

Breach Determination and Sanction

Inquiry into ‘Jacksons Group Limited & Jacksons (CI) Limited incorporating Van Mossel Jacksons and Van Mossel Motormall’, previously known as: ‘Jacksons (CI) Limited incorporating Jacksons and Motormall (“Jacksons (CI) Limited” or “the Controller”) compliance with The Data Protection (Bailiwick of Guernsey) Law, 2017 (“the Law”)

Background to the determination

1. This case concerns an investigation into a contravention of the Law primarily affecting customers of Motormall Guernsey by Jacksons (CI) Limited, a Channel Islands’ car dealership which operates both the Jacksons Guernsey and Motormall Guernsey dealerships. During the course of the investigation, Jacksons (CI) Limited underwent a change in both ownership and leadership.
2. On 10 January 2023, the Authority wrote to Jacksons (CI) Limited informing that: *“the Authority is opening an Inquiry under section 69 of the Law in relation to intelligence received alleging that the Controller has engaged in direct marketing communication with customers, against the wishes of a proportion of those customers contacted.”*

The basis for the conduct of this Inquiry is that the Authority have received more than one stream of intelligence alleging that the Controller has engaged in direct marketing communication with customers, against the wishes of a proportion of those customers contacted”.

3. Jacksons (CI) Limited subsequently described a software-based marketing consent platform used to record customer marketing contact preferences.
4. Jacksons (CI) Limited further clarified that *“When a customer record is first set up they are asked for their preferences which are recorded, then at any time they can request their preferences to be updated or removed and the changes are logged directly on the customer record under the GDPR section and this reflects the most up to date customer preferences, however it also shows any previous versions and who changed them and by what method we were advised of the change”.*

5. Additionally, it was stated that a report had been run to highlight any customer marketing contact preferences captured or amended between 1 January and 31 December 2022. There were said to be 2039 relevant customer records for Jacksons Guernsey and 1505 for Motor Mall Guernsey.
6. On 17 April 2023, the Authority required Jacksons (CI) Limited, under Schedule 7 of the Law, to provide details of those 2039 and 1505 customer records, along with customer marketing contact preference information extracted from their customer database (save for any customer identifying information).
7. Jacksons (CI) Limited provided two Excel spreadsheets; one each for Jacksons Guernsey ("JG") and Motor Mall Guernsey ("MMG"). These spreadsheets detailed: the name of the Retailer (JG or MMG), the Customer Type (whether they were a 'commercial' or 'retail' customer), the Method of Consent (the communication method by which the customer requested an amendment to their marketing contact preferences) and the date that request was received.
8. Upon reviewing the MMG spreadsheet, the investigating officer noted a disproportionate number of customer records where the communication method by which the customer requested an amendment to their marketing contact preference was listed as 'post'.
9. As a result, on 13 July 2023, Jacksons (CI) Limited were required to provide the Authority with extracts of three specific customer records, chosen at random, where the method of consent was listed as 'post'. These extracts were to include the original customers' recorded marketing contact preferences and any subsequent changes to those customer contact preferences.
10. Those three customer records were subsequently provided by Jacksons (CI) Limited, along with a covering letter that read as follows:
11. *"In respect of points 2, 3 and 4, I attach an extract of the Jacksons Group GDPR record for each of these three customers and any changes recorded to contact preferences. On further investigation of points 2, 3 and 4 for which the Method of Consent recorded is POST, which has been selected incorrectly and we have noted that this is the same member of staff. This review has highlighted a number of deficiencies, namely:*
 - *Not following procedure.*
 - *Lack of understanding of importance of recording customers GDPR preferences correctly.*

To address these issues, we will implement a remediation plan which includes a revision to procedures, and further training for the member of staff involved as well as the wider team. We intend to make the process more robust to prevent recurrence. Once all measures are in place, we will monitor regularly to ensure that this is followed correctly”.

