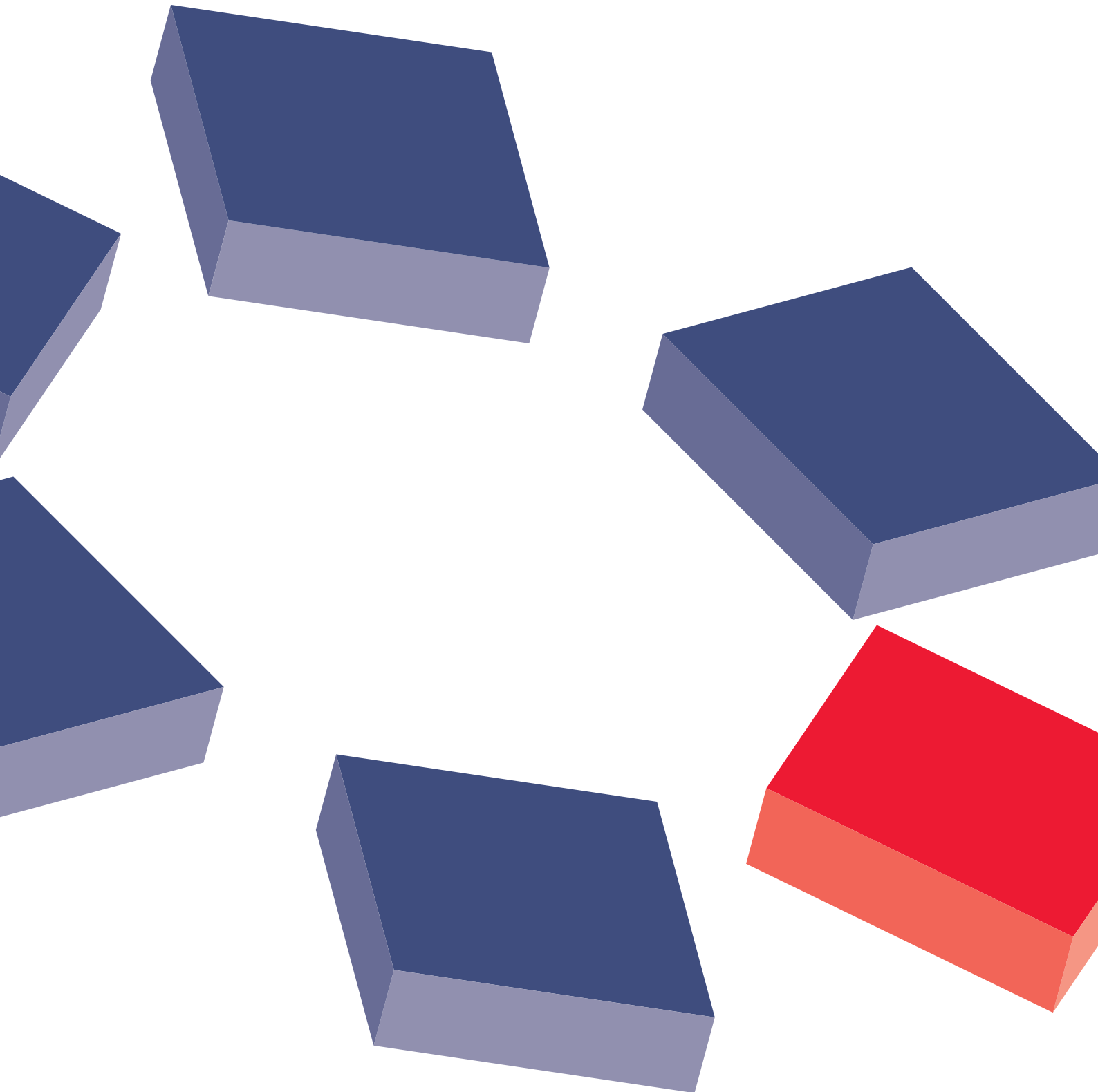


The Data & Marketing
Commission

Annual Report

6 months to 31 December 2023



The DMA Code is an ethical framework that sets the standards for the data and marketing industry to which all DMA members adhere, demonstrating a commitment to build trust and drive effectiveness in marketing. It provides members five clear principles that will guide them to achieve this, and against which their conduct will be measured.

