



**Further briefing on action to prohibit Claims Management
(and other financial services) cold calling**

Further to our briefing [Victory in the House of Lords](#), we make further points for the Lords debate on Tuesday 31 October regarding [Amendment 42 to the Financial Guidance and Claims Bill](#).

Whilst we welcome the government concession suggested during the debate last Tuesday, we note its stated approach to the Pensions cold calling issue ([see here](#)). This approach does not measure up to the simplicity and effectiveness offered by the terms of Amendment 42.

Part 2 of the Bill, covered by Amendment 42, transfers responsibility for the regulation of Claims Management Companies to the **Financial Conduct Authority (FCA)**. The **FCA** will therefore be creating a new set of regulations, based on those currently enforced by the **Ministry of Justice Claims Management Regulatory Unit**. It is therefore proper to legislate for the regulations to prohibit cold calling, and use of data so obtained, **as these new regulations are codified**.

The most effective way of securing compliance and necessary enforcement action, is by using **the power and authority of the body responsible for licensing practitioners**. We fear the government may continue to be inclined otherwise, by yet again tweaking the powers of the **Office of the Information Commissioner (ICO)**. Many other such recent tweaks have been wholly ineffective.

The majority of those currently engaged in cold calling in this area – promoting PPI and Accident claims - are **not themselves Claims Management companies**. They are however probably already breaching the regulations enforced by the **ICO**, but have been found to be difficult to catch, or no particular case is sufficiently significant to demand the attention of the **ICO's** limited resources.

A key feature of the proposed measure is that **it will stop their activities**, by cutting off their source of income. This is far more effective, as it does not even require them to be identified.

It is also important to understand that **no regulatory or statutory measure will ever directly affect those who set out to break the law**. A clear indication that their activities are illegal may help to reduce the impact of their activities, by making their targets less ready to respond. However, there is no silver bullet. (*Amendment 42 is not "the answer to life, the universe and everything"!*)

The **fair telecoms campaign** is deeply involved with the issue of blocking nuisance calls within the telephone network. **Clear and absolute illegality**, as against consumer complaints, makes it easier for us to **engage telephone companies in both data sharing and call blocking**. The proven failure of the **ICO** means that this will have to become a major way of eliminating nuisance calls.

Amendment 2, which was passed last Tuesday, inflicting a government defeat, creates a mechanism for the **FCA** to be compelled, by legislation, to prohibit cold calling in respect of other activities that it regulates. This covers Part 1 of Bill, applying to the Single Financial Guidance Body, and cannot therefore specify particular prohibitions. Whilst this mechanism may be required to address delinquency by the **FCA**, and thereby apply pressure, it should not be necessary.

The **FCA** has the competence to apply a ban on cold calling, and use of data so obtained, in respect of **pensions, payday loans** and any other regulated activity with the scope of its powers, should it determine this to be necessary in the interests of those it serves, as it has with **mortgages**. We believe that the case for wider prohibition is already well proved, and that the **FCA** should respond by **immediately consulting on proposals to apply such a prohibition**. The passing of Amendment 42 will undoubtedly apply additional weight to our demand that the **FCA** acts on this immediately.