

DATA PROTECTION ACT 1998

SUPERVISORY POWERS OF THE INFORMATION COMMISSIONER

MONETARY PENALTY NOTICE

To: True Visions Productions

Of: 49a Oxford Road South, London, W4 3DD

1. The Information Commissioner ("the Commissioner") has decided to issue True Visions Productions ("TVP") with a monetary penalty under section 55A of the Data Protection Act 1998 ("DPA"). The penalty is being issued because of a serious contravention of the First Data Protection Principle by TVP.
2. The period of breach occurred between 24 July 2017 and 29 November 2017 and is accordingly considered by the Commissioner under the DPA and not the legal regime in force from 25 May 2018.
3. This Notice explains the Commissioner's decision.

Legal framework

4. TVP is a data controller, as defined in section 1(1) of the DPA in respect of the processing of personal data. Section 4(4) of the DPA provides that, subject to section 27(1) of the DPA, it is the duty of a data controller to comply with the data protection principles in relation to all personal data in respect of which he is the data controller.

5. The relevant provision of the DPA is the first data protection principle which provides, at Part I of Schedule 1 to the DPA, that:

"Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless—

- (a) *at least one of the conditions in Schedule 2 is met, and*
 - (b) *in the case of sensitive personal data, at least one of the conditions in Schedule 3 is also met."*
6. Under section 55A(1) of the DPA the Commissioner may serve a data controller with a monetary penalty notice if the Commissioner is satisfied that –
- (a) there has been a serious contravention of section 4(4) of the DPA by the data controller,
 - (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 data controller –
- (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.

7. 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.
8. The DPA implements European legislation (Directive 95/46/EC) aimed at the protection of the individual's fundamental right to the protection of personal data. The Commissioner approaches the data protection principles so as to give effect to the Directive.

The Facts

9. Between 24 July 2017 and 29 November 2017, TVP placed static, fixed, CCTV-style cameras and accompanying microphones in three of the four rooms of Clinic 23 in the Maternity Assessment Unit at Addenbroke's Hospital. Addenbroke's is run by the Cambridge University Hospitals NHS Foundation Trust ("the Trust").
10. TVP are a television production company. They had installed the cameras with the permission of the Trust for the purpose of filming

patients at the Clinic for a documentary on still births. The production was being developed for Channel 4. Still births are a highly emotive and sensitive topic, and the Commissioner takes no issue with the public interest in thoughtful documentary programmes exploring the impact of such experiences in order to educate and inform.

11. Clinic 23 is for walk-in patients who are pregnant with concerns about foetal development and movement. Patients will be assessed by a midwife and may need further assessment by an obstetrician. This will take place in the clinic rooms in which the cameras were placed. In a minority of cases, patients attending the Clinic will have correctly identified a serious health issue with their foetus, which may result in a still birth.
12. By definition, the footage captured by the cameras would include the sensitive personal data of the patients. Indeed, the very purpose of the filming was to capture some of the most private and traumatic personal data any person may experience. It is similarly highly relevant that a patient attending Clinic 23 will be doing so because they are concerned about the health of their foetus: they will be suffering from anxiety and stress and their attention will be focussed on the health of their foetus and their need to obtain medical assistance.
13. Yet TVP did not directly and specifically inform patients attending the Clinic that they would be filmed. Consent was not sought from patients in advance. Production staff from TVP were not in the Clinic throughout; they attended three-four days a week.
14. Rather, TVP posted filming notices in the immediate vicinity of the cameras, and the waiting room area, informing those who read the notices that the hospital was taking part in a film about complex

pregnancies. Generalised letters were left on tables in the waiting room area to similar effect. Staff at the Clinic did not draw the attention of patients to the fact of the filming, although they had been instructed to answer questions about the filming if asked.

15. TVP provided samples of the notices and letters to the Commissioner with its representations in response to the Notice of Intent.
 - (a) Two generalised letters on Trust letterheads were provided, explaining the filming taking place by TVP. Neither letter explains that if a patient does not wish to be filmed whilst being examined, she would need to request to be seen in the one consultation room not fitted with a fixed camera. Nor does either letter explain that any examination in the other rooms will be filmed.
 - (b) One notice produced for display by the Trust explains that the hospital was hosting TVP who were making a film about complex pregnancies. The notice stated that "*No mums or visitors will be filmed without permission.*" This was not accurate.
16. If a patient became aware of the filming and objected to it, there was no mechanism by which the cameras could be stopped. Although a version of TVP's 'Shooting Protocol' supplied to the Commissioner with its representations appears to envisage that the cameras will be able to be stopped by staff, the cameras eventually installed were not fitted with any stop button. Instead, the patient would have to request to be treated in the one room in which cameras were not located. If that room was not available, as happened on at least one occasion, the only way in which the privacy and wishes of the patient could be respected

was to cover the camera by unsuitable means, such as taping carrier bags over it.

