

DATA PROTECTION ACT 1998

SUPERVISORY POWERS OF THE INFORMATION COMMISSIONER

MONETARY PENALTY NOTICE

To: Cover Appliance Limited

Of: 65 London Wall, London, England, EC2M 5TU

- 1.0 The Information Commissioner ("the Commissioner") has decided to issue Cover Appliance Limited ("CAL") 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 21 and 24 of the Privacy and Electronic Communications (EC Directive) Regulations 2003 ("PECR").
- 2.0 This notice explains the Commissioner's decision.

Legal framework

- 3.0 CAL, whose registered office is given above (Companies House Registration Number: 12883535) 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 contrary to regulation 21 of PECR.
- 4.0 Regulation 21 applies to the making of unsolicited calls for direct marketing purposes. It means that if a company wants to make calls promoting a product or service to an individual who has a telephone

number which is registered with the Telephone Preference Service Ltd ("TPS"), then that individual must have notified the company that they do not object to receiving such calls from it.

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

"(1) A person shall neither use, nor instigate the use of, a public electronic communications service for the purposes of making unsolicited calls for direct marketing purposes where-

- (a) the called line is that of a subscriber who has previously notified the caller that such calls should not for the time being be made on that line; or*
- (b) the number allocated to a subscriber in respect of the called line is one listed in the register kept under regulation 26."*

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

"(2) A subscriber shall not permit his line to be used in contravention of paragraph (1).

(3) A person shall not be held to have contravened paragraph (1)(b) where the number allocated to the called line has been listed on the register for less than 28 days preceding that on which the call is made.

(4) Where a subscriber who has caused a number allocated to a line of his to be listed in the register kept under regulation 26 has notified a caller that he does not, for the time being, object to such calls being made on that line by that caller, such calls may be made by

that caller on that line, notwithstanding that the number allocated to that line is listed in the said register.

(5) Where a subscriber has given a caller notification pursuant to paragraph (4) in relation to a line of his—

(a) the subscriber shall be free to withdraw that notification at any time, and

(b) where such notification is withdrawn, the caller shall not make such calls on that line.”

7. Regulation 24 of PECR provides:

“(1) Where a public electronic communications service is used for the transmission of a communication for direct marketing purposes the person using, or instigating the use of, the service shall ensure that the following information is provided with that communication –

...

(b) in relation to a communication to which regulation 21 [or 21A] (telephone calls) applies, the particulars mentioned in paragraph (2)(a) and, if the recipient of the call so requests, those mentioned in paragraph (2)(b).

(2) The particulars referred to in paragraph (1) are –

(a) the name of the person;

(b) either the address of the person or a telephone number on which he can be reached free of charge.”

8. Under regulation 26 of PECR, the Commissioner is required to maintain a register of numbers allocated to subscribers who have notified them that they do not wish, for the time being, to receive unsolicited calls for direct marketing purposes on those lines. The Telephone Preference Service Limited ("TPS") is a limited company which operates the register on the Commissioner's behalf. Businesses who wish to carry out direct marketing by telephone can subscribe to the TPS for a fee and receive from them monthly a list of numbers on that register.
9. Section 122(5) of the DPA18 defines direct marketing as "*the communication (by whatever means) of advertising or marketing 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).
10. "Individual" is defined in regulation 2(1) of PECR as "*a living individual and includes an unincorporated body of such individuals*".
11. 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*".
12. 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.

13. 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.
14. 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.
15. 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

16. CAL is a company that provides home appliance cover. CAL was incorporated on 16 September 2020 and is registered at Companies House under registered number 12883535.

17. CAL first came to the attention of the Commissioner in 2021 as part of investigations into complaints received regarding organisations making unsolicited telephone calls to vulnerable individuals about white goods maintenance and warranty products.
18. On or around 4 June 2021, the Commissioner received two complaints that identified CAL and two calling line identifiers ("CLI"). These details were searched against the TPS and the Commissioner's online reporting tool ("OLRT"), which identified three TPS complaints and six OLRT complaints.
19. According to some of the complaints received about CAL, their calls were advertising maintenance and warranty products for white goods to elderly and vulnerable individuals which included the use of aggressive behaviour.
20. The following are examples of the comments made about CAL by TPS complainants:

"Call received by elderly lady who was led to believe she was renewing existing cover but was sold new policy. Phone number on company website goes through to Vodafone mobile voicemail. Caller sold insurance cover that was not needed and misled about the cost. Now unable to contact them to cancel and will have to try to claim money back from the bank."

