

DATA PROTECTION ACT 1998

SUPERVISORY POWERS OF THE INFORMATION COMMISSIONER

MONETARY PENALTY NOTICE

To: Parkin Beacher Ltd

Of: 20 Cow Green, Halifax, West Yorkshire, United Kingdom HX1 1HX

1. The Information Commissioner ("Commissioner") has decided to issue Parkin Beacher Ltd ("PB Ltd") with a monetary penalty under section 55A of the Data Protection Act 1998 ("DPA"). The penalty is being issued because of a serious contravention of regulation 21B of the Privacy and Electronic Communications (EC Directive) Regulations 2003.
2. This notice explains the Commissioner's decision.

Legal framework

3. PB Ltd, whose registered office is given above (Companies House Registration Number: 11592415) is the organisation stated in this notice to have used a public electronic communications service for the purpose of making unsolicited calls for the purposes of direct marketing in relation to occupational pension schemes or personal pension schemes contrary to regulation 21B of PECR.

4. Regulation 21B paragraph (1) of PECR provides that:

"(1) A person must not use, or instigate the use of, a public electronic communications service to make unsolicited calls to an individual for the purpose of direct marketing in relation to occupational pension schemes or personal pension schemes, except where paragraph (2) or (3) applies."

5. Regulation 21B paragraphs (2), (3), and (4) provide that:

"(2) This paragraph applies where—

- (a) the caller is an authorised person or a person who is the trustee or manager of an occupational pension scheme or a personal pension scheme; and*
- (b) the called line is that of an individual who has previously notified the caller that for the time being the individual consents to such calls being made by the caller on that line.*

(3) This paragraph applies where—

- (a) the caller is an authorised person or a person who is the trustee or manager of an occupational pension scheme or a personal pension scheme;*
- (b) the recipient of the call has an existing client relationship with the caller on the line and the relationship is such that the recipient might reasonably envisage receiving unsolicited calls for the purpose of direct marketing in relation to occupational pension schemes or personal pension schemes; and*

(c) *the recipient of the call has been given a simple means of refusing (free of charge except for the costs of the transmission of the refusal) the use of the recipient's contact details for the purpose of such direct marketing, at the time that the details were initially collected and, where the recipient did not initially refuse the use of the details, at the time of each subsequent communication.*

(4) *A subscriber must not permit the subscriber's line to be used in contravention of paragraph (1)".*

6. Regulation 21B paragraph 5 materially states that:

"(5) In this regulation—

(a) *"authorised person" has the meaning given in section 31 of the Financial Services and Markets Act 2000;*

(b) *"direct marketing in relation to occupational pension schemes or personal pension schemes" includes—*

(i) *the marketing of a product or service to be acquired using funds held, or previously held, in an occupational pension scheme or a personal pension scheme,*

(ii) *the offer of any advice or other service that promotes, or promotes the consideration of, the withdrawal or transfer of funds from an occupational pension scheme or a personal pension scheme, and*

(iii) *the offer of any advice or other service to enable the assessment of the performance of*

an occupational pension scheme or a personal pension scheme (including its performance in comparison with other forms of investment);

- (c) *"existing client relationship" does not include a relationship established at the instigation of the caller primarily for the purpose of avoiding the restriction in paragraph (1); and*
- (d) *"occupational pension scheme" and "personal pension scheme" have the meanings given in section 1(1) of the Pension Schemes Act 1993."*

7. Section 122(5) of the Data Protection Act 2018 "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 and paragraphs 430 & 432(6) to Schedule 19 of the DPA18).
8. 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"*.
9. 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"*.

10. 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"*.
11. "Individual" is defined in regulation 2(1) of PECR as *"a living individual and includes an unincorporated body of such individuals"*.
12. 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"*.
13. Section 55A of the DPA (as applied to PECR cases by Schedule 1 to PECR, as variously amended) 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 DPA18: see paragraph 58(1) of Schedule 20 to the DPA18.

Background to the case

17. PB Ltd, which operates under the trading name 'Your Pension Options', was identified following a series of reports from the Financial Conduct Authority ("FCA") which indicated that a number of calls had been received by individuals from an organisation identifying itself variously as 'Your Pension Options' and 'Pension Choice', from a single particular Calling Line Identifier ("CLI"): 07534 987744.