The DMA Code Principles

- › **Put your customer first**
Value your customer, understand their needs and offer relevant products and services
- › **Respect privacy**
Act in accordance with your customer's expectations
- › **Be honest and fair**
Be honest, fair and transparent throughout your business
- › **Be diligent with data**
Treat your customer's personal data with the utmost care and respect
- › **Take responsibility**
Act responsibly at all times and honour your accountability

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The marketing industry is important for the UK economy. It is also responsible for the processing of a significant volume of personal data.

The industry has always evolved to advances in technological developments. The scale and impact of developments in the modern digital era presents new opportunities as well as threats, both for the industry as well as the individuals whose data are being processed. It is also the case that individuals are increasingly aware of their rights and one of the impacts of this is pushing the economic imperative for good data handling practices higher up the agenda for everyone.

A well-regulated industry is in everyone's interests and the Data & Marketing Association's Code is an important pillar in building and nurturing a trusted environment. It has been established to give effective protection to recipients, users and practitioners of one-to-one marketing, ensuring that companies observe high standards of integrity and trade fairly with their customers and with each other.

The Data & Marketing Association (DMA) has a comprehensive strategy for supporting its members to engage and comply with the Code. Encouraging enlightened compliance is a clear objective. It is, however, important to provide an effective mechanism of oversight and an accessible route for individuals who wish to raise complaints about the way in which their personal data have been handled if it involves a Code member.

The Data & Marketing Commission (DMC) is an independent body, funded by the Association and the Advertising Standards Board of Finance (ASBOF), with responsibility for the oversight and enforcement of the Code. It does this through the investigation of complaints made by individuals about the activities of DMA members. It is also able to consider emerging issues arising from developments and complaints to contribute advice and support to the DMA to strive for higher professional standards. The DMC and DMA have also recognised the potential value of shared research or other action to build marketing understanding, awareness of industry standards and compliance.

The DMC comprises an independent Chief Commissioner, two independent Commissioners and two industry Commissioners. Independent Commissioners serve on a paid basis and industry Commissioners serve on a voluntary basis. Decisions which relate to the adjudication of complaints about a member of the DMA are taken independently by the DMC, and in addition to requiring corrective action or operational changes

to ensure compliance the DMC can, in any cases of serious wrongdoing, make a recommendation to the DMA Board to terminate a company's membership.

Following an adjudication, the DMC's decision may be appealed. The DMC's Independent Appeals Commissioner is Steve Wood, a consultant, researcher and writer who was formerly Deputy Commissioner at the Information Commissioner's Office.

Complaints about the conduct of the DMC are dealt with independently by an Independent Complaints Assessor, Richard Thompson, an accredited commercial mediator with 25 years' experience in regulation, complaint handling and dispute resolution.

Overview

- › The DMC will address any complaints against DMA members where the complaint is within the scope of the DMA Code.
- › If the complaint is not covered by the Code, it may be referred to another relevant organisation, for example, complaints which relate to TV advertising are referred to the Advertising Standards Authority.
- › The Secretariat of the DMC aims to confirm receipt of all complaints within two working days and aims to achieve at least 65% satisfaction levels with the action taken by the DMC in relation to cases dealt with by formal or informal procedures.
- › Every complainant is informed of the action taken and/or the outcome of investigations.
- › In addition, the DMC aims to complete 80% of formal adjudications within three months of the first dialogue with a DMA member or any other party and register and progress complaints within seven working days.
- › The DMC aims to have no cases reversed after action by the Independent Appeals Commissioner and no successful legal challenges, and makes available key trend information on complaints as required.