12. All three customer record extracts evidenced an amendment to the contact preferences by the same member of staff. These amendments changed all the customers’ contact preferences to ‘Yes’. In essence, this changed each record to indicate that the customer had consented to receive all marketing communications from Jacksons (CI) Limited when they had not. These communications related to ‘Future Offers’ and ‘Products and Services’ by email, phone, post, social media or SMS.
13. It was further clarified by Jacksons (CI) Limited what role the member of staff in question held.
14. Jacksons (CI) Limited went on to add that they had *“looked at the three cases identified and could not find any confirmation that customer consented to make the contact preference changes by post[...]Contact attempts have been made to all 3 customers by the Controller. [Customer 1] has confirmed that POST and PHONE are acceptable means of contact, records updated to reflect this. [Customer 2] - relocated to UK all records updated to no contact. [Customer 3] – has confirmed does not require marketing, contact records updated to reflect this”.*
15. As a result of the above, the Authority required the provision of five more customer records where the 'method of consent' was again listed as 'post'. Again, all five customer records showed evidence of the amendment of customer records to show that customers agreed to all marketing contact when they had not.
16. In a covering letter, Jacksons (CI) Limited detailed that: *"A review has been carried out which has identified that changes have been made to a number of customer records that may not align with the customer wishes[...]The outcome of the review is that we propose to contact the identified customers to confirm their contact preferences and update our systems with the outcome".*
17. Jacksons (CI) Limited went on to add: *"During a follow up meeting with the [REDACTED] in early September the [REDACTED] advised that there was a meeting with a former [REDACTED] [REDACTED] and is no longer with the company) to discuss the levels of missing data and not setting up GDPR preferences. [REDACTED] advised the [REDACTED] to mark these customers as post. when [sic] asked if the [REDACTED]*

██████ had referred this to anyone else such as the Data Controller or Group Risk & Compliance Director to check if was ok to put the method of contact as post, the response was no as he was just following the ██████ advice. The ██████ had advised that in the UK there was no comeback..."

18. In relation to a question regarding the lawfulness of the processing, Jacksons (CI) Limited detailed that: *"As described previously, the Controller usually relies upon consent and/or legitimate business interest depending upon the circumstances of the case. For those customers who have purchased from us, we use legitimate business interests, even though some of our documentation still asks a customer to agree to that contact. In other cases, we do rely on consent, in terms of queries through the website and discussions face to face with customers".*

19. Jacksons (CI) Limited subsequently responded to a question regarding the scope of this practice: *"Following the review of consent by POST for 2023, 69 records were found, and as advised in our letter of 30 November 2023, the last entry that was updated by this method was on 29/07/23. We have identified that these entries were from the same two individuals, who were acting outside of our normal procedures, and without our knowledge[...]we would add, that the ██████ has left the business".*

Inquiry Methodology and Assessment of Evidence

20. In order for the Authority to verify the scope of the alleged contravention of the Law, Jacksons (CI) Limited were required to produce 321 customer records where the 'method of consent' on the customer record was listed as 'post'.

21. The investigator reviewed all 321 records and assessed that 318 of these customer records likely evidenced the amendment of customer marketing contact preferences. In all cases, the records indicated that the customer had consented to receive all forms of marketing.

22. With regard to 32 of the compromised records, they had originally indicated customer consent to all forms of marketing contact. This left 286 records that demonstrated a wilful alteration of consent against the customers' wishes.

23. This investigation demonstrated that the scope of the practice was larger than the 69 customer records that Jacksons (CI) Limited reported to the Authority.

24. This finding was subsequently supported by Jacksons (CI) Limited's own representations of 3 July 2025, sent in response to the issuance of a proposed breach determination, where it was detailed that: *"The duration of the unlawful processing of approximately 430 records was 1 year".*

25. With the unlawful amendments of customer marketing contact preferences taking place over the course of one year, it was assessed as probable that customers were marketed to against their wishes and consent.
26. This assessment was confirmed in Jacksons (CI) Limited's representations of 3 July 2025 where it was said that *"individuals may have received in the region of 25 marketing communications"*.

Jacksons' Conduct during the Inquiry

27. Throughout the investigation, Jacksons (CI) Limited was both cooperative and forthcoming.
28. The Authority appreciates Jacksons (CI) Limited's professional engagement and commitment to addressing the issue. It is noted that Jacksons (CI) Limited proactively carried out a review once the issue was raised, and as a result of this review, training was provided to all customer facing staff and a commitment made to contact affected customers.

