Citizens Advice Scotland
Ban on Cold Calling for Consumer Financial Services and Products Response

Citizens Advice Scotland (CAS), our 59-member Citizen Advice Bureaux (CAB) and the Extra Help Unit, form Scotland's largest independent advice network. Scotland's Citizens Advice Network is an essential community service that empowers people through our local bureaux and national services by providing free, confidential and independent advice. We use people's real-life experiences to influence policy and drive positive change. We are on the side of people in Scotland who need help and we change lives for the better.

During 2021-22, the Citizens Advice network provided advice and assistance to over 174,500 people. The network put almost £132 million back into people's pockets during this time, with every £1 invested in core advice funding returning £12 in gains for people. Our extensive footprint is important in helping us understand how issues impact locally and nationally across the country and the different impacts that policies can have in different areas.

Introduction

Citizens Advice Scotland welcome the introduction of a ban on cold calling to cover all consumer financial services and products.

An outright ban on cold calling sends a clear message to all consumers, both individual and businesses, that any unsolicited calls, whether over the phone, via electronic communications or in person are no longer allowed and in most cases likely to be a scam to be avoided. We agree with the view that an outright ban should empower the public to terminate and report these calls.

An outright ban will reduce the harms and financial losses which both the Treasury and Financial Conduct Authority (FCA) are keen to eradicate.

Throughout our response, we will be referring to two terms which should be considered in the ban:

- Ignorability – How avoidable are the communications? How much can the consumer ignore the communications from financial firms about their services and products? The harder to ignore, the colder the call.
- Invasavibility – How invasive are the communication from financial firms about their services and products? Certain communications are less invasive than others. A cold call in person is more imposing than those via electronic communications. However, if electronic communications are persistent, this

can be harder for the consumer to evade and becomes invasive to their lives. The more invasive a cold call, the more harm it can cause.

Threat to General Public from Cold Calling

Question 1: In your experience, what are the main harms caused by cold calling to market financial services and products?

Citizens Advice Scotland consider the following to be the main harms:

- Cold calls open up the consumer to potential scams, especially from firms passing off as legitimate businesses such as the consumer's bank or even their local citizens advice bureau. A consumer may believe the contact to be legitimate and therefore pass on financial details or even agree to financial products that are fraudulent. An outright ban will send a clear message that any of these marketing calls are a scam. All legitimate firms can support this message by informing their consumers that they would never cold call, as Citizens Advice bureaus do.

- Cold marketing calls which are invasive and difficult to ignore can end with consumers purchasing unnecessary products. If a consumer cannot refuse or feel unable to refuse, they may feel pressure to simply purchase the product or service being marketed simply to end the call. In worse circumstances, the consumer may genuinely believe that the product is right for them and then suffer the consequences. Such actions can cause severe financial detriment, such to which was seen in the Payment Protection Insurance scandal that took years to rectify. The financial harm from purchasing unnecessary products can be twofold:

  - Purchasing unnecessary products or services including insurance can stretch consumers' budgets beyond their means. This is especially harmful in the current economic climate where consumers are struggling financially already and having their budget stretched unnecessarily can be the final tipping point into over-indebtedness and financial hardship.
  - Using credit in which to purchase the product. If the consumer feels pressure to purchase the product simply because they cannot ignore it or it is invasive, they may end up using credit in which to purchase the product or service. This adds further financial burdens to consumers and harm to their financial wellbeing.

- Cold calling can end up with the consumer not shopping around for similar financial products and services ending up with them agreeing to unfavourable terms or higher interest rates. This can mean the product they end up agreeing to can be more expensive adding to financial harms.

- Cold calling can impact on a consumers' emotional wellbeing. If the cold call is particularly invasive or difficult to ignore, it can severely impact on their mental health, particularly for those with severe mental illness.

    - For example, even if the cold call is via electronic means, if the marketing communications are excessive or persistent, this can make the consumer feel overwhelmed. Such feelings can lead consumers to ignore legitimate communications. This is seen in countless cases with money advisers where clients have not opened their communications simply because there are far too many.
    - Another example is having persistent telephone calls or someone approaching their door. This can feel particularly invasive and challenging to ignore.
    - These types of cold calls can add stress and anxiety to someone already struggling or having characteristics of vulnerability further exacerbating poor mental health or severe mental illness.
    - Moreover, if the consumer develops a bond of trust with the cold caller who is in turn a scammer, this can leave them not only in a financially vulnerable position but also impacting on their emotional wellbeing.

