

MONEY
ADVICE TRUST

BUSINESS
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DEBTLINE

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ADVISER

Consultation Response:

HM Treasury Ban on cold calling for consumer financial services and products

Response by the Money Advice Trust

Date: September 2023

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Introduction

About the Money Advice Trust

The Money Advice Trust is a charity founded in 1991 to help people across the UK tackle their debts and manage their money with confidence.

The Trust's main activities are giving advice, supporting advisers and improving the UK's money and debt environment.

In 2022, our National Debtline and Business Debtline advisers provided help to 140,980 people by phone, webchat and our digital advice tool with 1.87 million visits to our advice websites. In addition to these frontline services, our Wiseradviser service provides training to free-to-client advice organisations across the UK and in 2022 we delivered this free training to 2,780 organisations.

We use the intelligence and insight gained from these activities to improve the UK's money and debt environment by contributing to policy developments and public debate around these issues.

Find out more at www.moneyadvicetrust.org.

Public disclosure

Please note that we consent to public disclosure of this response.

Introductory comment

We welcome the proposals for a ban on cold calling for financial products. We hope this will go some way to protect financially vulnerable consumers from harm. We very much agree that a ban on cold calling for all financial products will generally be simpler for consumers to understand. A credible promotions campaign would assist in raising consumer awareness and engender the confidence to hang up whatever product is being offered.

We agree that a comprehensive ban will help with the current inconsistent approach to regulation. The wider scope will also limit the ability of fraudsters and other parties to adapt their strategies to avoid the ban and move on to another financial product to exploit.

We are very pleased to see “*Credit and debt, including individual voluntary arrangements*” has been included in scope and very much support this proposal.

However, a ban on cold calling will not be enough in itself to prevent harm caused by misleading online advertising from unregulated IVA lead generators. People might see an advert for debt help and inadvertently sign up to a follow up call. The Government must also tackle the harm caused by misleading debt advice adverts online across a range of social media and search engines.

Responses to individual questions

Question 1: In your experience, what are the main harms caused by cold calling to market financial services and products?

We would suggest that there will be elements of emotional and financial harm caused by cold calling to market financial services and products. Repeated nuisance calls can affect peoples' wellbeing especially if they are older, where they may rely on their landline so always try to answer the phone. People may become distressed and physically unwell if they believe they have to run to pick up the phone when they may have mobility problems or other disabilities.

There are inevitably reports of shame where someone has been being misled or taken in and their trust abused. There will be additional anxiety from feeling pressurised to act quickly, and ongoing concern as to how the firm got a person's contact details. This may be due to personal data having been leaked or someone inadvertently signing up to receiving calls from that service or being shared with various companies to help them target the most vulnerable consumers.

In addition, financial losses as a result of cold calling scams can be catastrophic for that individual who may lose vital lifesavings or pension assets or take out expensive and unnecessary products such as some types of insurances.

In debt advice, we see vulnerable people contacting us after taking out unsuitable products, such as IVAs. These are often marketed as "quick fix" debt solutions, but are often inappropriate for their circumstances.

We have reported many instances of cold calling by firms impersonating reputable services, such as debt charities like National Debtline. This undermines confidence in our services, and people may believe that we would cold call them out of the blue. This additionally causes anxiety to people who are not in debt but have been contacted anyway. They may contact us to complain that we have rung them when we have not.

We have set out some examples of such calls and complaints in appendix 1 below.

Question 2: Do you agree that the cold calling ban should capture live telephone calls to an individual?

Yes, we agree that the cold calling ban should capture live telephone calls to people.

Question 3: Question To what extent does direct unsolicited marketing of financial services or products take place through live, electronic communications, other than telephone calls? Are there impacts if these communications are not captured by the cold calling ban?

We are not aware of the extent of direct marketing of financial services through live electronic communications such as social media video or voice calls. The cases reported to our service would tend not to be specific about the contact method employed by someone pretending to be one of our services.

