

Nuisance calls – the regulatory environment

Background

The Scottish Government held a Nuisance Calls Summit in June 2016 which identified a series of issues that need to be addressed to help reduce the number and impact of nuisance calls. The Nuisance Calls Commission was established to consider each of these issues in more detail in a series of three themed meetings covering empowering and protecting consumers; supporting businesses and tackling persistent offenders; and improving the regulatory environment. These meetings will inform development of a progress report setting out what action the Scottish Government and stakeholders have taken together to find solutions to nuisance calls, and what further work will be done to build on them.

The final Commission meeting will examine the regulatory environment at both a Scottish and UK level. Discussions at the initial Nuisance Calls Summit and in subsequent Commission meetings have highlighted a number of issues where existing arrangements might be in need of strengthening. These include:

- Gaps in the regulatory environment
 - Some nuisance calls are not covered by privacy regulations because they are not marketing calls and may also be fraudulent (such as the Microsoft scam calls). At present, there are no practical mechanisms to deal with these.
 - Claims management companies are not currently regulated in Scotland, while they are in England and Wales;
 - The Information Commissioner's Office has never been able to successfully take a prosecution for non-notification forward via COPFS. Elsewhere in the UK, the ICO has the power to prosecute cases itself;
- The complexity of the regulatory environment, and the difficulties consumers experience complaining about nuisance calls and safeguarding their own privacy.

The Scottish Government recognises that the UK Government remains responsible for a number of these elements. However, we also note that the UK Government, UK regulators and the vast majority of UK businesses support the Scottish Government's desire for a system that protects citizens to the fullest degree. By stimulating debate, encouraging collaboration and identifying positive actions for change, the third session of the Commission has the potential to contribute to this goal.

Points for discussion

- Are the regulatory gaps identified the correct ones?
- Taking each in turn, what scope is there to close or reduce them?
- What barriers to closing them exist?
- What scope is there to simplify the regulatory framework – or at least to present a simplified route for consumers to complain or opt out of receiving calls?

- Does the current system which requires consumers to opt out of receiving calls represent the best way of protecting them?