- Cold calling can lead to undue influence, especially if this takes place in person which they cannot evade or ignore. Strong marketing techniques can pressurise a consumer to take out a product or service they do not wish for or need. Even if it is a product they are searching for, the products as stated above could be more expensive or have unfavourable terms and conditions. Undue influence can put a consumer in a harmful position, further adding to impacts on their emotional and financial wellbeing.

- Cold calling can impact on a person's financial confidence and capability as it gives them a lack of control over financial decisions. As we have stated, cold calls can be challenging to ignore, especially for those with characteristics of vulnerability and if persistent, can feel invasive. Many consumers may simply agree to the sale of the financial products or services simply to get rid of the cold caller and end the interaction. If this is later revealed to be a scam or causes financial difficulties, the consumer's confidence in their financial prowess may be knocked and in future question their ability to make informed financial decisions.

- Cold calling could lead to consumers purchasing faulty or damaged products which then require them to spend further money to fix.

    - For example, purchasing a second hand car where the consumer needs to pay for repairs to fix issues with the vehicle. This can also be true of other types of sales or home improvements such as replacement windows or building works.

A clear example of potential harm can be commonly seen is the sale of Timeshares. This practice has dimmed in recent years but the harm can be generational where many timeshares are unwillingly inherited by beneficiaries when their loved ones die. This means whole families are left burdened with additional maintenance costs and a product they actually cannot utilise. Many of the sales techniques utilised with these products include cold calling. Whilst not all firms who market products and services will be as abrasive as the sale of timeshares, the analogy still illustrates important points of implied pressure that can come from cold calling.

Cold calling can be difficult to ignore and when paired with pressured marketing sales, it can make it impossible for the consumer to refuse and end the call. This includes electronic communications where even though the consumer can simply "walk away" from their computer or mobile device, if the cold calls are persistent, it can feel as if they are being bombarded. This will be explored further in Question 3.

Harms can come in all shapes and sizes especially when the contact is unsolicited. There needs to be a direct distinction between seeking contact from a financial firm where it is the consumer's choice or they have the ability to ignore/evade the contact. Not all consumers will be able to do this with cold calls. It is therefore imperative that we seek to eradicate as many harms as possible.

Telephone Calls

Question 2: Do you agree that the cold calling ban should capture live telephone calls to an individual?

CAS assert that a ban on cold calling should be outright and cover all levels of communications.

Real time communications can create a high pressured environment for consumers and they can be easily manipulated into responding in the moment. They may feel unable to hang up the telephone or ask the caller not to contact them again. This means the consumer cannot ignore or evade the contact.

Whereas non-live communications such as emails and text messages, whilst do have other issues, can allow consumers to take their time in responding or even disregarding the message.

No financial provider should be contacting a consumer unless that consumer has provided informed consent for said contact.

Many cold callers who are scammers can pass themselves off as legitimate firms which is a common occurrence with Citizens Advice. We, along with Citizens Advice England and Wales routinely flag to consumers that we do not cold call and any contact which is unsolicited is not from our bureaux, and therefore should be ignored.

An outright ban covering all communications including telephone calls sends a clear message to all consumers that any calls which are unsolicited are likely fraudulent. This could empower the consumer to ignore, evade and even report the firm to the FCA as a potential scam. Firms can add to this message by making it clear to consumers that they would never cold call them and if they are approached by any firms claiming to be them, they should be ignored and flagged to themselves or the FCA as a potential scam, helping to proactively tackle scammers.

The success which has been shown in the cold calling ban in 2019 on pensions needs to be replicated across all financial products and services and all communications. In 2017, prior to the ban on pensions, 11.3 million UK adults had been approached unsolicited by pensions firms selling products and services, many of which could have been fraudulent and financial detrimental. After the ban in 2022, this dramatically dropped to just 4.7 million UK adults. A decrease from 22% in 2017 to just 9% in 2022[1]. This will ensure any contacts on pensions are for legitimate purposes and should decrease the opportunities for consumers to fall victim to fraudulent or financially harmful practices.

