Consultation Response

Ban on cold calling for consumer financial services and products

HM Treasury

September 2023

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About this consultation

As part of the Fraud Strategy, His Majesty's (HM) Treasury announced a ban on cold calling covering all financial services and products[1]. Cold calling is the unsolicited act of contacting a person over the phone with the aim of selling a good or service. Fraudsters use cold calling to manipulate and trick consumers into scams. These fraudsters often purposely target the most vulnerable members of our society and use a range of deceitful tactics to take advantage in any way they can. Cold calling is a significant contributor to fraud in the UK, with the Government reporting £4.2 billion in losses across millions of individual offences. The proposed measures seek to disrupt widespread fraud by preventing cold-calling scams. Therefore, the Government is seeking views on the best way to design and implement this ban.

Key points and recommendations

- Age UK believes the harms of cold calling are profound and multifaceted, especially for older people. They span financial, emotional, psychological health, and social domains, underscoring the urgent need for protective measures.
- Live telephone calls must be captured in the cold calling ban. Excluding them would leave a significant vulnerability, allowing many of the harms associated with cold calling to persist.
- There is a current lack of clarity on jurisdiction between Ofcom, the Financial Conduct Authority (FCA) and the Information Commissioner's Office (ICO), all of which regulate cold calls. The Government and the enforcement agencies must take a holistic, joined-up approach that considers the many varied ways people can be exposed to scams.
- While social media platforms have implemented several safeguards to protect users from unsolicited voice or video calls, the dynamic nature of scam techniques and the global reach of these platforms present ongoing challenges. Continuous education and awareness campaigns, primarily targeted at older users, are essential to ensure they can navigate these platforms safely.
- The Government should work closely with the third sector to relay the cold-calling ban through programmes, such as Age UK's Scam Prevention and Support Programme, which helps raise awareness of critical indicators of scams, prevent older people from becoming victims, and support victims.
- To ensure the ban's effectiveness, it should apply universally, regardless of the size or structure of the entity involved. Fraudsters are adaptable and will exploit any

available channel to target potential victims. A comprehensive approach will ensure that consumers are adequately shielded from these risks.

- While there are valid reasons to consider an exception for an FCA or Prudential Regulation Authority (PRA) authorised businesses with existing client relationships, it's crucial to approach this cautiously. The primary goal should always be consumer protection.
- The overall message is important here – for the ban to be effective, it is crucial for the media, charities, regulators, politicians, and other stakeholders to be able to say categorically that "cold calling for financial products is illegal". Any chink in this armour will weaken the messaging and potentially leave loopholes open for fraudsters to exploit.

About Age UK

Age UK is a national charity that works with a network of partners, including Age Scotland, Age Cymru, Age NI and local Age UKs across England, to help everyone make the most of later life, whatever their circumstances. In the UK, the Charity helps more than seven million older people each year by providing advice and support. It also researches and campaigns on the issues that matter most to older people. Its work focuses on ensuring that older people: have enough money; enjoy life and feel well; receive high-quality health and care; are comfortable, safe, and secure at home; and feel valued and able to participate.

Introduction

Age UK is concerned about the rise in cold-calling scams. The Government estimated that in 2022, 40% of all mobile users in the country received a suspicious call or text in the space of three months, from August to October alone[2]. For landline users in the same timeframe, this figure was 53%. According to Ofcom, the communications regulator, older people are likelier to be exposed to landline fraud attempts[3]. So, we are broadly supportive of banning cold calling to cover all consumer financial services and products to prevent people from being exploited and victimised by this practice.

Consultation questions

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

Cold calling, especially to older individuals, can often lead to confusion, anxiety, and, in many cases, financial exploitation. Older people can be particularly vulnerable to persuasive tactics, misinformation, and high-pressure sales techniques. The main harms include financial loss, emotional distress, loss of trust, and, in some cases, long-term financial instability.

Some fraudsters often see older people as easy targets due to perceived vulnerabilities, such as digital skill needs[4] and a lack of familiarity with modern financial products. This can lead to significant financial losses, with victims sometimes parting with their life savings based on misleading or outright fraudulent information.

Being a victim of a scam or high-pressure sales tactics can lead to feelings of shame, embarrassment, and guilt. Many older individuals internalise the blame, leading to decreased self-esteem and a lack of trust in their own judgment[5]. This emotional toll can exacerbate feelings of isolation and loneliness, which are common among older people.

