

DATA PROTECTION ACT 1998

SUPERVISORY POWERS OF THE INFORMATION COMMISSIONER

MONETARY PENALTY NOTICE

To: London Borough of Newham

Of: Town Hall, Barking Road, East Ham, London, E6 2RP

1. The Information Commissioner ("Commissioner") has decided to issue the London Borough of Newham ("Newham") 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 and Seventh Data Protection Principles by Newham.
2. The breach occurred in January 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. Newham is a data controller, as defined in section 1(1) of the DPA in respect of the processing of personal data. Newham as a local authority is responsible, and the data controller in respect of, the work of its Youth Offending Team ("the YOT"), established under section 39 of the Crime and Disorder Act 1998 by each local authority.

5. 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.
6. The first data protection principle provides, at paragraph 1 of 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."*

7. The seventh data protection principle provides, at paragraph 1 of Part I of Schedule 1 to the DPA, that:

"Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data".

8. 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.

9. 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.

10. 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

11. The Commissioner of Police of the Metropolis and the Metropolitan Police Service ("the MPS") operate and maintain a database of personal data about actual and suspected members of gangs in London known as the Gangs Matrix. There are separate versions of the Gangs Matrix database within local policing boroughs.
12. The Gangs Matrix is a database of intelligence about gang members. One of the purposes of the Gangs Matrix is that relevant information and intelligence about persons on the Matrix is shared with relevant bodies in order to prevent and detect crime, deter gang activity and enable appropriate support to those who need it.
13. In order to achieve these aims, the MPS Newham Borough shared its version of the Gangs Matrix with Newham, and the Newham YOT in particular. This was, in principle, sensible and appropriate information sharing given the statutory functions of Newham and the YOT in particular.
14. However, once the Matrix had been provided to the YOT, the MPS no longer controlled what is done with the personal data contained within it. It was the decision of Newham, through the YOT, as to what data was provided to other bodies or agencies.
15. At any given time, Newham was the data controller of the versions of the Matrix database it received from the MPS. In other words, the MPS was responsible for the provision of the database to Newham, but Newham was responsible for what it did with the database once it had been received. Whether or not the MPS shared the database with

others as well is irrelevant for present purposes: Newham was the controller of the database supplied to it.

16. The YOT ran a multi-agency partnership in relation to gangs, with the MPS. The membership of this partnership included representatives of a wide variety of Newham departments (including Children and Adult Services, Education Services, Housing Services, Rehabilitation Service, the Data Warehouse and Newham Research), external statutory agencies (National Probation Service, NHS Public Health and the Department of Work and Pensions), and a non-statutory voluntary organisation (Fight for Peace). (The Commissioner understands that since the events discussed in this Notice the MPS has taken control of such partnership meetings.)
17. The MPS had since 2014 provided to the YOT by email updated versions of the Gangs Matrix for Newham on approximately a monthly basis. The transmission by the MPS to Newham over email was on the CJSM system.
18. The MPS provided two versions of the Gangs Matrix on each occasion: a redacted and an unredacted version. The unredacted version of the database contained in respect of each data subject entries concerning:
 - Matrix ranking;
 - Matrix score (relevant to continued presence on the database);
 - Name;
 - Date of birth;
 - Age
 - Home address;
 - Nickname;
 - IC code (i.e. ethnicity);

- Gang name;
 - Whether the individual is a prolific firearms offender or a habitual knife carrier;
 - Judicial provisions;
 - Police national computer ID.
19. The redacted version of the database did not include the data subject's home address, their ethnicity, whether they were a prolific firearms offender or a habitual knife carrier, or their PNC ID. In other words, the redacted version significantly reduced the likelihood of sensitive personal data being disclosed in error, and also of the risk of locating and harming the individuals included.
20. Prior to 2014, it was the role of the MPS to share relevant data from the Matrix with partner agencies. Since 2014, that has been the role of the local YOTs. Newham state that the MPS has on occasion since 2014 shared the database itself with the Newham multi-agency partnership, but it does not dispute that it has principally been the Newham YOT which has distributed the redacted database since 2014.
21. It is the position of the MPS, as communicated to the Commissioner, that it had not given permission for the unredacted database to be more widely distributed, and that that was the purpose of providing the redacted version. The information handling practices of the MPS have been the subject of separate enforcement consideration.
22. Despite being in receipt of the Matrix databases since at least 2012, Newham has been unable to identify any written policy or guidance concerning its handling, storage or decision-making as to onward distribution in compliance with the DPA.