Electronic Communications

Question 3: To what extent does direct unsolicited marketing of financial services or products take place through live, electronic communications, other than telephone calls? Are there impacts if these communications are not captured by cold calling ban?

We do not have the data as this would be best provided by financial firms. As for the impacts, we have outlined several potential harms that can be caused by unsolicited cold calls in Q1.

As stated above, assessment of impacts should be considered in the context of Ignorability and Invasavibility of cold calls. This is on the basis of how easy it is ignore or evade the communication, whether it is over the phone, in person or via electronic communications.

This is particularly important for those who have characteristics of vulnerability as categorised by the FCA.

For example, those with severe mental illness such as Bipolar Disorder or Psychosis which may have an effect on their impulse controls. This is the same of those with addictive behaviours such as substance abuse or gambling addiction. If they are targeted by marketing communications, even via electronic communications, this can led to them purchasing a financial product or service which could be financially or emotionally harmful (as illustrated in Q1)

[1] https://www.fca.org.uk/publication/financial-lives/financial-lives-survey-2022-key-findings.pdf

This can also be seen in those who are socially isolated either due to living in remote locations, age or other factors. Having an unsolicited call may be the only "interaction" they have had in a week or longer and due to this loneliness end up engaging in an interaction which then later impacts on their financial and emotional wellbeing (as illustrated in Q1).

The following case study not only highlights the potential harms that we have flagged in Q1. It is clear from the case that being socially isolated was a key factor in the client's case and the scammer played on the client's loneliness to establish and build a relationship over an extended period of time. It also demonstrates the power and control a scammer in these circumstances can have over a consumer, making them do and act in ways they would not normally act.

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CITIZENS ALERT: An East of Scotland CAB reported of a scammer who profited from the client's £200,000 life savings and set up loans in their name totalling £65,000. The client, in their late 50s lived alone and was socially isolated, becoming vulnerable and lonely following the death of their mother. The client was contacted by telephone by "Hannah" from TrustPac who built up a relationship with the client for over 12 months, before they then persuaded the client to "invest" her life savings. Utilising the relationship and trust they had built with the client, "Hannah" also encouraged the client to purchase a specific laptop and download "training" software which was actually remote access software. This allowed "Hannah" access to the client's bank accounts and took out 3 loans with Virgin, Sainsburys & Halifax in the client's name totalling £65,000. The scammer even convinced the client to sell their car to raise funds for investments. "Hannah" then disappeared. All communication then stopped. The client is now reliant on PIP and ESA and unable to pay back their debt. Their respective banks allowed the client to take out these loans despite suspicious activity and lack of/poor credit history[2].

The above case is a poignant one and even despite all the financial and emotional damage caused by "Hannah", the client has admitted that they miss "Hannah" and the social interaction that had built over that time, once again feeling social isolated and. The client recently contacted their adviser stating they "*trusted the wrong people at the wrong time".*

As we illustrated in Q1, the harms caused by cold calling and scams can be long lasting. The client in this case told their adviser that they feel they are "*going to be punished, or suffer for my errors in judgement"* and "*this is something I am never going to get away from".*

The scam in this case extended beyond the original scam and lead to them having loans taken out with reputable banks. Nonetheless, the client still feels these firms do not listen or understand the nightmare they are going through.

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[2] *DUNDEE-CASE-89869*

As the client states "*There is nothing I can do except wait for each step to complete but it is so stressful.*"

It is for clients such as in this illustrated study the reason why we are calling for an outright ban. The current FCA warning list of unauthorised firms are not enough to warn consumers. An outright ban can be the leading torch against such harm. Not only can financial firms spread the message that they themselves would never cold call, when suspicious activity is flagged on consumer accounts, an outright ban could allow these firms to ask investigative questions on such investments. If an outright ban is put in place, firms could inform consumers that any cold calls they receive whether from themselves or others would likely be scams and fraudulent activity as no firm is allowed to cold call.

To this end, FCA should be clear in their regulation of this ban which forms of live communications are under its remit. For example, webchat or pop up messages with an interactive element or links which are particularly eye catching could be harder to ignore or feel invasive to the consumer.

However, consumers may have already initiated contact or registered their interest in such contact.

Direct contact via social media can be significantly invasive and merely because a consumer is opting to use a platform for certain social interactions, this does not mean they have consented to interact unsolicited with financial firms. It also opens the door to scams which are prolific in nature.