Reasons for the determination

Section 6 of the Law

29. The data protection principles and a controller's responsibility to comply with those principles are set out in section 6 of the Law.

30. Section 6 stipulates that:

"(1) A controller must –

(a) ensure that the processing of all personal data in relation to which the person is the controller complies with the data protection principles in subsection (2)(a) to (f), and

(b) comply with the principle in subsection (2)(g).

(2) The data protection principles are –

(a) Lawfulness, Fairness and Transparency: Personal data must be processed lawfully, fairly and in a transparent manner in relation to the data subject”.

(d) Accuracy: Personal data processed must be accurate and where applicable, kept up to date, and reasonable steps must be taken to ensure that personal data that is inaccurate (having regard to the purpose for which it is processed) is erased or corrected without delay.

31. The Authority is of the view that Jacksons (CI) Limited failed to comply with the requirements of these provisions by virtue of the below:
32. As Jacksons (CI) Limited recognises and accepts, a practice took place over the course of one year that entailed the intentional alteration of customer records by certain staff. Specifically, members of the Motormall Guernsey sales staff, under direction of a senior Jacksons employee, changed multiple customer records where the customer had elected to not consent to receiving marketing communication, to consenting to receiving marketing communication, without those customers’ knowledge or consent.
33. This was a deliberate action and carried out with a view to promoting business interests. Jacksons (CI) Limited consistently maintained throughout the Inquiry that neither the Data Protection Officer (“DPO”) nor the board of directors were aware that such a practice was being carried out. Similarly, the Authority found no evidence to suggest that there was awareness of the practice by the DPO or Jacksons (CI) Limited’s board of directors.
34. With respect to the scope of the practice, Jacksons (CI) Limited indicated that it primarily relates to Jacksons’ Motormall Guernsey operations. Further, Jacksons (CI) Limited has confirmed that this practice only occurred in the jurisdiction of Guernsey.
35. The personal data in question was not processed lawfully, fairly or in a transparent manner as required by section 6(2)(a) of the Law (“Lawfulness, Fairness and Transparency”). As demonstrated below:
36. **Lawfulness:** Section 7 relates to “Lawfulness of processing”.
37. Section 7 dictates that: *“For the purposes of the data protection principle of Lawfulness, Fairness and Transparency, processing of personal data is lawful only if, and to the extent that – (b) in any other case, at least one condition in Part I or II of Schedule 2 is satisfied”.*

38. During the investigation, Jacksons (CI) Limited indicated that the lawful processing conditions of consent or legitimate interests are relied upon to lawfully process customers' personal data for marketing purposes.
39. Neither consent nor legitimate interests are considered appropriate or lawful to rely upon in this instance, given the admission by Jacksons (CI) Limited that its actions led to the manipulation of data such that there were... *"a number of customer contact preferences that may not align with customer wishes"*.
40. The Authority's position is that it would likely be appropriate to rely on legitimate interests to lawfully process personal data where: (i) the processing aligns with individuals' reasonable expectations, (ii) there would be a minimal impact to individuals' data rights, and (iii) the purpose of the processing is clear, precise and justifiable. This position is consistent with other jurisdictions including the UK Information Commissioner's Office ("UK ICO").
41. The Authority finds that customers would not have reasonably expected to be marketed to against their consent preferences and there was no urgent business need or justification for taking these actions.
42. Section 10 of the Law relates to "Consent to processing".
43. Section 10 of the Law dictates that: *"For the purposes of this Law, consent given by a data subject means any specific, informed and unambiguous indication of the data subject's wishes by which the data subject, by a statement or by a clear affirmative action, signifies agreement to the processing of personal data relating to the data subject"*.
44. Given the admission from Jacksons (CI) Limited that *"a number of customer contact preferences...may not align with customer wishes"*, the Authority finds that not only is Jacksons (CI) Limited unable to demonstrate that affected customers consented to the processing in question, but that Jacksons (CI) Limited took wilful action to reverse customers' consent choices.
45. **Fairness:** Section 8 of the Law requires that personal data be processed 'fairly'. Considerations include *"subject to paragraphs (b) and (c), whether or not personal data is processed fairly must be determined having regard to the method by which it is obtained, including whether any person from whom it is obtained is deceived or misled as to the purpose or purposes for which it is to be processed"*.