"I was not present when they called but they seem to have sold some kind of insurance to my mother who is old and vulnerable (hence why her number has been registered on TPS for some time) and charged her £190, which I am trying to get refunded from them There seem [sic] to be a large number of companies who are targeting my mother

in this way and selling her insurance for white good or TVs or similar. None of which she wants or needs. They do it when I am not there [sic] she becomes worried that she is at risk if she does buy insurance."

21. The following are examples of the comments made about CAL by OLRT complainants:

"Appliance cover that I apparently took out in 2019 for 3 years and was due in March 2022 and [sic] they were trying to take my final year payment and [sic] were offering me a 65% discount, [sic] they had the correct address for me and tried to blag that if I refused to pay I would have to pay a cancellation fee of nearly 200 pound - she threatened to put me through to the claims department, I asked for proof of this policy to be sent to me via email but she refused saying I should have received it 2 years ago although I haven't [sic] I stated that they were scam artists and would not received [sic] a penny out of me without proof of me agreeing to the policy - so I hung up."

"This call was made to my elderly mother. She was told that she needed to renew her insurance cover for kitchen white goods appliances. Not needed as the items are less than a year old! They then proceeded to try and take £190.00 from her current account ... This company (and others) has continually harassed my mother. Looking at her call list they called at least five times last week. All unsolicited. This is getting to the point when she does not want to answer her phone at home. She feels foolish that these people are trying to get her money. She feels harassed and upset by the whole thing"

"They claimed that we have an existing home appliance insurance policy with them which they wanted to renew. I've never heard of this company before and it's less than a year old according to companies [sic] house. I asked them not to call again but literally a few minutes later got a text from my bank saying they had tried to debit £190 from my account (I never gave them any information about myself) ... They phone repeatedly giving different company names each time - multiple times per day. Today they tried to steal £190 from my bank account."

22. The TPS wrote to CAL on or after 12 July 2021 informing them that they believed the organisation was contacting individuals on the TPS register.
23. On 18 August 2021, the Commissioner issued a third party information notice to [REDACTED] (" [REDACTED] ") to obtain subscriber information. [REDACTED] identified the subscriber as CAL and provided a list of CLIs allocated to them. The CLI list showed numbers allocated to various individuals as well as numbers allocated to unspecific names such as 'Co service', 'Cover appliance', 'UK home cover' and 'make safe'.
24. On 3 November 2021, [REDACTED] provided call detail records ("CDR") for these CLIs. The CDRs were screened against the TPS register and showed CAL made 267,659 calls between 1 January 2021 to 31 July 2021, 197,640 of which were made to TPS registered individuals.
25. On 25 November 2021, the Commissioner contacted CAL via telephone. CAL explained it had experienced problems with its data provider six months ago but did not name the provider. CAL asked that the Commissioner send their letter to CAL via email and provided an email address [REDACTED] and telephone number. The telephone number provided by CAL appeared on the CLI list provided

- by [REDACTED] as being allocated to CAL. The Commissioner sent an initial investigation letter via email to CAL that same day. The letter requested information to help ascertain CAL's compliance with PECR, outlined the Commissioner's powers and required a response by 16 December 2021.
26. On 30 November 2021, CAL responded to the Commissioner's initial investigation letter via email but provided limited information. CAL did provide a copy of its training manual, but the second page was missing. CAL was unable to provide a full list of CLI's it had used, the volume of calls made over the period in question or any details of third party providers, as requested by the Commissioner.
 27. CAL explained it introduced the company on the calls and asked the individuals if they are happy to continue the call. If consent was given on the call carried on. If consent was not given CAL ended the call. CAL did not provide any evidence to support this.
 28. CAL stated that the data used was screened prior to their receipt and that it was sourcing new suppliers.
 29. CAL also stated that the details of individuals who do not wish to be contacted are entered into their CRM system *'not allowing this client to ever be called again even with human error'*. CAL stated it was developing a new CRM duplication and suppression list software, which was due to go live early January 2022.
 30. On 9 December 2021, the Commissioner sent further queries to CAL relating to the unanswered questions from the initial investigation letter. These queries requested the full list of CLIs it had used, the number of calls made and connected over the period of 1 January 2021 – 31 July 2021, the source of the data CAL used to promote its

business, details of third party providers and an explanation for the number of complaints received by the TPS.

