

Data Protection Act 1998

Monetary Penalty Notice [PECR]

Dated: 18 March 2013

Name: DM Design Bedrooms Ltd

**Address: 1 Deerdykes Place, Westfield Industrial Area,
Cumbernauld, Glasgow, G68 9HE.**

Statutory framework

1. DM Design Bedrooms Limited, ("DM Design") whose registered office is at 1 Deerdykes Place, Westfield Industrial Area, Cumbernauld, Glasgow, G68 9HE (Companies House Registration Number: SC089938) is the person in this Notice alleged to have used a public electronic communications service for the purpose of making unsolicited calls for the purposes of direct marketing contrary to Regulation 21 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. 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 subparagraph 2 of PECR the Information Commissioner (the "Commissioner") was made responsible for the enforcement functions under PECR.
3. 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.
4. 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.

5. The Commissioner has issued statutory guidance under section 55C (1) of the Act about the issuing of monetary penalties ("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

6. Section 55A

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

7. DM Design was incorporated on 4 October 1984. It has two Directors on record namely, Donald Macleod and Elizabeth Ann Macleod, who is also the company secretary. They have both been in post since 31 July 1988. DM Design is a national company which manufactures, fits, sells and markets kitchens, bathrooms and bedrooms.
8. DM Design is on the Commissioner's statutory register of data controllers. Their registration number is Z9920095. This registration covers DM Design for the processing of personal data for the purposes of their business.
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 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. Telephone Preference Service Limited ("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 TPS for a fee and receive from them monthly a list of numbers on that register.
10. DM Design carried out direct marketing to consumers by telephone. It is a fundamental requirement of the 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 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 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 receives a monthly update of the TPS list as new numbers are

registered daily by consumers. 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. Between 1 June 2011 and end of November 2012, ("period of complaint") TPS received 1,945 (One thousand nine hundred and forty five) complaints from persons registered with them who had received unsolicited direct marketing calls. TPS referred all those complaints to DM Design and then to the Commissioner. A small proportion of those complainants had also complained directly to the Commissioner during the same time period. The Commissioner had also received some additional complaints made only to him.
13. On 14 May 2012 a letter was sent to DM Design. It explained the amendments to the Regulations contained in PECR 2011, and stated that they enable the Commissioner to issue civil monetary penalties up to £500,000. The letter also identified that DM Design were the subject of a number of complaints to TPS and the letter asked DM Design the following questions;
 - What is the source of their data that they use to promote their business (is that obtained from customers directly or purchased from third parties)?
 - If information is obtained directly from customers, how do they ensure that they have consented to receiving marketing calls?
 - If information is purchased from third parties, what contractual obligation do they rely on in relation to the use of that information and do they carry out any due diligence checks in relation to the list providers to establish whether the product is as described (e.g. opt-in data where the subscriber has consented to third party use)?
 - Can they confirm whether or not they screen the information against the TPS register prior to making unsolicited marketing calls?

- Can they confirm whether or not they operate an internal suppression list of numbers of those people who have informed them they do not want to receive calls?
- Can they provide a description of any process that they have in place to run any marketing list against the TPS register and their in-house suppression list?
- Is there any explanation they can offer in relation to the number of complaints made to TPS?
- Is there any additional information that they think may be useful to the Commissioner in understanding the process that they operate?

The letter required a response within 21 days and warned that any information they may supply could influence how the Commissioner responds to the complaints.

14. Meanwhile, information received from TPS ¹ indicated that on 3 July 2012 DM Design purchased an 'ad hoc' list, made a 'one-off' 28 day subscription payment, and then downloaded a copy of the TPS list on 5 July 2012. This list would only have been licensed for use for 28 days before it became out of date even if they had made use of it.
15. On 3 July 2012 a response was sent to the ICO by DM Design. They explained that;
 - they had experienced software problems which resulted in the TPS Register and their internal suppression list not being integrated into their data list. They hoped, at that time, that the matter had been rectified and said that they had just ordered a "new TPS list";
 - they had been in business since 1984 and had built up their own marketing database of previous customers and customers who had, at one time or another, shown an interest in one of their products. They explained that if someone asked them not to call, this information would be, "added to a list and

¹ TPS have the facility to monitor the use of the list.

taken off the data as soon as we have the information passed to the marketing departments". This had been a manual process which could result in omissions from time to time. However, now that they had a new computerised system in place this would, "hopefully" eradicate the problem;

- they said they had recently conducted staff training sessions in relation to how their staff spoke to people on the phone, and also how to deal with anyone who may be abusive to them "which does happen from time to time";
- in addition, they stated that their marketing telephones did not receive in-coming calls as this would interfere with the day to day running of the office, but that they had set up a message on these lines directing the caller to their e-mail address where they can contact them with any issues. They stated that this was proving helpful to further control any issues arising.