46. The Authority finds that at the point the affected customers were requested to provide Jacksons (CI) Limited with their marketing contact preferences, they were led to believe that those stated marketing contact preferences would be honoured. Those affected customers were, in essence, misled.
47. **Transparency:** The Authority finds that at the point the affected customers were requested to provide Jacksons (CI) Limited with their marketing contact preferences, their understanding of the data protection processes was that those stated marketing preferences would be honoured. Those stated marketing preferences were not honoured, rendering the process contradictory and compromising its transparency.
48. **Accuracy:** The Authority finds that Jacksons (CI) Limited also failed to comply with section 6(2)(d) of the Law (“Accuracy”).
49. As Jacksons (CI) Limited itself recognises, a practice took place over the course of one year that resulted in the amendment of multiple customer records, to change customers shown as not consenting to receiving marketing communications, to consenting to receiving marketing communications, without those customers knowledge or consent.
50. Those affected customer records did not accurately reflect the marketing contact preferences provided by those customers. This was a deliberate action of certain sales staff with a view to promoting business interests.
51. Reasonable steps were not taken to ensure that inaccurate personal data ‘was corrected without delay’. Rather, those inaccuracies were intentionally introduced into the customer database as a result of deliberate actions taken by Jacksons (CI) Limited employees.
52. Given the above, the Authority concluded that the following sanctions are appropriate and proportionate.

Notice to the controller under section 73 of the Law – Sanction

Administrative Fine

53. The Authority must take into account the need for administrative fines to be effective and proportionate and have a deterrent effect. The Authority considers an administrative fine of **£65,000** to serve those objectives. The fine will be payable to the Data Protection Authority within one calendar month of Jacksons (CI) Limited receiving written notice of this decision.

Administrative Fine Assessment

54. In accordance with Section 74(2) of the Law, the Authority had regard to the following:

a) The nature, gravity and duration of the breach of the operative provision concerned, taking into account –

i) the nature, scope and purpose of the processing concerned

55. This matter relates to personal data processed by Jacksons (CI) Limited for direct marketing purposes, specifically relating to 'Future Offers' and 'Products and Services' offered by Jacksons (CI) Limited. It does not include special category data.

56. A software-based marketing consent platform was used by Jacksons (CI) Limited to record customer marketing consent preferences. The Authority's investigation revealed multiple instances where these preferences were intentionally amended by Jacksons (CI) Limited to incorrectly reflect that a customer had consented to receive all forms of marketing material, when in reality they had not provided such consent.

57. By Jacksons (CI) Limited own admission: *"A review has been carried out which has identified that changes have been made to a number of customer records that may not align with the customer wishes".*

58. As a consequence, any direct marketing materials sent to these customers would have been sent against these individuals' consent.

59. In terms of scope, in response to the Authority's information request, Jacksons (CI) Limited described the breach as relating to 69 customer records.

60. The Authority then required Jacksons (CI) Limited to produce an additional 321 customer records. Of those additional records it was determined that 286 records demonstrated an alteration of consent against the customers' wishes.

61. Jacksons (CI) Limited's representations of 3 July 2025 finally detailed the number of customer records affected as being 430. Evidence of the scope of affected customers was available to Jacksons (CI) Limited, and a more fulsome upfront review would have revealed this earlier.