Minutes of the DMC Board meetings are published on the [DMC website](#).

The Commissioners are expected to demonstrate sound judgement and analytical skills and have the ability to digest and make good sense of often complex cases, taking both a big picture and fine detail view. They must have the ability to work and debate effectively and adjudicate, acting objectively on the evidence applying the principles of natural justice.



Emma Martins

Chief Commissioner

Emma has worked in data protection for over 25 years. Starting her career as a data protection officer in the public sector, she moved to work in the regulatory office for Jersey, Channel Islands, in 2002.

Since then, she has been Commissioner for Jersey and, since 2018, for the Bailiwick of Guernsey where she worked with a team responsible for implementation, oversight, and adequacy assessment for the new GDPR-standard legal framework for the Islands.

Her fixed term in that role finished in December 2023. In January 2024, Emma was appointed as Chief Commissioner for the Data and Marketing Commission. She also has a small portfolio of work acting in an advisory role and is a charity trustee.

Throughout her career, Emma has been committed to driving high standards of ethical and legal data handling and encouraging more inclusive and accessible conversations around the role of data in our lives. She is a strong advocate of cultural engagement and has spearheaded a number of community-wide initiatives to support social and economic benefits that come with effective data protection.



Robert Bond

Industry Commissioner

Robert is a Solicitor, Notary Public, Chartered IT Professional and Compliance & Ethics Professional. Robert has over 45 years' experience in the fields of IT, e-commerce, computer games, media and publishing, data protection, AI, information security and cyber risks.

Robert is Head of the Examination Board for the Practitioner Certificate in Data Protection, a Past President of the Board of the Society for Corporate Compliance & Ethics, Chairman of the Data Protection Network, a Director of South West Grid for Learning, Vice President of the Notaries' Society, a founder member of the Advisory Group on the Governance of Data and AI to the United Nations, a Fellow of the Society of Advanced Legal Studies and a Companion of the British Computer Society.

Gilbert Hill

Industry Commissioner



Gilbert is a privacy technologist, entrepreneur and speaker. He was previously CEO at Tapmydata, a VC-funded Web3 startup building wallets for data control and portability. Gilbert advises brands, boards and crypto projects on data strategy and execution as a NED, and he is a Founding Member of the Data Privacy Protocol Alliance.

After a career in Finance, as MD of a London digital agency Gilbert grew fascinated by the relationship between data, digital marketing and regulation, founding Optanon, a pioneering software product in the PrivTech sector, and Cookiepedia, knowledge base for consumer tracking on the Web. These businesses were acquired by OneTrust and he led the deal, migration of legacy clients, team and technology while establishing new operational units across Europe.

On a voluntary basis, Gilbert is Fellow and Senior Tutor on Privacy & Ethics at the Institute of Data & Marketing, and a regular contributor to events and media in the UK and internationally.



Quinton Quayle

Senior Independent Director and Independent Commissioner

Quinton has sat on a wide range of boards, with a focus on regulation, health and the legal sector. He has chaired the Remuneration and Appointments Committees of several boards.

He currently serves as Chair/Panel Member of High Speed 2's and East West Rail's "Need to Sell" Panels.

Quinton is a fluent Thai speaker and currently serves as Senior Adviser to Gurin Energy which is investing in renewable energy projects in Asia, including Thailand.

Prior to joining the private sector, Quinton was a member of the Diplomatic Service and served as British Ambassador to Romania and to Thailand.



Kate Staples

Independent Commissioner

Kate was the General Counsel & Secretary to the CAA until December 2021, holding the role for over 11 years. Kate was also a Trustee of the Air Travel Trust, of the CAA's pension scheme, and company secretary to the CAA's

two subsidiaries: ASSI Ltd and CAA International Ltd. In February 2023 she took up the role of Director of Governance and Legal Services at the Care Quality Commission.

Before joining the CAA, Kate worked at the Dept for Transport, primarily advising on aviation matters, with a short stint in one of the railways teams. Kate did not start off as a public lawyer; in her early career she specialised in high value construction and engineering disputes at a leading City practice.