16. From the 3 July 2012 onwards, TPS referred 508 complaints to the Commissioner about unsolicited marketing calls being made by DM Design. (These have been included in the total of 1,945 referred to in paragraph 12 above.).
17. On 4 August 2012 the Commissioner wrote to the Marketing Manager at DM Design and informed her that, in light of the content of their letter of 3 July, he would be reviewing the matter in October 2012 to see if there had been a reduction in the number of complaints recorded against DM Design.
18. Of the 1,945 complaints to TPS which were referred by e-mail to DM Design at the time each one was made, TPS only received 19 responses from DM Design. These responses were all made at the outset in response to some of the earlier complaints, but then ceased. The last response by DM Design to the TPS is one dated 30 May 2012. That response merely confirmed that suppression would take place and did not state the reason the call was made. Since that date it appears that no further attempts were made by DM Design to respond to any complaints referred to them by TPS.

19. The complaints referred to in paragraph 12 received by the Commissioner all related to calls made to people who were registered on the TPS 'do not call' list. Of these complainants:

- 13 complained of repeat calls made by DM Design;
- 6 complained about previous complaints they had made, some numerous, to TPS and were dissatisfied with the responses by DM Design;
- 4 complainants stated that the callers gave a false statement as to the identity of the person making the call, and on one occasion the caller stated incorrectly that the subscriber's husband had previously consented to being called;
- One complainant stated that the caller was so intimidating that the subscriber felt compelled to report the matter to the police (officer's name, number and case reference number supplied), and;
- One recipient of a call has dementia and as a vulnerable person felt pressurised by the caller.

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

Breaches of Regulation 21

20. 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.”(c.f. the TPS register see paragraph 10 above)

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

21. 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”.
22. 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 Data Protection Act at section 11 as "the communication (by whatever means) of any advertising or marketing material which is directed to particular individuals."
23. 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.
24. The Commissioner is satisfied that unsolicited calls referred to in the background above were made by or instigated by DM Design, and were received by individual subscribers whose numbers were registered with the TPS. The Commissioner is further satisfied that those recipients had not given their prior consent to DM Design to receive the calls. Therefore the Commissioner is satisfied that DM Design has acted in breach of Regulation 21.

Serious (S55A (1) (a))

25. The Commissioner is satisfied that these contraventions of PECR have been serious as required by Section 55A (1) (a) because there have been multiple breaches of Regulation 21 by DM Design arising from its activities and these led to an extremely large number of complaints to TPS.

26. These complaints were from individuals who were registered on the TPS 'do not call' list, but had not given their consent to DM Design to receive calls. Each of the 1,945 complaints were sent by TPS to DM Design inviting a response, and they only responded to TPS on 19 of those occasions early on when the complaints first started coming in.
27. During the period of complaint, according to records held by TPS and the Commissioner, they were one of the organisations about which the most complaints were received.
28. In determining whether the contravention was serious consideration has to be given to the Commissioner's Guidance. The guidance gives an example of a serious contravention on page 13 as follows:

"Making a large number of automated marketing calls based on recorded messages or sending large numbers of marketing text messages to individuals who have not consented to receive them, particularly if distress and anxiety is caused to the recipients."

This is a case which is comparable to that example.
29. Therefore the Commissioner is satisfied that the case meets the 'seriousness threshold' because of the nature, duration and extent of the breach.

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

30. The Commissioner is satisfied that the contravention is of a kind likely to cause substantial damage or substantial distress as required by section 55 (1) (b) because of the large numbers of individuals who received these unsolicited calls and the nature of some of the complaints they gave rise to.
31. In addition there is evidence of substantial distress caused to individual recipients. In one case, the recipient of a number of calls from DM Design reported the matter to the police after receiving a series of calls from them which began in the summer of 2011. That complainant informed the callers at the first opportunity that she did not want any more calls. Nevertheless the calls increased to such an extent that that she considered it necessary to make a complaint of harassment to the police. The complainant said it was "intimidating and unnerving".

32. Another complaint was made on behalf of an elderly woman who suffers from dementia. The complainant, who was a relative of the recipient, informed the Commissioner that the caller was "very pushy" and was trying to persuade the elderly woman to agree to accept a "free voucher".
33. Further examples of the nature of the complaints to the Commissioner about DM Design were:
- the callers were rude and unprofessional,
 - the calls have been going on for "years",
 - the calls were "relentless" and they cannot trust DM Design,
 - DM Design repeatedly ignores complaints and they treat the TPS and the law with contempt,
 - the calls cause great disturbance and distress;
 - the calls are a nuisance and are an invasion of privacy;
 - one caller claimed that the calls caused him loss by his incurring international call charges.
34. Although the distress in every individual 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 in particular those receiving multiple calls, means that overall the level was substantial.
35. 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".
36. 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 actually done so.

DM Design 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)).