23. Newham identified that it had an Information Sharing Agreement ("ISA") in place for the purpose of a crime and disorder reduction partnership pursuant to section 115 of the Crime and Disorder Act 1998. The ISA included reference to London Probation, what is now NHS Public Health and the MPS. However, the ISA was last reviewed and amended in 2008. It was not specific to the Gangs Matrix and did not address the Matrix data. It did not address the full breadth of recipients of the database, including internal Newham departments, the Department of Work and Pensions and the voluntary organisation Fight for Peace. It contained no guidance on relevant considerations for the sharing of the database.
24. Newham has an Information Sharing Protocol relevant to the work of the YOT. That Protocol sets out that disclosure of information received from another body must generally be authorised by the original provider. It further records that information which is shared will be considered on a case by case basis.
25. On 23 January 2017, the [REDACTED] received from the MPS a redacted and unredacted updated version of the Matrix database by email, which was dated 10 January 2017. The [REDACTED] forwarded that email to a [REDACTED] on 24 January.
26. On 26 January 2017, the [REDACTED] forwarded the MPS email containing the redacted and unredacted databases to 44 recipients within the YOT and at all of the multi-agency partners referred to above in advance of a meeting.
27. The personal data of 203 data subjects was contained in each of the databases.

28. Approximately 80 of those data subjects had a Matrix score of zero, indicating that they were either no longer a member of gang, had no further involvement with gang crime or were simply a victim of gang crime. The YOT shared the entirety of the databases.
29. On 16 May 2017, a known gang member informed their probation officer that they were in possession of a photograph, via Snapchat, of a paper copy of the Newham Gangs Matrix. The photographed page showed the personal data of approximately 50 high risk offenders.
30. The MPS was notified and an investigation was commenced. Identifiable data subjects were warned. In some instances, police protection was offered.
31. On 20 September 2017, a member of a different, rival, gang informed their probation officer that they also had photographs of the Matrix. That individual had photographs of two further pages of the Newham Gangs Matrix, from which the MPS was able to establish that it was the unredacted copy of the 10 January 2017 version of the database.
32. The Commissioner has not been able to establish how the individual gang members obtained photographs of the unredacted Newham Gangs Matrix. Nonetheless, she considers that it is more likely than not that the matter was ultimately attributable to the wide distribution of the unredacted database by the YOT, without regulation or control. Newham's representations accept that it was also the view of the MPS that it was Newham's circulation of the unredacted database which allowed a third party to provide that data to others.
33. Since this incident, there have been a number of incidents of gang violence, including murder, where the victims had appeared on the

compromised pages of the unredacted database. In August 2018, the Newham Local Safeguarding Children Board concluded a Serious Case Review into the murder of a gang member named 'Chris'. He was shot and killed on 4 September 2017. His name appeared on the Newham Gangs Matrix. The Commissioner does not draw a causal connection between this incident – or any other incident of violence – and the established breach on the part of Newham. She records these matters because they are highly relevant to the nature and extent of the harm that could result if personal data of the type contained in the unredacted database was not processed under strict controls. The context is materially dissimilar to many other data loss incidents which the Commissioner has had cause to investigate.

34. This matter was drawn to the attention of the Commissioner by the MPS and not by Newham.
35. It was not until December 2017 that Newham conducted any sort of investigation into the matter. Despite heavy reliance on that investigation in its representations, upon further enquiry it appears that no investigation report was produced. It appears to have consisted of little more than the [REDACTED] – and subsequently the Information Governance Team – checking the email accounts of two members of staff of the YOT to trace how many times the unredacted database was emailed to others. It does not appear that the investigation made any attempt to establish, by discussion with the other parties in attendance at the multi-agency meetings, what had been done with the unredacted database emailed in January 2017.
36. In her Notice of Intent, the Commissioner made findings that the Newham YOT had routinely circulated by email the unredacted database since 2014. Newham's representations firmly rejected that

finding on the basis of its investigation, which it explained had found that the error had occurred on the single occasion in January 2017. In the circumstances, the Commissioner does not make any findings beyond the circulation of the unredacted database in January 2017. However, it is also necessary and appropriate to record that:

