

DATA PROTECTION ACT 1998

SUPERVISORY POWERS OF THE INFORMATION COMMISSIONER

MONETARY PENALTY NOTICE

To: UK Direct Business Solutions Limited

Of: Franklin House, 2 Mandarin Road, Houghton Le Spring, DH4 5RA

1. The Information Commissioner ("the Commissioner") has decided to issue UK Direct Business Solutions Limited ("UKDBS") 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 21 of the Privacy and Electronic Communications (EC Directive) Regulations 2003 ("PECR").
2. This notice explains the Commissioner's decision.

Legal framework

3. UKDBS, whose registered office is given above (Companies House Registration Number: 10943501) 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. 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 a subscriber who has a telephone number which is registered with the Telephone Preference Service ("TPS") or Corporate Telephone Preference Service ("CTPS") then that subscriber 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. 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.
8. 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).
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. 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.*
12. The Commissioner has issued statutory guidance under section 55C (1) of the DPA about the issuing of monetary penalties that has been published on the ICO's website. The Data Protection (Monetary Penalties) (Maximum Penalty and Notices) Regulations 2010 prescribe that the amount of any penalty determined by the Commissioner must not exceed £500,000.
13. PECR 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.

14. 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

15. UK Direct Business Solutions Limited ("UKDBS") is a business energy consultancy, which acts as an intermediary between energy suppliers and businesses. UKDBS was incorporated on 4 September 2017 and is registered with Companies House under company number 10943501. The nature of business is listed as "trade of electricity". UKDBS is a subsidiary of UK Direct Business Solutions (Group) Limited (company number 12094935). The directors of both UKDBS and UK Direct Business Solutions (Group) Limited are Simon Alexander Moslemi and Christopher James Sloanes.
16. UKDBS first came to the attention of the ICO in November 2021, following complaints received via the ICO online reporting tool about unsolicited direct marketing calls from a company calling themselves "Direct Business Solutions" or "DBS". The Commissioner conducted searches of the complaints received by the ICO and the TPS and identified a total of 73 complaints about UKDBS since 1 March 2020. Most of the complaints were from businesses whose telephone numbers were registered with the TPS or CTPS.

17. Complainants reported receiving repeated calls despite opt-out requests and complaints to the ICO and TPS. They complained of rude and argumentative callers who claimed that the TPS rules did not apply as the details were in the public domain. The following are examples of some of the comments made by complainants:

- I. *"Electricity sales call - very rude and wouldn't take no for an answer when politely informed that we're TPS registered and don't wish to take the call from them."*
- II. *"Energy Supplies. I have already reported this company & asked them to remove our details from their database but they are still calling us?!"*
- III. *"Selling utility services, they also called on Thursday 24th June and I informed them was registered with TPS, only company who say it doesn't matter if I am as phone number in public domain so they don't have to check?. They claim as number is in public domain it cancels out the fact I am registering. Previous call from same company said the same thing and that there was no list for them to check if I was registered and was pointless."*
- IV. *"To find out about our energy usage. I advised the caller that we were registered with TPS. He said he didn't have to check as we had a public facing website."*
- V. *"Energy contracts. I have received at least 7 calls from this company since Nov 2020. Once two within two hours. Each time I tell them not to call back. This time the guy said I wasn't using our database just Google."*

- VI. *"renewal of energy. i told them we were on the TPS but they insisted we gave them details to take us off including our current supplier and contract dates. I refused and it was difficult to get the caller to end the call."*
- VII. *"██████ called trying to sell energy. With the current crisis going on and receiving an unsolicited call while trying to run my business on a skeleton staff (supplying material to companies that make medical equipment) it was most unwelcome."*
- VIII. *"I complained about this company before on 13 March 2020 In this time of COVID-19 we really DO NOT need time waster phone calls! We are frantically trying to keep our business going!"*
- IX. *"Caller demanding to speak to business owner about energy supply. Asked where they obtained our number and was told 'Google Search'. Informed caller that we were on TPS opt out list and was told that TPS was useless.. I asked for more information about the company they were calling from and the caller became offensive and hung up"*
- X. *"Energy broker making a sales call. We have previously received assurances from this company that they have marked us as Do Not Call following an earlier complaint to the ICO ██████████"*
18. Information provided to the Commissioner by TPS revealed that TPS had written to UKDBS on at least 17 occasions between July 2020 and October 2021 and, on each occasion, had received the following response: "I can confirm we sourced the potential client's details from Google, which was published on the public domain for the purpose of introducing our services of energy procurement and energy contracts."

