

EXTERNAL VERSION



Operation LINDEN

Virtual meeting hosted by the ICO: 27 January 2021, 10am-12pm

Any information or statistics herein were correct as of the date of this meeting.

Attendees

Natasha Longson (CHAIR)	Information Commissioner's Office (ICO)
David Clancy	Information Commissioner's Office (ICO)
Stephen Flack	Information Commissioner's Office (ICO)
Stephanie Braley	Information Commissioner's Office (ICO)
Kerry Smith	Information Commissioner's Office (ICO)
Representative	Insolvency Service (INSS)
Arthur Cummings	Data & Marketing Association (DMA/TPS)
Dovile Paukstyte	Financial Conduct Authority (FCA)
Barbara Kubis-Labiak	Financial Conduct Authority (FCA)
Duncan O'Meara	Financial Conduct Authority (FCA)
Catherine Orr	Fundraising Regulator (FR)
Charlotte Urwin	Fundraising Regulator (FR)
Siobhan Woolmer	Gambling Commission (GC)
Lee Davie	Insurance Fraud Bureau (IFB)
Jonathan Duffy	Insurance Fraud Bureau (IFB)
Tony O'Sullivan	Insurance Fraud Bureau (IFB)
Debrah Harding	Market Research Society (MRS)
Drew Cooke	National Trading Standards Intelligence
Richard Clarke	National Trading Standards Scams Team
Amy Hemmings	The Office of Communications (OFCOM)
Tayyba Mahmood	The Office of Communications (OFCOM)
Paul Sweeney	Pensions Regulator (TPR)
Sarah Scott	Phone-paid Services Authority (PSA)
Simon Chong	Phone-paid Services Authority (PSA)
Steve Smith	TrueCall
Dianne Doodnath	UK Finance
Stephanie Borthwick [SB]	Which?

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Agenda

- **Introductions** (All)
- **ICO Updates** - including a wrap up of reporting; focusing on a six-monthly update, recovery actions and what we have planned. The update will also include activity relating to COVID-19 and unsolicited or exploitative marketing.
- **Activity and actions updates** – 5-minute round-robin update on relevant activity from each organisation, as well as proposed actions for the next quarter (All).
- **ICO Financial Recovery Unit & Insolvency Service** – Presentation on the impact of disruption post penalty.
- **Joint opportunities** – An update on ICO operational areas of interest.
- **Horizon Scanning** – discussion (All).
- **International Enforcement** – update led by the ICO.
- **AOB** - including any intelligence requirements, minutes and next meeting arrangements.

ICO enforcement update

Operational overview (YTD):

- 28 compliance meetings.
- 20 organisations put on monitoring in order for them to take steps to improve their compliance.
- 32 cases at various stages of formal enforcement action.
- 244 further open investigations.

Enforcement Outcomes:

- 14 Civil Monetary Penalties issued (YTD), totalling £1,575,000.
- Four enforcement notices have been issued

COVID-19:

- The related operation has now closed with existing cases being wound up and anything new being conducted under BAU.
- Three Civil Monetary Penalties were issued totalling £150k.
- Nine cases are still moving through the enforcement process.

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Current / future focus

- The ICO continue to investigate complaints relating to white goods insurance, pensions & investments and loft insulation / energy saving.

Financial Recovery Unit:

The team works closely off the back of any fines issued, for both direct marketing cases and for other fines pursued under DPA/GDPR.

- 17 fines issued YTD, three under DPA and 14 under PECR.
- Three have been paid and Four are under recovery.
- Six Directors have been disqualified.
- A new ICO webpage has been launched which provides a rolling update on what FRU are doing and what action has been taken.

Nuisance call and messaging complaints

- In 2020, the ICO received just over 100k complaints to our online reporting tool, about nuisance calls and SMS messaging. This is a year on year decrease of approximately 25.5k complaints or 20% since 2019. However, much of the decrease was caused by the drop in reporting during the first national lockdown – which impacted complaint levels during March, April and May.
- Complaint volumes have since recovered and remained relatively high, with a peak in October. Complaints have declined slightly since October, but that is likely to be seasonal as the end of the year / holiday period approaches. This is consistent with reporting in previous years. Despite the slight decline, complaint levels are now noticeably higher than during the same time the previous financial year, a trend we expect will continue into the new year.
- The majority of our concerns continue to be split between live and automated calls, with lower but consistent levels of SMS reporting. In 2020 the ICO also added an online reporting tool for email complaints. Across the year, these concerns increased in line with our other PECR complaints. In total, approximately 5k complaints were submitted via this channel and deemed to be 'valid' (within the remit of PECR / The ICO).
- Our top reported complaint topics across the course of the year were accident claims, broadband & telecoms, energy saving and insurance. Though we continue to see a large number of complaints

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sorted into the 'none of the above' category by complainants.

