

# Consultation Response

Ref 3218

## Response to proposed pensions cold call ban

August 2018

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Phil Mawhinney  
[phil.mawhinney@ageuk.org.uk](mailto:phil.mawhinney@ageuk.org.uk)

Age UK  
Tavis House  
1-6 Tavistock Square  
London WC1H 9NA  
T 0800 169 80 80 F 020 3033 1000  
E [policy@ageuk.org.uk](mailto:policy@ageuk.org.uk)  
[www.ageuk.org.uk](http://www.ageuk.org.uk)

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## **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, we help more than seven million older people each year by providing advice and support. We also research and campaign on the issues that matter most to older people. Our 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.

## **About this consultation**

In July 2018, HM Treasury (HMT) published a consultation on the Government's proposed regulations for a ban on cold calling in relation to pensions.<sup>1</sup> This followed the Government's original consultation on a number of measures to tackle pension scams in December 2016. Age UK responded to this consultation in February 2017.<sup>2</sup> We are hugely concerned about the impact of pension and investment scams on older people, and share the Government's aim to tackle this crime.

## **Key points**

1. We strongly welcome the proposed ban. Pension and investment scams cause significant financial, psychological and physical harm to consumers. The Government needs to act quickly to enact the ban and prevent further consumer harm.
2. We believe the regulations achieve their main aim, but we do have a concern that some fraudsters may circumvent the ban by not explicitly mentioning 'pensions' during cold calls, but nonetheless targeting pension savings by offering fraudulent investments. We also perceive a risk of impersonation. The Government should set out a timetable for reviewing the effectiveness of the ban and consider extending its scope at that point.
3. Given that many cold calls originate from overseas, the Government and the Information Commissioner's Office (ICO) must make strenuous efforts to work effectively with overseas counterparts.
4. We ask for clarity on whether the proposed ban will cover social media and in-person approaches.
5. The Government must raise awareness of the ban through a well-resourced, effective public campaign, in partnership with other agencies and campaigns, such as the Take Five campaign.
6. There is considerable consumer confusion about who to report scams to, and the Government should ensure there is a clear and effective process, and high-profile enforcement action to encourage reporting.
7. There is an ongoing challenge regarding the limitations of people living with cognitive impairment or lacking mental capacity to understand, retain and enact messages about the ban. The Government and the ICO should prioritise enforcement action against firms who exploit people in vulnerable circumstances.

## Introduction

We are hugely concerned about scams that target people's pension savings. We are equally concerned about investment scams that target other forms of savings. The scale of losses can be life-changing; the average loss to pension scams is £91k,<sup>3</sup> and £32k to investment scams.<sup>4</sup> The impacts are well-known; as well as the life-changing financial impacts that can destroy a person's security for retirement, victims also suffer psychological and physical health impacts, including depression, anxiety and harmed personal relationships.<sup>5</sup> We strongly welcome the ban as a vital intervention.

**Question 1: Do you agree that the proposed regulations achieve the aim of restricting all unsolicited direct marketing calls in relation to pension, bar the exemptions outlined, without restricting legitimate non-marketing calls?**

We agree that the core aim of preventing the most egregious attempts at cold call scamming is achieved through these regulations. While we appreciate that Parliament's legislative agenda is busy, we reiterate the importance of moving as quickly as possible to enact the ban; savers lost over £51 million to investment fraudsters between April and June 2018, a 70 per cent increase on the same months in 2017.<sup>6</sup>

However, while we think the ban will have a positive impact, we do not think it will prevent all relevant cold calls. One key concern is that scammers may still be able to cold call people to discuss 'investment opportunities', possibly by mentioning 'savings' but not mentioning 'pensions' explicitly and so not being within scope of ban. That is why in our original response we recommended the scope be broadened to cover 'savings for retirement' rather than just 'pensions'. The Government should therefore set out a timetable for reviewing the effectiveness of the ban, and should consider extending it at that point.

The other limitation of the proposals is that they will not cover calls originating from overseas. While we appreciate that overseas firms are outside the UK's jurisdiction, the Government and the ICO must do all they can to tackle overseas callers by working with their counterparts in other countries.

We ask for clarity on whether the proposed ban will cover social media and in-person approaches. The Chair of the Work and Pensions Committee raised the issue of in-person approaches in a letter to Economic Secretary to the Treasury in May 2018,<sup>7</sup> citing evidence heard during the committee's inquiry into the British Steel Pension Scheme 'whereby promoters working on behalf of financial advice firms would approach scheme members in person'.

**Question 2: Do you agree that the proposed regulations capture the wide range of activities through which people could be encouraged to use their pensions savings in order to invest in inappropriate or scam investments?**

See comments regarding 'pensions' and 'investments' under Q1.

**Question 3: Do you agree that the proposed regulations are sufficiently flexible and future proofed to prevent the evolution of scam pensions cold calls that circumvent the ban?**

With the introduction of the Lifetime ISA (LISA), it is possible that in future there will be a considerable number of consumers who have saved for retirement through this savings

vehicle. This could mean scammers could call people to offer fraudulent investments targeting the money saved in LISAs, i.e. not having to mention or target pension savings. This is another reason why the Government should ensure the ban is wide enough to cover people's non-pension savings.

#### Question 4: Do you agree that the proposed regulations prevent 'workarounds'?

We welcome the Government's focus on potential 'workarounds' and attempts to prevent them. Our main concern is the risk that scammers do not mention pensions explicitly, as discussed under Q1.