19. The privacy policy on the UKDBS website (www.dbsne.com/privacy) also refers to the collection of data from public sources. Under the heading 'What Information Do We Collect?' the policy states: "We may collect limited data from public databases, marketing partners, and other outside sources. We may obtain information about you from other sources, such as public databases, joint marketing partners, as well as from other third parties. Examples of the information we receive from other sources include: social media profile information; marketing leads and search results and links, including paid listings (such as sponsored links)."
20. On 15 November 2021, the Commissioner sent an initial investigation letter to UKDBS along with a spreadsheet of complaints received by the ICO and TPS. The letter outlined the requirements of PECR, the enforcement powers available to the ICO and asked several questions regarding potential contraventions of Regulation 21. The letter requested UKDBS to provide answers by 6 December.
21. A substantive response was received on 3 December from [REDACTED] at UKDBS. UKDBS provided a monthly breakdown of the calls they had made, covering the period 1 March 2020 to 31 October 2021, as provided by their telephony provider, [REDACTED]. A full list of the calling line identification numbers ("CLIs") used by UKDBS during this period was also provided. The total number of calls made by UKDBS during this period was 2,529,223, of which 2,001,486 calls connected.
22. UKDBS stated that they purchased call data, which was then imported into a customer relationship management system ("CRM"). The purchased data had a filter which enabled sales staff to exclude the

TPS and CTPS data. The sales staff were required to exclude all TPS and CTPS data before importing it into the system. This screening was generally undertaken manually by their compliance team. However, the compliance team had undergone a restructure and they were unclear whether the manual screening had been taking place.

23. UKDBS stated that given the number of complaints they have made the decision to remove the manual element and automate the screening process, to automatically remove numbers registered with TPS/CTPS from their CRM. They anticipated having this in place within the next few months. In the meantime, all sales staff would be undertaking mandatory training programs to ensure compliance with their policies and as a reminder of their obligations under PECR, TPS and CTPS.
24. UKDBS also stated that they operate an internal blocklist, run regular training with sales staff and all new starters went through an induction program, in which compliance with PECR and the TPS was discussed. However, there were no direct written references to PECR or the TPS within their training materials.
25. On 6 December, the Commissioner conducted further searches of the ICO and TPS complaints databases, using the CLIs provided by UKDBS in their letter of 3 December. This identified a further 23 complaints which had not previously been linked to UKDBS.
26. On 6 December, the Commissioner sent an email to UKDBS, providing an updated copy of the complaints spreadsheet, and requesting further information regarding their data sources, TPS screening process, the compliance team restructure and investigations into complaints received by TPS.

27. On 7 December the Commissioner issued a third party information notice to [REDACTED], requiring them to provide further information about UKDBS, including call detail records ("CDRs") for the period 1 March 2020 to 31 October 2021.
28. On 17 December, an email was received from UKDBS stating that they purchased their call data from the following companies:
- I. [REDACTED]
 - II. [REDACTED]
 - III. [REDACTED]
29. UKDBS understood that the data from [REDACTED] and [REDACTED] [REDACTED] was TPS and CTPS checked at source before being provided to them and that the data from [REDACTED] required filtering before it was downloaded. UKDBS also stated that their staff should not be obtaining any data from public domain sources such as Google and that any staff found to be using Google would be disciplined.
30. On 21 December, the Commissioner sent an email to UKDBS, requesting further information including: copies of any contracts or agreements between UKDBS and the data providers; any documents showing that the data was purchased as TPS and CTPS screened; details of any due diligence checks carried out on the companies or the data; confirmation as to which company supplied the data relating to the businesses listed in the complaints spreadsheet; details of who had provided inaccurate responses to TPS and whether those responses had been approved by a manager; further details of the public databases and social media profile information referred to in the UKDBS privacy policy.

31. On 10 January, the Commissioner received an email from [REDACTED] [REDACTED] in response to the third party information notice and on 11 January, [REDACTED] provided the requested CDRs. Subsequent analysis of the CDRs by the Commissioner revealed that between 1 March 2020 and 31 October 2021, UKDBS made 354,267 calls to numbers registered with the TPS and 56,102 calls to numbers registered with the CTPS. The total number of calls made to numbers registered with the TPS or CTPS during this 20 month period was 410,369.
32. On 18 January, the Commissioner received an email from UKDBS confirming that the agreements with the data providers were entered into two or three years ago and they had been unable to locate copies of the relevant terms. UKDBS provided a link to the standard [REDACTED] terms and conditions, an email from a company called [REDACTED] dated 5 January 2022 enclosing a compliance form dated 23 February 2021 which stated "TPS and CTPS carried out every 28 days", and an email from [REDACTED] dated 12 January 2022 enclosing an email from their [REDACTED] account manager stating that he was trying to contact them "regarding the TPS service you use us for". UKDBS stated they were unable to confirm the source of the complainants' data as they do not capture this information in their CRM. They also stated that social media platforms would be used to access publicly available information such as job titles and job roles of relevant individuals and that the UKDBS privacy policy is from 2019 and is in the process of being updated.
33. On 19 January, the Commissioner sent an email to UKDBS, requesting examples of any invoices received from [REDACTED], [REDACTED] or [REDACTED] [REDACTED], which refer to the data being screened against the TPS or CTPS, as well as confirmation from [REDACTED] [REDACTED] that