One example of the harm which has grown in prominence is the "sale" of cryptocurrency via social media channels such as X (formerly Twitter), Instagram and Facebook. This area can be more dangerous than other forms of communications as it can come across as personable, backed by marketing algorithms to tailor communications to a consumers' taste and behaviours through pseudo technology. This makes it extremely difficult to ignore or evade and unsolicited communications in this manner can lead to significant financial harms

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CITIZENS ALERT: An East of Scotland CAB reported of a client who invested in crypto-currency and had been asked to pay £1000, raising concerns of a scam. If the debt is genuine and has been accumulated due to a lack of understanding, there is no specific advice information for this type of debt as regulation remains in the early stages. The cost of living crisis may make the promise of an income from this type of investment tempting for clients who are struggling to make ends meet. In doing so, they risk imposing avoidable debt[3].

[3] *PERTH-CASE-129536*

CITIZENS ALERT: An East of Scotland CAB reported a client lost £10,000 to a cryptocurrency scam. This was obtained by loan by a fraudster who misled the client to believe they would make a financial gain. The client has been left in unsurmountable debt and is unable to repay[4].

Whilst live social media may not impact on all consumers, as stated above those with characteristics of vulnerability or addictive natures could mean any hesitation on banning live communications, whether electronic or telephone may have an even greater impact.

There is a need to have these adequately defined and outlined in regulation so consumers and financial firms understand exactly which live communication methods and platforms are being covered by the ban. This needs to minimise confusion.

This includes a clear definition on what is considered "cold calling". For example, if a consumer clicks on a link which is passive in nature, this should not be considered a cold call. That being said, if a consumer clicks on a link accidently or is misled which then leads to a webchat or contact that the consumer did not intend to consent to, this could be considered a cold call.

It would be essential the FCA and following regulation are clear on their definitions of such terms including "unsolicited" to highlight that it is centred on consumer choice and consent.

As stated above in Q2, no financial provider should be contacting a consumer unless that consumer has provided informed consent for said contact.

CITIZENS ALERT: An East of Scotland CAB reported of a client who sought financial support and a foodbank referral after losing £250 to a scam. The client had received text messages from a scammer claiming to be a family member. The texts requested she buy Apple gift cards for them to help them out. This client is extremely vulnerable, has multiple health conditions, and is facing energy disconnection as she doesn't have the funds to top up her meters, relying on emergency credit cards[5].

This example above highlights the potential risk of harm from non-live communications such as text messages and the depths scammers will resort to in order to defraud consumers.

An outright ban covering all communications including telephone calls and non-live communications sends a clear message to all consumers that any contact which are unsolicited i.e., without informed consent are likely fraudulent. This could empower the consumer to ignore, evade and even report the firm to the FCA as a potential

[4] *CARF-CASE-309658*
[5] *DALKEITH-CASE-57060*

scam. Firms can add to this message by making it clear to consumers that they would never cold call them and if they are approached by any firms claiming to be them, they should be ignored and flagged to themselves or the FCA as a potential scam, helping to proactively tackle scammers.

In addition, there is evidence that live marketing cold calls can detrimentally impact consumers even where the caller is not committing fraud or a scam. In the case illustrated below, the cold caller appeared to be contacting the consumer for charitable means, but due to the nature of the call, the client was left feeling emotionally and financially vulnerable.

! **CITIZENS ALERT:** A North of Scotland CAB reported of a client who had been called by a charity/not-for-profit organisation and marketed for home care provision. The client said they felt pressured into contacting a company providing these services. Due to their age, vulnerability and concern about potentially requiring care in the future, the client paid a deposit. The client felt upset and stressed about having done the wrong thing and required support to cancel the contract[6].

Question 4: Are there existing safeguards in place via social media organisations which already offer protection against fraudsters using social media voice and video calls for the purposes of cold calling?

We welcome safeguarding be put in place and proactively offered to consumers on all social media platforms.

We welcome Monzo's launch of "call status" tool in the mobile app. If a customer is on the phone to someone claiming to be from Monzo, they can check the "call status" which will tells the customer whether or not they are indeed on the phone to Monzo. If the caller is unknown, the tool informs the customer to hang up and provides the means to immediately report fraud from the app. This appears to be a sound mechanism to protecting consumers from fraud.