Kate enjoys the arts, travel, developing her photography skills and following the fluctuating fortunes of Liverpool FC.



I am pleased to present this six-month Annual Report which covers a period of 1st July 2023 to 31st December 2023.

In December 2023 we saw the departure of Amerdeep Somal as Chief Commissioner, a role I was delighted to take on from January 2024.

As Amerdeep said in her last annual report, she left behind a robust and collegiate Board of Commissioners who continue to serve the DMC with professionalism, independence and integrity.

Although we are excited to look to the future with ambitious plans to become an accredited monitoring body to the ICO, we are first and foremost focused on our current obligations, to fulfil the role of an independent body with responsibility for the oversight of compliance of the DMA Code achieved through the investigation of complaints.

The Code is a mature and well-respected framework that sets out the compliance standards within which members must act. Ensuring a robust, independent process for complaints to be investigated is clearly fundamental and all our Commissioners understand the significance of those responsibilities.

The complaints investigation and enforcement elements of our role is important. Responding to complaints and enquiries expeditiously, thoroughly, and in a way that fully supports complainants, and strives for industry improvements has been, and remains, a priority. Individuals have a right to expect a thorough and impartial investigation if they think things have gone wrong. We take that responsibility very seriously.

It is also incumbent upon us to do all we can to proactively support constructive and enlightened engagement and compliance where personal data are processed by those working in the marketing industry, encouraging a culture of compliance across the whole sector. Preventing things from going wrong is clearly the objective.

I firmly believe that ethical data processing practices are not only a legal requirement, but they are also increasingly a commercial imperative with individuals increasingly aware of, and willing to exercise, their rights.

There is no reason why the processing of personal data for the purposes of marketing cannot be done with the highest standards of protection baked in from the very beginning. Compliance is about more than avoiding regulatory scrutiny and enforcement. It is about encouraging trust and confidence from consumers as well as from the wider community. Organisations that recognise that and respond accordingly are good for our industry and our economy.

It is in no one's interests to encourage anything other than a race to the top around data handling practices and I am extremely proud to work alongside a team of highly experienced Commissioners at the DMC who are all committed to playing our part in doing just that.

As we look ahead to what is going to be an exciting new chapter for us, I want to express my personal thanks to Amerdeep for leaving a wonderful legacy, as well as a deep appreciation to my fellow Commissioners and Secretariat who have welcomed me so warmly and supported me so generously in my new role.



Individuals have a right to expect a thorough and impartial investigation if they think things have gone wrong.

In the six-month period of this Report, the DMC recorded fifteen complaints against businesses in the data-driven marketing sector. These also included non-member complaints and, where appropriate, the Secretariat referred these to other statutory or self-regulatory bodies. In some cases, particularly those relating to concerns from consumers who were unable to unsubscribe from unwanted emails, the Secretariat contacted businesses that lie outside of membership to inform them of their legal commitments and request that they unsubscribe the individual's email address. The majority of businesses responded positively to this approach.

When the DMC considers possible breaches of the DMA Code, it considers whether the issue is specific to the individual complainant or whether it may be evidence of a more systemic problem. Each case is examined thoroughly, fairly and proportionately and where there are serious breaches of the Code, repeated breaches or ongoing complaints, the matter will progress to a formal investigation which culminates in an adjudication and an independent review from the DMC Board. There may be some cases which revert to an informal investigation if it becomes clear that the case did not merit a substantive process and formal outcome.