37. The following facts are indicative of the fact that DM Design knew or ought to have known there was a risk of contravention and that it would be of a kind likely to cause substantial damage or distress.

- DM Design has been aware of its obligations under PECR since 2004 when the Commissioner first raised his concerns with it.
- The volume of complaints received from TPS regarding the marketing calls should have made DM Design 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 DM Design 1,945 times regarding complaints.
- Complaints continued to be received by TPS even after the Commissioner's letter of May 2012.
- Complainants asked DM Design to stop calling them but despite this DM Design continued to do so.
- One of the complainants told the Commissioner that the caller from DM Design had told her that he would never remove the recipient's name from the list and would "continue to call at more inconvenient times like Sunday lunchtime". As a result the police had cause to contact their offices.
- DM Design failed to screen calls against a current TPS list.

38. The volume and nature of the complaints received from TPS regarding the marketing calls should have indicated to DM Design that they were continually breaching the regulations, and that it was only a matter of time before substantial distress occurred.

39. The Commissioner is therefore satisfied that section 55A (3) of the Act applies in that DM Design 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 damage or substantial distress.

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

40. DM Design is a company which had been in existence for some time before PECR came into force in 2003, and has been operating under these regulations since then. DM Design is involved in direct marketing to consumers. It is a fundamental requirement of the 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.
41. DM Design has provided no evidence of any formal policies and procedures in place for the staff to follow to ensure they know how to comply with PECR. There should have been effective systems in place to prevent the breaches of PECR.
42. The fact that DM Design had made an effort to buy one 'ad hoc' TPS list, in response to the Commissioner's enquiries, was one step they took, but DM Design have not carried out any effective screening of numbers against the TPS list. DM Design were not licensed by TPS until 01/03/13 and then they first downloaded a list on 03/03/13. Therefore between 02/08/12 and 01/03/13 (about 7 months) they did not hold a licence with TPS to enable them to screen their data.

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

43. Nature of the contravention:

- The Commissioner has had cause to raise concerns with DM Designs before. The first time was in 2004. This non-compliance continued after May 2011 when the new CMP powers came into force

- The high volume of unsolicited calls made during the period of complaint. DM Design received 1,945 complaints from TPS which they largely ignored as they only responded to 1% of them. The complaints about the company are still continuing.
- DM Design claimed the calls were to past and existing customers who had agreed to any contact simply by being previous customers, or people who had been interested in their products. Yet they had still ignored requests from these customers for the calls to stop when they asked.

44. Effect of the contravention:

- There were large numbers of people affected by the calls
- Not only was the contravention of a kind likely to cause substantial distress to the subscribers receiving them, particularly through a cumulative effect, but substantial distress was actually caused to individuals
- One individual was harassed by a series of calls and another, vulnerable person, was unduly pressurised by a call from DM Design

45. Behavioural issues by DM Design:

- Exhibited an almost complete disregard for PECR during the period of complaint
- The steps that were taken after the Commissioner had written to them to ensure the business was complying with PECR were ineffective

46. Impact on DM Design:

- They gained a commercial advantage by not taking reasonable precautions to ensure compliance

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

47. Behavioural issues:

- DM Design co-operated to an extent with the Commissioner by responding to correspondence sent to it.

48. Impact on DM Design:

- Sufficient financial resources to pay a penalty without undue financial hardship.
- There is a potential for damage to reputation of DM Design.

Other considerations

49. The Commissioner's underlying objective in imposing a monetary penalty is to promote compliance with the PECR. The making of unsolicited direct marketing calls is a matter of significant public concern. A monetary penalty in this case should act as a general encouragement towards compliance with the law, or at least as a deterrent against non-compliance, on the part of all persons running businesses currently engaging in these practices. This is an opportunity to reinforce the need for businesses to ensure that they are only telephoning consumers who want to receive the calls. This is the first Notice of Intent to be served under regulation 21 of the PECR.

Notice of Intent

50. A notice of intent (NOI) was served on DM Design dated 11 February 2013. The Commissioner received written representations from the data controller's Chief Executive in a letter dated 15 August 2012. 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 data controller.

Amount of the monetary penalty

51. 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 £90 000 (ninety thousand pounds) is reasonable and proportionate given the particular facts of the case and the underlying objective in imposing the penalty.

Payment

52. The monetary penalty must be paid to the Commissioner's office by BACS transfer or cheque by 16 April 2013 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

53. If the Commissioner receives full payment of the monetary penalty by 15 April 2013 the Commissioner will reduce the monetary penalty by 20% to £72 000 (Seventy Two thousand pounds).

Right of Appeal

54. 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 16 April 2013 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

55. 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 data controller 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 the 18 March 2013

Signed: 

David Smith
Deputy Information Commissioner
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.

3. 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 16 April 2013 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.

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;
- d) you must provide with the notice of appeal a copy of the monetary penalty notice or variation notice;
- e) 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 (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).