62. Finally, in terms of longevity of the practice, evidence points to a 1-year duration, commencing in July 2022 and continuing until July 2023.

ii) Categories of personal data affected by the breach

63. The personal data affected in this case relates to the changing of customer contact preferences for direct marketing purposes.

iii) Number of data subjects affected

64. As detailed in paragraph 61, the scope of the breach is at minimum 430 customers whose consent preferences were intentionally amended.

iv) The level of any damage suffered by these data subjects

65. The harm from the unlawful practice relates primarily to a compromise of the data rights of individual customers whose consent was not only disregarded but actively changed by certain of Jacksons (CI) Limited's staff. This represents a 'breach of trust' by Jacksons (CI) Limited for affected individuals.

b) The manner in which the breach became known to the Authority, in particular whether, and if so to what extent, the person concerned notified

66. The Authority was not notified by Jacksons (CI) Limited of this matter.

67. Information was received from two separate sources over the space of nearly two years regarding Jacksons (CI) Limited's marketing to individuals. This led to the initiation of an Inquiry.

68. The first source was anonymous and therefore no follow up information could be obtained. The second source, however, was willing and able to provide follow up information that ultimately led to the initiation of this Inquiry.

c) Whether the breach was intentional or negligent

69. The Authority determined that this breach was intentional rather than negligent, as supported by Jacksons (CI) Limited's own admission: *"During a follow up meeting with the [REDACTED] in early September the [REDACTED] advised that there was a meeting with a former [REDACTED] [REDACTED] and is no longer with the company) to discuss the levels of missing data and not setting up GDPR preferences. [REDACTED] advised the [REDACTED] to mark these customers as post. when asked if the [REDACTED] had referred this to anyone else such as the Data Controller or Group Risk & Compliance Director to check if was ok to put the method of contact as post, the response was no as he was just following the [REDACTED] advice. The [REDACTED] had advised that in the UK there was no comeback..."*

70. When considering the circumstances of this matter, it is clearly in Jacksons (CI) Limited's interest for marketing materials to be distributed as widely as possible.

d) The degree of responsibility of the person concerned, taking into account technical and organisational measures implemented by that person for the purposes of any provision of this Law

71. The instruction to engage in this practice was given by a senior employee within the company, and carried out by other sales staff.

72. Given the above, this was a deliberate practice. That said, in their response Jacksons (CI) Limited state that it was without the knowledge of other senior executives and against company policy.

e) Any relevant previous breaches by the person concerned

73. There are no previous breach determinations by the Authority; therefore, it is viewed as a neutral factor, a position consistent with that of European Data Protection Board guidance¹.

f) The degree to which the person concerned has cooperated with the Authority to remedy the breach and mitigate its possible adverse effects

¹ [Guidelines 04/2022 on the calculation of administrative fines under the GDPR](#)

74. Throughout the investigation, Jacksons (CI) Limited was both cooperative and forthcoming. Under requirement of the Law, Jacksons (CI) Limited produced information and documents without delay or obfuscation.
75. The Authority recognises Jacksons (CI) Limited's professional engagement during the inquiry and commitment to addressing the issue. Jacksons (CI) Limited proactively carried out a review once the issue was raised, and as a result of this review, training was provided to all customer facing staff and a commitment made to contact affected customers. That said, Jacksons (CI) Limited's initial review did not identify the extent of the affected customers that the investigation ultimately uncovered, although this information was available.
76. As detailed in paragraph 1, during the course of the investigation, Jacksons (CI) Limited experienced a change of ownership and leadership. The new leadership of Jacksons (CI) Limited committed to ensuring that such practices do not recur, and to providing an elevated and exemplary level of protection to its customers and their data rights.
- g) Any other action taken by the person concerned to mitigate any damage suffered by data subjects**
77. All relevant information is included above (paragraphs 74 to 76).
- h) Where an enforcement order has previously been issued to the person concerned with regard to the same subject-matter, the actions taken in compliance with the order**
78. An order has not been previously issued; therefore, this is a neutral factor.
- i) compliance or non-compliance with applicable provisions of an approved code or approved mechanism in respect of the processing concerned**
79. There was no applicable approved code or mechanism in place, meaning this is a neutral factor.
- j) Any other aggravating or mitigating factor applicable to the circumstances of the case, such as financial benefits gained, or losses avoided, directly or indirectly, from the breach.**

Aggravating factors:

80. During the investigation, Jacksons (CI) Limited stated that the instruction to carry out the practice was given by a senior employee and carried out by two other employees. They further clarified that the senior employee in question left the business shortly after the instruction was given: *"Following the review of consent by POST for 2023 69 records were found, and as advised in our letter of 30 November 2023, the last entry that was updated by this method was on 29/07/23. We have identified that these entries were from the same two individuals, who were acting outside of our normal procedures, and without our knowledge[...]we would add, that the [REDACTED] has left the business"*.

