

**The Privacy and Electronic Communications (EC Directive) Regulations
2003 as amended**

Monetary Penalty Notice

Dated: 29 September 2014

Name: EMC Advisory Services Limited

Registered Office: 38-40 Palace Avenue, Paignton, Devon TQ3 3HE

Statutory framework

1. This monetary penalty notice is issued by virtue of regulation 21 of the Privacy and Electronic Communications (EC Directive) Regulations 2003 ("PECR") as amended by the Privacy and Electronic Communications (EC Directive) (Amendment) Regulations 2004 and by the Privacy and Electronic Communications (EC Directive) (Amendment) Regulations 2011 ("PECR 2011").
2. EMC Advisory Services Limited ("EMCAS"), whose registered office is given above (Companies House Registration Number: 04859586) is the person stated in this monetary penalty notice to have used a public electronic communications service to make unsolicited calls for the purpose of direct marketing contrary to regulation 21 of PECR.
3. PECR came into force on 11 December 2003 and revoked the Telecommunications (Data Protection and Privacy) Regulations 1999. PECR adopted Part V entitled, 'Enforcement', and Schedules 6 and 9 of the Data Protection Act 1998 (the "Act"). By virtue of regulation 31(2) of PECR the Information Commissioner (the "Commissioner") was made responsible for the enforcement functions under PECR.
4. On 26 May 2011, PECR 2011 amended regulation 31 of PECR to adopt sections 55A to E of the Act and introduced appropriate adaptations to those sections.

5. Under sections 55A and 55B of the Act the Commissioner may, in certain circumstances, where there has been a serious contravention of the requirements of PECR, serve a monetary penalty notice on a person requiring the person to pay a monetary penalty of an amount determined by the Commissioner and specified in the notice but not exceeding £500,000.
6. The Commissioner has issued statutory guidance under section 55C (1) of the Act about the issuing of monetary penalties (the "Guidance"). The Guidance was approved by the Secretary of State and laid before Parliament. The Guidance was amended to take the changes to PECR into account and was published on 30 January 2012 on the Commissioner's website. It should be read in conjunction with the Data Protection (Monetary Penalties)(Maximum Penalty and Notices) Regulations 2010 and the Data Protection (Monetary Penalties) Order 2010.

Power of Commissioner to impose a monetary penalty

7. Section 55A of the Act as adopted by PECR 2011 states:-

"(1) The Commissioner may serve a person with a monetary penalty notice 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) the contravention was of a kind likely to cause substantial damage or substantial distress, and
- (c) 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 –
 - (i) that there was a risk that the contravention would occur, and

- (ii) that such a contravention would be of a kind likely to cause substantial damage or substantial distress, but
- (b) failed to take reasonable steps to prevent the contravention."

Background

8. EMCAS is a business engaged in making telephone calls to consumers for the purpose of direct marketing relating to claims handling and advice on the mis-selling of financial products.
9. OFCOM is the Office of Communications established by section 1 of the Office of Communications Act 2002 to facilitate the regulation of communications. Under regulation 26 of PECR, OFCOM 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 (the "TPS") is a limited company set up by OFCOM to carry out this role. Businesses who wish to carry out direct marketing by telephone can subscribe to the TPS for a fee and then receive a monthly list of numbers on that register.
10. It is a fundamental requirement of PECR, and well-known in the direct marketing industry, that a consumer's consent must have been notified to the company before it makes direct marketing telephone calls to that consumer if the consumer is registered with the TPS. Therefore, it is a necessary step for businesses involved in telesales to make arrangements to ensure that they do not make direct marketing calls to those consumers who have subscribed to the TPS, unless the business holds records showing that those consumers have given their informed consent to that business to receive such calls.
11. To that end, it is also a necessary step for a business involved in direct marketing to register with the TPS, to ensure that the business has access to a monthly update of the TPS list which is updated as consumers apply to be registered. Furthermore, the business should hold a 'suppression list' of those consumers who have informed it directly that they do not wish to receive direct marketing calls.
12. The Commissioner's office identified EMCAS as a company that appeared in the TPS top 20 most complained about organisations for the month of May 2012.