18. It is understood that PB Ltd, as an 'Introducer Appointed Representative' ("IAR") for an authorised 'Principle', would engage in calls to individuals relating to possible pension reviews, with a view to arranging an introduction to its Principle.
19. The Commissioner was able to identify a number of complaints which had been made between 1 February 2019 and 30 September 2019; all of the complaints related to pensions, save for one of the calls which was silent (albeit still originating from 07534 987744).
20. The Commissioner, from separate enquiries with PB Ltd's Principle, was able to establish that PB Ltd sourced the data for its calls from a third-party data supplier. This supplier would itself obtain the data from various websites including [REDACTED], [REDACTED] and [REDACTED].
21. Having reviewed these websites it is apparent that individuals signing up are required to agree to the Privacy Policy for each site. Those privacy policies detail long and exhaustive lists of sectors about which an individual may receive marketing, and provide lists of named organisations which will be passed the individual's information for the purpose of marketing. There does not appear to be any way for individuals to select which, if any, of the sectors or named organisations they would wish to have their details passed to, or receive marketing material from.
22. On 22 October 2019 the Commissioner sent an initial investigation letter to PB Ltd, setting out her concerns with PB Ltd's compliance with PECR.
23. A response was received on 13 November 2019 explaining that between 1 February 2019 and 30 September 2019 PB Ltd had made

96,817 calls using data obtained from a third-party data supplier, and that there were two particular CLIs in use by PB Ltd: 07534 987744 and 01422 897808. It was later clarified by PB Ltd that these two particular CLIs were the only ones in use by them between 1 February 2019 and 30 September 2019. From those CLIs, the Commissioner had identified a total of 16 complaints over the relevant period.

24. On 13 November 2019 the Commissioner requested further information, specific to the making of pension calls and PB Ltd's due diligence on purchased data. In response, on 27 November 2019, PB Ltd confirmed that all 96,817 related to pensions, and provided a copy of a compliance questionnaire regarding the data purchased from its third-party data provider dated 24 October 2017.
25. On 4 December 2019 the Commissioner sent a further letter to PB Ltd, seeking evidence that PB Ltd were 'authorised', pursuant to regulation 21B PECR, to make calls relating to occupational/personal pension schemes; a copy of its contract with its Principle was also requested.
26. In response on 11 December 2019, PB Ltd claimed that it did not conduct direct marketing calls relating to pension schemes, rather they would make a "simple verification call to individuals who have actively consented to be contacted with a view to arranging a financial review"; furthermore PB Ltd suggested that, as an IAR, it is "*an exempt person for the purposes of carrying out regulated activities relating to effecting introductions[...]*". PB Ltd also provided a copy of an unsigned and undated 'Service Level Agreement' between itself and its Principle, although the Commissioner noted from the metadata of this '.docx File' document that it was created at 14:55 that same day, and was last amended at 15:09, before being sent to the Commissioner at 15:16.

27. In subsequent correspondence, PB Ltd provided a copy of its call script. This call script states that the purpose of PB Ltd's call to individuals was to provide an introduction to a Financial Advisor to conduct a review of the recipient's current pension arrangements. It is clear from this sample script that PB Ltd sought to offer a service to enable the assessment of the performance of an occupational pension scheme or a personal pension scheme.
28. Of the relationship between itself and its Principle, PB Ltd explained during the investigation that its principle pays it a "management fee" on an annual basis to cover overheads.
29. The Commissioner subsequently sought to clarify the figures for calls made and CLIs used by PB Ltd in an email of 29 May 2020, however PB Ltd failed to respond, despite a further chaser email.
30. The complaints received via the Commissioner's online reporting tool, from CLIs attributed to PB Ltd over the relevant period, include:
- *"Woman called using my first name and wanted to know and discuss if I had any private or frozen pensions";*
 - *"Asked whether I had a company pension or a frozen pension. I made my excuses and left";*
 - *"Offering pension review as she is concerned about people losing out on high charges, underperformance and not getting annual pension statements. she claimed to have got my data from a government pension website and was trying to book me an appointment with a financial adviser. I am a financial adviser and know that these calls are now banned. for the uninitiated she was almost claiming she was working for a company on behalf of*

government, which I know she is not. really cagey about giving me her address or where she had got my data from.”;