Social media is a prominent part of consumers' lives and can be invasive as well as personable (as illustrated in Q3). We use social media for social interaction and this can blur the line for consumers and they may feel unable to ignore communications.

Where this may have been considered more prominent in the door to door selling, where the caller relies on building a bond of trust and using these personable approaches to encourage or have undue influence over the consumer, it can still be apparent in social media, given this is now how a majority of consumers now interact on a daily basis.

In a world where social media has a strong influence over every aspect of our lives, not just financial matters, it is imperative that we are as proactive in protecting

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[6] *WESTHILL-CASE-57471*

consumers from harm than we may have had to have been in the past. In the absence of active policing, the FCA would need to ensure monitoring and active application of standards are being put in place.

In Person Unsolicited Marketing

Question 5: To what extent does marketing of financial services or products take place through door to door selling?

We do not have the data as this would be best provided by financial firms. That being said, door to door selling or marketing of financial services and products is still prominent.

An example would be subscription services such as Hello Fresh which is advertised as helping people budget and meal plan to help lower costs on food expenditure and food waste. However, it is common to be sold through door to door selling. There are various other examples of this form of selling technique which usually have consumers sign up or "subscribe" to a monthly fee.
Arguably, in person unsolicited marketing on domestic premises is the most invasive and extremely hard to ignore, especially those who may be vulnerable.

Whilst we may have seen the end of doorstep credit, this does not mean marketing products and services via door to door sales does not still continue.

The domestic setting can make consumers feel emotional and physically vulnerable. Their home is meant to be their sanctuary and if they dread the idea of someone calling on them unsolicited, it can have severe emotional harm to them. Even if a person is on their doorstep, they can use pressurised techniques which forces a consumer to agree to products or services simply to get rid of the person. This can intensify if the seller is then permitted entry.

For example, an elderly person simply happy to have some company may invite the seller into their home and once they have been let in, the consumer feels they have become obligated to agree to the sale, especially if the seller has spent an excessive amount of time in that consumer's home.

It should be noted that that this is different to consumers being offered home visits to support those who are vulnerable, such as those who are digitally excluded, have health issues or elderly. For example, opticians such as Specsavers now offer home consultations on request. These visitations are not unsolicited as the consumer has consented to the seller coming to their property.

Question 6: How could a cold calling ban be made to be effective in preventing door to door selling for financial services and products?

Citizens Advice Scotland fully support inclusion of door to door selling in the cold calling ban.

As stated above, an outright ban sends a clear message to all consumers that any unsolicited contact has potential to be a scam as no regulated FCA firm would be permitted to cold call.

This could empower the consumer to ignore, evade and even report the firm to the FCA as a potential scam. Firms can add to this message by making it clear to consumers that they would never cold call them and if they are approached by any firms claiming to be them, they should be ignored and flagged to themselves or the FCA as a potential scam, helping to proactively tackle scammers.

As above in Q5, we note that this is different to consumers being offered home visits to support those who are vulnerable, such as those who are digitally excluded, have health issues or elderly. These visitations are not unsolicited as the consumer has consented to the seller coming to their property.

Cold calling strips a person's right to consent to the interaction being foisted on them. Emotionally stronger or financially savvy consumers may be able to refuse or ignore the contact but those who are more vulnerable, may be unable to do so.

Whilst there may be legitimate purposes for marketing to consumers and even doing so on domestic premises, this should never be done via cold calling. Consumers should be able to dictate how they wish to be approached and whether that would include a home visit.

Consumers must be given time to consider the products and services being offered. This can be done via a cooling off period but they should also be offered the opportunity to decide if they even wish to discuss the product in the first place. Turning up unannounced on a consumer's doorstep can open them to vulnerable situations which they cannot control. It takes away their right to refuse such interactions and their ability to control how they wish to engage with the financial firm.

Question 7: Are there other forms of cold calling aside from electronic communications and in person selling that cause harm to consumers?

Citizens Advice Scotland believes the consultation covers the main forms of cold calling and cannot think of any others forms except those mentioned above.

Types of Call Recipients

Question 8: Should sole traders and other types of partnerships (outside of limited liability partnerships and Scottish Partnerships) be captured in this ban on consumer financial services and products?