81. Although it has not been quantified, the very intent and nature of the practice was to promote Jacksons (CI) Limited's business interests through direct marketing.

Mitigating factors:

82. As noted in paragraph 76, the new ownership and leadership of Jacksons (CI) Limited committed to ensuring that such practices do not recur, and to providing an elevated and exemplary level of protection to its customers and their data rights. To that end, Jacksons (CI) Limited has undertaken that - no later than three months after the issuance of this determination - it will meet with the Authority to present the actions taken to ensure a significantly elevated level of protection for its customers' data including additional training provided to staff. Jacksons (CI) Limited has indicated that progress has already commenced in this area.

Enforcement Order

83. Furthermore, in light of the initial underestimation of the scale of the practice described in this letter, the Authority is issuing an additional sanction in the form of an **Enforcement Order**.

84. The purpose of the Order is to bring specified processing operations into compliance with a specified operative provision, or take any other specified action required to comply with any operative provision, namely section 7 "Lawfulness of processing", section 8 ("Fairness of processing") and section 10 of the Law ("Consent to processing").

85. **The terms of the Enforcement Order** are as follows:

1. Jacksons (CI) Limited is required to conduct a thorough review to identify customer records that show inappropriate amendments made to customer marketing contact preferences by staff members. If there is any uncertainty about the accuracy of a

customer record, steps must be taken to ensure that the preferences accurately reflect the customer's wishes.

2. Having conducted the review and taken steps to ensure that the preferences accurately reflect the customer's wishes, Jacksons (CI) Limited must provide written assurances to the Authority confirming that Jacksons (CI) Limited is satisfied that customer contact preferences accurately reflect the customers' wishes. Additionally, these written assurances must include the number of customer records identified as having been inappropriately amended.

Jacksons are required to comply with terms 1 and 2 of this enforcement order by **23 December 2025**.

84. Sanctioned person may appeal breach determination or enforcement order.

(1) The person concerned may appeal to the Court against –

- (a) a breach determination made by the Authority, or*
- (b) an enforcement order.*

(2) The grounds of an appeal under this section are that –

- (a) the determination or order was ultra vires or there was some other error of law,*
- (b) the determination or order was unreasonable,*
- (c) the determination or order was made in bad faith,*
- (d) there was a lack of proportionality, or*
- (e) there was a material error as to the facts or as to the procedure.*

(3) An appeal must be made within the period of 28 days immediately following the date on which the person concerned receives written notice of the determination or order from the Authority.

(4) An appeal is made by summons served on the Authority stating the grounds and material facts on which the appellant relies.

(5) Where an appeal is made, the Authority may apply to the Court by summons served on the appellant for an order to dismiss the appeal for want of prosecution; and on hearing the application the Court may –

- (a) dismiss the appeal or dismiss the application (in either case on such terms and conditions as the Court may direct), or*
- (b) make such other order as the Court considers just.*

(6) The provisions of subsection (5) are without prejudice to the inherent powers of the Court or to the provisions of rule 52 of the Royal Court Civil Rules, 2007, rule 51 of the Court of Alderney Civil Rules, 2005 or any similar civil rule of the Court of the Seneschal.

(7) On the application of the appellant, the Court may, on such terms as the Court thinks just, suspend or modify the effect of the determination or order appealed pending the determination of the appeal.

(8) Upon determining an appeal under this section, the Court may –

(a) confirm the determination or order, with or without modification, or

(b) annul the determination or order and –

(i) remit the matter back to the Authority for reconsideration, or

(ii) make, in its place, any determination or order that the Authority is authorised to make under this Law, and make any other order it considers just.

(9) An appeal from a decision of the Royal Court under this section lies to the Court of Appeal on a question of law.