- Towards the end of 2020 there were increases in scam, banking and energy concerns. In December, we also saw an increase in Gambling concerns, though again this is likely to be seasonal as seen in previous years.
- Going into the new financial year we anticipate there may be an increase in payday loan and debt management concerns as the financial impact of COVID-19 continues, along with a rise in energy concerns as the government green homes grant progresses.

Activity and Actions Update

Data & Marketing Association (DMA)

- DMA were receiving a lot of queries relating to data transfers post-Brexit. As the new bridging mechanism is now in place the queries have subsequently reduced.
- TPS complaints are in line with volumes reported by the ICO.
- The majority of complaints received relate to Accident Claims, Amazon scams and calls phishing for payment card details.

Financial Conduct Authority (FCA)

- There has been an increase in reports year on year for 2019-2020. Reports are now at record numbers and it is anticipated that reports in 2021 will continue to rise.
- The FCA are seeing an increase in reports against clone firms and unauthorised claims management companies in particular.
- The FCA continue to liaise with other regulators and law enforcement agencies.

Fundraising Regulator (FR)

- Receiving approximately 70-80 incoming complaints per month, often relating to potential fraud.
- Phone and SMS concerns make up less than 5% of all complaints.

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- Use of the Fundraising Preference Service has been stable throughout lockdown.
- FR has produced 'Safer Giving' advice for the public which can be found on their website ([FR website](#)).
- Anecdotally, it seems that charities will be turning to phone and SMS communication for fundraising functions.

Gambling Commission (GC)

- A joint investigation with the ICO into a gambling organisation in breach of PECR and gambling LCCP concluded in December 2020. The investigation ended in a satisfactory way, and GC received sufficient assurances from the related organisations.
- Government (DCMS) launched the Gambling Act Review at the beginning of December 2020 with the publication of a call for evidence into the Gambling Act 2005. The call for evidence will run until the 31 March 2021 and will look at online restrictions, marketing and the powers of the Gambling Commission as part of a wide-ranging review of gambling laws.

Insurance Fraud Bureau (IFB)

- Google Ad spoofing remains an ongoing issue seen by the IFB. This activity was seen following the easing of lockdown, when legitimate insurers were having their ads outbid on Google by marketing companies. Claimants call the number, and the marketing company/CMC would pretend to be the insurer and then passed/sold on claims information.
- IFB are working with Trading Standards and its members to stop this activity through relevant legislation and enforcement.
- Nuisance and phishing calls are still an area of concern. Last year there was a significant decrease in reports, but this has increased across the course of the year.
- Reports typically relate to claims farming, although concerns were seen early this year regarding general personal injury claims and cavity wall insulation. It is expected that fraud reports will increase after the government furlough scheme comes to an end.

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- The IFB are working with insurers following the Business Interruption court case decision. Whilst early days, there may be enablers moving into this area and could lead to nuisance calls, data vishing and data farming.

The Office of Communications (Ofcom)

- OFCOM continue to liaise with telecoms providers regarding blocking numbers associated with nuisance and scam calls.
- There has been an uptick in silent and abandoned calls within the last year. However, OFCOM are engaging with providers and have seen a reduction in complaint numbers.
- OFCOM are also currently reviewing their strategy around scams.

Market Research Society (MRS)

- Overall complaint levels remain steady and recent concerns relate to individuals pretending to be interviewers / impersonating MRS.
- MRS are involved in ongoing work around data collection and are producing guidance on safe working for data collection.
- MRS also noted that participant response rates to online and phone surveys are improving, possibly as a result of continued local and national lockdowns.

National Trading Standards (NTS)

- NTS have noted a large drop in mass mail fraud and believe this may be the result of effective disruption techniques.
- There has been an increase in reported scams phone calls and NTS are working with the ICO.
- Previously NTS have reported seeing a rise in international based scams, however, they are now seeing a greater number of reports relating to UK enablers.
- NTS continue to reach out to and engage with 'chronic victims' of scam activity within the UK.

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- NTS initiative 'Friends against scams' is approaching 1 million members.

The Pensions Regulator (TPR)

- TPR have not yet seen a rise in pension related scams, however it is anticipated these will increase going forward. TPR currently have several operations ongoing in this area.
- Recently, the Work and Pensions Committee have been considering how TPR tackle pension scams in general and work is continuing around improving reporting practices and intelligence gathering.
- TPR continue to engage with the public in order to educate individuals about pensions fraud.

TrueCall

- TrueCall are currently providing call blocking units to Law Enforcement agencies, Government and NTS.
- The demand for call blocking equipment remains strong, likely due to continued lockdown. Individuals are spending more time at home and are therefore more likely to acknowledge the receipt of nuisance phone calls.
- TrueCall are seeing the same patterns in data trends as reported by other LINDEN participants, with an initial decline in activity in early 2020, before this began to rise across the remainder of the year.
- Police and local authority work for vulnerable people has declined slightly due to outreach difficulties caused by the continued lockdown. There are plans to increase this work going forward.
- TrueCall is involved in the beta stage of a call blocking service for mobile phones. This will allow them to see the difference between the pattern of nuisance calls received on landlines and mobiles.