17. TVP have explained that the footage collected was automatically stored on a protected computer system and was not viewed by any TVP employee unless consent had been provided by the patient concerned. Footage would be automatically deleted after three days if it did not involve a still birth incident, or if it did but the patient did not consent to the use of the footage.
18. Approximately five patients per day would have been seen in each clinic room, totalling approximately 1,990 affected data subjects during the filming period. TVP says that all of the footage has been destroyed.
19. The Commissioner became aware of the issue when patients who objected to and were distressed by the filming complained to the press – including the BBC – on or about 29 November 2017. Following the press coverage, filming ceased on 29 November 2017. As a result of the Commissioner becoming aware of the issue, she commenced an investigation into the processing and liaised with the Trust, TVP and Channel 4.
20. Subsequent to the publicity, and the ceasing of filming, TVP recommenced filming for the documentary using hand-held cameras and continued until spring 2018. The documentary was subsequently transmitted on Channel 4 on 8 October 2018, and received positive press coverage.
21. In response to the Notice of Intent, TVP explained – and the Commissioner accepts – that the filming process it adopted in the Clinic was decided upon following engagement with the relevant clinicians of the Trust and of the Clinic. It is not clear to the Commissioner, and TVP

have provided no records in this respect, as to the extent to which the eventual choices were adopted on the basis of specific advice from or insistence of clinicians, or were developed jointly. In any event, the manner in which filming was carried out was ultimately a matter for TVP, which was able to adopt different filming techniques after November 2017 and produce a successful documentary. Where appropriate, the Commissioner will address the content of this point in her analysis of the statutory tests.

22. The Commissioner has made the above findings of fact on the balance of probabilities.
23. The Commissioner has considered whether those facts constitute a contravention of the DPA by TVP and, if so, whether the conditions of section 55A DPA are satisfied.

The Contravention

24. The Commissioner finds that TVP contravened the following provision of the DPA:
25. TVP failed to process the personal data of patients at the Clinic fairly, lawfully and in accordance with a condition in Schedules 2 or 3, in contravention of the First Data Protection Principle at Part I of Schedule 1 to the DPA.
26. The Commissioner finds that the contravention was as follows:
27. Although TVP has emphasised that no human had access to the footage collected, the filming and audio recording within the Clinic, and the

retention and storage of that footage for a period of time, was the processing of personal data within the meaning of the DPA.

28. The personal data processed by TVP was sensitive personal data within the meaning of section 2(e) DPA. It concerned highly personal health information about the state of the patient's pregnancy and foetus, and would have included details of medical consultations, advice and intimate examinations.
29. The processing was not fair. A patient attending the Clinic would not have reasonably expected there to be fixed cameras which could not be stopped in examination rooms. A patient would reasonably expect such filming expressly to be drawn to her attention. TVP did not provide sufficient fair processing information to patients, and did not sufficiently draw the information which was provided to the attention of patients, having regard to the terms of paragraph 2 of Part II of Schedule 1 to the DPA. It was not sufficient or fair in all the circumstances – including, in particular, the inevitable anxiety and stress of patients attending the Clinic and the focus of their attention being on the health of their foetus and obtaining medical assistance – for TVP to rely on limited notices posted underneath the cameras, and generalised letters on waiting room tables. This conclusion is enhanced further when the limited and misleading content of some of those letters and notices is taken into account.
30. The Commissioner also has regard when considering fairness to the terms of Ofcom's 'Broadcasting Code' (2017) (issued under the Communications Act 2003 and the Broadcasting Act 1996), with which TVP is expected to comply. Paragraph 8.8 of the Code includes the guidance that:

"in potentially sensitive places such as ambulances, hospitals, schools, prisons or police stations, separate consent should normally be obtained before filming or recording and for broadcast from those in sensitive situations (unless not obtaining consent is warranted). If the individual will not be identifiable in the programme then separate consent for broadcast will not be required."

Paragraph 8.16 of the Code provides that:

"Broadcasters should not take or broadcast footage or audio of people caught up in emergencies, victims of accidents or those suffering a personal tragedy, even in a public place, where that results in an infringement of privacy, unless it is warranted or the people concerned have given consent."

