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Preventing unsolicited mail



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- 4 Nuisance Calls: Unsolicited sales and marketing, and silent calls

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Summary

Some individuals object to the amount of unsolicited direct marketing mail or promotions they receive through their letter box (often referred to as “junk mail”). They find unsolicited mail intrusive and annoying. There are available options to reduce the amount of mail received.

An individual can register with the [Mailing Preference Service \(MPS\)](#) and thereby have their details removed from direct marketing mailing lists to reduce the amount of addressed advertising literature they receive. The MPS covers around 90 per cent of mailing lists. However, the MPS is not designed to stop unaddressed items of mail, direct mail delivered to the door or the delivery of free newspapers.

Although mail addressed to the “occupant”, “resident” or “homeowner” is not covered by the MPS scheme, it may be possible for an individual to “opt out” of receiving door-to-door mail items delivered by Royal Mail or other operators. However, it is fair to say that it is difficult to stop junk mail that is sent from another country.

This briefing paper provides an outline of what an individual can do to stop junk mail. It also briefly considers how unsolicited emails (known as “spam”) might be stopped using the [Privacy and Electronic Communications \(EC Directive\) Regulations 2003](#). A separate Library briefing paper sets out in detail the regulations which seek to address “[Nuisance calls, unsolicited sales and marketing, and silent calls](#)”.

1 Unsolicited mail (junk mail)

1.1 Can the delivery of unsolicited mail be stopped?

It is not illegal for a company to send unsolicited mail unless the material is obscene or threatening. No legislation exists which can protect a householder from receiving it.

If postage has been paid, Royal Mail is legally obliged to deliver all addressed mail, which includes mail that is addressed “to the occupier” as well as mail that is personally addressed. However, there are various options available to an individual who wishes to stop unwanted and unsolicited direct marketing mail.

Mailing Preference Service (MPS)

Individuals who do not wish to receive unsolicited addressed mail can register with the [Mailing Preference Service](#) (MPS) to have their names removed from mailing lists. They can register online.

The MPS is a free service created in the 1980s and funded by the direct mail industry to allow consumers to have their names and home addresses in the UK removed from mailing lists used by the industry. The MPS is supported by the Government, through the Information Commissioner’s Office, directly involved trade associations and Royal Mail.

By registering with the MPS, an individual’s name and address would be removed from up to 95 percent of direct mail lists. It usually takes up to four months for registration to take full effect. After registration, the individual would still receive direct mail from companies with whom they have done business in the past, charities previously contacted and mailings from small, local companies. Those who wish to stop mailings from an organisation that is not part of the MPS or with whom they already have a relationship (such as a charity, bank or building society) should make direct contact with the relevant organisation.

It should be noted that the extent to which the MPS can stop unsolicited mail from overseas is limited. The MPS website states:

Unfortunately, the Mailing Preference Service (MPS) cannot take complaints about mailings that originate from overseas, as our service is limited to UK organisations.

If the mailing you received was from a reputable organization sending out advertising mail you can contact the [Advertising Standards Authority \(ASA\)](#).

The Advertising Standards Authority (ASA), which administers the CAP Codes may also be able to help you further. The ASA recommend that you first write to the company concerned and if your requests are unsuccessful contact them.

The ASA is a founder member of the European Advertising Standards Alliance, a Brussels-based organisation of 18-member countries who are responsible for regulating the content of their national advertising. If a complaint is made to the ASA about an advertisement appearing in the UK that was published in another EASA member country, the Authority will ensure that it is dealt with by the appropriate national regulatory body.

If you think that the mailing you received was a scam or fraudulent in some way then you can report it to [Action Fraud](#).¹

There does appear to be rather more scope for dealing with unsolicited mail from within the EU. Enforcement agencies in the UK, such as Trading Standards Services, often work closely with their overseas counterparts.

Royal Mail's 'door to door opt-out'

As already mentioned, Royal Mail is legally obliged to deliver all addressed mail, which includes mail that is addressed "To the Occupier" (or with any other generic recipient information), as well as mail that is personally addressed to an individual by name. If the individual wants to stop receiving unaddressed mail delivered by Royal Mail to their home they can do so by contacting [Royal Mail](#). The opt-out will last for a period of two years from the date that Royal Mail receives the opt-out form. To continue the opt-out after the two-year period, requires completion of a new opt-out form.

Opting-out from Royal Mail's "door to door" delivery operation stops all unaddressed items from being delivered by Royal Mail. It is not possible for Royal Mail to separate material that the recipient may want from material that they do not want, such as advertising offers or leaflets from central and local government and other public bodies. Moreover, Royal Mail's "door to door opt-out" does not cover any other distributors, who will continue to deliver unaddressed mail items.

¹ Mailing Preference Service (MPS), [Problems with Mailings from Overseas?](#)

2 How is misleading content in promotional material regulated?

Often recipients of unsolicited direct marketing mail are more upset about the content of promotions than the fact that this mail was sent to them.

2.1 Unfair commercial practices

If an unsolicited direct marketing letter is deliberately misleading, then a complaint could be made to Trading Standards. The [Consumer Protection from Unfair Trading Regulations 2008](#)² introduced a general prohibition on traders in all sectors engaging in unfair commercial practices (mainly marketing and selling). For a practice to be “unfair”, it must harm, or be likely to harm, the economic interests of the average consumer. For example, an unfair trading practice could include:

- promoting fake free offers
- advertising products which cannot be sold legally
- bait advertising (e.g., a trader falsely stating that a product will only be available for a limited time).

Local authority Trading Standards Services have a duty to enforce the Regulations. A wide range of sanctions are available depending on the seriousness of the offence, from guidance and imposing codes of conduct to unlimited fines and prison sentences.

