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## **Nuisance calls and messages**

Update to ICO-Ofcom joint action plan

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## Introduction

In 2013, the Information Commissioner's Office (ICO) and Ofcom launched an action plan to address the harm to consumers caused by nuisance calls and messages.

Since then, the ICO and Ofcom have published regular updates to the plan, with the most recent in February 2018. That update set out our joint areas of focus for 2018:

- taking targeted enforcement action;
- working with communications providers to disrupt and prevent calls;
- sharing intelligence with others, including international partners, and enforcement agencies with responsibility for tackling scams and fraud; and
- continuing to identify opportunities through joint-working with other regulators and agencies, where we can bring our respective powers together to deter and punish organisations and individuals responsible for the harm caused by nuisance calls and messages.

Our March 2019 update reports on the progress made in each of these key areas over the last 12 months and evidences how our combined efforts are making a positive difference for consumers.

Total complaints made to the ICO and Ofcom about nuisance calls have fallen for the third year in a row, reversing a nearly decade-old trend of annual increases. Ofcom's consumer research corroborates a decrease in the volume of these calls.

## Understanding the scale of the problem

Nuisance calls include live and recorded marketing calls, silent calls, and abandoned calls<sup>1</sup>. Ofcom and ICO carry out several different initiatives to understand and quantify the problem.

### Tracking research

Ofcom conducts tracker omnibus surveys three times a year: in January, May and September. We ask participants to report the number of nuisance calls received on their landline and/or mobile phones, based on their experience during the previous four weeks.

Our latest research<sup>2</sup> shows that:

- the proportion of adults with a landline receiving any type of nuisance call on their **landline telephone** has fallen from a peak of 73% in July 2015 to 43% in January 2019 – a decrease of 30 percentage points;

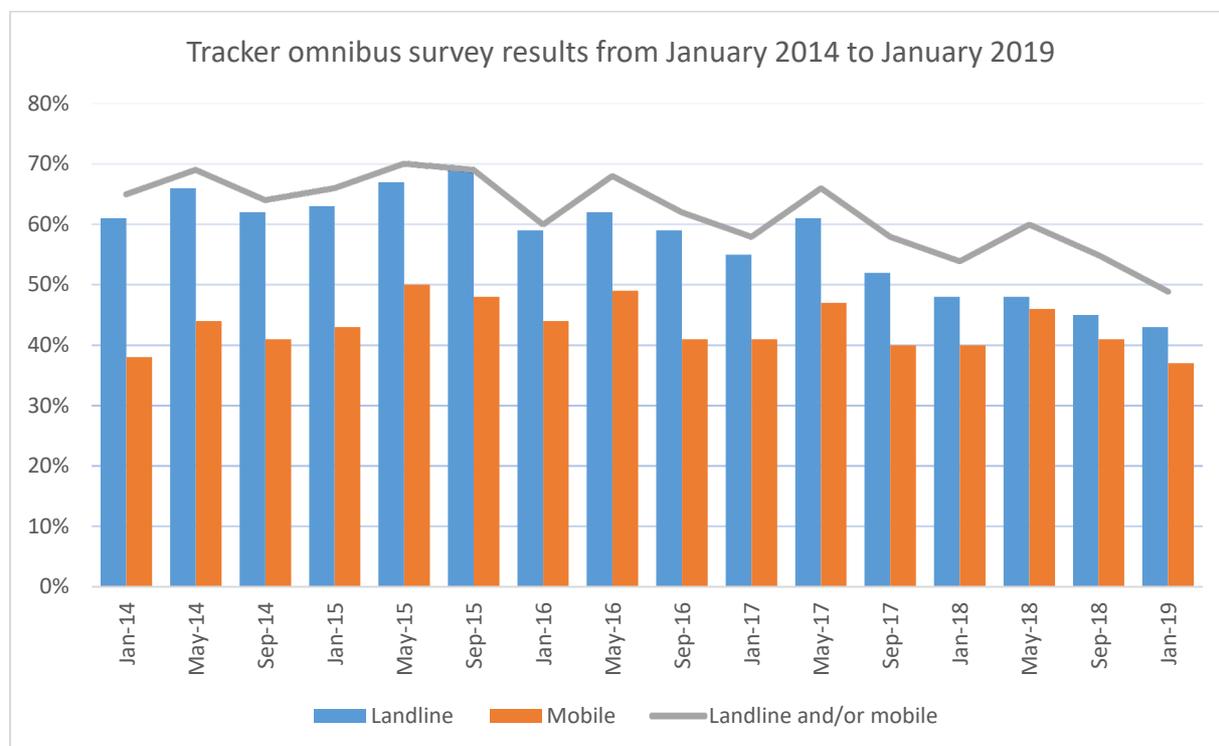
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<sup>1</sup> An abandoned call is one in which the caller connects to the called party, but then ends the call when the called party answers, in which case Ofcom expects the calling party to play a brief recorded information message to identify itself and provide a means for the called party to opt out of receiving further calls. A silent call is, at its name suggests, one where the called party hears nothing.