31. Although the Broadcasting Code does not purport to set absolute rules, the Commissioner does not consider that TVP's processing is consistent with the standards set by the Broadcasting Code and this contributes to the unfairness of the processing.
32. For materially similar reasons to those concerning fairness, above, the processing was also not lawful because it constituted a gross invasion of privacy which was an unjustified and disproportionate interference with the Article 8 rights of the patients filmed.
33. As to compliance with a Schedule 3 condition, the only condition identified by TVP is that of "explicit consent". The Commissioner considers it to be absolutely clear that patients cannot be said to have given their explicit consent to being filmed in the above circumstances. This is regardless of whether or not TVP would have sought such consent before broadcasting the footage obtained.

34. The Commissioner is not able to identify any other Schedule 3 condition which might justify the processing of TVP and TVP has not suggested any.
35. It is not necessary to address in detail the Schedule 2 conditions, but the Commissioner does not accept that any Schedule 2 condition is met either.
36. TVP has relied upon section 32 DPA on the grounds that its processing was with a view to the publication of journalistic material, for which publication would be in the public interest. The Commissioner accepts that TVP was processing for journalistic purposes and does not dispute the public interest in programming about the traumatic implications of still births. Sections 32(1)(a) and (b) are accordingly engaged.
37. However, the Commissioner does not accept that section 32(1)(c) is satisfied. This requires that TVP reasonably believes that, in all the circumstances, compliance with the First Data Protection Principle was incompatible with journalistic processing. That test cannot be met in the circumstances of this processing.
38. TVP has emphasised in its representations that in *NT1 v Google LLC* [2018] EWHC 799 (QB); [2018] 3 WLR 1165 at paragraph 102, Warby J held that section 32(1)(c) requires there to have been a subjective belief on the part of TVP, and that that belief be objectively reasonable. Although this passage is *obiter*, the Commissioner accepts it. She accepts, for the purpose of this Notice, the assertions of TVP that it held the subjective belief (whilst noting that some of the documentation provided to her is not wholly consistent with that

conclusion). The Commissioner's concern remains that such a belief was not objectively reasonable.

39. The central argument of TVP is it, informed by its work with the clinical staff of the Trust, was entitled to take the view that to seek prior consent would (a) risk distressing patients; (b) distract clinical staff from their duties; and (c) risk a delay in the provision of medical treatment.
40. This argument is an extremely concerning one to the Commissioner and she does not accept that it is objectively reasonable, whether or not it aligns with the views of Trust employees at the time.
41. The argument from distress at (a) betrays the logical fallacy in TVP's position. If it would unduly risk distress to patients to inform them that they were being filmed and to ask for their consent, it must also be the case that the fact of filming would be likely to distress patients. It is a tacit recognition that had patients been informed of the filming they would have been likely to be distressed and object to it. The simple fact of asking the question would not be the cause of the distress in most cases; it would be knowledge that filming was taking place of a very sensitive moment. Processing of personal data which is distressing is not lawfully rendered less distressing by the means of not informing the data subject that the processing is occurring. TVP is not entitled to rely on the patient's focus on their and their foetus' health so that they will not notice or pay no attention to such information that was posted or available around the Clinic.
42. The argument from clinical staff time at (b) is also not reasonable. It was a matter of choice for TVP that its production staff were not on-site at all times that filming was taking place. Had they been, it would not

have been necessary for the time of clinical staff to have been materially taken up with explanations and discussions of the filming.

43. As to (c), while it would clearly not be acceptable to delay urgent medical treatment for a discussion of filming consent procedures, the necessity for properly informed consent in such circumstances cannot reasonably lead to the answer that the filming occur anyway. Such cases are precisely the ones in which the greatest sensitivity and clearest consent is reasonably required.
44. In any event, TVP's argument is no answer to why the fixed cameras could not be stopped on request of the patient, or why it was justified to film every patient in three Clinic rooms despite TVP's own case being that almost all of those cases would not result in relevant footage. The Commissioner notes, in particular, that TVP's representations accept that it would have been possible to have a stop button on the fixed cameras; had production staff been on-site it would not have been necessary to leave stopping the cameras to clinicians and in any event the Commissioner cannot accept the assertion that the clinician pressing a stop button could seriously interfere with them carrying out their medical responsibilities such as to have been impractical.
45. In the Commissioner's view, TVP's processing was inconsistent with the standards of the Broadcasting Code, above, to which the Commissioner is entitled to have regard in this respect under section 32(3).
46. That compliance with the First Principle was compatible with the purpose of journalistic processing, and that TVP ought reasonably to have known it to be so, is also to be inferred from the facts that: (a) upon complaints being made in the press by patients, filming immediately ceased; and (b) TVP was able on 8 October 2018 to screen its intended documentary – to wide acclaim – without the use of

any of the unlawful footage but by use of properly consented footage and interviews.

