

# **Report to the Tyne and Wear Trading Standards Joint Committee**

**30 June 2016**

## **Update on New Legislation Affecting Cold Calling by Telephone**

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### **Purpose of the report**

To update the Committee on the latest development, with respect to the fair trading issues which concern cold calling by telephone.

1. On the 16 May 2016 the Privacy and Electronic Communications (EC Directive) (Amendment) Regulations 2016 came into force. These Regulations amend the Privacy and Electronic Communications (EC Directive) Regulations 2003, so as to require that persons making or instigating calls for direct marketing purposes do not prevent presentation of the identity of the calling line on the called line.
2. Imposing fines of up to £500,000 on the companies behind cold calls and nuisance text messages is seen as now much easier, following the changes to the law as made by the government.
3. The move follows tens of thousands of complaints about cold calling. Firms could previously only be punished if the Information Commissioner could prove a call caused "*substantial damage or substantial distress*". That legal requirement has now been removed. More than 175,000 complaints were made to the Information Commissioner's Office (ICO) last year about nuisance calls and text messages.
4. The Government and Trading Standards services have quite clearly recognised that the number of complaints has risen in the past decade and the issue is particularly acute for the elderly and housebound as such calls can cause distress and anxiety.
5. The ICO can take action against companies who flout rules on direct marketing, and says it has issued penalties totalling £815,000 to nine firms since January 2012. It had been powerless to target other firms behind a large number of unsolicited calls or texts. It had tried to argue that companies which make a large number of calls could breach the regulations because of the "cumulative effect" of their actions.

### **How Consumers Should deal with cold callers**

6. Always:
  - Ask cold callers to remove your information from their records
  - Find out caller's number from a landline by dialling 1471 after the call
  - Check with your phone company if you can be made ex-directory

- Report any concerns through to the Citizens Advice Consumer service on 03454 040506.

Never:

- Give away personal or financial information, even if callers claim to be from a company you know
- Lose your temper. Be firm and hang up if the caller refuses to go away
- Call back phone numbers left on your voicemail, or reply to text messages you don't recognise

### **Recommendations**

7. The Committee is asked to note the information as contained within the report.