- *“Call regarding my previous pensions looking to transfer the benefits”;*
- *“Very assertive male saying my first name in a persistent manner saying he was working from an authorised pensions database”.*

31. The Commissioner has made the above findings of fact on the balance of probabilities.
32. The Commissioner has considered whether those facts constitute a contravention of regulation 21B PECR by PB Ltd and, if so, whether the conditions of section 55A DPA are satisfied.

The contravention

33. The Commissioner finds that PB Ltd has contravened regulation 21B of PECR.
34. The Commissioner finds that the contravention was as follows:
35. Between 1 February 2019 and 30 September 2019 PB Ltd made 16 unsolicited calls for the purposes of direct marketing in relation to occupational pension schemes or personal pension schemes contrary to regulation 21B of PECR, with those individuals then proceeding to make complaints.
36. The Commissioner is satisfied that the contravention could have been far higher, since over the relevant period PB Ltd has admitted to making 96,817 direct marketing calls for the purposes of direct

marketing in relation to occupational pension schemes or personal pension schemes. Despite being asked to do so, PB Ltd has failed to provide details of how many of these 96,817 calls were connected, and so the full extent of the contravention, and the true impact on individuals' privacy, is not possible to determine.

37. The Privacy and Electronic Communications (Amendment) (No. 2) Regulations 2018, which came into force on 9 January 2019, amended PECR to insert Regulation 21B which restricts calls made for the purposes of direct marketing in relation to occupational pension schemes or personal pension schemes.
38. PB Ltd would contact individuals, whose information they had obtained via a third party, with a view to arranging pension review appointments for them with its Principle. The calls made by PB Ltd clearly constitute 'direct marketing in relation to occupational pension schemes or personal pension schemes' within the definition of regulation 21B(5)(b)[iii] PECR. Specifically, Regulation 21B(5)(b)[iii] includes *"the offer of any advice or other service to enable the assessment of the performance of an occupational pension scheme or a personal pension scheme (including its performance in comparison with other forms of investment)"*.
39. To engage in such calls it is a requirement of regulation 21B PECR that the caller be an 'authorised person or a person who is the trustee or manager of an occupational pension scheme or a personal pension scheme'.
40. Regulation 21B(5)(a) PECR states that "authorised person" has the meaning given in Section 31 of the Financial Services and Markets Act 2000 ("FSMA"). Section 31(1) FSMA lists the categories of persons

who would constitute "authorised persons". IARs are not named on this list.

41. PB Ltd, is listed on the FCA website as being effective as an IAR between 18 January 2019 and 14 August 2020. As an IAR, PB Ltd believed that it was an exempt person for the purposes of carrying out regulated activities relating to effecting introductions [to its Principle], although it disputes the Commissioner's suggestion that the calls it made constituted direct marketing calls relating to pension schemes.
42. The Commissioner's stance is that the calls clearly constituted direct marketing calls within the scope of the legislation. Furthermore, IARs are not included in the list of categories of "authorised persons" at Section 31(1) FSMA. The legislation is clear, that only "authorised persons" may engage in unsolicited direct marketing calls relating to pension schemes. It may be that PB Ltd, as an IAR, would have been exempt in some respects from the general prohibition in relation to some regulated activities, however there is a clear distinction between being *exempt* to some limited degree, and being an "authorised person" within the meaning of section 31 FSMA 2000.
43. This stance has been supported by the FCA which has previously advised that Commissioner that an IAR is not an "authorised person".
44. The Commissioner is therefore satisfied that PB Ltd is not an authorised person for the purposes of regulation 21B PECR.
45. The Commissioner also notes that 'Your Pension Options', i.e. the trading named used by PB Ltd, does not appear as a registered trading name of the company, which is further compounded by the fact that there is no existing website under either the name of PB Ltd or 'Your Pension Options'. PB Ltd's listed 'Nature of business' on Companies House simply refers to it as being involved with "Market research and

public opinion polling". There is no mention of it as being active in the pensions sector.