the data supplied to UKDBS was screened against the TPS and CTPS.

In addition, UKDBS were asked to clarify when the [REDACTED] compliance form was originally provided to UKDBS.

34. On 26 January the Commissioner received a response from UKDBS attaching copies of three invoices from [REDACTED] dated 17 November 2021, 19 November 2021, and 11 January 2022, three invoices from [REDACTED] [REDACTED] dated 28 July 2020, 9 September 2021, and 4 November 2021, and four invoices from [REDACTED] dated 18 September 2019, 31 January 2020, 25 September 2020, and 25 September 2021. None of the invoices referred to the data being screened against the TPS or CTPS. UKDBS also provided a copy of an email from [REDACTED] [REDACTED] dated 19 January 2022 confirming that the data was TPS checked. UKDBS were unable to confirm when the [REDACTED] compliance form had originally been provided.
35. On 27 January, the Commissioner sent an end of investigation email to UKDBS explaining that the Commissioner had completed his enquiries and would now consider whether formal enforcement action was appropriate. The email requested that if UKDBS had any relevant evidence, which they had not yet supplied, they should do so by 3 February. UKDBS acknowledged receipt of the email on 28 January and sought to reassure the Commissioner that changes were already underway to address the issues identified during the investigation. No additional evidence was provided.
36. On 3 February 2022 a further complaint about UKDBS was received by the TPS. The complainant's telephone number was registered with CTPS. The complainant's comments included the following:

37. *"Wanting to talk to the person that paid for the energy bills. The woman who I spoke to told me that she simply got the company number from Google....The company Google me, found the phone number and called me without checking the TPS block list. In fact, the caller seemed unaware of the block list"*
38. The Commissioner is satisfied that the 410,369 calls were all made for the purposes of direct marketing as defined by section 122(5) DPA18.
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 21 of PECR by UKDBS and, if so, whether the conditions of section 55A DPA are satisfied.

The contravention

41. The Commissioner finds that UKDBS contravened regulation 21 of PECR.
42. The Commissioner finds that the contravention was as follows:
43. Between 1 March 2020 and 31 October 2021, UKDBS used a public telecommunications service for the purposes of making 410,369 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 96 complaints being made to the TPS and the

Commissioner.

44. The Commissioner is also satisfied for the purposes of regulation 21 that these 410,369 unsolicited direct marketing calls were made to subscribers who had registered with the TPS or CTPS at least 28 days prior to receiving the calls, and who for the purposes of regulation 21(4) had not notified UKDBS that they did not object to receiving such calls.
45. 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.
46. 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.
47. 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.

48. In light of the information and evidence received by the Commissioner during his investigation as summarised in the background section above (in particular, but not limited to the contents of the complaints information received), the Commissioner is satisfied that for the purposes of regulation 21(1)(b) that UKDBS made 410,369 unsolicited direct marketing calls to subscribers who have been registered with the TPS/CTPS for not less than 28 days and who had not previously notified UKDBS that they did not object to receiving such calls.
49. The Commissioner has gone on to consider whether the conditions under section 55A DPA are met.

Seriousness of the contravention

50. The Commissioner is satisfied that the contravention identified above was serious. This is because there have been multiple breaches of regulation 21 by UKDBS arising from the organisation's activities between 1 March 2020 and 31 October 2021, and this led to 410,369 unsolicited direct marketing calls being made to subscribers who were registered with the TPS or CTPS and who had not notified UKDBS that they were willing to receive such calls. During this period 96 complaints have been identified in relation to UKDBS activities.
51. UKDBS also made an unspecified number of unsolicited direct marketing calls to subscribers who had notified UKDBS that they did not wish to receive such calls.
52. The Commissioner is therefore satisfied that condition (a) from section 55A (1) DPA is met.