13. On 14 May 2012, the Commissioner's office sent a letter to EMCAS explaining (among other things) that the amendments to the regulations contained in PECR enabled the Commissioner to issue monetary penalty notices up to £500,000. The letter also stated that the company was the subject of a number of complaints to the TPS and asked the following questions:
- What is the source of their marketing information?
 - If information is obtained directly from customers, how do they ensure that they have consented to receiving marketing calls?
 - If information is obtained from third parties what checks are carried out to confirm 'third party opt-ins'?
 - Is the information screened against the TPS register?
 - Do they operate an internal suppression list?
 - What is the process that they have in place to run any marketing lists against the TPS register and any in-house suppression list?
 - Could they offer any explanation of the number of complaints made to the TPS?
 - Is there any additional information which may assist the Commissioner's office to understand the process they operate?

The letter gave EMCAS the opportunity to provide information to assist the Commissioner in his decision as to what action to take and required a response within 21 days.

14. EMCAS provided a full response to the letter explaining that they have two call centres in Exeter and Torquay. They also provided details of the policies and procedures they had in place to ensure compliance with PECR.
15. However, EMCAS also explained that they use two "third party introducers". The third party introducers use their own data suppliers and obtain positive leads which are then used to call potential customers on behalf of EMCAS.
16. EMCAS further explained that they do not screen data obtained by the third party introducers against the TPS register and rely on assurances by the data suppliers that the data supplied is "opt-in" data. EMCAS rely on the third party introducers to screen against the TPS prior to calls being made on their behalf.

17. The Commissioner was informed that EMCAS holds an in-house suppression list but does not share it with the third party introducers because it would be business prohibitive.
18. Despite these assurances the Commissioner and the TPS continued to receive complaints about EMCAS.
19. On 5 December 2012, the Commissioner's office again wrote to EMCAS inviting them to meet with the Head of Enforcement to explain how the company operates; how they ensure compliance with PECR and what improvements the company has taken or intends to take in order to reduce the number of complaints.
20. Following the meeting on 25 January 2013, EMCAS contacted the Commissioner's office with an update to their policies and procedures and included an action plan highlighting the steps that have already been taken by the company together with future planned improvements.
21. Again, despite the assurances given, the Commissioner and the TPS continued to receive complaints about EMCAS.
22. Between 1 March 2013 and 28 February 2014, (the "period of complaint") the TPS received **562 (five hundred and sixty two)** complaints from individuals registered with them who had received unsolicited direct marketing calls from EMCAS. The TPS referred all those complaints to EMCAS and also notified the Commissioner.
23. Attached at Annex 2 is a spread sheet detailing the 562 complaints made by individual subscribers to the TPS. This list includes the subscribers' name and telephone number together with the date and time of the call (under the headings, 'complaint date' and 'complaint time') and the date that the complaint was processed by the TPS. In all cases, by virtue of the fact that the subscribers have placed their number on the TPS "do not call list", the company has breached Regulation 21(1)(b) of PECR by calling those numbers.
24. EMCAS responded to 509 out of the total 562 TPS complaints. The most common explanations provided by EMCAS to the TPS for making these calls are as follows:
 - On 179 occasions EMCAS stated that they "had prior consent to make the call and have evidence available of this consent". However, EMCAS have not provided any evidence of this consent.

- On 77 occasions EMCAS stated that the complainant was “called by a third party who is responsible for dealing with their own complaints”.
 - On 54 occasions EMCAS stated that there is “no requirement to screen against TPS. Data supplied by an approved company”.
 - On 49 occasions EMCAS stated that the complainant “agreed to be called through a third party”.
 - On 41 occasions EMCAS stated that they have “no evidence available of prior consent” for making the call.
 - On 18 occasions EMCAS stated “complaint upheld”. Compensation of either £50 or £100 has been offered to the complainant on each occasion.
25. During the period of complaint, the Commissioner’s office also received **68 (sixty eight)** complaints from individuals who had received unsolicited direct marketing calls from EMCAS. All of these complaints were received via the Snap Survey on-line reporting tool and were made by individual subscribers who were registered with the TPS.
26. 32 of the 68 complaints to the Commissioner’s office describe the calls as “repeat”, stating that they have previously asked EMCAS not to call them again. Many of the complainants also insist that they have never completed a lifestyle survey as alleged by EMCAS or given permission to be contacted by EMCAS. On one occasion, EMCAS provided a telephone recording of a complainant completing a telephone survey which the complainant believes is a mock-up. Some of the complainants also state that they felt misled by the caller who said that they were calling on behalf of the Ministry of Justice regarding their entitlement to a PPI refund.
27. The following are examples of five complaints received by the Commissioner via the Snap Survey among the 68 referred to in paragraph 25 above.
- “Have repeatedly requested that they stop calling, the callers have said they would not stop and will continue to hound us. The calls are received mostly early evening but sometimes during the day when the calls are taken by my elderly disabled father, usually saying they are doing a survey. My father has difficulties with the phone so will just hang up but they are nuisance calls and the frequency has become distressing. Whilst I am out of work the telephone is a lifeline for my father and cold callers

are the last thing we need”.