We would suggest that it would be advisable to capture these types of communications within the cold calling ban, otherwise there is every likelihood that cold calling would shift to new forms of communication to avoid the ban. This has very much been the pattern in the past, where determined scammers will bypass new regulatory action to find innovative ways to continue their activities.

Question 4: Are there existing safeguards in place via social media organisations which already offer protection against fraudsters using social media voice and video calls for the purposes of cold calling?

Unfortunately, we are unable to provide any information about the existing safeguards that are in place via social media organisations against cold calling – but we hope social media companies and others will provide this as part of this consultation.

It would also be useful for government to research the effectiveness of any measures that are in place. It would appear that whatever safeguards have been put in place, these have had limited effectiveness so far and are in need of strengthening and/or proper enforcement by social media firms.

Question 5: To what extent does marketing of financial services or products take place through door-to-door selling?

We agree that there is a risk of pressure selling and consumer harm from door-to-door selling at consumers' homes. We are unable to quantify the extent that marketing of financial services takes place by direct selling door to door.

In the past we would have seen more home-collected credit activity of this description but much of this type of lending has reduced due to FCA enforcement activity. In addition, it might be useful to seek the opinion of the Illegal Money Lending Unit to see if this is a common tactic amongst the unregulated lenders that they deal with.

Question 6: How could a cold calling ban be made to be effective in preventing door-to-door selling for financial services and products?

If the cold calling ban was put in place to prevent door-to-door selling then logically the same argument would apply, that raising consumer awareness that such activities are not legal, would help to engender the confidence to refuse to answer the door. As such “analogue” activity is likely to be primarily targeted at demographics that are more likely to be both digitally excluded and potentially vulnerable, such as older people, then we would urge government to include door-to-door selling within the cold calling ban.

Question 7: Are there other forms of cold calling aside from electronic communications and in person selling that cause harm to consumers?

We understand that the subject of this consultation relates to live communications, rather than electronic communications such as text messages and emails. We wonder if instant chat or webchat services might be included in the definition of live communications for the purposes of this consultation. This form of communication could be reasonably considered to be live.

Question 8: Should sole traders and other types of partnerships (outside of limited liability partnerships and Scottish Partnerships) be captured in this ban on consumer financial services and products?

We very much agree that sole traders and partnerships should be captured within this ban on cold calling for consumer financial services and products. We run Business Debtline, which helps small businesses and sole traders in financial difficulties, providing advice on personal and business debts. In our experience, many of the sole traders and small businesses we see will be as potentially vulnerable as individual consumers. They therefore are in need of similar extra protections.

Our latest impact survey shows that four in five (79%) of Business Debtline clients operate their businesses from home. Half (52%) of Business Debtline callers had a total household income of less than £20,000. A recent survey of Business Debtline clients found that over half (56%) were concerned about being able to afford their bills in the next six months.¹

Added to this, many small business owners and self-employed people are facing higher business costs in addition to higher household costs, at a time when the increased cost of living is leading to less consumer spending. Taken in conjunction, for many small business owners the challenges are particularly acute, especially if their income is low.

¹ Survey of 192 Business Debtline clients, conducted between 24th November 2022 – 2nd January 2023.

Question 9: Do you agree that the scope of the ban should include the services and products set out in the section above? Are there any other products that should fall within the scope of the proposed ban on consumer financial services and products cold calling?

Yes, we very much agree with the scope of the ban as set out in the paper. In particular, we are very pleased to see “*Credit and debt, including individual voluntary arrangements*” has been included in scope.

There have been a number of problems with IVAs for many years, and this is reflected in the evidence we see from clients and advisers, as well as the high early failure rates seen across the IVA market.

There are a number of factors which lead to this poor practice of people being put into unsustainable or unsuitable IVAs when they should have arguably been on a different solution – including misleading advertisements, fees, lack of regulation and poor advice. We frequently see people who were encouraged to enter an IVA based on misleading claims in advertisements or during ‘advice’ given by lead generators or IVA providers including through cold calling activities. Lead generators are incentivised to behave poorly by IVA providers willing to pay large fees for access to people who might be persuaded to enter into an IVA.