- (a) At no stage in its correspondence with the Commissioner in relation to, on any view, a serious data protection breach did Newham explain that it had carried out an investigation which confirmed the number of times the unredacted database had been emailed. It is, at best, unhelpful for this information to be provided only in response to the Notice of Intent.
- (b) The findings of repeated circulation by email were based upon what Newham itself had told the Commissioner; a fact seemingly entirely ignored in its representations. In an email from the [REDACTED] dated 4 April 2018, it was stated that "*Historically, the unredacted version has been shared with the yes and wider partnership ie those who are members of the tactical group [sic]*". In an email of 30 May 2018, the same officer asserted, in response to a question asking if it was usual practice for the unredacted database to be shared, that "*This information has been shared with partners over the last four years matrix. More recently, the unredacted version is sent to partners [sic]*".
- (c) In response to the Commissioner's enquiries arising from Newham's representations, and raising the previous information it had asked for and been provided, the [REDACTED] sought to explain that "*our wording was somewhat ambiguous*". That is no explanation at all. Newham's earlier

wording was not at all ambiguous. Rather, it provided inaccurate and incomplete information to the Commissioner in the course of her investigation.

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

The Contraventions

39. The Commissioner finds that Newham contravened the DPA in that it failed to take appropriate technical and organisational measures against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data in contravention of the Seventh Data Protection Principle at Part I of Schedule 1 to the DPA.
40. The Commissioner finds that the contravention was as follows:
 - Newham distributed the unredacted database on 26 January 2017 when it was not necessary to do so. Sharing of the redacted database was likely to be necessary, but the additional data in the unredacted database was not;
 - Newham distributed the personal data to an excessive number of partner agencies and individual recipients, without consideration of the necessity of that distribution;

- Newham had taken no formal decision and produced no rationale for its information sharing;
- Newham had in place no written policy or guidance concerning sharing of the Matrix databases;
- Newham had in place no applicable ISA or other written agreement;
- It is unclear whether Newham considers that its partner agencies would act as data controllers or data processors. If the latter, the absence of a written agreement is a failure to comply with paragraph 12 of Part II of Schedule 1. If the former, the absence of a written agreement remains a clear failure of basic data protection practice in order to secure shared personal data;
- Newham failed to comply with such written policies as were applicable in general terms to information sharing by the YOT;
- Newham had taken no steps to seek to exercise any control over, or otherwise protect, the personal data it so widely distributed; and
- Newham had no systems in place for secure encrypted distribution to recipients without existing secure email accounts.

41. The Commissioner considers this contravention to be especially flagrant, and many of the elements of the contravention – such as the absence of an applicable ISA – were failures over an extended period of time and do not arise solely because of the circulation of the unredacted database on 27 January 2017.
42. For the avoidance of doubt, Newham raised in its representations that the Commissioner had carried out a data protection audit of Newham in 2012 and relied on it not having raised issues relevant to this Notice. The Commissioner does not accept that an audit in 2012 is of any assistance to Newham, particularly where the scope of that audit did not extend to data sharing, still less the particular policies in issue.

43. Further, the Commissioner finds that Newham failed to process the personal data of data subjects included on the Matrix 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 when it circulated the unredacted database on 26 January 2017.
44. All potentially relevant conditions provided for in Schedules 2 and 3 (both of which are applicable) require that the processing by Newham was "necessary". The sharing of the unredacted database, when a redacted database was provided and available, in its entirety with no consideration of the relevance of individual entries or categories of entry, to a wide variety of individuals and bodies without differentiation, without formal written information sharing agreements and policies in place, was not necessary for the purposes of Schedules 2 or 3 to the DPA.
45. Newham could have processed the sensitive personal data of the data subjects significantly more proportionately, and more restrictively. It did not do so and it does not appear to have even occurred to Newham to consider whether it might need to evaluate and rationalise its data sharing choices.
46. For related reasons, the processing of the sensitive personal data of the data subjects was not fair. It was excessive. It would reasonably be expected that personal data of this type would be shared outside of Newham only where strictly necessary and under detailed written guidance, polices and agreements. None of those existed.
47. The Commissioner is satisfied that Newham was responsible for these contraventions.