- “As I have explained in other reports I am in the middle of caring for my father (91) who has both cancer and Alzheimer’s. Every call is a potentially important call for me to need to act on/or receive bad news. It is very distressing that these organisations are able to flout the law like this and invade not just my, but also my father’s (I have reported cold calls on his Swansea number) privacy. I cannot tell you anything more about the call I’m afraid. I heard today on the radio that I’m not the only one suffering these calls and there are concerns that the law is not tight enough/sanctions not available. Please, please can you take some action against these people”.
- “As previously mentioned my Wife is still suffering badly as a result of hospitalisation and we would ask that the ICO do something about these calls. This is the fifth one today and should be classed as harassment”.
- “I get very annoyed by cold calls. The previous one this evening unsettled me somewhat. This one has probably wrecked my evening. I am extremely stressed by it. My heart rate has gone up 20% and I’m sure my blood pressure has gone up too”.
- “I felt it was very intrusive and it is not right that these people are able to phone us whenever and upset us. My husband and I are both senior citizens and not too easily upset but these calls are getting us down”.

28. In addition, there are complaints made by individuals against EMCAS on the internet forum whocallsme.com. Most of these individuals complain either that they have no knowledge of completing a lifestyle survey or that they have received repeat calls when they have previously asked EMCAS not to call them again.

29. The total number of complaints about EMCAS made by individual subscribers to both the TPS and the Commissioner during the period of complaint is **630 (six hundred and thirty)**.

Grounds on which the Commissioner proposes to serve a monetary penalty notice

Regulation 21 of PECR

30. The relevant provision of PECR is Regulation 21 paragraph (1)(a) and (b) which provides that,

“..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.”

Regulation 21 paragraphs (2)(3)(4) and (5) provide :-

- “(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.”

Definitions

- 31. The term “person” applies to limited companies as well as individuals. It is defined in Schedule 1 of the Interpretation Act 1978 as follows:
“ ‘Person’ includes a body of persons corporate or unincorporate”.
- 32. The following are defined in regulation 2 (1) of PECR :
 - (a) The term “public electronic communications service” is defined as having the meaning given in section 151 of the Communications Act

2003 which states that it means any electronic communications service that is provided so as to be available for use by members of the public.

- (b) The term, "individual" is defined as, "a living individual and includes an unincorporated body of such individuals;"
- (c) The term, "subscriber" is defined as, "a person who is a party to a contract with a provider of public electronic communications services for the supply of such services;"
- (d) The term "call" is defined as "a connection established by means of a telephone service available to the public allowing a two-way communication in real time;"
- (e) The term, "direct marketing" is defined in the Act at section 11 as "the communication (by whatever means) of any advertising or marketing material which is directed to particular individuals."

33. 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 TPS, then that individual must have given their consent to that company to receive such calls.

The contravention

34. The Commissioner is satisfied that on various dates during the period of complaint, EMCAS used, or instigated the use of a public telecommunications service for the purposes of making **630** 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 OFCOM in accordance with regulation 26, contrary to regulation 21(1)(b) of PECR.

35. The Commissioner is also satisfied for the purposes of regulation 21 that the **630** complaints were made by subscribers who had registered with TPS at least 28 days prior to receiving the calls and they had not given their prior consent to EMCAS to receive calls.

36. Therefore the Commissioner is satisfied that EMCAS has acted in contravention of regulation 21.

Serious (S55A (1) (a))

37. The Commissioner is satisfied that these contraventions of regulation 21 of PECR are serious as required by Section 55A(1)(a) because they are on-going and often repeated despite requests for suppression and being informed that numbers are TPS registered.
38. There is also a considerable volume of complaints received across multiple platforms which should be seen as only a representative proportion of actual contraventions because the recipients of these calls do not always complain. EMCAS appeared in the TPS top 10 of the most complained about organisations in each of the 12 months in the period of complaint. The contraventions have continued despite concerns being raised by the Commissioner's office during a meeting and in correspondence with the company.
39. Although EMCAS then prepared an action plan highlighting the steps that have already been taken by the company together with future planned improvements to their current practices, it is evident that these new measures have had little effect.
40. The Commissioner has particular concerns that EMCAS do not seem to accept that, as the instigator of the call, they are responsible for complying with PECR when using third party introducers. This is evidenced by the fact that EMCAS do not share their suppression list with the third party introducers and they also rely on the third parties to screen against the TPS prior to calls being made on their behalf.
41. There are further concerns about the number of complaints from individuals who say that they have never completed a lifestyle survey after EMCAS informed those individuals that they obtained their details from such a survey.
42. Therefore the Commissioner is satisfied that the case meets the seriousness threshold.