We have set out a list of sample cases reported by members of the public to our National Debtline and Business Debtline services from January to June 2023 in Appendix 1 below. We feel that these case reports perfectly illustrate why cold calling from commercial debt companies, lead generators, debt packagers and insolvency practitioner firms should be banned.

However, a ban on cold calling will not be enough in itself to prevent harm caused by misleading online advertising from unregulated IVA lead generators. People might see an advert for debt help and inadvertently sign up to a follow up call (although this could be from a variety of firms in practice). Presumably such callers would argue that there has been consent for the call to be made, although it may be from a different firm entirely. The Government must also tackle the harm caused by misleading debt advice adverts online across a range of social media and search engines.

Question 10: Are there any consumer financial services and products which should not be captured by this ban?

We have not identified any consumer financial services and products which we believe should not be captured by this ban. We believe the ban should extend as widely as possible to minimise potential consumer detriment. We are pleased to see that the government does not plan to exclude any financial services or products from the ban at present.

Question 11: Do you have any views on whether to include an exception in this cold calling ban, for situations where the caller is an FCA or PRA authorised business and there is an existing client relationship between the caller and the recipient, such that the recipient envisages receiving cold calls?

We see no advantage to consumers for there to be an exception to this cold calling ban where the caller is an FCA authorised business.

In our experience, many people who are looking for debt advice and assistance through search engines will happen upon misleading commercial adverts for debt help promising to write off 90% of their debts and inviting them to take part in a “30 second debt test” online. This inevitably leads to a request for contact details before the “debt solution” is revealed.

We suspect that people may not be aware what they have signed up to, and are often passed on to third parties who may offer IVAs or other commercial debt services, some of whom are FCA authorised as debt packagers. People in debt, under stressful circumstances, reaching out for help, may not remember such interactions. In many cases, filling in an online form will result in all sorts of third-party contacts, and it is stretching the term to assume that any meaningful consent has been given by potentially vulnerable people at that point.

The world of online debt adverts is very confusing. It is well documented that commercial debt firms and lead generators will use online adverts to masquerade as free debt advice charities such as National Debtline, Citizens Advice and StepChange Debt Charity.²

There have been some attempts to clean up such advertising, particularly through FCA CONC 3.9.7 rules for regulated firms, Insolvency Service guidance for insolvency practitioners³ and the ASA enforcement notice on debt management advertising⁴ as well as ASA rulings. However, this has not so far had the desired effect.

A ban on cold calling for this type of firm that may well have obtained consumer details through nefarious means, can only help to complement this ongoing regulatory work.

Question 12: Do you agree that the proposed approach achieves the aim of restricting unsolicited direct marketing calls in relation to financial services and products, bar the exceptions outlined, without restricting legitimate non-marketing calls?

We would not want the proposals to interfere with the ability of businesses to interact with their existing customers, for example under the new FCA Consumer Duty. However, we would expect any exceptions to be limited and need to be very clear to avoid any ambivalence or wriggle room for firms who are intent on circumventing any new protections.

² [Misleading Ads. Debt Charities Warning. StepChange](#)

³ <https://www.gov.uk/government/publications/guidance-on-monitoring-insolvency-practitioners-advertisements-marketing-and-debt-advice>.

⁴ <https://www.asa.org.uk/news/enforcement-update-debt-management-ads.html>

The paper says:

4.6 The proposal will not apply to interactions where the customer has knowingly and freely given, clear and specific consent to be contacted for marketing purposes.

We suspect there may be a grey area when establishing whether a customer has “*knowingly and freely given, clear and specific consent*” for the reasons we set out above. This will need to be very clear so that it is not open to misinterpretation by firms or consumers as it does not seem very clear in practice.