31. On 12 January 2022, CAL responded and explained most of its technical team were unable to operate due to an outbreak of coronavirus in the office so they would respond within 14 working days.
32. On 13 January 2022, the Commissioner asked CAL to respond to the queries that did not require technical support and stated if it did not respond, the investigation would proceed based on the evidence available.
33. That same day, the Commissioner sent a further third party information notice to ██████████ requesting the CDRs for all identified CLIs for the period of 1 August 2021 to 31 December 2021. On 24 February 2022, ██████████ provided the additional CDRs as requested. The additional CDRs were screened against the TPS register and showed CAL made 860,781 calls over the period of 1 August 2021 to 31 December 2021, 326,877 of which were to individuals registered with the TPS.
34. On 14 March 2022, the Commissioner asked CAL to respond to their further queries raised on 9 December 2021 and 13 January 2022. CAL did not respond.
35. On 18 May 2022, the Commissioner sent an end of investigation letter to CAL's registered address and by email. The letter explained since CAL had not responded to the Commissioner's requests for information, the investigation had been completed on the evidence available. CAL were reminded of the Commissioner's powers as set out in the initial investigation letter dated 25 November 2021.

36. On 24 May 2022, further searches of the TPS and the Commissioner's online reporting tool (OLRT) were conducted using the CLIs allocated to CAL for the period of 1 January 2022 to 24 May 2022. Two TPS complaints and three OLRT complaints were identified, showing calls had been made from 'UK Home Care Cover Limited', 'Home Care Solutions', 'Home Guard Home Solutions' and 'Platinum Cover'.

37. The following is an example of one of the comments made about CAL by TPS complainants:

"Selling kitchen appliance insurance. Preying on my elderly mother. This is the umpteenth time they have done this, trying to take payments from her [REDACTED] (£190 declined by bank), [REDACTED] (£200 successfully and subject of recovery by bank), and yesterday (£130 declined by bank). This company is targeting my mother and has called her umpteen times. They know she is vulnerable and does not know what she is buying. I have emailed them three times now telling them she is with TPS, is vulnerable and does not need any services from her. But they keep calling and, as I do not live with her, I cannot intercept the calls. I have also called their number to tell them to leave her alone but the number always goes to answerphone. They have recently changed their number (from [REDACTED] to [REDACTED] [REDACTED]) and their contact email (from [REDACTED] to [REDACTED])."

38. The following are examples of the comments made about CAL by OLRT complainants:

"'company' [sic] claims property owner has domestic appliance insurance contract. Property owner believes it to be a scam and [sic] never set it up. Have received numerous calls over past month, when quiz [sic] caller about the contract and ask [sic] for evidence, they

hang up. Some callers have been aggressive. Have repeatedly asked them to leave owner alone and said that it is harassment. Property owner is vulnerable, elderly man.... It's harassment. They keep calling. Have requested them to provide evidence of so called contract by post or email and they refuse. Think they are trying to scam out of more money [sic] for domestic appliance insurance. Other similar calls have been made from the following numbers: [REDACTED]

[REDACTED] Cannot find details of company online."

"I was told I had to pay £200 for a contract for domestic appliance insurance. When I said I was not prepared to pay because I had not taken out such a contract, the caller... said "madam you will pay." His tone was threatening, I replaced the receiver ... The caller's persistence and aggression distressed me. I spent £60 buying a new handset which now filters and blocks calls. Yesterday (15/3) I was called twice during the afternoon. I deleted the calls. I blocked the phone number."

"My 81 year old mother-in-law was called earlier in the week, and again today by someone claiming to be from the above company. He called himself [REDACTED] and was very threatening saying that my in-laws needed to pay a cancellation fee for a white goods insurance policy. He rang four times over a two hour period. [REDACTED] had bullied and tricked them into taking out the insurance in January of this year. My father in law has dementia and [REDACTED] convinced my mother in law she was renewing a policy he had previously taken out. [REDACTED] today threatened to send 'someone' to the house to get the money. My mother in law asked him to ring my husband. [REDACTED] then called back twice saying that he has spoken with my husband and he had given his go ahead for the payment to be made. This was a lie as no calls were made. With our support my mother in law had already stopped the direct debit to this

company with their bank, XXX. She felt very intimidated by the call and was frightened someone was going to come to the house and demand money... My in-laws are very upset and frightened, and feel harassed and intimidated by these calls. [REDACTED] has been increasingly threatening as the calls have progressed. They have also been victims of other scam companies and we have been in contact with XXX fraud department who are trying to recoup some of the money they have lost."