Likely to cause substantial damage or substantial distress (S55A (1) (b))

43. The Commissioner is satisfied that the contravention is of a kind likely to cause substantial distress as required by section 55 (1)(b) because of the large numbers of individuals who have complained about these unsolicited calls and the nature of some of the complaints they gave rise to.

44. Although the distress in every individual complainant's case may not always have been substantial, the cumulative amount of distress suffered by the large numbers of individuals affected, coupled with the distress suffered by some individuals, some receiving multiple calls means that overall the level was substantial.
45. When looking at the meaning of "substantial" in terms of the levels of distress, the Commissioner has had regard to section 2, page 14 of his Guidance. This says that the Commissioner considers that "if damage or distress that is less than considerable in each individual case is suffered by a large number of individuals the totality of the damage or distress can nevertheless be substantial".
46. The Commissioner is satisfied that the above evidence shows not only that the unsolicited marketing calls are of a kind "likely to cause substantial distress" as required by section 55, but that in fact they have, in the case of some particular individual complainants, actually done so.

Deliberate

47. Any company engaged in making telephone calls to consumers for the purpose of direct marketing should be aware of the law surrounding this activity. In the Commissioner's view, EMCAS acted deliberately in using or instigating the use of a public telecommunications system for the purposes of making unsolicited calls for direct marketing purposes. There is evidence provided by some of the complainants to suggest that EMCAS were aware that the calls were "repeat" calls but continued with this unlawful practice.

Knew or ought to have known that there was a risk that the contravention would occur and that it would be of a kind likely to cause substantial damage or distress (S55A (3)(a)(i) and (ii)).

48. The following facts are indicative of the fact that EMCAS knew or ought to have known there was a risk of contravention and that it would be of a kind likely to cause substantial distress.
 - Due to the nature of the business of EMCAS and the fact that it relied heavily on direct marketing, and the fact that the issue of unsolicited calls was widely publicised by the press as being a problem, it is reasonable to suppose that they should have been aware of their responsibilities in this area and aware that there was a high risk of contravention.

- EMCAS has been aware of its obligations under PECR since at least 14 May 2012 when the Commissioner first raised his concerns with it. In addition, as a member of the Direct Marketing Association (“DMA”), EMCAS should have been aware of the DMA code of practice which is clear about the responsibilities of companies engaged in direct marketing by making live calls.
 - The volume of complaints received from TPS should have made EMCAS aware of the risk of a contravention and that such a contravention would be of a kind likely to cause substantial distress. The TPS contacted EMCAS 562 times regarding complaints.
 - Complaints continued to be received by the TPS and the Commissioner even after the Commissioner’s letters and meeting with EMCAS.
 - Complainants asked EMCAS to stop calling them but despite this EMCAS continued to do so.
49. The volume and nature of the complaints received from the TPS regarding the marketing calls should have indicated to EMCAS that they were continually breaching PECR.
50. The fact that EMCAS knew that people were complaining about calls they were receiving and that the recipients of those calls had not therefore agreed to receive them shows that EMCAS knew of the risk of contraventions. EMCAS therefore ought to have known that it was only a matter of time before substantial distress to recipients of the calls was likely to be caused.
51. The Commissioner is therefore satisfied that section 55A(3) of the Act applies in that during the period of complaint EMCAS knew or ought to have known that there was a risk that the contravention would occur, and that such a contravention would be of a kind likely to cause substantial distress.

Failed to take reasonable steps to prevent the contravention (S55A (3) (b))

52. EMCAS’s business is reliant upon direct marketing to consumers. It is a fundamental requirement of PECR that TPS registered numbers have to be suppressed and that consent is required from consumers who are TPS registered before marketing calls can be made to them.
53. EMCAS have admitted that they do not share their suppression list with the third party introducers and that they also rely on the third parties to screen against the TPS prior to calls being made on their behalf.

54. The Commissioner is therefore satisfied that section 55A (3)(b) of the Act applies in that during the period of complaint EMCAS failed to take reasonable steps to prevent the contravention.