Question 13: Do you have any views on the enforcement mechanism set out in paragraphs 4.11 and 4.12 above?

We agree with the proposal for the ICO to act as enforcement agency as it already has powers to enforce bans on pensions and claims management.

However, we would expect any firm proposals to include consideration of whether the ICO needs greater resources and enforcement powers to effectively enforce the wider ban, particularly on lead generation firms.

Question 14: How else can the government best ensure consumers are aware of the ban?

We are happy to be included in any government work with consumer groups to develop proposals to effectively advertise the ban.

Whilst we do not have any specific proposals at this point, we would expect there would need to be adequate funding for a comprehensive consumer awareness raising campaign across all the different forms of media now available.

Earlier this year, we worked with StepChange Debt Charity and Citizens Advice to raise awareness of misleading adverts and companies impersonating genuine debt advice charities, including [consumer facing information](#). Our National Debtline website contains a guidance page called [Making sure it's us](#) which we hope acts a measure of reassurance for members of the public. We also regularly publicise this page on social media.

It is always helpful to think of who is likely to be affected and is in greatest need of support, in order to make sure any campaign reaches these groups. Perhaps using research and involving people with lived experience would be a way forward here.

Question 15: What are the key considerations when designing the legislation to ensure that it is clear and impactful for the public?

It is not easy to design legislation that is clear or easy to understand generally. We would not expect this legislation to be unique in that respect.

It may be necessary to develop clear guidance or fact sheets in simple English to explain the legislation and to use as part of the awareness raising campaign.

Question 16: In your experience, how could firms' business models be affected as a result of the ban?

We cannot comment on firm business models. However, we would not expect a legitimate business model to be impacted as they would not be using underhand tactics to generate engagement with their products and services.

Question 17: Are you aware of any groups of businesses, organisations and/or individuals that will be particularly affected by these proposals?

We are not aware of particular legitimate businesses operating within the proper rules that will be affected by these proposals.

Question 18: What impacts would you expect to see on persons with the protected characteristics mentioned above as a result of a ban on cold calling for consumer financial services and products? How can the government design the ban to promote positive impacts and mitigate any disproportionate impacts on persons sharing protected characteristics?

We would expect there to be positive impacts on groups with protected characteristics. We would expect cold calling activity to be primarily targeted at demographics that are more likely to be both digitally excluded and potentially vulnerable, or trusting - such as older people or people who are at home more and able to answer the calls, or people with caring responsibilities or disabilities.

Question 19: Do you have any other views or information the government should consider in relation to the proposed ban on cold calling in relation to financial services or products?

We do not have any further views to add at this point.

For more information on our response, please contact:

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Appendix 1 – confidential (not for publication)

Case reports of cold calling to National Debtline and Business Debtline January to June 2023

Scam contacts	Method of contact	Content
13 th January 2023	Call with adviser	<p>Report from adviser</p> <p>Caller explained that they are in debt and a company called First Class had taken all the client’s details about their debts and personal information. They told the client that what they would then do is email us (National Debtline) all this information so we can process this and get client on an IVA. Caller now aware this is incorrect information. (First Class from what I can see has also gone into liquidation)</p> <p>Could not locate this company on Google search.</p>
25 th January 2023	Email from client	<p>Client email about calls</p> <p>“Subject: COMPLAINT - please stop calls</p> <p>It is with disgust that after months of requesting your customer team to stop calling my number that it continues with another call today.</p> <p>I once again request that my contact details are fully removed from your records immediately, and no further calls be made to xxxxxxxxxxxxxx.</p> <p>If such calls continue I will take further action against your company to the Financial Ombudsman.</p> <p>Kind regards,”</p>
26 th January 2023	Webchat with adviser	<p>Webchat about calls</p> <p>“Got a phone call claiming they were from the national debt helpline and when I challenged, they put the phone down and the number that was displayed was i am hoping it was one of your phone numbers because if it was not the it was a scam and i may have a problem, can you verify if indeed</p>

