



25 September 2023

Cold calling consultation
Financial Services
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

By email to: financial.coldcallingban@hmtreasury.gov.uk

Dear sir/madam

Ban on cold calling for consumer financial services and products – consultation and call for evidence

Cold calls and spam texts about personal injury claims have long been a source of anger and frustration for the public. In 2018, the Government introduced measures which ministers said would curb the number of these calls and texts, but five years on, they remain a significant problem for the public. Research from YouGov, commissioned by the Association of Personal Injury Lawyers (APIL) revealed that between June 2022 and June 2023, 38 per cent of UK adults received a personal injury cold call or spam text¹. Of those people who received a call or text, 86 per cent were left feeling annoyed, angry, anxious, disgusted, or upset. The Government should now introduce an outright ban on personal injury cold calls and spam texts.

The Association of Personal Injury Lawyers (APIL) is a not-for-profit organisation which has campaigned for the rights of people injured through no fault of their own for more than 30 years. Our vision is of a society without needless injury but, when people are injured, a society which offers the justice they need to rebuild their lives. Cold calling, however, generates the false perception that obtaining compensation is easy, even when there is no injury.

¹ Total sample size was 2,066 adults. Fieldwork was undertaken between 19 June – 20 June 2023. The survey was carried out online. The figures have been weighted and are representative of all UK adults (aged 18+)

Solicitors are banned from cold calling, and we fully support this. Claims management companies (CMCs) are still allowed to contact people provided they follow the rules on consent as set out in the Financial Guidance and Claims Act 2018. Section 35 of the Act states that an unsolicited call can be made only to someone ‘who has previously notified the caller that for the time being the subscriber consents to such calls being made by, or at the instigation of, the caller on that line’.

By putting the onus on someone to consent to being cold called, the Government has also put the onus on someone to decide when that consent should have expired. This is not easy. During the passage of the Financial Guidance and Claims Bill, the Government acknowledged there is no fixed time limit after which consent automatically expires².

The Information Commissioner’s Office (ICO) has produced guidance on direct marketing, and this includes eight paragraphs dedicated to the issue of time limits for consent. But not one of these paragraphs provide clear rules to which organisations must adhere³. Instead, the paragraphs are littered with caveats such as, “likely”, “might”, “unlikely”, “general rule of thumb”, and “recommends”. This only adds to the confusion for the public, and can allow the most determined CMC to work around the guidance.

It is unlikely that most of the public are even aware of this guidance. YouGov’s research found that less than half of people (42 per cent) had heard of the Information Commissioner’s Office. The Government cannot, and should not, expect someone to search for the marketing guidance, read it, and then conclude that consent should be no longer valid, even if that person is aware that consent has been given in the first place.

Proposals by the Government to ban cold calling for consumer financial services and products now provides the ideal opportunity for ministers to introduce an outright ban on personal injury cold calls and spam texts from claims management companies, which would be popular with the public. YouGov’s research found that almost the entire UK adult population (89 per cent) support a total ban on these cold calls and spam texts about personal injury claims. The public should only ever expect to hear from someone about a potential personal injury claim if that information has been requested explicitly.

² <https://publications.parliament.uk/pa/bills/cbill/2017-2019/0160/Letter%20from%20the%20Economic%20Secretary.pdf>

³ Direct Marketing, page 33-34 <https://ico.org.uk/media/for-organisations/documents/1555/direct-marketing-guidance.pdf>

Yours sincerely

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