46. The Commissioner is satisfied that PB Ltd is not a trustee or manager of an occupational pension scheme or a personal pension scheme for the purposes of regulation 21B PECR.
47. Therefore, since neither paragraphs 2 or 3 of regulation 21B apply, it is the Commissioner's finding that PB Ltd cannot lawfully make direct marketing calls in relation to occupational pension schemes or personal pension schemes.
48. Even if PB Ltd were an authorised person or a person who is the trustee or manager of an occupational pension scheme or a personal pension scheme, the Commissioner is satisfied that PB Ltd had neither the consent of those who it called, nor an existing customer relationship with them, as required by regulation 21B(2)(b) or (3)(b).
49. At the point at which consent was obtained via [REDACTED], [REDACTED] and [REDACTED], it is clear that there is an apparent option for individuals to select the means by which they may wish to receive direct marketing. However, before being able to proceed, individuals are required to agree to the website's privacy policy, with the privacy policies themselves dictating the way marketing will be sent, apparently regardless of any preferences selected by the individual. Furthermore, individuals are denied the ability to select which of the listed sectors or organisations they may wish to receive that marketing from, which implies that the individual must agree to receive marketing from all. In this way, the consents relied upon by PB Ltd cannot be said to have been appropriately specific or freely given.

50. The Commissioner is satisfied that, between 1 February 2019 and 30 September 2019, PB Ltd used a public electronic communications service to make 16 unsolicited calls for the purposes of direct marketing in relation to occupational pension schemes or personal pension schemes contrary to regulation 21B of PECR.
51. The Commissioner has gone on to consider whether the conditions under section 55A DPA are met.

Seriousness of the contravention

52. The Commissioner is satisfied that the contravention identified above was serious. This is because between 1 February 2019 and 30 September 2019 PB Ltd made 16 unsolicited calls for the purposes of direct marketing in relation to occupational pension schemes or personal pension schemes contrary to regulation 21B of PECR, with those individuals then proceeding to make complaints. This represents a significant intrusion into the privacy of the recipients of such calls.
53. The Commissioner is satisfied that the contravention could have been far higher, since over the relevant period PB Ltd has admitted to making 96,817 direct marketing calls for the purposes of direct marketing in relation to occupational pension schemes or personal pension schemes. PB Ltd has failed to provide details of how many of these 96,817 calls were connected, however, the Commissioner is satisfied that PB Ltd was not lawfully authorised to carry out such activities, nor did it hold valid consent to engage in such calls.
54. The Commissioner is therefore satisfied that condition (a) from section 55A (1) DPA is met.

Deliberate or negligent contraventions

55. The Commissioner has considered whether the contravention identified above was deliberate.
56. The Commissioner does not consider that PB Ltd deliberately set out to contravene PECR in this instance.
57. The Commissioner has gone on to consider whether the contravention identified above was negligent. This consideration comprises two elements:
 58. Firstly, the Commissioner has considered whether PB Ltd 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 because the issue of unsolicited calls in relation to occupational pension schemes or personal pension schemes has been widely publicised by the media as being a problem, so much so that it prompted recent legislative change to prohibit the making of such calls unless certain conditions are met. It is reasonable to suppose that any organisation wishing to carry out such activities should, and indeed must, be aware of its responsibilities in this area.
 59. The Commissioner has published detailed guidance on her website for those carrying out direct marketing calls for the purposes of pension schemes, explaining the strict criteria under which such calls can be made. This guidance explains such calls must not be made relation to pension schemes unless the person calling is a trustee or manager of a pension scheme or a is firm authorised by the Financial Conduct Authority, and the individual being called has specifically consented to such calls or has a defined existing client relationship.