		<p>it was one of your numbers or not.” 01205205203</p> <p>Tried number - line is dead</p>
<p>26th January 2023</p>	<p>Email from client</p>	<p>Client email about calls</p> <p>“Hi</p> <p>Your organisation will not stop calling me.</p> <p>They have been calling me from months and it happened tens of times a day.</p> <p>I have repeatedly asked for my number to be taken off of the system.</p> <p>Within a space of a few hours, I have had two phone calls from you today and asked for my number to be removed again.</p> <p>I would like to know one, where did you get my information and to why is my information not being deleted?</p> <p>I would like to understand the process also like to stop being stalked by your organisation.</p> <p>My telephone number is xxxxxxxxx.</p> <p>You do not have my permission to use this email address in any other instances than to respond to this complaint.</p> <p>Please follow your complaints procedure, because if I am not satisfied with the outcome and the evidence that you demonstrate I will be reporting you to the ombudsman. My mobile phone provider has told me to call the police because you are stalking me and I have already marked this number as spam, but you use that many different numbers I can't make it stop.</p> <p>You are worse than any creditors I have ever experienced.”</p>
<p>7th February 2023</p>	<p>Call with adviser</p>	<p>Report from adviser</p> <p>Person calledon number 02037694242 claiming that they are from National Debtline and had access to client's information around the debts. Told client to sign form and said if they pay a sum of £471 all their debts will be written off. To prove that it was us provided our London address for the Trust office.</p>

