

ENFORCEMENT NOTICE

Bharat Singh Chand

16 September 2025

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DATA PROTECTION ACT 1998

SUPERVISORY POWERS OF THE INFORMATION COMMISSIONER

ENFORCEMENT NOTICE

To: Bharat Singh Chand

Of: [REDACTED]

Introduction

1. The Information Commissioner ("the Commissioner") has decided to issue Bharat Singh Chand ("Mr Chand") with an Enforcement Notice under section 40 of the Data Protection Act 1998 ("DPA"). This Enforcement Notice ("Notice") is being issued because of a serious contravention of Regulations 22 and 23 of the Privacy and Electronic Communications (EC Directive) Regulations 2003 ("PECR").
2. Mr Chand was previously served with a Preliminary Enforcement Notice dated 12 June 2025 which set out the Commissioner's provisional findings. Having considered Mr Chand's representations submitted on 14 July 2025 and 26 August 2025, the Commissioner is satisfied that an Enforcement Notice remains an appropriate sanction.
3. This Notice explains the Commissioner's decision.

Legal framework

4. Mr Chand, whose address is given above, is the person stated in this Notice to have transmitted or instigated the transmission of unsolicited communications by means of electronic mail to individual subscribers for the purposes of direct marketing contrary to regulations 22 and 23 of PECR.

5. 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)."

6. Regulation 23 of PECR states that "A person shall neither transmit, nor instigate the transmission of, a communication for the purposes of direct marketing by means of electronic mail –

(a) where the identity of the person on whose behalf the communication has been sent has been disguised or concealed;

(b) where a valid address to which the recipient of the communication may send a request that such communications cease has not been provided;

(c) where that electronic mail would contravene regulation 7 of the Electronic Commerce (EC Directive) Regulations 2002; or

(d) where that electronic mail encourages recipients to visit websites which contravene that regulation."

7. Regulation 2(1) of PECR defines direct marketing as "the communication (by whatever means) of advertising or marketing material which is directed to particular individuals".¹

¹ Prior to 20 August 2025, the definition of "direct marketing" had been provided for by Section 122(5) of the Data Protection Act 2018 ("DPA18"). [Section 110\(2\)\(c\) Data \(Use and Access\) Act 2025](#) has since amended Regulation 2 of PECR to incorporate this definition.

8. The Commissioner has issued public guidance for organisations in relation to Direct Marketing.² This provides clear guidance on the circumstances under which direct marketing messages can be sent.
9. From 1 January 2021, consent in PECR has been defined by reference to the concept of consent in the UK GDPR as defined in section 3(10) of the Data Protection Act 2018 ("DPA18")³: see regulation 2(1) of PECR, as amended by Part 3 of Schedule 3, paragraph 44 of The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019/419. Article 4(11) of the UK 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. "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. "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*

² Direct marketing guidance | ICO; and Electronic mail marketing | ICO.

³ The UK GDPR is therein defined as Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018.

recipient's terminal equipment until it is collected by the recipient and includes messages sent using a short message service".

13. The DPA contains enforcement provisions at Part V which are exercisable by the Commissioner. Those provisions are modified and extended for the purposes of PECR by Schedule 1 of PECR.
14. Section 40(1)(a) of the DPA (as extended and modified by PECR) provides that if the Commissioner is satisfied that a person has contravened or is contravening any of the requirements of the Regulations, he may serve him with an Enforcement Notice requiring him to take within such time as may be specified in that Enforcement Notice, or to refrain from taking after such time as may be so specified, such steps as are so specified.
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 DPA18.⁴

The contravention

17. Having considered the representations made by Mr Chand, the Commissioner finds that Mr Chand contravened regulations 22 and 23

⁴ See paragraph 58(1) of Schedule 20 to the DPA18.

of PECR.