Citizens Advice Scotland understand why the consultation may wish to have different rules in terms of sole traders and other types of partnerships. However, as consumer champions we support all forms of consumers including sole traders. We therefore ask that our responses cover all forms of consumers regardless of status.

Financial Services and Products in Scope

Question 9: Do you agree that the scope of the ban should include the services and products set out in the section above? Are there any other products that should fall within the scope of the proposed ban on consumer financial services and products cold calling?

Citizens Advice Scotland agree that the ban should include those products and services as outlined above. This ban should be outright and have no exceptions or exclusions.

Question 10: Are there any consumer financial services and products which should not be captured by this ban?

As stated above, an outright ban covering all FCA regulated products and services on all communication changes would send a clear message to all consumers and financial firms.

An outright ban covering all communications including telephone calls sends a clear message to all consumers that any calls which are unsolicited i.e. without informed consent are likely fraudulent. This could empower the consumer to ignore, evade and even report the firm to the FCA as a potential scam. Firms can add to this message by making it clear to consumers that they would never cold call them and if they are approached by any firms claiming to be them, they should be ignored and flagged to themselves or the FCA as a potential scam, helping to proactively tackle scammers.

The focus should be on the element of cold calling and not cover general advertising and marketing messaging. Financial firms should be allowed to market their products and even contact their consumers as part of their regulatory responsibilities.

A distinct difference can be made between cold calling and genuine marketing communications. People can opt into marketing offers and have control over which ones to consent to.

However cold calling on the purposes of unsolicited communications with the purpose of selling financial products and services can be harmful impacting on consumers financial and emotional wellbeing as illustrated above. There is a lack of consent and control with these unsolicited interactions.

Having a clear definition on what is considered cold calling and the levels of measurements this entails focussing on client choice, informed consent, Invasavibility and Ignorability would be beneficial for all parties.

Existing Client Relationships

Question 11: Do you have any views on whether to include an exception in this cold calling ban, for situations where the caller is an FCA or PRA authorised business and there is an existing client relationship between the caller and the recipient such that the recipient envisages receiving cold calls?

CAS would caution against any approach which steps away from an outright ban by adopting room for exploitation through exceptions. In theory, the exception suggested could allow authorised business to approach existing clients where an established relationship is in place to discuss potential products and services.

However, to have any weight, the rules would need a clear definition on what constitutes an "existing relationship". Simply holding a product or service with a firm does not necessarily constitute an existing relationship. Many consumers have an arms-length relationship with their financial providers and may not even have had actual worthwhile contact with their providers, other than an annual prescribed statement.

To be effective, if this exemption was to be implemented, prescription rules would need to be implemented but with a shorter time period than current rules. CAS would recommend a period of 2 years where contact between the consumer and the firm go beyond the prescribed annual communications that firms must send. Any period longer than 2 years would have the relationship severely weakened where even a previous named contact has likely moved on.

Moreover, it is worth noting that a significant harm caused by cold calling is conducted by scammers who frequently pass themselves off as FCA or PRA authorised businesses.

Allowing this exemption, could open the door to such scammers. An outright ban on cold calling sends a clear and distinct message to all consumers that FCA or PRA authorised will never cold call, even if there is an existing relationship and any contact which has not been pre-authorised by the consumer should be treated as suspicious and as a potential scam.

Firms with existing consumers can use other means to advertise their products and services, inviting consumers to contact them and set up appointments to discuss further. This ensures informed consent and choice is always offered to the consumer.

This could be a simple written communication with an annual statement or via their mobile app highlighting various products and if the consumer is interested, they have options to contact the firm to discuss further. This form of cold invitation to the consumer offers them the opportunity to decide if they wish to have these discussions as well as the choice to contact when they are ready to discuss the products. Whereas a cold call invades their space and can leave little to no opportunity for consumers to refuse the contact.

Question 12: Do you agree that the proposed approach achieves the aim of restricting unsolicited direct marketing calls in relation to financial services and products bar the exceptions outlined, without restricting legitimate non-marketing calls?

Legitimate non-marketing calls would not fall under the ban but this requires a clear definition on what constitutes as "cold calling" so every party, consumers and firms alike, understand the difference between a communication from their provider and a cold call.