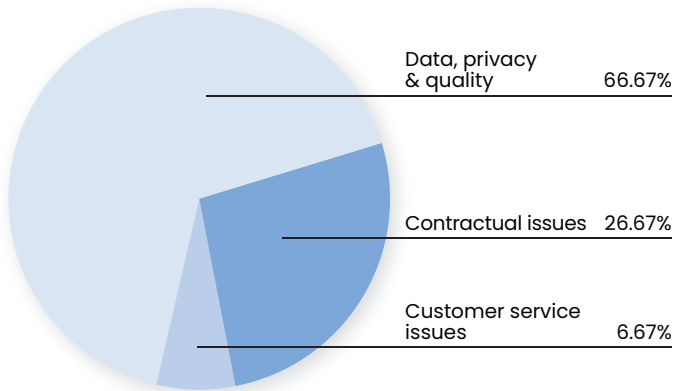
There were two formal adjudications in this period. One investigation which was referred to in last year's Annual Report as it commenced during that period, related to a complaint that was received from the daughter of a vulnerable elderly lady. The lady had returned an unordered coin yet was pursued by debt collection agencies. It had proved impossible for the individual to contact the company to seek to resolve the matter and the case highlighted serious issues with their customer service process. The Board's investigation identified concerns that an internet-led customer service was not always appropriate for elderly consumers and that the return process should be easily accessible to those who do not have digital access, for instance by providing a dedicated telephone line for returns. As a result, the DMC considered that the member was in breach of a number of rules in the DMA Code. The member had expressed willingness to implement changes to bring them into compliance and reported back to the DMC Board on their remedial plans for a new customer service platform and a more readily accessible telephone service for those who do not have digital access.

A second investigation related to a complainant who was in receipt of a number of unwanted emails. The member in question ran an affiliate network. The individual said he did not opt-in to the original data collection point; that he had attempted to unsubscribe repeatedly; and that he was passed from the brand to the member at which point he said he unsuccessfully attempted contact with the member on many occasions. The DMC investigation led to findings relating to the consent mechanism at the data source and the lack of a contractual agreement in place. The Commissioners considered the case and concluded that that the member was to implement changes to ensure all parties associated with its network were compliant to reduce the risk of further complaints. A follow-up report was required after a period of three months requiring a template contractual agreement, precise complaint statistics, and details of other changes implemented as a result of the DMC's findings. This was duly provided and the case was then concluded.

The DMC recognises the importance of learning lessons from complaints and their outcomes and in such cases will provide feedback and observations to the DMA following the conclusion of formal cases. Particular attention is given if the problems that have been evidenced appear to have become (or risk becoming) common practice, or where there may be a case for change in membership or compliance approach and where the DMC could distribute messages to the DMA membership about Code compliance and how the DMC is interpreting the Code.