UK Finance

- The numbers of bank impersonation spoof calls being reported have declined, though UK Finance continues to engage with OFCOM to see what else can be done to help track these calls. This is currently

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under consultation and work is ongoing in terms of protecting business numbers.

- UK Finance are continuing to urge consumers to follow the advice and guidance of the 'Take Five to stop fraud' campaign in a bid to help to combat fraud and scams ([UK Finance website](#)).
- UK Finance are also working on how to prevent/mitigate fraudulent bank impersonation text messages from reaching consumer devices.

Which? – Stephanie Borthwick

Prevention

- Which? have ongoing policy work looking at scams enablers, including online platforms, banks and telecommunications. It was noted there is currently an issue with legitimate messages looking like scam texts and Which? are looking at developing some guidance for businesses on how to improve their SMS communications to help consumers recognise the difference between fraudulent and legitimate messages.
- Which? have engaged with telcos, NICC, Mobile UK, OFCOM and others to identify gaps in consumer protection. Current concerns include, vishing, smishing, spoofing, SIM swap fraud, and how businesses use telecommunications to reach their customers.
- Which? continue to publish advice and interest stories on its website and other platforms. The consumer advice pages on scams have been redesigned and Which's 'scam alert' email tool currently has over 80,300 subscribers.

Phone-paid Services Authority (PSA) – Sarah Scott

- Complaints to PSA have dropped from around 1,500 to 400 per month, a significant decrease on previous report. This may be the result of recent changes to the due diligence process.
- PSA advised there had been two past instances of accidental reverse charges, whereby large numbers of messages were sent out and charged by mistake. PSA engaged with the ICO and other agencies to identify any related complaints.

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ICO FRU & INSS presentation

- The ICO's Financial Recovery Unit and the Insolvency Service presented on the impact their joint work has had over the past five years, in relation to disruption efforts post penalty.
- This work looked to address the historic issue of company directors dissolving and 'phoenixing' from one company to another in order to avoid sanctions and fines.
- The joint work focused on organisations and individuals suspected of repeated or wilful misconduct or of serious failures in respect of data protection and PECR.
- This work serves as an important deterrent to those who risk non-compliance with the law and has proved very successful.

Joint Opportunities

The ICO are currently focusing their attention on three main areas of investigation in relation to nuisance contact. These are:

- White goods: The ICO noted large volumes of calls that appeared to be fraudulent in nature and targeting the elderly and vulnerable. Calls relating to White goods insurance and warranty products (including TVs etc) were prominent, with some callers also impersonating legitimate businesses. The ICO is investigating and working with partner agencies to see if there are any breaches of legislation or need for enforcement action.
- Loft insulation/energy saving: The ICO noted an ongoing issue in relation to the sale of loft and cavity wall insulation products. Related scam calls have increased following the recent announcements from the Chancellor regarding home improvement grants linked to energy efficiency, as a way to boost the economy. This rise will likely continue as the scheme progresses. The ICO have also seen concerns relating to solar panels, windows/double glazing and boiler/heater replacements.
- Pensions: this area of work is a response to the Pensions Cold call ban and enactment of Regulation 21B of PECR. The investigation covers investment schemes and pension liberation and the ICO continue to work closely with partner agencies.

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Horizon Scanning

- It has been well reported that regulatory bodies are seeing a rise in vaccine scam messaging. So far the ICO has only received a few related complaints, though we anticipate these will increase. Concerningly, we are also starting to see individuals answering other scam and nuisance calls from withheld numbers, as they are waiting to hear about legitimate vaccine appointments. This makes individuals more vulnerable than they would usually be and creates opportunity for fraudsters and nuisance marketers.
- It was also noted that fraudulent and / or marketing activity may be driven by or look to capitalise on the upcoming UK Census and international import fees post-Brexit.
- Other areas of potential focus included data broking and lead generation activity via social media platforms.

International enforcement update

Unsolicited Communications Enforcement Network (UCENet)

- In 2019 the Executive Committee¹ agreed priorities for the network for the next three years and leads were identified for each of these. The priority areas are intelligence and cooperation, communications and engagement and training and development.
- The Executive Committee have routinely followed up via teleconference to develop work plans, decide on next steps and to discuss approaches taken to the COVID-19 pandemic and any resultant trends.
- UCENet members plan to engage with wider international industry via M3AAWG (Mobile, Malware and Messaging Anti-Abuse Working Group) to update on threats and current work.

Any other business (AOB)

- No other business raised & next meeting planned for April 2021.
- ICO thanked participants for attending and contributing to the meeting.

END

¹ US FTC, UK ICO, Canadian CRTC, Australian ACMA, Korean KISA and New Zealand DIA

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