<sup>2</sup> [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0023/134834/Consumer-complaints-data-tables.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0023/134834/Consumer-complaints-data-tables.pdf)

## Nuisance calls and messages

- the proportion of adults with a mobile phone receiving any type of nuisance call on their **mobile phone** has decreased from a peak of 52% in July 2015 to 37% in January 2019; and
- the proportion of adults with a landline and/or mobile phone who received a nuisance call on their landline telephone **and/or** mobile phone fell to fewer than half (49%) for the first time in the last two years.



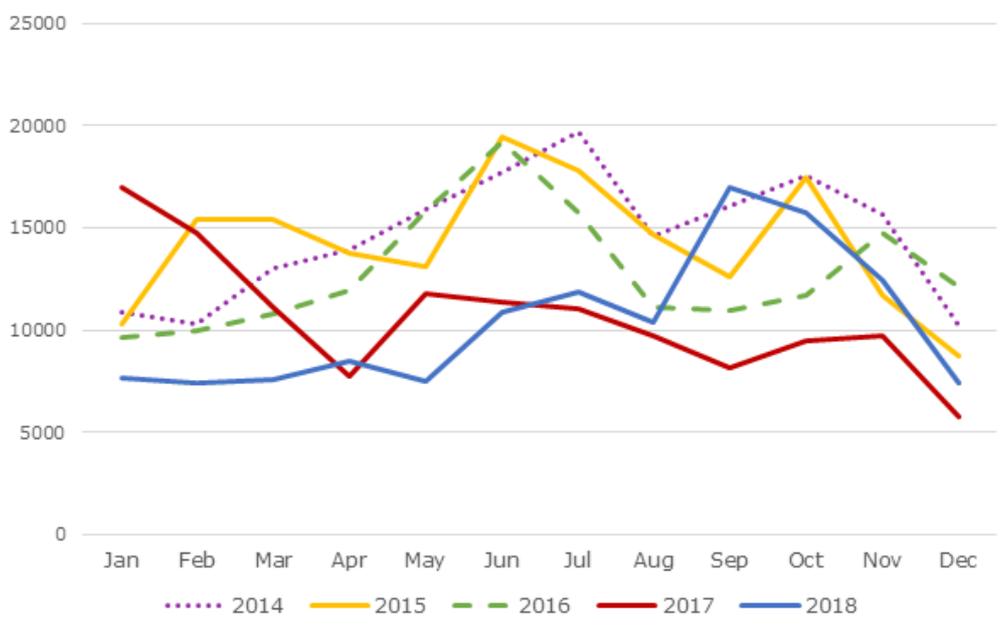
## Diary research

For the past five years, Ofcom has asked a nationally representative panel of consumers to diarise their experience of nuisance calls as they receive them on their landline during a four-week period. We reported the findings from the latest wave of this research, carried out in winter 2017, in our February 2018 update. We are in the process of repeating this research and expect to publish the findings in May this year.

