



To: Sir David Amess MP (Southend West)
Re: Nuisance Calls

Sir David

We note your request for an opportunity to debate the topic of Nuisance Calls.

House of Commons Hansard



Business of the House



07 December 2017

[Sir David Amess \(Southend West\) \(Con\)](#)

Will my right hon. Friend find time for a debate on the nuisance telephone calls that are made randomly by cold-callers? Only yesterday, I was driving along the A13 when a young lady came on the phone—it was hands free—to say that she had heard I had been involved in a road accident, to which I replied, “If I get one more call, I will be involved in a road accident.”

[Andrea Leadsom](#)

I am pleased that my hon. Friend always drives carefully and that he was using a hands-free device, but he raises an important point of concern for many of our constituents. In the past, the Information Commissioner’s Office had to prove that a company was causing substantial damage or distress by its conduct before action could be taken, but the Government have now changed the law to make it much easier for nuisance-call companies to be hit with fines of up to £500,000. That is a welcome step, but my hon. Friend may like to seek a Westminster Hall debate or raise the matter at Digital, Culture, Media and Sport questions to discuss it further with Ministers.

Click on image to read Hansard publication, or [click](#)  to watch on [parliamentlive.tv](#).

Regrettably, the Leader of the House repeats a myth about the former powers of the ICO (see [our briefing to clarify misrepresentations](#) made at the time of an unnecessary change).

We stand ready to brief yourself and other members for further questions to the Secretary of State for DCMS, see [this previous attempt](#), or for an adjournment or Westminster Hall debate – the latter under the chairmanship of one of your (perhaps less esteemed) colleagues.

Two important opportunities to discuss the issue in the House of Commons will arise when the **Financial Guidance and Claims Bill** and the **Data Protection Bill** move to the Commons, next year, having been introduced in the Lords.

This will enable members to contribute to the formation of specific legislation, rather than simply engaging in discussion.

Part 1 of the **Financial Guidance and Claims Bill** already contains provisions to address the issue of unsolicited telephone marketing calls in relation to Financial Services in general. These will require a considerable degree of amendment to ensure that they may be truly effective. Many consider it vital that the government’s promise to ensure that cold calling in relation to Pensions is fulfilled, by the instigation of effective measure to that end.

Most significant, especially in relation to the case of accident claims marketing calls such as that reported in your question, is the pending intention by the government to introduce an amendment to Part 2 of the Bill. This must require the Financial Conduct Authority, on taking up its responsibilities in respect of “Claims Management”, to apply a prohibition of use of information obtained by cold calling, as well as use of the practice, by Claims Management Companies (CMCs).



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This government undertaking led to the withdrawal of an effective amendment to this end, which had been tabled at Report Stage. We had worked with peers from all parties in the formation and argument for this amendment. We have published a briefing - [Do you trust the government to ban cold calling?](#), which gives the detail and highlights our concerns that what will be presented in the Commons may not succeed in honouring that government commitment.

What was proposed in the Lords, with our total support, would perhaps not apply directly to the young lady who dangerously interrupted your journey on the A13. It is highly likely that she works for an organisation that would be hard, if not possible, to catch.

By applying the prohibition through the already regulated and licensed activities of CMCs, it would probably put the organisation she represents out of business (at least in this area), as its source of revenue – selling leads to CMCs – would be cut off.

Intervention by law or regulation can only impact on those who respect the law, or may be readily detected. Other measures (in which we are also involved) are required to deal with those who are determined to break the law. The ICO and Ofcom have spent most (although not all) of their energy in relation to nuisance calls over the last 14 years in chasing shadows. Legislation and regulation must only be applied when it may be effective.

It is anticipated that by the time the **Data Protection Bill** reaches debate in the Commons, references to the existing Privacy and Electronic Communications Regulations (PECR) will have to be removed, as this will, by then, have been superseded by new EU regulations (in line with the GDPR).

These new regulations are now awaiting final approval by the Council of Ministers. The intention is for these to come into force at the same time as the GDPR – on 25 May 2018.

These new regulations provide an exceptional opportunity for member states to provide a much weaker protection against nuisance calls than application of the new stricter regime around “consent” would require. Members will therefore be presented with a choice as to whether to strengthen the general regulations against cold calling, or to leave them as they are.

We think it likely that the government will go for the weaker approach, as it is reasonable to assume that it was UK representatives who added this exceptional provision to the draft regulations.

We believe that the ultimate government position on this point, and that taken by parliament, will demonstrate whether the UK wishes to have a looser or tighter regulatory regime, in the protection of the interests of citizens, than EU member states.

Do please get in touch if we can help with briefings and expressions of well-informed opinion on the issues around the matter of Nuisance Calls.