More broadly, we retain a concern that fraudsters are extremely adept at evading such measures. We think the *existing relationship client* exemption could potentially leave room for unscrupulous firms to find ways around it. For example, it's possible scammers could find ways to impersonate a consumer's existing provider, thereby giving the consumer a reason not to hang up. While we're not sure exactly how such a scam would operate, there are already a high volume of bank impersonation phone scams so it is important that the Government considers this risk.

It is therefore vital that the Government closely monitor cold calls reported by consumers, once the ban comes into force, and if necessary, amend the regulations to stop such workarounds.

#### Question 5: What will be the quantifiable impact of the ban on the legitimate business of firms which undertake pensions cold calling?

- how many legitimate pensions cold calls are taking place?
- how many legitimate pensions cold calls lead to a successful transaction and what is the average value of these transactions?
- how many legitimate pensions cold calls will be captured by the ban?

Age UK in principle does not support cold call selling. We find it hard to envisage that a large amount of such legitimate business exists but, in any case, the Government should set a high bar for evidence of the impacts on legitimate business and weigh this against the known severe financial and health impacts of pension and investment fraud on consumers.

## Additional comments

### Raising public awareness of the ban

For the ban to be effective, it is vital that as many consumers as possible know about the ban and can act accordingly. The Government should invest resources into an effective public campaign, utilising a wide range of online and offline channels – more than half (56%) of people aged 75+ are not online, as are a third (35%) of people 65-74 and one in five (18%) people 55-64.<sup>8</sup> Age UK is happy to help promote the ban.

There is a real risk that too many campaigns/messages on related issues around scams become confusing for consumers and do not cut through. The Government should take a strategic, cross-departmental approach, linking the ban to existing fraud/scam campaigns, such as the Take Five campaign run by the Home Office<sup>9</sup> and the ScamSmart campaign

run by the FCA.<sup>10</sup> HMT should also engage with the Joint Fraud Taskforce<sup>11</sup> – set up by the Home Secretary to co-ordinate action to tackle fraud by the Government, the banking industry and law enforcement – to ensure coherent public messages and maximise communication opportunities.

As well as public messaging, the Government should make the ban visible to consumers at salient points on their pension or investment journey. For example, Pension Wise (now part of the Single Financial Guidance Body) appointments should ensure the client has not received a cold call and understands the need to reject any future cold calls. If and when the Government sets up a pensions dashboard, a message on the ban could flag up at login. There is also a role for pension schemes to communicate the ban to their customers.

A key challenge is ensuring consumers can understand and retain the message about the ban, and put it into practice when they receive a cold call. This is especially difficult for people living with some degree of cognitive impairment, such as memory loss. We see cases through our advice line where people are extremely worried about an older relative who has been mis-sold various products over the phone. Often, the caller is charming, friendly or manipulative and exploits the victim's problems with memory or comprehension. The Government and the ICO should prioritise enforcement action against firms who exploit people in vulnerable circumstances.

### Consumer reporting

Another key issue is the need for effective consumer reporting of banned cold calls. We have a number of concerns, including –

- The capacity of the ICO to manage a potentially large number of consumer reports.
- Confusion for consumers as to whether they should report to the ICO, Action Fraud, the police and/or other agencies.
- Whether consumers who have actually lost money to a scam will receive any support or additional protection following a report, e.g. a call blocker, financial or emotional support.

We are also concerned that victims have a lack of incentive to report, due to a lack of follow-up support or prosecution outcome. In polling of older people targeted by a scam, three quarters (74%) said they did not report it because 'I didn't see the point'. Of those who did report the scam, seven out of ten (71%) said 'nothing happened' as a result.<sup>12</sup>

The Government should ensure Action Fraud and the ICO are joined-up so as to deliver a clear and effective route for reporting. This will also ensure we capture as much data as possible about breaches of the ban, which will be vital for any future review and for providing an accurate picture of the wider fraud landscape.

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- <sup>1</sup> <https://www.gov.uk/government/consultations/ban-on-cold-calling-in-relation-to-pensions>
  - <sup>2</sup> [https://www.ageuk.org.uk/globalassets/age-uk/documents/reports-and-publications/consultation-responses-and-submissions/safe-at-home/crs\\_feb17\\_hm\\_treasury\\_response\\_to\\_pension\\_scams.pdf](https://www.ageuk.org.uk/globalassets/age-uk/documents/reports-and-publications/consultation-responses-and-submissions/safe-at-home/crs_feb17_hm_treasury_response_to_pension_scams.pdf)
  - <sup>3</sup> <https://www.fca.org.uk/news/press-releases/regulators-warn-public-pension-scammer-tactics-victims-report-losing-average-91000-2017>
  - <sup>4</sup> <https://www.fca.org.uk/news/press-releases/inside-mind-scammer-tactics-investment-fraudsters>
  - <sup>5</sup> <https://www.fca.org.uk/publication/research/qual-study-understanding-victims-investment-fraud.pdf>
  - <sup>6</sup> City of London Police, <http://www.internationalinvestment.net/regions/uk/investment-fraud-spikes-as-savers-lose-51m-to-scams-city-of-london-police/>
  - <sup>7</sup> <https://www.parliament.uk/documents/commons-committees/work-and-pensions/Correspondence/Chair-EST-Pension-cold-calls.pdf>
  - <sup>8</sup> [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0020/102755/adults-media-use-attitudes-2017.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0020/102755/adults-media-use-attitudes-2017.pdf)
  - <sup>9</sup> <https://takefive-stopfraud.org.uk/>
  - <sup>10</sup> <https://www.fca.org.uk/scamsmart>
  - <sup>11</sup> <https://www.gov.uk/government/collections/joint-fraud-taskforce>
  - <sup>12</sup> Statistics from polling conducted by TNS for Age UK, June-July 2017, 1,367 respondents