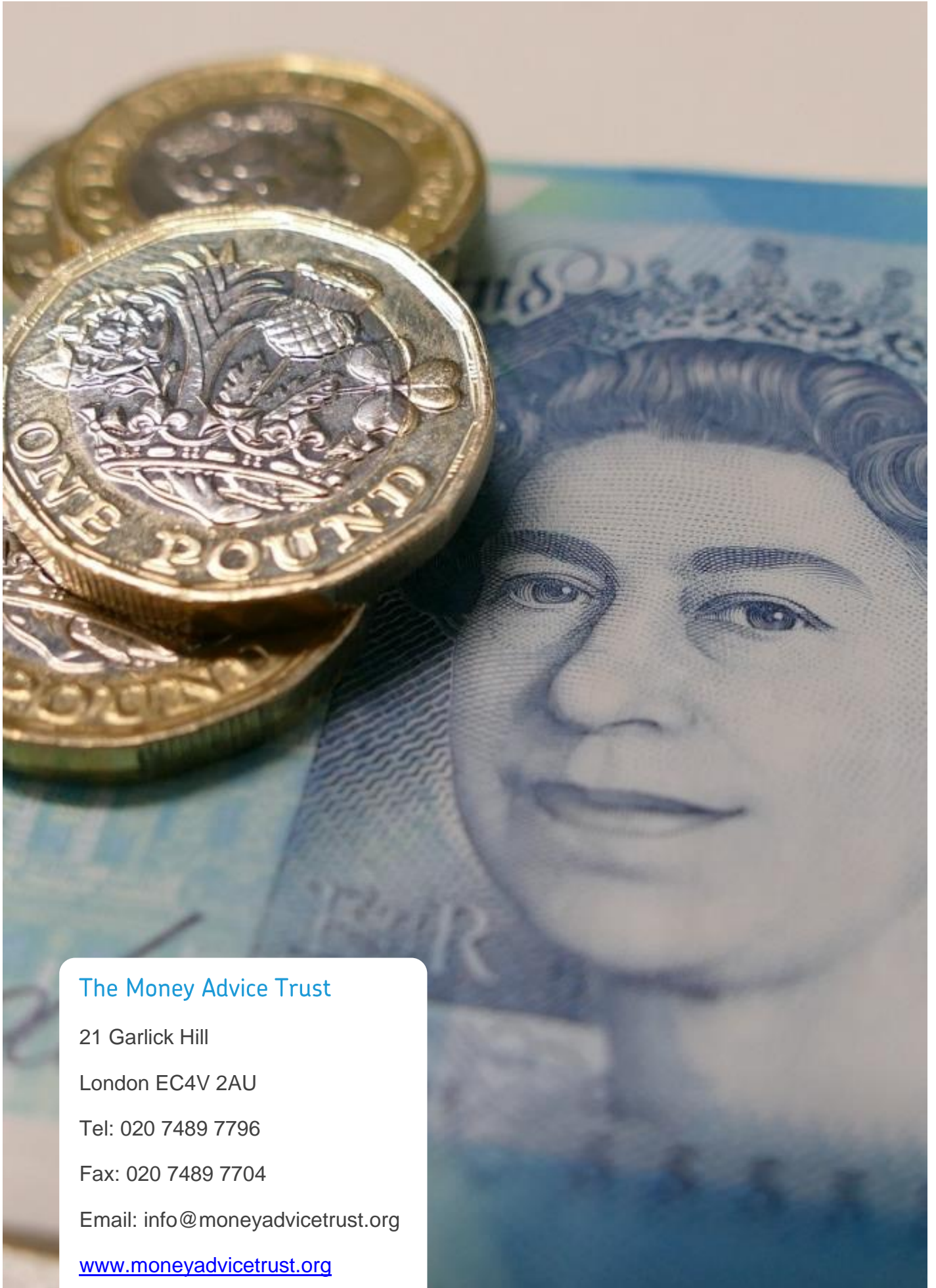
		Called number: Automated answer to leave a message.
13th February 2023	Call with adviser	<p>Report from adviser</p> <p>Adviser reported that they have been speaking to a client today who was calling us back as she has been getting calls from the following numbers claiming to be from National Debtline. Client has had previous advice from us in the past, and had our number written down. The callers are asking client how they can help deal with her debts and asking for her personal information. The client has not given any details to them as was concerned. The following details come up on her mobile when they call her. First number states Perth /Scotland +441738234024 and the second one says Leeds +44113531487.</p> <p>Tried to call the numbers but were not valid.</p>
16th February 2023	Webchat with adviser	<p>Report from adviser</p> <p>I have had a client come through on webchat regarding an email she has received from the 'FCA' to say there is a legal notice of attachment of earnings for a CCJ debt. However, the client has mentioned she does not have a CCJ and has not had any other correspondence regarding this. The email does not provide any contact information. The email address is from a Gmail account rather than a company email address. I have included the email that was sent to the client below.</p> <p>"From: "Alison Taylor" alisontaylorfca@gmail.com To: Sent: Thu, 16 Feb 2023 at 9:59 Subject: LEGAL NOTICE OF ATTACHMENT OF EARNINGS Hi XXXXX, This is Alison Taylor from FCA (Financial conduct authority) hope you are doing well. I just would like to tell you that we have got a legal complaint against you from your creditors where you are not making the contractual payments or managing just minimum payments towards them.</p> <p>So this is why these creditors have approached us in order to get the "CCJ" action against you. So that they can have the attachment of earnings with your income of £464.36 every month for these accounts with your income from this month itself, so that they can cover all the money from your side asap because as per the creditors they gave you enough chance to get the arrangements done through the government help known as an "IVA" but you refused to get</p>