18. The Commissioner finds that the contravention was as follows:
19. The Commissioner finds that between 3 December 2023 and 3 July 2024 there were 966,449 direct marketing SMS messages sent to individuals. The Commissioner finds that Mr Chand transmitted or instigated the transmission of the direct marketing messages sent, contrary to regulation 22 of PECR.
20. Mr Chand, as the sender or instigator of the direct marketing, was required to ensure that he was acting in compliance with the requirements of regulation 22 of PECR, and to ensure that valid consent to send those messages had been acquired.
21. In this instance, Mr Chand used data that had been sourced from third parties. Mr Chand showed no effort to ensure that consent had been properly obtained and there is no evidence that Mr Chand had gained consent for the direct marketing that took place. This is evidenced by the number of complaints received via the 7726 spam reporting service, as well as the evidence obtained from the search warrant.
22. The Commissioner's PECR guidance says *"You should be very careful when relying on consent obtained indirectly (consent originally given to a third party). You must make checks to ensure that the consent is valid and specifically identifies you. Generic consent covering any third party is not enough."*⁵

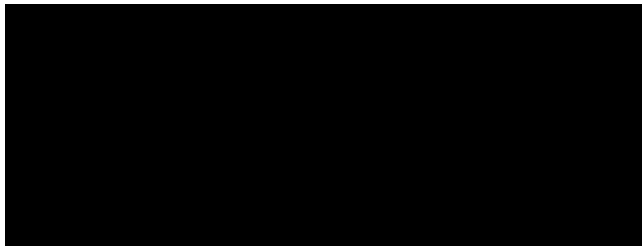
⁵ Electronic and telephone marketing | ICO

23. There is no evidence to suggest that Mr Chand took any steps to confirm that consent had been properly obtained.
24. The Commissioner is therefore satisfied from the evidence he has seen that Mr Chand did not have the necessary valid consent for the 966,449 direct marketing messages sent between 3 December 2023 and 3 July 2024.
25. The Commissioner is further satisfied that the actions of Mr Chand have contravened regulation 23 of PECR. This finding is made on the basis that Mr Chand attempted to conceal his identity by using hundreds of unregistered pre-pay SIM cards and did not identify the sender or instigator of the messages.
26. The Commissioner has considered, as he is required to do under section 40(2) of the DPA (as extended and modified by PECR) when deciding whether to serve an Enforcement Notice, whether any contravention has caused or is likely to cause any person damage.
27. The Commissioner considers that Mr Chand's actions had the potential to cause damage to individuals who received the unlawful marketing messages. The messages caused inconvenience, annoyance and anxiety (as evidenced by 19,138 complaints having been received to the 7726 spam reporting service). The messages also included content relating to debt reduction schemes or energy saving grants which could have led to financially vulnerable individuals being exposed to further financial harm.

Conclusion and right of appeal

28. In view of the matters referred to above, the Commissioner hereby issues this Enforcement Notice, in exercise of his powers under section 40 of the DPA, to require Mr Chand to take the steps specified in Annex 1 of this Notice.
29. There is a right of appeal against this Notice to the First-tier Tribunal (General Regulatory Chamber). Information about appeals is set out in the attached Annex 2.

Dated the 16th day of September 2025



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

Annex 1

TERMS OF THE ENFORCEMENT NOTICE

Mr Chand shall within 30 days of the date of this Notice:

- Except in the circumstances referred to in paragraph (3) of regulation 22 of PECR, 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 Mr Chand that he clearly and specifically consents for the time being to such communications being sent by, or at the instigation of, Mr Chand.
- Furthermore, Mr Chand shall neither transmit, nor instigate the transmission of, a communication for the purposes of direct marketing by means of electronic mail:
 - (a) where the identity of the person on whose behalf the communication has been sent has been disguised or concealed;
 - (b) where a valid address to which the recipient of the communication may send a request that such communications cease has not been provided;
 - (c) where that electronic mail would contravene regulation 7 of the Electronic Commerce (EC Directive) Regulations 2002;
or
 - (d) where that electronic mail encourages recipients to visit websites which contravene that regulation.

Annex 2

RIGHTS OF APPEAL AGAINST DECISIONS OF THE COMMISSIONER

Section 48 of the Data Protection Act 1998 gives any person upon whom an Enforcement Notice has been served a right of appeal to the First-tier Tribunal (General Regulatory Chamber) (the "**Tribunal**") against the Enforcement Notice.

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.

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

General Regulatory Chamber
HM Courts and Tribunals Service
PO Box 11230
Leicester
LE1 8FQ

Telephone: 0300 123 4504
Email: grc@justice.gov.uk

The notice of appeal should be sent so it is received by the Tribunal within 28 days of the date of the Enforcement Notice.

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.

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 enforcement 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.

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.

The statutory provisions concerning appeals to the First-tier Tribunal (General Regulatory Chamber) are contained in sections 48 and 49 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)).