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## **Nuisance calls and messages**

Update to ICO-Ofcom joint action plan

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# 1. Overview

In 2013, the Information Commissioner's Office (ICO) and Ofcom launched an action plan to tackle the harm to consumers caused by nuisance calls and messages. Our most recent annual update, published in March 2019<sup>1</sup>, set out our areas of focus:

- taking targeted enforcement action;
- working with telecoms companies to improve how they disrupt and prevent calls;
- identifying opportunities through working together, with other regulators and enforcement agencies, to deter and punish those responsible for nuisance calls;
- sharing intelligence with our international partners and enforcement agencies to tackle scams and fraud; and
- using regulatory powers to deter wrongdoing and, where necessary, compel compliance with the law.

Our March 2020 update reports on the progress made in each of the areas listed over the last 12 months and highlights how our collaborative efforts are making a positive difference to consumers.

## 2. Research

Nuisance calls include marketing calls (live and recorded), silent calls, and abandoned calls.<sup>2</sup> The ICO and Ofcom carefully scrutinise all the complaints we receive, while Ofcom also carries out research to understand people's experience of nuisance calls. This information is used to inform our strategy for dealing with nuisance calls and scams.

### Nuisance calls tracking research

Ofcom carries out research three times a year, in January, May and September. We ask people to report their experience of receiving a nuisance call on their landline and/or personal mobile phone during the previous four weeks.

Our latest research,<sup>3</sup> carried out in January 2020, shows that:

- the proportion of adults with a landline telephone who experienced a nuisance call has generally followed a downward trend over the last three years, from 61% in May 2017 to 39% in January 2020 – a decrease of 22 percentage points;

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<sup>1</sup> [https://www.ofcom.org.uk/data/assets/pdf\\_file/0029/139970/nuisance-calls-joint-action-plan-2019.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0029/139970/nuisance-calls-joint-action-plan-2019.pdf)

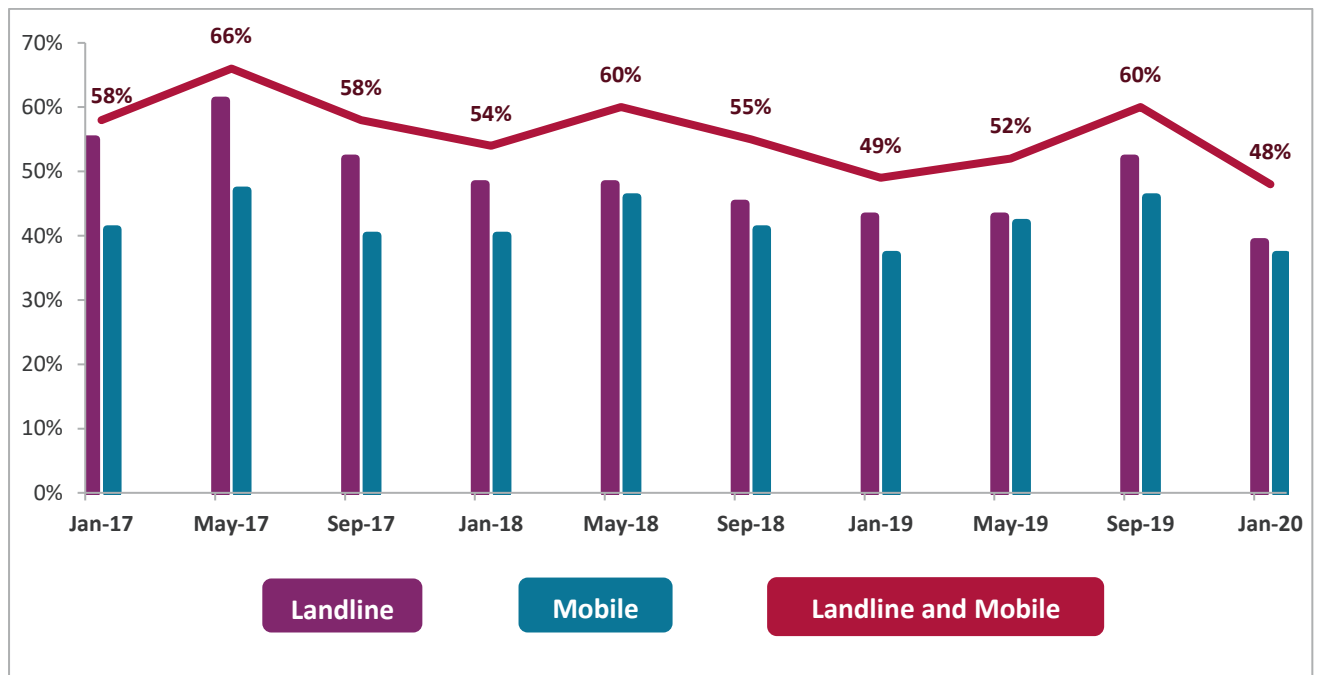
<sup>2</sup> An abandoned call is one in which the caller connects to the recipient, but then ends the call when the recipient answers, in which case Ofcom expects the caller to play a brief recorded message to identify itself and provide a method for the recipient to opt out of receiving further calls. A silent call is, at its name suggests, one where the recipient hears nothing.

