In the Commissioner's view, this means that CCSL's actions which constituted that contravention were deliberate actions (even if CCSL did not actually intend thereby to contravene PECR). This finding is made on the basis that CCSL chose to instigate the sending of direct marketing material to individuals without providing a simple means of opting out of such marketing, or allowing individuals an option to consent to direct marketing at all. Furthermore, the Commissioner is concerned that CCSL do not appear to have had any policies or procedures in place relating to PECR whatsoever.
59. Further and in the alternative, the Commissioner has gone on to consider whether the contravention identified above was negligent. This consideration comprises two elements:

60. Firstly, she has considered whether CCSL 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 has been widely publicised by the media as being a problem.
61. 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 also provides a full explanation of the "soft opt-in" exemption. There is no indication that CCSL had given any regard to this guidance prior to the contravention
62. It is therefore reasonable to suppose that CCSL should have been aware of its responsibilities in this area.
63. Secondly, the Commissioner has gone on to consider whether CCSL failed to take reasonable steps to prevent the contraventions. Again, she is satisfied that this condition is met.
64. In particular, the Commissioner considers that any person wishing to engage in direct marketing by text message could and should – particularly since the coming into effect of the GDPR – have ensured that all of their consent capture mechanism properly enabled consent to be separately given or withheld for direct marketing communications, and that the privacy information provided was specific

and clear as to what sort of communications would be sent and for what purpose. CCSL did not do this.

65. CCSL, during its brief engagement at the outset of the investigation, has failed to provide any evidence of any policies or procedures relating to PECR, or indeed of any relevant data protection training being given to employees at all.
66. Furthermore, CCSL could legitimately have sought advice either from the Commissioner or from an independent legal advisor in relation to the basis on which it proposed to send its unsolicited direct marketing, however there is no evidence that CCSL sought to do this.
67. In the circumstances, the Commissioner is satisfied that CCSL failed to take reasonable steps to prevent the contraventions.
68. The Commissioner is therefore satisfied that condition (b) from section 55A (1) DPA is met.

The Commissioner's decision to issue a monetary penalty

69. The Commissioner has also taken into account the following **aggravating features** of this case:
 - CCSL acted seemingly without any regard for PECR in an effort to unlawfully generate income and profit;
 - In addition to the Commissioner's readily available guidance, the Commissioner noted that CCSL held a membership with the FCA and as such would have been exposed to additional guidance in respect of their legal requirements including compliance with PECR legislation;

- The Commissioner notes that CCSL failed to cooperate with the investigation. CCSL's registration with the ICO was out of date, and notification details were not updated. It was also uncovered that CCSL's Companies House details were not kept up to date. The Commissioner views this factor as an indication that CCSL were being purposefully evasive;
70. 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.
71. The latter has included the issuing of a Notice of Intent, in which the Commissioner set out her preliminary thinking. The Commissioner sent the Notice of Intent by first class post to CCSL's registered office address on 6 April 2021 and, having received no response, sent a follow-up email and further copy of the Commissioner's preliminary Notices to the only email address which had provided a response during the Commissioner's investigation –
[REDACTED] – on 6 May 2021. CCSL has not acknowledged receipt and did not provide any representations in response to the Notice of Intent.
72. The Commissioner is accordingly entitled to issue a monetary penalty in this case.
73. The Commissioner has considered whether, in the circumstances, she should exercise her discretion so as to issue a monetary penalty.
74. The Commissioner has attempted to consider the likely impact of a monetary penalty on CCSL but has been unable to do so given the lack

of recent publicly available information. CCSL was invited to provide financial representations in response to the Notice of Intent but failed to do so. The Commissioner considers in the circumstances that a penalty remains the appropriate course of action.

75. The Commissioner's underlying objective in imposing a monetary penalty notice is to promote compliance with PECR. The sending of unsolicited direct marketing 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.
76. For these reasons, the Commissioner has decided to issue a monetary penalty in this case.

The amount of the penalty

77. Taking into account all of the above, the Commissioner has decided that a penalty in the sum of **£170,000 (one hundred and seventy pounds)** is reasonable and proportionate given the particular facts of the case and the underlying objective in imposing the penalty.

Conclusion

78. Taking monetary penalty must be paid to the Commissioner's office by BACS transfer or cheque by **24 June 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.

79. If the Commissioner receives full payment of the monetary penalty by **23 June 2021** the Commissioner will reduce the monetary penalty by 20% to **£136,000 (one hundred and thirty-six thousand pounds)**. However, you should be aware that the early payment discount is not available if you decide to exercise your right of appeal.
80. 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.
81. Any notice of appeal should be received by the Tribunal within 28 days of the date of this monetary penalty notice.
82. Information about appeals is set out in Annex 1.
83. 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.

84. 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 24th day of May 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)).