39. In August 2022, the Commissioner re-screened the call records provided by [REDACTED] against the TPS. The results showed that between 1 January 2021 and 31 December 2021 CAL made 677,165 calls that were connected, of which 511,499 had been made to TPS registered numbers.
40. The Commissioner is satisfied that the 511,499 calls were all made for the purposes of direct marketing as defined by section 122(5) DPA18.
41. The Commissioner has made the above findings of fact on the balance of probabilities.
42. The Commissioner has considered whether those facts constitute a contravention of regulations 21 and 24 of PECR by CAL and, if so, whether the conditions of section 55A DPA are satisfied.

The contravention

43. The Commissioner finds that CAL contravened regulations 21 and 24 of PECR.

44. The Commissioner finds that the contravention was as follows:
45. Between 1 January to 31 December 2021, CAL used a public telecommunications service for the purposes of making 511,499 unsolicited calls for direct marketing purposes to subscribers where the number allocated to the subscriber in respect of the called line was a number listed on the register of numbers kept by the Commissioner in accordance with regulation 26, contrary to regulation 21(1)(b) of PECR. This resulted in 9 complaints being made to the TPS and the Commissioner.
- 46i. The Commissioner is also satisfied for the purposes of regulation 21 that these 511,499 unsolicited direct marketing calls were made to subscribers who had registered with the TPS at least 28 days prior to receiving the calls, and who for the purposes of regulation 21(4) had not notified CAL that they did not object to receiving such calls.
47. For such notification to be valid under regulation 21(4), the individual must have taken a clear and positive action to override their TPS registration and indicate their willingness to receive marketing calls from the company. The notification should reflect the individual's choice about whether or not they are willing to receive marketing calls. Therefore, where signing up to use a product or service is conditional upon receiving marketing calls, companies will need to demonstrate how this constitutes a clear and positive notification of the individual's willingness to receive such calls.
48. The notification must clearly indicate the individual's willingness to receive marketing calls specifically. Companies cannot rely on individuals opting in to marketing communications generally, unless it is clear that this will include telephone calls.

49. Further, the notification must demonstrate the individual's willingness to receive marketing calls from that company specifically. Notifications will not be valid for the purposes of regulation 21(4) if individuals are asked to agree to receive marketing calls from "similar organisations", "partners", "selected third parties" or other similar generic descriptions.
50. The Commissioner has considered the response from CAL about how notifications are obtained and is concerned that in each case there are issues regarding whether they comply with requirements of regulation 21(4). CAL have not provided evidence that the subscribers did not, for the time being, object to being called by CAL. The evidence CAL provided stated CAL are, in fact, making calls to illicit the consent which is in breach of regulation 21(4).
51. Further, CAL failed, as required by regulation 24 of PECR, to provide the recipient of the calls with the particulars specified at regulation 24(2) of PECR.
52. The Commissioner has gone on to consider whether the conditions under section 55A DPA are met.

Seriousness of the contravention.

53. The Commissioner is satisfied that the contravention identified above was serious. This is because there have been multiple breaches of regulations 21 and 24 by CAL arising from the organisation's activities between 1 January to 31 December 2021, and this led to 511,499 unsolicited direct marketing calls being made to subscribers who were registered with the TPS and who had not notified CAL that they were willing to receive such calls, and nine complaints being made as a result.

54. Further, CAL did not provide a telephone number that identified CAL as the caller and used different company names to avoid detection. This prevented individuals from contacting CAL.
55. The Commissioner is therefore satisfied that condition (a) from section 55A (1) DPA is met.

Deliberate or negligent contraventions

56. The Commissioner has considered whether the contravention identified above was deliberate. In the Commissioner's view, this means that CAL's actions which constituted that contravention were deliberate actions (even if CAL did not actually intend thereby to contravene PECR).
57. The Commissioner considers that in this case CAL did deliberately contravene regulations 21 and 24 of PECR. CAL were given an opportunity by the Commissioner to respond to the investigation but failed to provide a full and adequate response.
58. For the above reasons, the Commissioner is satisfied that this breach was deliberate.
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, he has considered whether CAL knew or ought reasonably to have known that there was a risk that this contravention would occur. He is satisfied that this condition is met due to the misleading and

threatening nature of the calls and the continued calls despite suppression requests.