48. The Commissioner has gone on to consider whether the conditions under section 55A DPA were met.

Seriousness of the Contraventions

49. The Commissioner is satisfied that the contraventions identified above were serious. This is because the Matrix contained highly sensitive personal data of a substantial number (203) of data subjects.
50. In the circumstances, the Commissioner considers that the contraventions were serious having regard to the number of affected individuals and the nature of the personal data involved.
51. Should it be necessary to do so, the Commissioner would further support her conclusions on seriousness by reference to the disappointing representations of Newham in seeking to defend the ISA.
52. 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

53. The relevant features of the kind of contraventions are:

- Significant and long-standing failures to ensure data sharing on the basis of written agreements, documented decisions and identified rationales;
- A failure to attempt to ensure any degree of control or data security over shared data of a sensitive kind, with obvious risks of harm in the event of unauthorised disclosure;

- An absence of any recorded consideration of what degree of data sharing was strictly necessary and to whom;
 - Disclosure on one occasion of excessive amounts of data, to excessive numbers of persons, being both disproportionate in itself and increasing the risks of data loss.
54. The Commissioner considers that the contraventions identified above had the following potential consequences:
55. As to the First Principle, the contravention was likely cause distress to data subjects who discovered that their sensitive personal data has been disclosed to an array of recipients (not all of whom are even public bodies) who would then be able to use that data in decision-making and actions concerning the data subjects.
56. As to the Seventh Principle, the contravention was unusually serious. It was likely to cause distress to data subjects that such a sensitive and unredacted database was not the subject of sufficient data security controls. It was also likely that if a loss of such control led the database to come into the hands of inappropriate third parties, including criminal gangs, actual harm to the named and identified subjects would be a real risk. The unredacted Matrix would be a [REDACTED] of identified targets in a context of existing highly dangerous criminal rivalries. The actual harm caused to individual data subjects whose personal data was contained in the unredacted database in issue – and the risk management steps taken on an urgent basis by the MPS upon discovery of the breach – underlines the nature of the risk. As noted above, the nature of the risk and harm in the context of the personal data in issue here is materially different to that in many data loss incidents investigated by the Commissioner.

57. Further, the contravention of the Seventh Principle exposed a wider range of persons to the risk of actual harm. The unredacted database contained the home addresses of the data subjects. Many of those data subjects will live at those addresses with family members who are entirely unconnected with gangs. Yet the disclosure of their addresses exposes not only the data subjects themselves but also those living at the same address to the risk of harm through reprisals or being bystanders in acts of criminal violence.
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 also considers that such damage and/or 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.
60. The Commissioner has also given weight to the number of affected individuals: over 200. The Commissioner considers that even if the damage or 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 lost, it was inherently likely that at least some of those individuals would have been likely to suffer substantial damage or substantial distress on account of their particular circumstances.

61. The Commissioner is therefore satisfied that condition (b) of section 55A(1) DPA is met.

Deliberate or Negligent Contraventions

62. The Commissioner has considered whether the contraventions identified above were deliberate. In particular, she has considered whether Newham's breach of the Seventh Principle was so flagrant that she should infer that it was deliberate. However, on balance, she has concluded that Newham did not deliberately contravene the DPA.
63. The Commissioner has gone on to consider whether the contraventions identified above were negligent. First, she has considered whether Newham 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. Newham is, or ought to be, aware of the long-established requirements of the DPA in relation to both the First and Seventh Principles. None of the matters forming the contraventions are unusual or complex. Newham's failures were basic, fundamental and egregious. They would be inexplicable from any data controller, let alone one used to processing and sharing all manner of highly sensitive personal data.
64. Second, the Commissioner has considered whether Newham 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 Newham was plainly aware of the sensitive personal data contained in the unredacted Matrix databases, and the context of criminal violence to which that sensitive personal data related. Therefore, it should have been obvious to

Newham that such contraventions would be of a kind likely to cause substantial damage or substantial distress to the affected individuals.

