

Citizens Advice Scotland

Ban on Cold Calling for Consumer Financial Services and Products Call for Evidence for Impact Assessment

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 (CAS) welcome the Government's call for evidence to allow a rigorous assessment on the impacts on businesses. We will not be responding to each question in turn as most are aimed towards firms. This briefing paper will take each topic in turn as part of our wider response to the consultation and call for evidence.

- Legitimate Uses
 - There is never a legitimate reason to cold call
 - Ban must be clear and strong that no firm will ever cold call
 - Firms should seek informed consent, taking a record of consumer contact preferences
 - Legitimate non-marketing calls are by their very nature outwith the scope of the ban

- Fraudulent Uses
 - Organisations such as Trading Standards and the Financial Ombudsman Service may be better placed to provide this data
 - Too many caveats, exemptions or allowances will weaken the intended impact, confusing consumers and firms alike.
 - Scammers can and will seek any gap in rules to exploit and harm consumers – a clear outright ban will stop this from occurring.

Legitimate Uses

As we have stated in our response to the Treasury's Consultation on the Ban on Cold Calling for Consumer Financial Services and Products, Citizens Advice Scotland (CAS) do not believe there is ever a legitimate reason to cold call, especially when it is unsolicited and for marketing purposes.

The ban must come with a clear message to consumers that firms will never cold call them. CAS recognises that there are ample opportunities for businesses to market their products and services. This can be done through advertisement, social media, prescribed communications and circulars to consumers which highlighted various products and services. These communications can invite consumers interested in exploring these products and services further to contact the firms in question by providing various means of doing so.

Alternatively, firms can seek informed consent from consumers on how and when they would like to be contacted. These preferences should be identified, flagged and regularly reviewed on the customer's account.

CAS would urge that when setting the rules and principles of this ban that the government, Treasury and regulators have a clear line in the sand. By stating decisively that no firm, whether the consumer is new or existing will ever contact without that consumers prior consent and knowledge regardless of contact method, if it was not expected, then it is a cold call and not allowed.

Legitimate non-marketing calls are by their very nature outwith the scope of the ban, which only covers direct unsolicited marketing communications. This should still allow firms to contact existing customers if need be.

Fraudulent Uses

Citizens Advice Scotland are unable to provide exact volumes in terms of the scale of fraudulent sales of financial products such as investments or insurance. Other organisations including Trading Standards and Local Authorities, as well as the Illegal Money Lending Units and Financial Ombudsman Service may be better placed to provide this data.

That being said, as we have stated above and in our response to the main consultation, we need a clear, simple outright ban. If there are too many caveats, exemptions or allowances made, it can weaken this message, confusing consumers and firms alike as well as softening the intended impact.

At present, the exception of "existing relationship" can open a loophole for scammers to slip through. Therefore, any ban and its accompanying rules, definitions and principles must be airtight to ensure this does not occur.

Scammers can and will seek any gap in rules to exploit and harm consumers. A clear outright ban with no exceptions ensures there are not gaps for scammers to exploit.

To this end, we wish to highlight the following cases which show the detriment and harm that can be caused and the reasoning why we are calling for such a stringent step.

Exampler Cases of Citizens Advice Clients in Scotland

CITIZENS ALERT: A West of Scotland CAB reported of a client who had received a telephone call from 'Traderschool Academy' and invested £250 with them. They received numerous emails from them stating the invested money had dropped in value and gone up again. The client later found out this was a scam as they are not regulated. The client requested by email that they refund their account, receiving no response, the client tried to phone them back and the number is now unobtainable. The client is vulnerable, in receipt of ESA, PIP, HB and CTR, and has not been able to get the money back¹.

CITIZENS ALERT: An East of Scotland CAB reported of a client who had been cold called by a Solicitor company, 'Goldman Knightley Solicitors', informing her she was entitled to a tax refund of £900+. The client provided their National Insurance Number, and a few days later, received a letter from HMRC confirming over £900 in refunds. The client then received a cheque of nearly £500 from the company posing as solicitors. The client reported feeling ill for a week and embarrassed as they thought they would be aware of such scams².

CITIZENS ALERT: A West of Scotland CAB reported of a client and her husband who had received a scam letter, official looking, from 'International Postcode Lottery' offering big sums of money. They were advised by RBS to attend the Bureau to make us aware of the scam. More vulnerable clients may not have acted in such a vigilant manner by approaching the bank and the CAB thus subjecting them to financial loss³.

¹ WDCAB-CASE-89844

² ANGUS-CASE-68572

³ EASTKILB-CASE-57957

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 history⁴.

The above case is a poignant one and not only highlights the potential harms that we have flagged in Consultation Response. 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.

Moreover, 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 Consultation Response, 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.

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

It is clients such as 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

⁴ DUNDEE-CASE-89869

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.

CITIZENS ALERT: An East of Scotland CAB reported ⁵of 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.

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 repay⁶.

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 cards⁷.

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 contract⁸.

⁵ PERTH-CASE-129536

⁶ CARF-CASE-309658

⁷ DALKEITH-CASE-57060

⁸ WESTHILL-CASE-57471

! **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 music⁹.

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⁹ SKYE-CASE-47525