## Complaints data

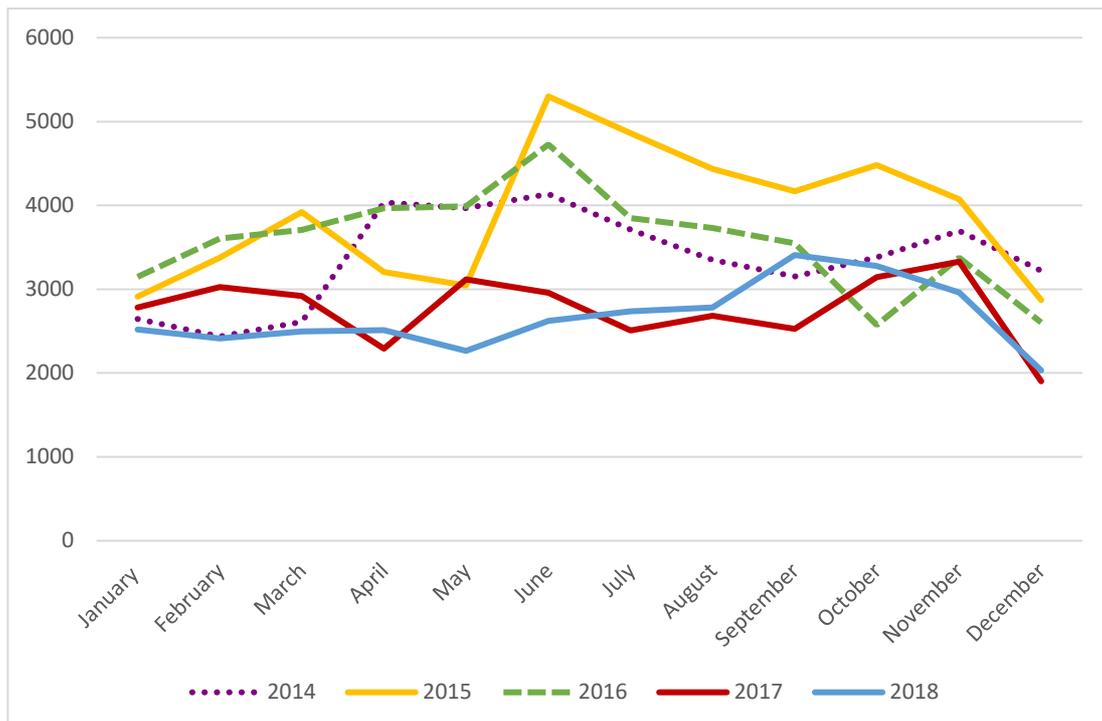
The ICO receives and records complaints from consumers about live and recorded marketing and sales calls, unsolicited emails, and text messages. In 2018, the ICO received 124,363 complaints about nuisance calls, a year-on-year decrease of 3% from 127,623 complaints. However, since the introduction of [GDPR](#) and the bans on claims-management and [pensions related cold-calling](#), there has been large increases in reported concerns (+45% and +63% respectively).

Total complaints made to the ICO about nuisance calls and messages from 2014 to 2018



Ofcom receives and records consumer complaints about silent and abandoned calls. In 2018, Ofcom received 32,019 complaints about these types of unwanted calls, down 31.4% from a peak of 46,648 in 2015. December 2018 saw the fewest number of monthly complaints about silent and abandoned calls since 2012.

Total complaints made to Ofcom relating to silent and abandoned call from 2014-2018



## Targeted enforcement action

### Punishing those responsible

The ICO has lead responsibility for taking enforcement action against companies that contravene the Privacy and Electronic Communication Regulations 2003 (PECR) by making unlawful live and recorded nuisance marketing calls and sending nuisance text messages or emails. The ICO also has statutory responsibility for the Do Not Call Register, also known as the Telephone Preference Service (TPS).

Since the last update, the ICO has maintained its focus on the issue of unsolicited electronic direct marketing and made full use of its regulatory powers.

In 2018, the ICO issued 23 fines totalling £3,108,000. The largest fine, of £350,000 was against Miss-Sold Products Limited for making over 75 million unsolicited automated marketing calls. The ICO also issued 14 fines of £100,000. It publishes [monthly enforcement updates](#) on its website.

As well as issuing fines to punish organisations committing serious breaches of the Regulations, the ICO also issued nine enforcement notices, compelling organisations to abide by the law in future marketing activities or risk criminal prosecution.

In March 2018, the ICO exercised its powers of search and seizure by executing a search warrant in Glasgow, as part of an investigation into one billion suspected automated direct marketing calls made to UK customers. As a result, these calls have stopped, however the ICO's investigation into the organisations responsible remains ongoing.

The ICO also supported other agencies in executing search warrants and lent its technical expertise in identifying equipment and documents used for unsolicited marketing calls.

The ICO's powers were further strengthened in December 2018 via the introduction of [new legislation](#) which enables company directors whose firms target people with unsolicited nuisance calls to be held personally liable if their company breaks the law. This gives the ICO to powers to fine the senior officers and directors of companies making or sending nuisance calls and messages up to £500,000.