Deliberate or negligent contraventions

53. The Commissioner has considered whether the contravention identified above was deliberate. In the Commissioner's view, this means that UKDBS' actions which constituted that contravention were deliberate actions (even if UKDBS did not actually intend thereby to contravene PECR).
54. The Commissioner does not consider that UKDBS deliberately set out to contravene PECR in this instance.
55. The Commissioner has gone on to consider whether the contravention identified above was negligent. This consideration comprises two elements:
56. Firstly, He has considered whether UKDBS 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, for the following reasons:
 - I. UKDBS have been registered with the ICO since June 2019 and should have been aware of the requirements of PECR;
 - II. As a telecommunications business with a reliance on direct marketing calls, UKDBS should have been aware of the rules that apply to such communications;
 - III. UKDBS were sent 17 letters by TPS referring details of complaints submitted, which were not acted upon;
 - IV. User complaints were made direct to UKDBS, which were not acted upon.
57. 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 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.

58. 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 UKDBS was sent notifications from the TPS in respect of at least 17 of the complaints being made in this case. That there were complaints made to the TPS alone over the period of the contravention should have made UKDBS aware of the risk that such contraventions may occur and were indeed occurring.
59. It is therefore reasonable to suppose that UKDBS should have been aware of its responsibilities in this area.
60. Secondly, the Commissioner has gone on to consider whether UKDBS failed to take reasonable steps to prevent the contravention. Again, he is satisfied that this condition is met.
61. 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. In this case, UKDBS could not present any evidence of the performance of the required rigorous check. Furthermore, UKDBS could not produce a contract with its data suppliers.

62. Reasonable steps in these circumstances may also have included:

- I. Requiring data suppliers to provide evidence of the performance of screening against TPS/CTPS.
- II. The performance of screening by UKDBS itself, for the data received from its data suppliers.
- III. Appropriate staff training concerning PECR compliance, in particular the screening of telephone numbers.
- IV. Maintaining effective procedures for the use of a suppression list.

63. In addition to the steps that UKDBS could have taken to ensure that data provided by its data suppliers was properly screened, other reasonable steps that UKDBS could have taken to prevent the contravention would have included:

- I. Implementing procedures to ensure that its employees did not use publicly available data and/or did not use such data without screening.
- II. Implementing procedures to investigate complaints from subscribers and to ensure that objections that they received were appropriately acted upon, such as through the use of suppression lists, appropriate employee training and adjustments to procedures (including the development of an appropriate PECR policy).

- III. Implement procedures to investigate complaints received from TPS/CTPS and to ensure that such complaints were appropriately acted upon, as summarised immediately above.
64. Given the volume of calls and complaints, it is clear that UKDBS failed to take those reasonable steps.
65. The Commissioner is therefore satisfied that condition (b) from section 55A (1) DPA is met.

The Commissioner's decision to issue a monetary penalty

66. The Commissioner has taken into account the following aggravating features of this case:
- I. Some complainants referred to considered that representatives of UKDBS displayed rude and argumentative behaviour and were dismissive of the TPS/CTPS.
 - II. Complaints also indicated that UKDBS made repeated persistent calls, causing a nuisance to TPS/CTPS subscribers.
67. The Commissioner has taken into account the following mitigating features of this case:
- I. UKDBS have advised that an automated screening process will be implemented.
 - II. UKDBS has committed to introducing a mandatory training programme.
68. 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.

69. 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 taken into account the representations made by UKDBS on this matter.
70. The Commissioner is accordingly entitled to issue a monetary penalty in this case.
71. The Commissioner has considered whether, in the circumstances, he should exercise his discretion so as to issue a monetary penalty.
72. The Commissioner has considered the likely impact of a monetary penalty on UKDBS. He has decided on the information that is available to him, that a penalty remains the appropriate course of action in the circumstances of this case.
73. 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.
74. 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.

75. For these reasons, the Commissioner has decided to issue a monetary penalty in this case.

The amount of the penalty

76. Taking into account all of the above, the Commissioner has decided that a penalty in the sum of **£100,000 (one hundred thousand pounds)** is reasonable and proportionate given the particular facts of the case and the underlying objective in imposing the penalty.

Conclusion

77. The monetary penalty must be paid to the Commissioner's office by BACS transfer or cheque by **9 June 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.
78. If the Commissioner receives full payment of the monetary penalty by **8 June 2023** the Commissioner will reduce the monetary penalty by 20% to **£80,000 (eighty thousand pounds)**. However, you should

be aware that the early payment discount is not available if you decide to exercise your right of appeal.

79. 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.
80. Any notice of appeal should be received by the Tribunal within 28 days of the date of this monetary penalty notice.
81. Information about appeals is set out in Annex 1.
82. 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.
83. 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 9th day of May 2023.

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)).