Moreover, firms should be able to contact their consumers to flag changes to terms and conditions as well as provide updates to their accounts. However, these communications should be non-marketing in nature and whilst they may wish to highlight appropriate and new products and services, these communications cannot and should not steer into marketing and the world of hard sales where firms push products and services onto consumers, increasing their indebtedness and placing pressures on budgets which may already be stretched as it is.

Enforcement

Question 13: Do you have any views on enforcement mechanisms set out in paragraphs 4.11 and 4.12 above?

CAS welcome the enforcement mechanisms set out and agree that the ICO as the main enforcement agency for pensions and Claim Management Companies and therefore the natural enforcement agency for this ban.

This must be appropriate funded and resourced to ensure the ban is proactively monitored.

CAS would recommend a review process is built into the enforcement mechanism. This is to evaluate the actual mechanism after the ban has been in place for some time to allow it time to embed and ensure it is working effectively.

CAS would further recommend that the Treasury and ICO, along with the FCA and PRA review the impact of the current ban on pensions and claim management companies. This can help highlight where the ban is working well and where improvements or amendments may be required. The lessons learned from this review can be incorporated into the enforcement mechanism for cold calling.

On this note, CAS would recommend that organisations should build in regular consent reviews into their processes. At present there is no specific time limit on consent from consumers which is held by firms in regard to contact and communications. Given that many products and services can be long-term expanding over many years, it would be good practice to regularly check a consumer's contact preferences as well as regularly check they still consent to being contacted. This is to ensure the consumers' preferences are at the heart of any interactions with their financial providers. By incorporating a specific time period to regularly review consent and contact preferences would create consistency across the sector.

That being said, as different products and services have different life cycles, it would be prudent to have different consent periods which is dependent on the type of product and service. This would be better than a one size fits all approach with Guidance clearly stating what is appropriate for each market type.

Raising Awareness

Question 14: How else can the government best ensure consumers are aware of the ban?

As long as the ban on cold calling is clear and defined, CAS would recommend the government take a multi-layered approach to best ensure consumers are aware of the ban. This would involve adopting a wide ranging approach taking the following measures:

- Government back campaign across print, social media and radio
- Utilising recognised faces such as Martin Lewis and his Money show. Martin Lewis has worked with the Treasury and Government in the past.
- Having alerts from financial providers to existing consumers. This can have a clear message that they would never cold call as well as an opportunity to update consent and contact preferences of their consumers
- Frequent TV adverts during popular TV shows and on social media including X, Facebook, Instagram and YouTube
- Working with local agencies such as Trading Standards and local Citizens Advice Bureaux who have frequent scam campaigns to highlight the ban

We strongly encourage greater awareness-raising of the FCA's warning list of unauthorised firms. We have provided evidence of cases of clients who were scammed by firms listed on the FCA website. However, given the nature of the issue and the ease to mistake a cold call for a scam, many people may not check the site to confirm legitimacy.

The main focus should be a clear outright ban with a defined message which can be shared across the UK. The more caveats and exemptions dilute this message and its intended impact.

Question 15: What are the key considerations when designing the legislation to ensure that it is clear and impactful for the public?

As CAS have stated throughout this response, the Treasury and the Government, along with the ICO and regulators, must ensure the message is simple, clear, free from jargon and in Plain English to ensure every consumer, regardless of their capability understand exactly what cold calling is and what the ban covers.

This includes definitions on what "unsolicited", "existing relationship" and the difference between "marketing" and "non-marketing". These definitions should be written in simple Plain English so consumers understand what the ban covers and manages their expectations going forward.

This can only be achieved if the message itself can be trusted and comes from a reliable source.

It is also important that the sector itself is involved throughout every step so rather than a ban forced upon them, it is something they endorse and embrace so it is sector led and embedded as good practice.

Impacts on Business

Question 16: In your experience, how could firms' business models be affected as a result of the ban?

CAS are unable to comment on how a firms' business model will be affected by the ban as firms will be the ones who are best placed to provide insight.

That being said, we would urge and reiterate the need for an identified definition of "existing relationship" which is simple and clear as well as ensuring it is appropriate. As stated above, most consumers have an arms-length relationship with their provider and therefore merely holding a product with a firm does not necessarily constitute an existing relationship.

The interactions between consumers and firms must be meaningful and significant in order to constitute as an existing relationship. This means going beyond annual prescribed communications.