65. Third, the Commissioner has considered whether Newham failed to take reasonable steps to prevent the contraventions. Again, she is satisfied that this condition is met. Indeed, she is satisfied that Newham appears to have taken no material steps to prevent the contraventions, still less steps of the kind which would be expected of a responsible and experienced public authority in handling and sharing sensitive personal data. At the very least, Newham should have ensured that there were clear written information sharing agreements in place.
66. In summary, the Commissioner finds that Newham has been grossly negligent in respect of its failure to comply with the DPA. She notes that Newham, rightly, took no issue in its representations with the finding of negligence.
67. The Commissioner is therefore satisfied that condition (c) of section 55A(1), read with section 55A(3), DPA is met.

The amount of the penalty the Commissioner proposes to impose

68. The Commissioner has considered the purported mitigating factors raised by Newham in its representations. She does not dispute the value and importance of properly calibrated and protected information sharing in the context of seeking to encourage young people out of gang crime, but the sensitive nature of that context also underlines the very great care needed on the part of data controllers. To the extent that Newham achieved a 'high assurance' rating from the

Commissioner in the 2012 audit in relation to the areas within the scope of that audit, the Commissioner does not consider that substantial weight can be attributed to that rating in the different context of the present issues and contraventions.

69. For the avoidance of doubt, the Commissioner does not consider in the context of this case that any subsequent steps on the part of Newham to bring itself into compliance can be classified as a mitigating circumstance. Compliance with the law is the bare minimum to be expected. Nor is the fact that the incident was a single identified instance of sharing of the unredacted database; that is an inherent part of the breach and if a single incident is sufficiently serious to warrant a monetary penalty it cannot also operate as a mitigating factor.
70. By contrast, the Commissioner considers that not only are the contraventions themselves particularly serious, but that there are also **aggravating features** of this case:
 - A responsible data controller would be expected, through internal data auditing and training, to have identified the egregious failings over an extended period of time in its written policies in particular.
 - Unusually for a contravention of the Seventh Principle, there was – and remains – a real risk that the loss of control over the unredacted database would result in physical harm, including death, of the data subjects. The potential consequences of the breach, as distinct from the nature of the data itself, are relevant as an aggravating factor.
 - Newham did not notify the Commissioner of the self-evident breach when gang members revealed that they had authorised access to parts of the database. It is irrelevant whether or not it believed the MPS may have intended to do so: it was the data controller's responsibility.

- Newham's investigation appears to be have been brief, limited and not recorded in the manner the Commissioner would expect of a responsible data controller.
 - To the extent that Newham carried out an investigation, it did not clearly and proactively provide the content and outcome of that investigation to the Commissioner during her own investigation.
 - Newham's responses to the Commissioner during her investigation were inaccurate and misleading (albeit in a manner against its own interests).
 - No data protection or privacy impact assessment was carried out in relation to the data sharing.
71. The Commissioner has had regard to the fact that Newham is a public authority so liability to pay a monetary penalty will not fall on any individual, and that has access to sufficient financial resources to pay the proposed monetary penalty without causing undue financial hardship.
72. 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 appropriate and effective security measures are applied to personal data.
73. Taking into account all of the above, the Commissioner has decided that a penalty in the sum of **£145,000 (one hundred and forty-five thousand pounds)** is reasonable and proportionate given the particular facts of the case and the underlying objective in imposing the penalty.

Conclusion

74. The monetary penalty must be paid to the Commissioner's office by BACS transfer or cheque by **8 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.
75. If the Commissioner receives full payment of the monetary penalty by **7 May 2019** the Commissioner will reduce the monetary penalty by 20% to **£116,000 (one hundred and sixteen thousand pounds)**. However, you should be aware that the early payment discount is not available if you decide to exercise your right of appeal.
76. 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.
77. Any notice of appeal should be received by the Tribunal within 28 days of the date of this monetary penalty notice.
78. Information about appeals is set out in Annex 1.
79. 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.

80. 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 1st of April 2019

Signed

Stephen Eckersley
Director of Investigations
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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)).