<sup>3</sup> [https://www.ofcom.org.uk/data/assets/pdf\\_file/0021/191442/nuisance-call-consumer-concerns-study-wave-32.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0021/191442/nuisance-call-consumer-concerns-study-wave-32.pdf)

- the proportion of adults with a mobile phone who experienced a nuisance call has fluctuated over time, reaching a high of 47% in May 2017 and a low of 37% in January 2019 and January 2020;
- the proportion of all landline and mobile customers who received a nuisance call was at 48% in January 2020 (similar to January 2019), compared to 54% in January 2018, and 58% in January 2017.

The following graph summarises this data and shows the trend of nuisance calls received for each research period from January 2017 to January 2020.

**Figure 1: Percentage of landline and mobile consumers who received a nuisance call ‘in the last four weeks’**



Source: Ofcom Consumer Concerns (Nuisance Calls) tracker research: January 2017 to January 2020

## Complaints data

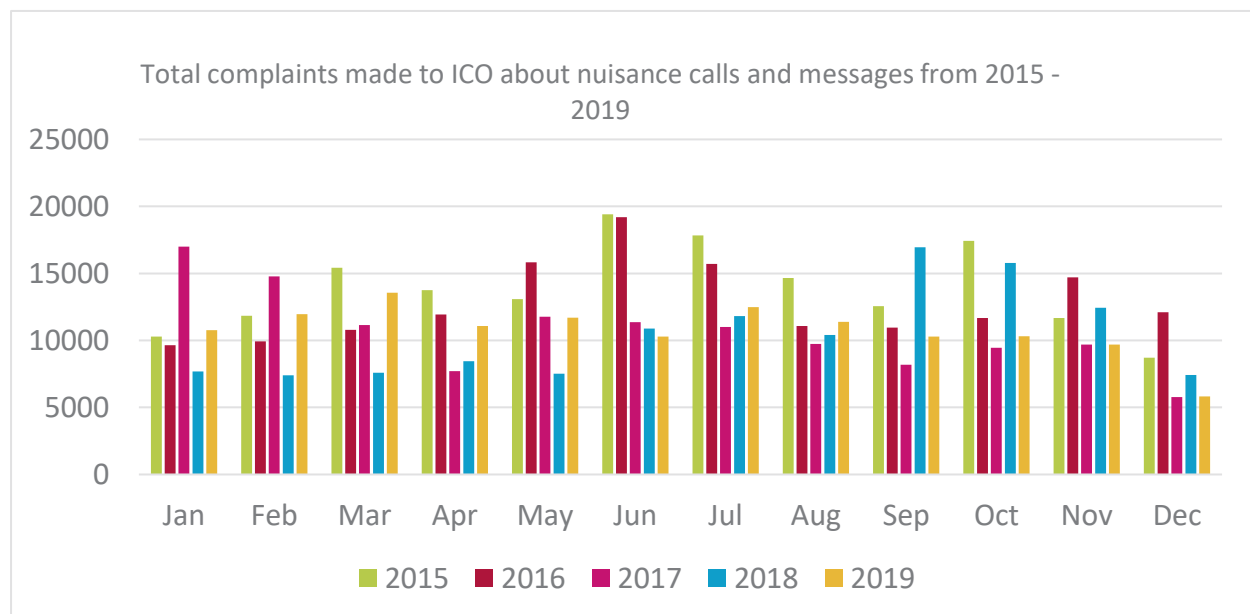
### ICO complaints data

In 2019, the ICO received a total of 129,354 complaints about nuisance contact, a year-on-year increase of 4,991 complaints (+4%) since 2018. Despite this slight annual increase, we actually saw a decline in complaints, comparing year-on-year data from mid-way through the year (47,517 from August – December 2019 vs 63,012 between August- December 2018). This decline is likely the result of an artificial increase in complaints from June 2018 to August 2019, following the introduction of GDPR and the cold call ban against claims management companies, which received media attention at the time. It is likely this attention resulted in increased public awareness of the ICO and our enforcement work and thus more complaints to our online reporting tool rather than an actual increase in claims or marketing behaviour at those times, at least for the most part. It was expected this trend would reverse once changes to legislation became more embedded and

received less media attention, and the data support this. Looking at longer term trends, the total number of complaints received has decreased by 22% since 2015 when 166,663 complaints were reported.

The following two tables breaks down the total complaint numbers received to the ICO per month since 2015 and also as an annual total per year.