Moreover, CAS would also urge the ensure firms proactively seek informed consent from their consumers with regular reviews on this consent and contact preferences to ensure the consumer has control at every stage. Consumers must have the right to change these consents and regular reviews allow this to happen.

Question 17: Are you aware of any groups of businesses, organisations and/or individuals that will be particularly affected by these proposals?

CAS are not aware of any groups of businesses, organisations and/or individuals who will be particularly affected by these proposals. Anyone can fall victim to cold calling and so the ban on cold calling for financial products and services will benefit everyone, particularly the most vulnerable.

Whilst we understand it is usually the most vulnerable who are targeted and victim to scams as a result of cold calling, sometimes the demographics of those victims to a scam is untypical.

In the following case, the client who sought advice from CAB is a hotel proprietor, typically associated with middle or high-income earners.

CITIZENS ALERT: A West of Scotland CAB reported of a client who had been receiving threatening emails and letters regarding playing live music without a licence. The company claimed they act on behalf of PPL (Phonographic Performance Limited), an organisation licencing rights in the use of music. They invoiced the client for £8,000 for a music licence. However, the client, a proprietor of a hotel, doesn't play live music[7].

Impacts on Persons with Protected Characteristics

Question 18: What impacts would you expect to see on persons with the protected characteristics mentioned above as a result of a ban on cold calling for consumer financial services and products? How can the government design the ban to promote positive impacts and mitigate any disproportionate impacts on persons sharing protected characteristics?

CAS expect to see a positive impact on those with protected characteristics especially those with severe mental ill health and other disabilities.

This ban will ensure consumers with protected characteristics are protected from potential harm that can be caused by cold calling. Those with protected characteristics are more likely to have characteristics of vulnerability as defined by the FCA and therefore more susceptible to the harm caused.
A clear outright ban on cold calling will send the right message to those with protected characteristics, one which is simple to understand – no legitimate and

[7] SKYE-CASE-47525

authorised firm would ever cold call, be that through social media, in written and non-digital communications or in person.

CAS would recommend working closely with people with lived experience of protected characteristics such as the Money and Mental Health Policy Institute's Research Community. This will ensure messaging around the ban are tailored to their needs, ensuring it is translated in a range of other languages, including but not limited to Urdu, Pakistani, Bangladeshi and Polish.

To reach those who are seldom heard (elderly, BAME communities, digitally excluded and the unbanked) and those who are hard to reach, communications should target a range of different groups, not simply individual consumers. For example supermarkets, agencies such as care homes, employers and local community groups to reach groups who may not interact with financial firms on a regular basis. This will ensure the message of the ban reaches every consumer across the UK.

Question 19: Do you have any other views or information the government should consider in relation to the proposed ban on cold calling in relation to financial services or products?

As stated, Citizens Advice Scotland welcome the introduction of a ban to cold calling to cover all consumer financial services and products.

However, this ban must be kept as simple as possible.

The main focus should be an outright ban with a defined message which can be shared across the UK. The more caveats and exemptions dilute this message and its intended impact.

An outright ban on cold calling sends a clear message to all consumers, both individual and businesses, that any unsolicited calls, whether over the phone, via electronic communications or in person are no longer allowed and are likely a scam to be avoided.

An outright ban will reduce the harms and financial losses which both the Treasury and Financial Conduct Authority (FCA) are keen to eradicate.

Throughout our response, we referred to two terms which should be considered in the ban:

- Ignorability – How much can the consumer ignore the communications from financial firms about their services and products? The harder to ignore, the colder the call.
- Invasavibility – How invasive are the communication from financial firms about their services and products? Certain communications are less invasive than others. A cold call in person is more imposing than those via electronic communications. However, if electronic communications are persistent, this

can be harder for the consumer to evade and becomes invasive to their lives. The more invasive a cold call, the more harm it can cause.

CAS recommends introducing this ban as soon as practically possible to ensure the harms caused by cold calling are prudently dealt with.

Furthermore, the government should base the principles and rules of the ban on the efficacy of the current ban on cold calling for pensions and claims management companies. The lessons learned from this ban should be reviewed and adopted into the ban covering all products and services.

The enforcement and monitoring of the ban should itself have a review period to ensure it is at all times considering what is and isn't working in a ever-changing economy and financial climate.

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