Aggravating features the Commissioner has taken into account in determining the amount of a monetary penalty

55. Nature of the contravention:

- Some of the complainants said that despite informing the caller that they did not want to receive calls they nevertheless continued to receive them

56. Effect of the contravention:

- There were repeated invasions of privacy and distress for individuals

57. Behavioural issues:

- No apparent acceptance that they are still the instigator of calls made on their behalf by third parties

58. Impact on EMCAS:

- EMCAS is a private organisation within a competitive direct marketing industry where continuous breaches of PECR could create an unfair advantage

Mitigating features the Commissioner has taken into account in determining the amount of the monetary penalty

59. Nature of the contravention:

- EMCAS state that they do screen against the TPS for calls made by their own call centres

60. Behavioural issues:

- EMCAS have fully engaged with the Commissioner's office
- Substantial remedial action has now been taken by EMCAS
- Compensation has been paid by EMCAS to complainants
- Complaints about EMCAS to the ICO and the TPS have now reduced

61. Impact on EMCAS:

- There is a potential for damage to reputation of EMCAS which may affect future business.

Other considerations

62. The Commissioner's underlying objective in imposing a monetary penalty 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 a business and currently engaging in these practices. This is an opportunity to reinforce the need for businesses to ensure that they are only telephoning consumers who want to receive the calls.

Notice of Intent

63. A notice of intent was served on EMCAS dated 19 May 2014. The Commissioner received written representations from the "Compliance & Customer Services Manager" of EMCAS in two letters and enclosures dated 17 June 2014 and 15 September 2014. The Commissioner has considered the written representations made in relation to the notice of intent when deciding whether to serve a monetary penalty notice. In particular, the Commissioner has taken the following steps:

- reconsidered the amount of the monetary penalty generally, and whether it is a reasonable and proportionate means of achieving the objective which the Commissioner seeks to achieve by this imposition;
- ensured that the monetary penalty is within the prescribed limit of £500,000; and
- ensured that the Commissioner is not, by imposing a monetary penalty, acting inconsistently with any of his statutory or public law duties and that a monetary penalty notice will not impose undue financial hardship on an otherwise responsible person.

Amount of the monetary penalty

64. The Commissioner considers that the contravention of PECR is **serious** and that the imposition of a monetary penalty is appropriate. Further that a monetary penalty in the sum of **£70,000** (Seventy thousand pounds) is reasonable and proportionate given the particular facts of the case and the underlying objective in imposing the penalty.

Payment

65. The monetary penalty must be paid to the Commissioner's office by BACS transfer or cheque by 30 October 2014 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.

Early payment discount

66. If the Commissioner receives full payment of the monetary penalty by 29 October 2014 the Commissioner will reduce the monetary penalty by 20% to **£56,000** (Fifty six thousand pounds). You should be aware that if you decide to take advantage of the early payment discount you will forfeit your right of appeal.

Right of Appeal

67. There is a right of appeal to the (First-tier Tribunal) General Regulatory Chamber against:
- a. the imposition of the monetary penalty
and/or;
 - b. the amount of the penalty specified in the monetary penalty notice.

Any Notice of Appeal should be served on the Tribunal by 5pm on 29 October 2014 at the latest. If the notice of appeal is served late the Tribunal will not accept it unless the Tribunal has extended the time for

complying with this rule.

Information about appeals is set out in the attached Annex 1.

Enforcement

68. The Commissioner will not take action to enforce a monetary penalty unless:

- the period specified in 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 the Company to appeal against the monetary penalty and any variation of it has expired.
- 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 or any sheriffdom in Scotland.

Dated this 29th day of September 2014

Signed

David Smith
Deputy Information Commissioner
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) provides that a person on whom a monetary penalty notice (MPN) is served may appeal to the Tribunal against a) the issue of the MPN and b) the amount of the penalty specified in the MPN.
2. Section 55B (5) of the Data Protection Act 1998 which was adopted by Regulation 31 PECR gives any person upon whom a monetary penalty notice or variation notice has been served a right of appeal to the (First-tier Tribunal) General Regulatory Chamber (the "Tribunal") against the notice.
3. 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.

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

GRC & GRP Tribunals
PO Box 9300
Arnhem House
31 Waterloo Way
Leicester
LE1 8DJ

 - a) The notice of appeal should be served on the Tribunal by 5pm on 29 October 2014 at the latest.

- 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.

5. 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.

6. 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.

7. 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)). Also Article 7 of the Data Protection (Monetary Penalties) Order 2010 (SI 2010/910), s.49 of, and Schedule 6 to, the Data Protection Act 1998 have effect in relation to appeals for PECR as they have effect in relation to appeals under the DPA, s.48(1).