47. In all the circumstances, any belief of TVP that compliance with the First Data Protection Principle was incompatible with the purposes of journalism was not objectively reasonable.
48. The contravention occurred between 24 July 2017 and 29 November 2017, inclusive.
49. The Commissioner is satisfied that TVP was responsible for this contravention.
50. The Commissioner has gone on to consider whether the conditions under section 55A DPA were met.

Seriousness of the Contravention

51. The Commissioner is satisfied that the contravention identified above was serious. The processing was of highly sensitive personal data of a substantial number of data subjects.
52. In the circumstances, the Commissioner considers that the contravention was serious having regard to the number of affected individuals and the nature of the personal data involved.
53. The Commissioner is therefore satisfied that condition (a) of section 55A(1) DPA is met.

Contraventions of a kind likely to cause substantial damage or substantial distress

54. The relevant features of the kind of contravention are that TVP has filmed and audio recorded nearly 2,000 patients undergoing medical examinations and assistance in relation to concerns the patient had about the health of their foetus, and that that filming and recording was made without prior consent and without clearly and expressly being drawn to the attention of the patient.
55. The Commissioner considers that the contravention identified above had the following potential consequences:
56. The contravention would cause distress to patients who may suspect that their highly sensitive personal data and intimately private medical history has been filmed and recorded without their knowledge.
57. In this context it is important to bear in mind that the very purpose of the patients attending the Clinic was their concern about the health of their foetus and filming of the medical assistance they were provided with would be intensely private, potentially traumatic and particularly distressing.
58. The Commissioner considers that the damage and/or distress described above was likely to arise as a consequence of the kind of contravention. In other words, the Commissioner's view is that there was a significant and weighty chance that a contravention of the kind described would have such consequences.
59. The Commissioner considers that that conclusion is borne out by the complaints made by patients to the press in November 2017, in which language of real concern and upset was used. She finds it surprising that TVP would seek to place reliance in its representations on those patients not having expressed strong concerns to it: a patient

attending the Clinic will have as their first priority the welfare of their unborn child and not a complaints mechanism about unexpected filming. Although the Trust, TVP and Channel 4 have informed the Commissioner that no formal complaints have been received, the Commissioner is also conscious that many patients who did not see the press coverage in late November 2017 may still be unaware that they were ever filmed by TVP.

60. The Commissioner also considers that such distress was likely to be substantial, having regard to the number of affected individuals and the nature of the personal data involved. In the circumstances, the likely damage or distress was certainly more than trivial.
61. The Commissioner has also given weight to the number of affected individuals. The Commissioner considers that even if the distress likely to have been suffered by each affected individual was less than substantial, the cumulative impact would clearly pass the threshold of "substantial". In addition, given the number of affected individuals and the nature of the data involved, it was inherently likely that at least some of those individuals would have been likely to suffer substantial distress on account of their particular circumstances.
62. The Commissioner is therefore satisfied that condition (b) of section 55A(1) DPA is met.

Deliberate or negligent contraventions

63. The Commissioner has considered whether the contraventions identified above were deliberate, but has concluded that she does not have a sufficient basis to find that TVP deliberately contravened the DPA.

64. The Commissioner has gone on to consider whether the contraventions identified above were negligent. First, she has considered whether TVP knew or ought reasonably to have known that there was a risk that these contraventions would occur. She is satisfied that this condition is plainly met, given that TVP was or should have been used to the particular sensitivities of filming within a hospital environment and the especially distressing likely context of that filming. TVP was or should have also been aware that its approach was not consistent with the Broadcasting Code.
65. In the circumstances, TVP ought reasonably to have known that its processing was not fair, lawful or in accordance with the required statutory conditions, and that it was not incompatible with the journalistic purpose it was pursuing to fail to comply with the DPA in that respect.
66. Second, the Commissioner has considered whether TVP knew or ought reasonably to have known that those contraventions would be of a kind likely to cause substantial damage or substantial distress. She is satisfied that this condition is met, given that TVP was aware of the nature of the personal data being filmed and processed, and that that was the very purpose of the processing. Therefore, it should have been obvious to TVP that such a contravention would be of a kind likely to cause substantial damage or substantial distress to the affected patients.
67. Third, the Commissioner has considered whether TVP failed to take reasonable steps to prevent the contravention. Again, she is satisfied that this condition is met. Reasonable steps in these circumstances would have included: prior consent to filming; expressly drawing the

attention of patients to the fact of filming; patients being able to request filming be stopped in their case, including the provision of a stop button on the camera; filming only taking place when production staff were present and could explain and control the filming; and TVP carrying out their own privacy impact assessment prior to any filming. TVP failed to take any of those steps to ensure a fairer processing context.