### New rules to protect consumers

Ofcom introduced new, and strengthened, rules on 1 October 2018 to better protect consumers against nuisance calls. These include:

- banning phone companies from charging customers for caller display, a service which helps people to screen unwanted calls;
- telephone numbers displayed to people receiving calls must be valid and allow a person to call the number back;
- phone companies must take steps to identify and block calls which carry invalid numbers – a feature of many nuisance calls – so they don't get through to consumers in the first place; and;

- Ofcom is also now able to take back blocks of numbers from communications providers if they are found to have been systematically used to cause harm or anxiety to people, such as to make nuisance calls or perpetrate scams or fraud.

Our enforcement action in the coming year will focus on ensuring compliance with these new rules and using our new powers to withdraw numbers where we find evidence that they are being systematically used to cause harm.

### Informal enforcement

Ofcom allocates millions of telephone numbers, usually in large blocks, to phone companies. These providers may use the numbers themselves, or sub-allocate them to other companies. We expect all phone companies to take reasonable steps to ensure their number allocations are not misused, including by those to whom they have been sub-allocated.

In 2018, we contacted eight phone companies to whom we had allocated telephone numbers where the numbers appeared to be generating high levels of consumer harm. We required them to provide explanations for the high volume of complaints and what action they would take to tackle the issue. This engagement led to positive results with significant reductions in complaints recorded against the telephone numbers in question, and in some cases withdrawal of the sub-allocation of the numbers by the company with whom we made contact from the company generating the nuisance calls.

### Technical solutions to tackle the problem

Ofcom continues to use its influence and relationships with communications providers to address nuisance calls. We have been working with the largest communications providers in the UK to develop technical measures to disrupt these calls, and continue to contribute to global efforts to enhance the reliability of calling line identification (the telephone number and privacy marking that is provided with a phone call).

### Strategic Working Group

In 2015, Ofcom formed a strategic working group (SWG) consisting of nine major communications providers<sup>3</sup>, to explore technical measures to reduce the impact of nuisance calls. Having identified specific characteristics of nuisance calls, members of the SWG measure call traffic that fits these characteristics, and submit a report on this each month to Ofcom. This information is collated by Ofcom and used to inform its enforcement work. The summary is also shared with members of the SWG.

As of the end of 2018, the majority of communications providers in this group are routinely blocking problematic calls within the network, and/or offering their customers a free service to block or divert problematic calls. These efforts are reducing the number of nuisance calls received and we

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<sup>3</sup> The CPs are BT (which includes EE), Gamma, KCom, Sky, TalkTalk, Telefonica, Three, Virgin Media, and Vodafone.

estimate that these providers collectively prevented at least one billion nuisance calls reaching their customers over the past year.

Ofcom also manages a database for the SWG to share the numbers they block and view those blocked by others, so other SWG members can consider whether to take similar action. We also share a list of 'protected' numbers that can be blocked without risk of interfering with legitimate call traffic because Ofcom has not allocated them, and does not expect to do so in the near future. No caller has the right to use these numbers, and so any calls that present them are, by definition, unlawful and a nuisance.

We are also working with UK Finance, an industry body representing the UK financial sector, to tackle scam calls. This work has included identifying a list of 'Do Not Originate' numbers, which are allocated to banks and other financial institutions, but which are never used for outbound customer service calls. Such numbers are increasingly being spoofed by fraudsters who claim they are phoning from a customer's bank. We now routinely share these numbers with the SWG, so they can be blocked from making outgoing calls.

Increasingly some mobile handsets also offer automated filtering or blocking of unwanted 'spam' calls. These use data analytic tools, drawing on network signalling and crowd-sourced information, to determine numbers which are likely to be associated with nuisance calls and to block calls from these numbers. Such apps may have further reduced the impact of nuisance calls.

## **CLI authentication through new global Internet Engineering Task Force (IETF) technical standards**

Internet-based networks now carry most business voice traffic at some point during a call, using Voice over Internet Protocol (VoIP) technologies. The way VoIP technology works means that CLI spoofing (the falsification of the telephone number presented with a call to hide a caller's true identity) is relatively easy to do and difficult for authorities around the world to prevent. This, combined with VoIP's ability to allow huge volumes of very low-cost calls to be made from anywhere in the world with an internet connection, has contributed to the proliferation of nuisance calls.

The IETF has been worked on a new technical standard<sup>4</sup> to ensure that only legitimate calls with valid CLIs, are passed along the 'call chain' from the caller to the recipient. This means that people can rely on the CLI being shown to them and make a more informed judgement on whether to answer the call. The standard has been approved and is expected to be rolled out in the USA this year. A date for implementation in the UK has not yet been confirmed, as VoIP systems only carry a minority of calls here, and some changes to how numbers are allocated and managed may first be necessary. The UK industry has begun to consider the changes that may be necessary to introduce authentication in voice calls.<sup>5</sup> We plan to publish a call for evidence in spring 2019 which will discuss some of the options for implementing a strategic numbering solution, with the potential of supporting authentication in the future.