Significant financial losses can lead to a reduced ability to live independently. Some older adults may need to rely on family or state support, move into assisted living, or make other unwanted lifestyle changes due to financial constraints. Victims also often hesitate to share their experiences due to the stigma associated with being scammed. This silence prevents the broader community from being aware of and guarding against such tactics. Moreover, it can strain relationships with family members, especially if there's disagreement over how to handle the aftermath.

So, Age UK believes the harms of cold calling are profound and multifaceted, especially for older people. They span financial, emotional, psychological health, and social domains, underscoring the urgent need for protective measures.

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

Yes, Age UK agrees. Live telephone calls are the most direct and intrusive form of cold calling. Unlike emails or letters, which can be set aside to be addressed later, telephone calls demand immediate attention, making them more pervasive than recorded messages. The immediacy can catch individuals off-guard, making them more susceptible to coercion. And we know that many older people, who are more likely to be exposed to fraud through landlines, feel compelled to stay on the line out of politeness, making them susceptible to manipulation.

In light of this, all live telephone calls must be captured in the cold calling ban. Excluding them would render the ban almost worthless.

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

While the proposed ban's primary focus might be on traditional cold calling via telephone, it's essential to consider the broader landscape of live electronic communications. Not capturing these forms of communication in the ban would leave significant loopholes for unscrupulous marketers to exploit. Therefore, it's essential for legislation to stay ahead of these changes to ensure comprehensive consumer protection.

With the ubiquity of mobile phones, unsolicited social media calls and videos have become a prevalent method for promoting financial products or services. These messages can contain links to fraudulent websites or prompt recipients to call a number, leading them to a scam.

Moreover, instant messaging platforms, such as Apps like WhatsApp, Telegram, and Facebook Messenger, are increasingly being used for unsolicited marketing. The personal nature of these platforms can make such messages seem more trustworthy. Fraudsters can create fake profiles and approach individuals with ‘exclusive’ financial offers.

However, there is a lack of clarity on jurisdiction between Ofcom, the Financial Conduct Authority (FCA) and the Information Commissioner’s Office (ICO), all of which regulate cold calls. The Government and the enforcement agencies must take a holistic, joined-up approach that considers the many varied ways people can be exposed to scams. Collaboration with stakeholders, including social media platforms and consumers, will also be vital in designing effective and comprehensive legislation.

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?

While some social media platforms have mechanisms to report and block spam or suspicious accounts, these are not foolproof. Fraudsters continuously evolve their tactics, finding ways to bypass platform safeguards. For instance, they might use social engineering to befriend a target before initiating a scam call.

Some users of these platforms may not be fully aware of the privacy settings and safeguards available to them. We know that many older people may not be adept at recognising or reporting accounts and might even inadvertently leave their profiles open to unsolicited communication, making them vulnerable to being tricked into buying fraudulent financial services or products.

So, while social media platforms have implemented several safeguards to protect users from unsolicited voice or video calls, the dynamic nature of scam techniques and the global reach of these platforms present ongoing challenges. Continuous education and awareness campaigns, primarily targeted at older users, are essential to ensure they can navigate these platforms safely.

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

Door-to-door selling, while less common than in the past, still occurs and can be particularly intimidating for older individuals, especially those living alone. The face-to-face nature of such selling can exert additional pressure on the individual to comply. A trust factor is also involved, which can be incredibly influential to older individuals who might value personal interactions over digital communications.

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

We believe that precise public awareness campaigns, stringent penalties for violation, and simple, accessible consumer reporting mechanisms can deter door-to-door selling of financial services and products.

Also, we recommend that the Government works closely with the third sector to relay the cold-calling ban, such as through Age UK’s Scam Prevention and Support Programme, which helps raise awareness of critical indicators of scams, prevent older people from becoming victims, and support victims.

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

Yes, unsolicited postal mail is another form. While it might seem less direct, misleading information or offers in postal mail can lead consumers to make uninformed decisions. They are often designed to look official or urgent so they can be sent to individuals promoting financial products or services. These can range from credit card offers to investment opportunities. The potential for misinformation, high-pressure sales, and exploitation with this underscores the need for comprehensive consumer protection measures.

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?

Yes, to ensure the ban's effectiveness, it should apply universally, regardless of the size or structure of the entity involved. Fraudsters are adaptable and will exploit any available channel to target potential victims. A comprehensive approach will ensure that consumers are adequately shielded from these risks.