68. The Commissioner is therefore satisfied that condition (c) of section 55A(1), read with section 55A(3), DPA is met.

The Imposition of a Penalty

69. The Commissioner has considered whether, in the circumstances, she should exercise her discretion so as to issue a monetary penalty.
70. In circumstances where the statutory conditions for the imposition of a monetary penalty are met, the Commissioner would ordinarily expect to impose such a penalty to ensure that the rights of data subjects are enforced and that data controllers more generally are able to learn from the compliance failures of others.
71. She has in this case considered the representations of TVP that ought not to impose a penalty having regard to TVP's Article 10 ECHR rights, and their willingness to learn lessons. The Commissioner does not doubt the latter, but would expect future compliance with the DPA as a bare minimum from all controllers. She accepts that TVP was exercising its Article 10 rights when filming and that its business engages Article 10 rights more generally. However, nothing in the DPA or the Directive requires those carrying out journalistic processing to be completely immune from compliance with data protection law, or enforcement

where there has been non-compliance. Rather, the Commissioner has had regard to Article 10 in setting the level of the penalty.

72. She does not consider that there is any basis to conclude that issuing a monetary penalty in the terms proposed in this Notice would affect economic growth, and in any event, such a penalty would be appropriate in all the circumstances.

The Amount of the Penalty

73. The Commissioner has taken into account the following **mitigating features** of this case:
 - The footage has been destroyed.
 - TVP has explained that it adopted its approach following close liaison with the Trust and its clinical view.
 - TVP has co-operated with the Commissioner.
74. The Commissioner has also taken into account the following **aggravating features** of this case:
 - There was no formal or informal data protection or privacy impact assessment undertaken in advance of filming by TVP itself, reaching its own conclusions on the appropriate balances to be struck.
 - The Commissioner had to commence her own investigation and was not notified of the matter by TVP.
75. The Commissioner's underlying objective in imposing a monetary penalty notice is to promote compliance with the DPA and this is an opportunity to reinforce the need for data controllers to ensure that

processing of sensitive personal data is fair, lawful and in accordance with the statutory conditions.

76. The Commissioner has had regard to the financial information provided by TVP. Although the proposed monetary penalty is not intended to cause undue financial hardship, it must nonetheless be set at a level commensurate with the seriousness of the contravention.
77. The Commissioner has also, as set out above, had regard to the context of the processing in issue involving the exercise of Article 10 rights and the importance Article 10 gives to the protection of journalistic activities in the public interest.
78. Accordingly, and in the light of the representations of TVP in this respect, the Commissioner has decided that a penalty in the sum of **£120,000 (one hundred and twenty thousand pounds)** is reasonable and proportionate given the particular facts of the case and the underlying objective in imposing the penalty.

Conclusion

79. The monetary penalty must be paid to the Commissioner's office by BACS transfer or cheque by **9 May 2019** 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.
80. If the Commissioner receives full payment of the monetary penalty by **8 May 2019** the Commissioner will reduce the monetary penalty by 20% to **£96,000 (ninety six thousand pounds)**. However, you should be aware that the early payment discount is not available if you decide to exercise your right of appeal.

81. 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.
82. Any notice of appeal should be received by the Tribunal within 28 days of the date of this monetary penalty notice.
83. Information about appeals is set out in Annex 1.
84. 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.
85. 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 8th day of April 2019

Signed [REDACTED]

Stephen Eckersley
Director of Investigations
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

ANNEX 1**SECTION 55A-55E OF THE DATA PROTECTION ACT 1998****RIGHTS OF APPEAL AGAINST DECISIONS OF THE COMMISSIONER**

1. Section 55B(5) of the Data Protection Act 1998 gives any person upon whom a monetary penalty notice has been served a right of appeal to the First-tier Tribunal (Information Rights) (the 'Tribunal') against the notice.
2. If you decide to appeal and if the Tribunal considers:-
 - a) that the notice against which the appeal is brought is not in accordance with the law; or
 - b) to the extent that the notice involved an exercise of discretion by the Commissioner, that she ought to have exercised her discretion differently,

the Tribunal will allow the appeal or substitute such other decision as could have been made by the Commissioner. In any other case the Tribunal will dismiss the appeal.

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

General Regulatory Chamber
HM Courts & Tribunals Service
PO Box 9300
Leicester
LE1 8DJ

- 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)).