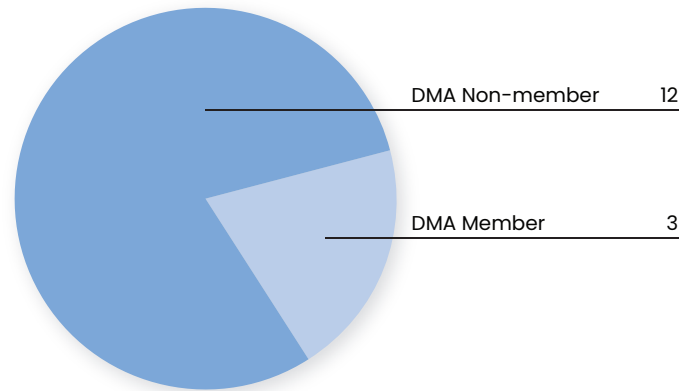
General Nature of Complaints

1 July 2023 – 31 December 2023



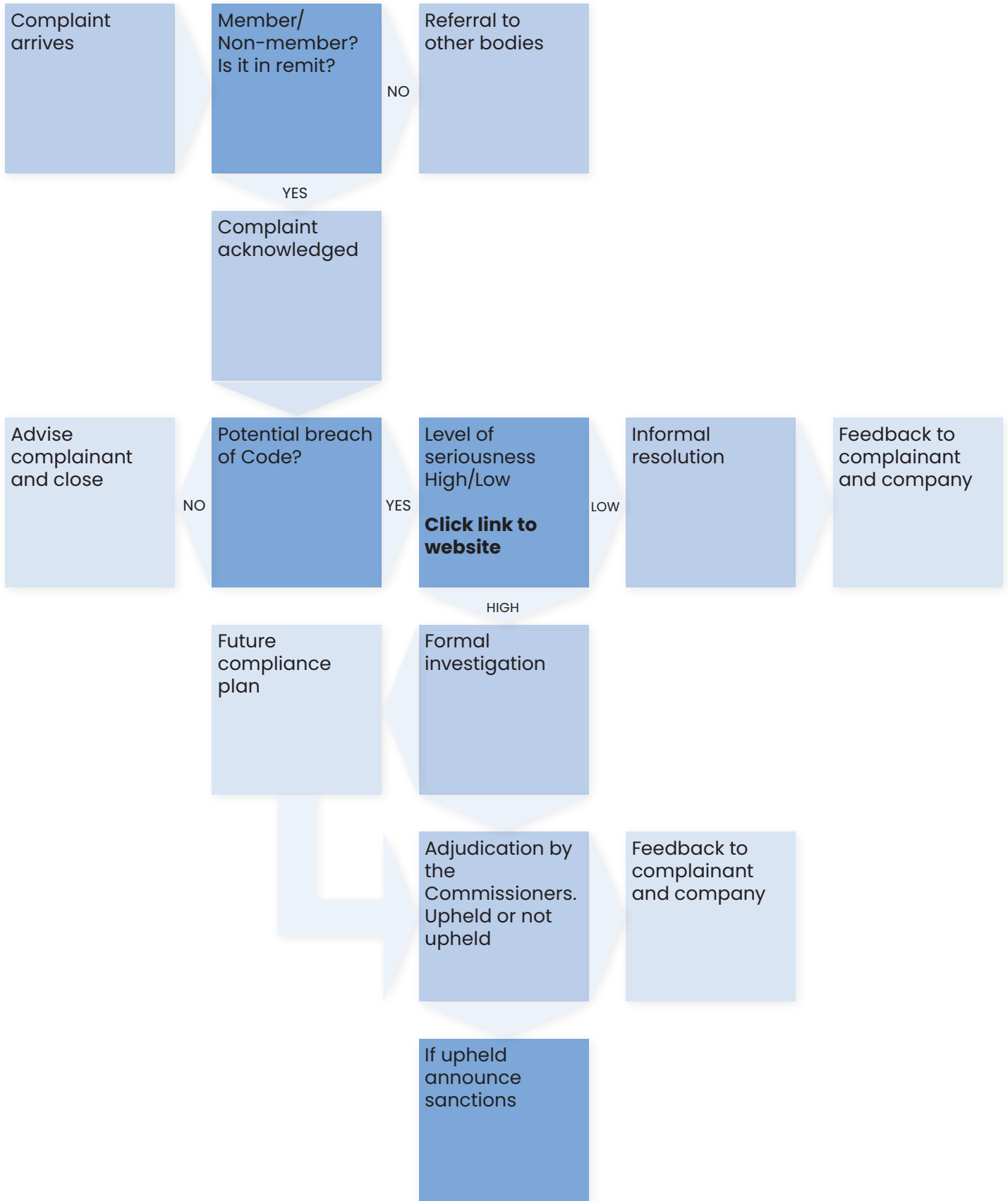
Number of Complaints

1 July 2023 – 31 December 2023



Non-member complaints are referred to organisations such as Trading Standards, Information Commissioners' Office, OFCOM.

The DMC investigates complaints against DMA members involving breaches of the DMA Code. It will investigate any complaint made against a DMA member that relates to one-to-one marketing activity and falls under the scope of the Code. The chart below explains how the DMC handles its complaints.



The Data & Marketing Commission

Registered Number: 6469055

Registered Office:

1st Floor

Rapier House

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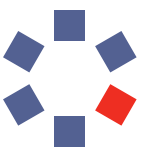
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