		<p>that help and now they are looking to have legal action against you.</p> <p>If you do not want to have any sort of legal proceedings and you are struggling with your financial situation and want to get these debts sorted, you do have "three options" left for yourself from these creditors apart from the CCJ.</p> <p>If you wish to sort-out these debts. we will transfer you to our help desk team to get your finances back on track.</p> <p>Hope to get a reply soon from your side.</p> <p>Kind Regards! Alison Taylor, Enforcement Manager”</p>
21st February 2023	Webchat with adviser	<p>Adviser report</p> <p>They have had a webchat client who has been getting calls from 01135314832, claiming to be from National Debtline. He says they were offering to write off 90% of the debt.</p> <p>Googled this to find it is a known scam number in Leeds.</p>
10th March 2023	Webchat with adviser	<p>Adviser report</p> <p>Had a scam call reported on webchat this morning - details are as follows:</p> <p>028 4065 8409 It said Banbridge, Northern Ireland on the display when calling. Call was this morning and the caller hung up when client declined advice.</p> <p>scam number</p>
20th March 2023	Call with adviser	<p>Adviser report</p> <p>I had called a client who mentioned they had received an email from someone claiming to be from the FCA stating that the client needs to contact them to arrange a payment plan otherwise they will take money from their benefits. Client said the language used in the email did not seem professional and there were no reference numbers provided. This is the second time I have heard this.</p>

<p>4th April 2023</p>	<p>Call with adviser</p>	<p>Adviser report</p> <p>Had a client call through to report some spam calls apparently saying they are from National Debtline.</p> <p>Client explained they call at all hours and different numbers (Detailed Below) all saying they are calling from National Debtline and they want to help him with his debt.</p> <p>Luckily the client has refused to give details and it's not gone any further. I have looked at the numbers briefly and they do seem to confirm other people are having similar issues.</p> <p>Client has said the operators seem to be Indian and when challenged terminate the call. Has had no emails or text messages and the client is not registered with us but is getting support through Citizens advice.</p> <p>Numbers:</p> <p>01204311844</p> <p>02038852491</p> <p>02382560002</p> <p>07477473614</p> <p>01623396515</p> <p>07456386655</p> <p>Scam numbers</p>
<p>14th April 2023</p>	<p>Webchat with adviser</p>	<p>Report from adviser</p> <p>I've just had someone on webchat reporting calls multiple times a day from people calling saying they are from National Debtline. She had one today from 0113 511 7691 but says they've used a few different numbers with the same area code.</p> <p>Scam number</p>
<p>21st April 2023</p>	<p>Call with adviser</p>	<p>Report from adviser</p> <p>I just had a call from a client to say they've had a call from a company called Max Recovery working on behalf of Lowell. Stating the client has an enforcement agent coming to the property on Monday to take her items as she owes them money. Client has never had a County Court</p>

		<p>Judgment. Does have money owing to Lowell which is being dealt with.</p> <p>They advised the client that she needs to have a 3 way conversation with us and Max Recovery to stop the enforcement agent, and put in an “Outside Court Recovery Order” in place. This type of order doesn’t exist.</p> <p>They client agreed and they got a call from “National Debtline” on 0161 818 6461 and connected the call with Max Recovery 0113 487 1702 which ended early and then they called back on 0113 328 0732</p> <p>The company claiming to be National Debtline asked for info on the client which she gave some basics and then ended the call when she through they was scamming her.</p> <p>I googled the numbers and they’re all flagging as scams but what worrying is the scammers apparently where incredibly convincing and obviously terrified the client using our name.</p>
25th April 2023	Webchat with adviser	<p>Report from adviser</p> <p>Client being cold called by someone pretending to be us - 01925 563492.</p> <p>Scam number</p>
18th May 2023	Webchat with adviser	<p>Report from adviser</p> <p>Please find below the phone number of impersonators claiming to be National Debtline 0114 440 9680</p>
25th May 2023	Call with adviser	<p>Report from adviser</p> <p>“I received a call today from somebody who said they were receiving calls from the number +44 121 285 3705 claiming to be National Debtline. He said they have called a few times at various times, offering to write off various debts. Caller said he has never used our service, I double checked against his postcode and no listings so I was able to confirm we do not hold any details on him.”</p>
26th June	Call with adviser	<p>Report from adviser</p> <p>“I’ve had a client call in with a scam debt. He received a fishing email supposedly from the FCA saying he was</p>

		having a county court judgment taken out by a creditor. This was from a Gmail email address.”
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