61. The Commissioner has also published detailed guidance for companies carrying out marketing explaining their legal requirements under PECR. This guidance explains the circumstances under which organisations are able to carry out marketing over the phone, by text, by email, by post or by fax. Specifically, it states that live calls must not be made to any subscriber registered with the TPS, unless the subscriber has specifically notified the company that they do not, for the time being, object to receiving such calls. In case organisations remain unclear on their obligations, the ICO operates a telephone helpline. ICO communications about previous enforcement action where businesses have not complied with PECR are also readily available.
62. Where it is able to identify the organisation making the calls, it is standard practice of the TPS to contact that organisation on each occasion a complaint is made. The Commissioner has evidence that CAL was sent a notification from the TPS on or after 12 July 2021 for one of the complaints made in this case. The direct correspondence from TPS should have made CAL aware of the risk that such contraventions may occur and was indeed occurring.
63. It is therefore reasonable to suppose that CAL should have been aware of its responsibilities in this area.
64. Secondly, the Commissioner has gone on to consider whether CAL failed to take reasonable steps to prevent the contravention. Again, he is satisfied that this condition is met.

65. The Commissioner's direct marketing guidance makes clear that organisations acquiring/utilising 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 notifications for the purposes of regulation 21(4). It is not acceptable to rely on assurances given by third party suppliers without undertaking proper due diligence.
66. Reasonable steps in these circumstances may also have included.
- Taking action to review its processes and compliance of its direct marketing upon receipt of correspondence from the TPS;
 - Screening numbers against the TPS register;
 - Keeping up to date with all the rules that apply to the industry;
 - Reviewing the Commissioner's PECR guidance which is available online free of charge;
 - Utilising the Commissioner's business support helpline that can be called free of charge; and
 - Providing sufficient supervision of CAL staff.
67. Given the volume of calls [and complaints], it is clear that CAL failed to take those reasonable steps.
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 taken into account the following aggravating features of this case:

- CAL targeted vulnerable individuals;
 - Calls were misleading and, in some cases, threatening;
 - Repeated calls were made to the same individuals, despite the individual informing the caller they were not interested;
 - Evidence of individuals becoming distressed on the call;
 - Complaints from individuals that CAL were withdrawing money from individuals' bank accounts without full consent;
 - Use of spoof numbers;
 - Evidence of financial gain; and
 - Continued attempts to debit bank accounts despite the transactions being blocked by the bank or objected to by individuals.
70. The Commissioner has not identified any mitigating features in this case.
71. For the reasons explained above, the Commissioner is satisfied that the conditions from section 55A (1) DPA have been met in this case. He is also satisfied that the procedural rights under section 55B have been complied with.
72. The latter has included the issuing of a Notice of Intent, in which the Commissioner set out his preliminary thinking. In reaching his final view, the Commissioner has received no representations from CAL.
73. The Commissioner is accordingly entitled to issue a monetary penalty in this case.
74. The Commissioner has considered whether, in the circumstances, he should exercise his discretion so as to issue a monetary penalty.

75. The Commissioner has attempted to consider the likely impact of a monetary penalty on CAL but has been unable to do so given the lack of recent publicly available information. CAL 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.
76. The Commissioner's underlying objective in imposing a monetary penalty notice is to promote compliance with PECR. The making of unsolicited direct marketing calls 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. This is an opportunity to reinforce the need for businesses to ensure that they are only telephoning consumers who are not registered with the TPS and/or specifically indicate that they do not object to receiving these calls.
77. In making his decision, the Commissioner has also had regard to the factors set out in s108(2)(b) of the Deregulation Act 2015; including: the nature and level of risks associated with non-compliance, including the risks to economic growth; the steps taken by the business to achieve compliance and reasons for its failure; the willingness and ability of the business to address non-compliance; the likely impact of the proposed intervention on the business, and the likely impact of the proposed intervention on the wider business community, both in terms of deterring non-compliance and economic benefits to legitimate businesses.
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 **£200,000 (two hundred thousand pounds)** is reasonable and proportionate given the particular facts of the case and the underlying objective in imposing the penalty.

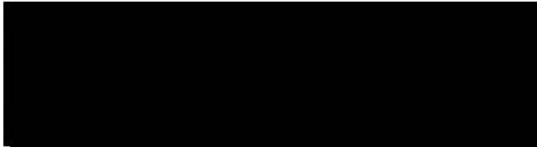
Conclusion

80. The monetary penalty must be paid to the Commissioner's office by BACS transfer or cheque by **1 September 2023** 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 **31 August 2023** the Commissioner will reduce the monetary penalty by 20% to **£160,000 (One hundred and sixty 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 2 day of August 2023.

Signe


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 he ought to have exercised his 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)).