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<sup>4</sup> Secure Telephone Identity Revisited (STIR)

<sup>5</sup> <http://www.nicstandards.org.uk/files/current/ND1522V1.1.1.pdf?type=pdf>

## Sharing intelligence

Ofcom and the ICO routinely share information with each other, as well as other bodies, both in the UK and around the world, to help us address nuisance calls. We are in regular contact about matters of mutual interest, sharing intelligence about practices and enforcement targets, as well as investigative methods and techniques. Ofcom also regularly shares the results of the SWG's monthly problem call traffic network monitoring (see above) with the ICO.

## Operation Linden

The ICO leads Operation Linden, a group of stakeholders, including regulators, consumer groups, trade associations and industry, that work together to share intelligence and identify opportunities to tackle nuisance calls. Regular contributors to the group include Ofcom, Citizens Advice, Which?, BT representing the telecommunications industry, the Direct Marketing Association, Ministry of Justice Claims Management Regulator, National Trading Standards and the Gambling Commission. The group reports on initiatives aimed at preventing or disrupting nuisance calls, and sharing information. Minutes and actions for group members are published [on the ICO website](#).

## International collaboration

The ICO is a member of the executive committee of the Unsolicited Communications Enforcement Network (UCENET, formerly the London Action Plan), along with the Federal Trade Commission, Canadian Radio-television and Telecommunication Commission (CRTC), Korea Internet and Security Agency, the Australian Communications and Media Authority (ACMA) and the New Zealand Department of Internal Affairs.

This group of international regulators coordinates information and intelligence sharing to combat nuisance calls and unsolicited messaging.

A key focus of UCENET this year has been the development and delivery of a new operational plan. This is based around four pillars of activity: intelligence, enforcement, communication and training. One of the main aims last year was to undertake a review in respect of affiliate marketing activity in each jurisdiction. The results of the review were published on 8 March 2018.<sup>6</sup>

Ofcom has 'observer status' in UCENET, and we have continued to work with its international telecom regulator partner members – ACMA, CRTC and the US Federal Communications Commission – to share intelligence on approaches to dealing with nuisance calls at the provider level.

## Text Message scams

During 2018, Ofcom has also been working closely with mobile network operators to encourage them to work collectively to find solutions to tackle consumer harm. Positive progress has been achieved over recent months by the MNOs, including the launch of "SMS PhishGuard". This is a new

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<sup>6</sup> <https://www.ucenet.org/wp-content/uploads/2018/03/2017-UCENET-Affiliate-Marketing-Sweep-Report.pdf>

initiative from the UK's four mobile network operators<sup>7</sup> and Mobile UK, aiming to combat fraud by text message.<sup>8</sup> A key initiative under this is a new SMS SenderID Protection Registry scheduled for early 2019. This will allow financial institutions signed up to the scheme to register and protect the message headers they use in SMS communications thus preventing other parties from fraudulently using it and misrepresenting themselves as part of those institutions. This initiative will start with banks and Government agencies but will be widened to all merchants and other public sector bodies during 2019.

### Plan for 2019

The ICO and Ofcom believe that our strategic approach to nuisance calls in 2018 has had a positive impact in addressing nuisance calls and reducing consumer harm. We therefore intend to continue this approach in 2019 to maintain, and build on, the momentum. Our focus for 2019 will therefore be

- taking targeted enforcement action;
- working with communications providers to enhance their solutions to disrupt and prevent calls, and, in particular, focusing on those who do not currently provide such solutions;
- identifying opportunities through joint-working with other regulators and enforcement agencies, to deter and punish organisations and individuals responsible for the harm caused by nuisance calls;
- sharing intelligence with others, including international partners, and enforcement agencies with responsibility for tackling scams and fraud; and
- to make use of the full range of our regulatory powers, to encourage and where necessary compel compliance with the law, including, for the ICO, measures to target the senior officers and directors behind the companies making nuisance calls and, for Ofcom, new CLI requirements and number withdrawal powers.

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<sup>7</sup> EE, O2, Three and Vodafone

<sup>8</sup> <http://www.mobileuk.org/sms-phishguard-upping-the-ante-in-the-fight-against-fraud.html>