**Figure 2: Total complaints made to ICO about nuisance calls and messages per month (2015-2019)**



**Figure 3: Total complaints made to ICO per year (2015-2019)**

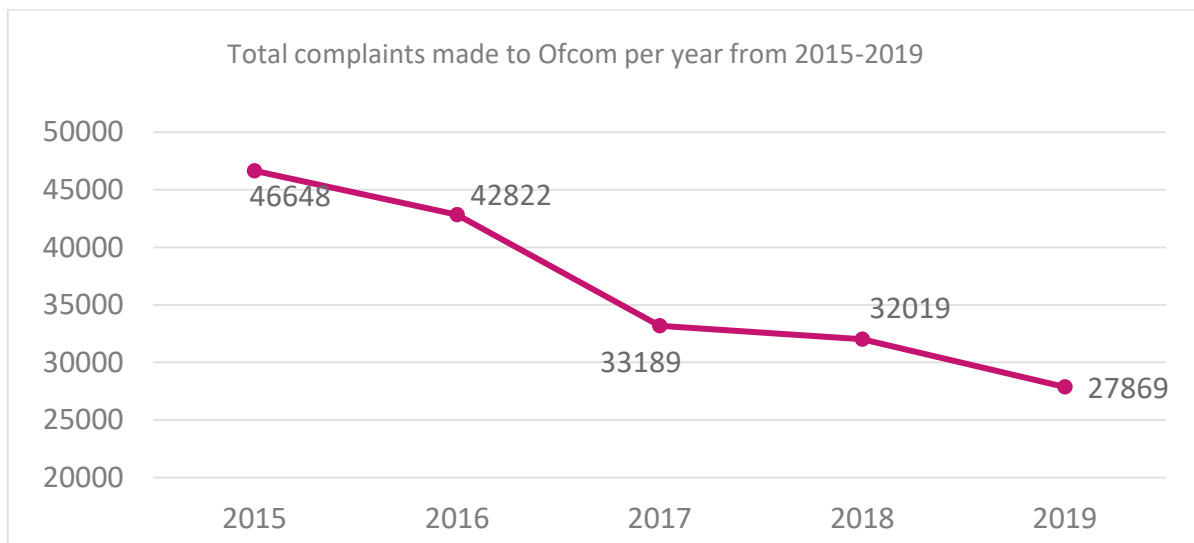


## Ofcom complaints data

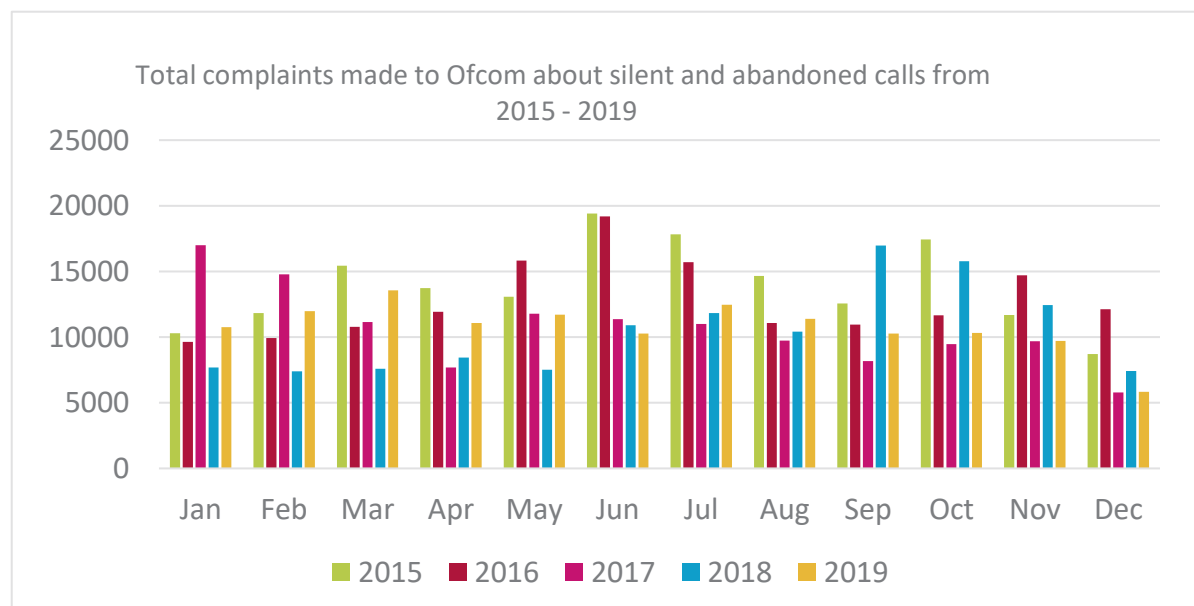
Ofcom receives and records consumer complaints about silent and abandoned calls. In 2019, Ofcom received 27,869 complaints about these types of unwanted calls – half the amount we received compared to 2015 when complaints were at their peak (46,648) and down 12.9% since 2018 (32,019).

The following two tables breaks down the total complaint numbers received by Ofcom per month since 2015 and also as an annual total per year.

**Figure 4: Total complaints made to Ofcom about silent and abandoned calls from 2015 - 2019**



**Figure 5: Total complaints made to Ofcom per year from 2015 – 2019**



## 3. Punishing those responsible

### ICO enforcement action

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

In 2019, the ICO issued 13 fines totalling £1,060,000. The largest fine, of £160,000 was against Making It Easy Limited for making 856,769 unsolicited live marketing calls. The ICO also issued fines of over £100,000; two of which were in relation to unsolicited text messages and one in relation to unsolicited live marketing calls. It publishes [monthly enforcement updates](#) on its website.

As well as issuing fines, the ICO also issued six enforcement notices, compelling organisations to abide by the law in future marketing activities or risk prosecution.

During 2019, the ICO executed three search warrants. Two of these were part of an investigation into over 15 million live direct marketing calls made to UK customers; and one was part of an investigation into over 250,000 live direct marketing calls in relation to pension schemes. The ICO is currently investigating the organisations responsible.

The ICO's powers were strengthened in December 2018 due to [new legislation](#) which enables company directors, whose firms target people with nuisance calls, to be held personally liable if their company breaks the law. This gives the ICO powers to fine the senior officers and directors of companies making or sending nuisance calls and messages up to £500,000.<sup>4</sup>

### Informal enforcement action

Ofcom allocates millions of telephone numbers, usually in large blocks, to telecoms companies. These companies 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 2019, we contacted eleven telecoms companies, whose 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 led to significant reductions, ranging between 28-41% in complaints recorded against the telephone numbers for certain companies and, in some cases, withdrawal of the sub-allocation of the numbers from the company generating the nuisance calls (made by the providers with whom we made contact).

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<sup>4</sup> This is where the breach of the regulations was carried out with the consent or connivance of or was attributable to any neglect on the part of that person.

## 4. Solutions

### Technical Solutions

Ofcom continues to work with telecoms companies to monitor emerging trends in nuisance calls and to identify ways to stop them. We have also called for views from the industry on how the authentication of calling line identification (CLI - the telephone number and privacy marking that is provided with a phone call) can be introduced into the UK.