60. Secondly, the Commissioner has gone on to consider whether PB Ltd failed to take reasonable steps to prevent the contraventions. Again, she is satisfied that this condition is met.
61. Reasonable steps in these circumstances would have included ensuring that it was, for the purposes of the legislation, an "authorised person". The Commissioner is of the view that if PB Ltd had familiarised itself with the relevant legislation, and clear Government and ICO guidance, it would have realised that being exempt for the purposes of some regulated activities by virtue of being an IAR does not meet the required threshold of being "authorised" for the purposes of regulation 21B PECR, and accordingly it should have known that it could not lawfully make unsolicited direct marketing calls for the purposes of pension schemes. Additionally, there is no evidence that PB Ltd sought to take independent legal advice, or to request advice from the Commissioner, prior to engaging in its direct marketing campaign.
62. Furthermore, the Commissioner's direct marketing guidance makes clear that organisations acquiring marketing lists from a third party must undertake rigorous checks to satisfy themselves that the personal data was obtained fairly and lawfully, that their details would be passed along for direct marketing to the specifically named organisation in the case of live calls, and that they have the necessary consent. Had adequate due diligence been carried out with regards to the data it was relying on, PB Ltd would have realised that it was insufficient for the purposes of demonstrating valid consent.
63. The Commissioner is therefore satisfied that condition (b) from section 55A (1) DPA is met

The Commissioner's decision to issue a monetary penalty

64. The Commissioner has also taken into account the following **aggravating features** of this case:
- Pension calls, in particular, can lead to high levels of financial detriment and/or emotional stress. It is for this reason that the restriction on such calls was introduced;
 - The making of these calls, made without regard for individuals' privacy rights under PECR, would appear to be for financial gain as the organisation will profit from any business resulting from the calls;
 - PB Ltd have failed to co-operate fully with the Commissioner's investigation and have failed to provide some of the requested information.
65. 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.
66. 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 PB Ltd on this matter. The representatives provided did not seek to challenge the Commissioner's substantive findings as to the contravention as detailed within her Notice of Intent.
67. The Commissioner is accordingly entitled to issue a monetary penalty in this case.

68. The Commissioner has considered whether, in the circumstances, she should exercise her discretion so as to issue a monetary penalty.
69. The Commissioner has considered the financial information provided by PB Ltd in the course of its representations, and has considered the likely impact of a monetary penalty on PB Ltd. She has decided on the information that is available to her that a penalty remains the appropriate course of action in the circumstances of this case.
70. The Commissioner's underlying objective in imposing a monetary penalty notice is to promote compliance with PECR. The making of unsolicited direct marketing calls, particularly in relation to pension schemes, is a matter of significant public and parliamentary 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. This is an opportunity to reinforce the need for businesses to ensure that they meet the strict criteria to engage in such activities and are only telephoning consumers who want to receive these calls.
71. For these reasons, the Commissioner has decided to issue a monetary penalty in this case.

The amount of the penalty

72. Taking into account all of the above, the Commissioner has decided that a penalty in the sum of **£50,000 (fifty thousand pounds)** is reasonable and proportionate given the particular facts of the case and the underlying objective in imposing the penalty.

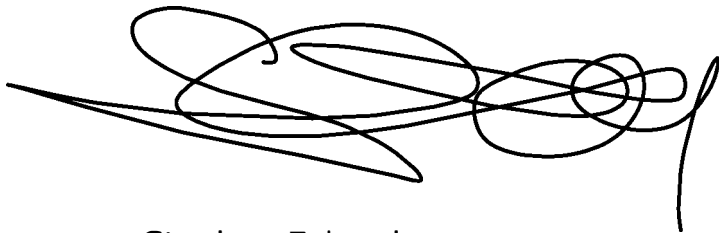
Conclusion

73. The monetary penalty must be paid to the Commissioner's office by BACS transfer or cheque by **16 September 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.
74. If the Commissioner receives full payment of the monetary penalty by **15 September 2021** the Commissioner will reduce the monetary penalty by 20% to **£40,000 (forty thousand pounds)**. However, you should be aware that the early payment discount is not available if you decide to exercise your right of appeal.
75. 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.
76. Any notice of appeal should be received by the Tribunal within 28 days of the date of this monetary penalty notice.
77. Information about appeals is set out in Annex 1.
78. 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.

79. 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 16th day of August 2021.



Stephen Eckersley
Director of Investigations
Information Commissioner's Office
Wycliffe House
Water Lane
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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: 0203 936 8963
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)).