The overall message is important here – for the ban to be effective, it is crucial for the media, charities, regulators, politicians, and other stakeholders to be able to say categorically that “cold calling for financial products is illegal”. Any chink in this armour will weaken the messaging and potentially leave loopholes open for fraudsters to exploit.

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?

The scope should be comprehensive, covering all financial products and services.

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

Age UK believes that any exclusion could create opportunities for exploitation. So, we are advocating for a ban on all consumer financial services and products.

The ban on unscrupulous sharks using cold calling to trick people out of their life savings was introduced in 2019. This targeted scammers and unregulated firms trying to persuade people to transfer money into unsuitable high-risk investments with stiff fees attached. However, this practice continues as crooks switch to new ruses, as evidenced by the ICO’s recent fines for fraudulent businesses[6].

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?

While there are valid reasons to consider an exception for an FCA or Prudential Regulation Authority (PRA) authorised business with existing client relationships, it is crucial to approach this cautiously. The primary goal should always be consumer protection. Allowing exceptions could dilute the primary intent of the ban and create loopholes that other fraudulent businesses seek to exploit. For example, we know that via the FCA's warning list of unauthorised firms[7], fraudsters often clone legitimate (authorised) firms to trick possible victims. We are worried that the exception would allow fraudsters to impersonate the authorised firms when making cold calls to consumers.

The FCA should also enhance the utilisation of the warning list information across all sectors to enable companies to incorporate it into their data detection and prevention mechanisms seamlessly. Potential improvements could include timely alerts when businesses join the list, simplified access to data that might highlight interconnected activities (like email addresses and phone numbers), and offering more detailed data to certain entities (for example, related bank account information that could help identify additional scam victims).

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?

We believe there is a slight potential for ambiguity if we use the proposed approach. Businesses might try to frame marketing communication as non-marketing to bypass restrictions. And, as marketing strategies evolve, there is a risk that new tactics might emerge that do not fit neatly into the defined categories of the proposed approach. This could lead to gaps in consumer protection.

Moreover, while the approach might be sound, its effectiveness largely depends on enforcement mechanisms. Without robust monitoring and penalties for violations, businesses might not have strong incentives to comply.

So, if the Government goes with the proposed approach to strike a balance between protecting consumers from unsolicited marketing calls and ensuring businesses can maintain legitimate communications with their clients. We believe its success will hinge on clear definitions, robust enforcement, and adapting to the changing marketing landscape. Ultimately, regular reviews and feedback mechanisms should be put in place to help ensure that the approach remains practical and relevant over time.

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

As mentioned above, the Government should work closely with trusted sources for information for older people. We provide advice and awareness sessions to many older people and would happily work with the Government and other stakeholders to explain the ban to consumers.

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

While designing impactful legislation for the public, clarity, engagement, consistency, and adaptability should be key considerations, alongside the ability of advocates to get the message about cold calling being illegal across clearly.

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

Firms might argue that the ban affects their outreach and sales. However, ethical business practices prioritise consumer protection over aggressive marketing, a standard that cold calls clearly do not meet. Therefore, firms should adapt by focusing on transparent and consensual marketing strategies.

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[1] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1175770/Coldcalling_consultation-_final_clean.pdf

[2] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1175770/Coldcalling_consultation-_final_clean.pdf

[3] https://www.ofcom.org.uk/phones-telecoms-and-internet/information-for-industry/policy/tackling-scam-calls-and-texts

[4] Age UK, 2021. Briefing Paper: Digital inclusion and older people – how have things changed in a Covid-19 world?. Age UK. [Online]. Available at: https://www.ageuk.org.uk/globalassets/ageuk/documents/reports-and-publications/reports-and-briefings/active-communities/digital-inclusion-in-thepandemic-final-march-2021.pdf. [Accessed 28/09/2023]

[5] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9125480/#:~:text=Age%2Dassociated%20vulnerabilities%2C%20rather%20than,psychological%2C%20and%20behavioral%20economic%20factors.

[6] https://ico.org.uk/about-the-ico/media-centre/news-and-blogs/2023/09/ico-issues-half-a-million-pounds-in-new-fines-as-fight-to-tackle-illegal-nuisance-calls-continues/

[7] https://www.fca.org.uk/consumers/warning-list-unauthorised-firms