### Strategic working group

Ofcom chairs a strategic working group (SWG) working with major telecoms companies to explore technical measures which can reduce the impact of nuisance calls. When this group was originally set up in 2015, its membership consisted of nine major telecoms companies.<sup>5</sup> We have since extended membership of this group to eleven other telecoms companies who provide wholesale or business services.

The original nine members of the group continue to submit a report each month to Ofcom. This summarises the volume of nuisance calls they receive on a specific day that month, based on characteristics that have been agreed by the group. We collate this and share it with members of the SWG. It is also used to inform our enforcement work.

We also use the data gathered to help members of the SWG to identify numbers which should not be used with an incoming call. This information is made available to providers to help them check whether the telephone number associated with a call is a valid number and the likelihood that the number has been 'spoofed'. The data shared includes:

- **Blocking list** – numbers that have been identified through our monthly reports and other sources that have generated a large number of nuisance calls.
- **Do not originate list** – numbers shared with us from other organisations, such as UK Finance and government bodies, where the numbers have been allocated but are never used for outbound customer services. These numbers are sometimes spoofed by fraudsters, claiming to be calling from that organisation. Our work to develop our 'Do not originate' list has led to significant successes. For example, when HMRC added numbers to this list, they reported reducing "to zero the number of phone scams spoofing genuine inbound HMRC numbers".<sup>6</sup>
- **Protected numbers list** – numbers that can be blocked because we have not yet allocated them and don't expect to allocate 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.<sup>7</sup>

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<sup>5</sup> The telecoms companies are BT (which includes EE), Gamma, KCom, Sky, TalkTalk, Telefonica, Three, Virgin Media, and Vodafone.

<sup>6</sup> <http://www.mynewsdesk.com/uk/hm-revenue-customs-hmrc/pressreleases/breakthrough-controls-stop-phone-fraudsters-spoofing-hmrc-2880918>

<sup>7</sup> <https://www.ofcom.org.uk/phones-telecoms-and-internet/information-for-industry/numbering/numbering-data>



Telecoms companies are also required, where technically feasible, to take all reasonable steps to identify calls where invalid or non-dialable CLI data is provided and prevent these calls from being connected to the called party. As a result, the majority of the providers in this group are routinely blocking problematic calls or offering their customers ways to manage nuisance calls. On average 70 million nuisance calls are successfully blocked by the networks every month.

Some mobile handsets also offer call filtering of unwanted calls, either built into the phone or as an app. These use crowd sourced information and network data to identify numbers which are likely to be associated with nuisance calls and to block calls from these numbers.

## Authentication of CLI data

It can be difficult to trace an individual or organisation making a nuisance call, as callers often use CLI spoofing to mask the origin of the call. The take up of Voice over Internet Protocol (VoIP) technologies (where calls can be made over the internet) means it is relatively easy for the caller to falsify the telephone number seen by call recipients, and to change the numbers presented frequently. This makes it difficult to block calls based on the use of particular numbers and to identify where these calls come from.

Telecoms companies are also currently limited in the checks they can make to test whether the telephone number associated with a call is a valid, dialable number and one which uniquely identifies the caller. Checking the lists provided to the SWG can help, but it does not prevent callers from using numbers that they do not have the authority to use. Further authentication is necessary to prevent this type of spoofing.

The Internet Engineering Task Force (IETF) has developed a new technical standard to support CLI authentication, so that valid numbers can be identified and marked from the beginning of a call and passed along the 'call chain' to the recipient.<sup>8</sup> The Federal Communications Commission (FCC)<sup>9</sup> set a deadline for December 2019 for the implementation of CLI authentication. In Canada, the deadline is September 2020. Implementation of CLI authentication in the UK will take more time, as not as many calls are currently carried on VoIP systems. We expect CLI authentication to be introduced when voice services are migrated to IP platforms, away from the copper-based network, by mid-2020s. We are exploring with NICC<sup>10</sup> whether some of this functionality could be introduced sooner.

In the meantime, we have published a consultation to gather views from stakeholders about how CLI authentication could be introduced in the UK.<sup>11</sup> We are continuing to work with industry to see how authentication can be introduced more quickly.

## Intelligence sharing

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 tackle nuisance calls. We are in regular contact about matters

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<sup>8</sup> Secure Telephone Identity Revisited (STIR)

<sup>9</sup> FCC is the communications regulator in the USA.

<sup>10</sup> NICC are the standards body for UK telecoms companies.

<sup>11</sup> First Consultation – Promoting trust in telephone numbers

<https://www.ofcom.org.uk/consultations-and-statements/category-2/promoting-trust-in-telephone-numbers>

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 that includes regulators, consumer groups, trade associations and industry providers, that work together to share intelligence and identify opportunities to tackle nuisance calls. Regular contributors to the group include Ofcom, Citizens Advice, Which?, BT, the Direct Marketing Association, the Financial Conduct Authority, National Trading Standards and the Gambling Commission. Minutes and actions from meetings are published on ICO's website.<sup>12</sup>

## **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 of a new operational plan and creation of working groups to maximise collaboration and information sharing across networks and enhance compliance and enforcement approaches. These are based around three priority areas of activity: intelligence and cooperation, communications and engagement, and training and development.

Ofcom continues 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.

## **Tackling Scams**

### **Stop Scams UK**

Ofcom has increased its focus on tackling scams by supporting Stop Scams UK, an industry group focused on stopping scams at source. This brings together policy makers, regulators, consumer groups and industry providers so they can share their understanding of the rapidly changing threat to consumers and businesses posed by scams, and help develop solutions, to stop scams reaching consumers and to help protect consumers who are targeted.<sup>13</sup>

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<sup>12</sup> <https://ico.org.uk/action-weve-taken/nuisance-calls-and-messages/>

<sup>13</sup> It is also closely working with other bodies engaged in counter-fraud work including the Joint Fraud Taskforce - <https://www.gov.uk/government/collections/joint-fraud-taskforce>

Stop Scams UK held a successful roundtable in November 2019, bringing together senior staff from telecoms companies, financial services, trade associations and technology/social media providers. This confirmed the need for a cross sector industry led initiative to stop scams at source and prevent them from reaching customers. This was followed up by a period of engagement and telecoms providers and banks, with more than fifteen organisations committing senior level resource and funding to this initiative.

Stop Scams UK have developed an initial six-month workplan to be rolled out from April 2020, which will be trialled with the organisations who have committed to the programme.

Ofcom will continue to support this initiative throughout 2020 and will provide details of the outputs in the next Joint Action Plan, planned for publication in early 2021.

## **Coronavirus (COVID-19) scams**

The ICO and Ofcom are aware of a growing number of organisations using the Coronavirus pandemic to opportunistically target vulnerable people using nuisance calls, unsolicited emails, and spam texts. In some cases, scammers are communicating misinformation about Covid-19 as a means of duping people out of money.

The ICO is ready to investigate any business taking advantage of the current crisis<sup>14</sup> and has also published a statement setting out its regulatory approach during the coronavirus public health emergency.<sup>15</sup> Ofcom has published advice for people<sup>16</sup> on how to recognise Covid-19 related scams, which is being updated regularly. We continue to work with other regulators and consumer organisations to help tackle these types of scams.

## **5. Plan for 2020**

The ICO and Ofcom believe that our approach to nuisance calls in 2019 has resulted in reduction in nuisance calls and therefore a reduction in harm to consumers. We plan to maintain our approach and continue to develop our work.

Our focus for 2020 will include:

- taking targeted enforcement action;
- tackling and raising awareness of Coronavirus scams and continuing to support the work of Stop Scams UK;
- working with telecoms companies to improve how they disrupt and prevent calls, by carrying out a review of solutions available to consumers from each provider;

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<sup>14</sup> <https://ico.org.uk/about-the-ico/news-and-events/news-and-blogs/2020/04/ico-statement-on-investigating-coronavirus-scams/>

<sup>15</sup> <https://ico.org.uk/media/about-the-ico/policies-and-procedures/2617613/ico-regulatory-approach-during-coronavirus.pdf>

<sup>16</sup> <https://www.ofcom.org.uk/about-ofcom/latest/features-and-news/coronavirus-scam-calls-and-texts>

- identifying opportunities by working together with other regulators and enforcement agencies, to deter and punish organisations and individuals responsible for the harm caused by nuisance calls and scams; and
- sharing intelligence with others, including international partners, and enforcement agencies with responsibility for tackling scams and fraud.