Undoubtedly, the biggest problem is from mailings that originate from countries outside the UK. Trading Standards have no power to stop infringements of consumer law outside the UK and they must rely on co-operation with their EU and international counterparts.

² The 2008 Regulations implement in the UK the [Unfair Commercial Practices Directive](#) (2005/29/EC), and replaced the Control of Misleading Advertisements Regulations 1988

2.2

Misleading, harmful or offensive advertisements

If the unsolicited mail contains a dishonest advertisement, a complaint could be made to the [Advertising Standards Authority](#) (ASA). The ASA is the UK's independent regulator of advertising across all media. It applies the [Advertising Codes](#), which are written by the Committees of Advertising Practice. The ASA's work includes acting on complaints and proactively checking the media to act against misleading, harmful or offensive advertisements. To make a complaint to the ASA, a complaint form can be completed [online](#).

2.3

Data protection rights

The [Data Protection Act 2018](#) (DPA 2018) sets out the data protection framework in the UK, alongside the [UK General Data Protection Regulation](#) (UK GDPR). The DPA 2018 came into force in May 2018, it was amended on 1 January 2021 by regulations made under the [European Union \(Withdrawal\) Act 2018](#), to reflect the UK's status outside the EU.

The UK General Data Protection Regulation sets out the key principles, rights, and obligations for most processing of personal data in the UK (except for law enforcement and intelligence agencies). It is based on the EU GDPR ([EU 2\)16/679](#)), which applied in the UK before the 1 January 2021, with some changes to make it work more effectively in a UK context.

Under this regime, personal data can only be processed in the UK if there is a lawful basis for doing so. In brief, the lawful bases are:

- **Consent:** the individual has given clear consent for you to process their personal data for a specific purpose.
- **Contract:** the processing is necessary for a contract you have with the individual, or because they have asked you to take specific steps before entering into a contract.
- **Legal obligation:** the processing is necessary for you to comply with the law (not including contractual obligations).
- **Vital interests:** the processing is necessary to protect someone's life.
- **Public task:** the processing is necessary for you to perform a task in the public interest or for your official functions, and the task or function has a clear basis in law.
- **Legitimate interests:** the processing is necessary for your legitimate interests or the legitimate interests of a third party unless there is a good

reason to protect the individual's personal data which overrides those legitimate interests. (This cannot apply if you are a public authority processing data to perform your official tasks.)³

Where direct marketing sent by post involves the processing of personal data, a company will need a legal basis for the processing (i.e., one of the conditions set out above). The ICO has published guidance on [consent](#) and on [legitimate interests](#).

The ICO website has a section setting out the rights of data subjects, [Your data matters](#). As noted under the subheading, [Right to object to the use of your data](#): "...You have an absolute right to object to an organisation using your data for direct marketing – in other words, trying to sell things to you. This means it must stop using the data if you object".

Any complaints about data protection should be put to the ICO. Contact details are available [online](#).

2.4

Scams and fraudulent activity

The scope of the problem

There was a backbench business debate on 8 September 2016 on the following [motion](#):

SCAMMING AND ITS EFFECT ON VULNERABLE INDIVIDUALS

Julian Knight Patricia Gibson

That this House believes that the elderly and vulnerable are a high-risk group from having harm done to their financial, emotional and psychological wellbeing from criminals who target them with scam calls, post and visits; praises the work that trading standards does to combat scams; calls on financial institutions and the communications industry to put in place mechanisms to protect potential victims from scams; further calls on the Government to recognise the threat from scams to victims' ability to live independently; draws attention to the measures proposed by Bournemouth University, the Chartered Trading Standards Institute and National Trading Standards Scams Team on financial harm as useful first steps in tackling such scams; and calls on the

³ Source: [Information Commissioner's \(ICO\) guide on the General Data Protection Regulation](#), August 2018

Government to make suggestions on further steps to tackle such criminality.⁴

A report by Age UK, “Older people, fraud and scams”, published in October 2017, suggests that almost 5 million people aged 65+ believed they have been targeted by fraudsters.⁵

There are many different types of consumer scams. Scams can operate by post, phone call, text message or email, or even from an unsolicited visit to the person’s home. Advances in technology have enabled scammers to become increasingly sophisticated in their methods. For example, some websites or phone numbers can look like official government sites, with the result that people pay for services that they could get cheaper or for free if they used the official government service (for instance, renewing a passport or driving licence). Phishing emails and texts try to trick the consumer into giving out their personal bank details. Scammers have also been quick to exploit the coronavirus pandemic for financial gain.

Fraudsters will target anyone, people of all ages and from all walks of life can be victims. It is often thought that older people are the most likely to fall for scams, but data published by the [Office for National Statistics](#) (ONS) suggests that older people (aged 65+) are actually significantly less likely to be victims of fraud than other age groups.⁶ Although anyone can be tricked, “vulnerable” people (such as the elderly and those with mental health problems, learning difficulties or dementia) are especially susceptible to fraudsters.

Reporting a scam or fraud

If an individual has received material through the post or by other means, which appears to promote a scam or fraud of some kind, they can report the matter online to local authority Trading Standards (via the [Citizens Advice online portal](#)) and to [Action Fraud](#).

From time-to-time, Trading Standards teams have joined with Citizens Advice to operate ‘Scam awareness campaigns. The aim being to increase public awareness of scams and to provide people with practical advice on how to avoid being scammed (see **Box 1** below).

⁴ [HC Deb 8 September 2016 c.507-531](#)

⁵ Age UK, “[Older People, Fraud and Scams](#)”, October 2017

⁶ Office for National Statistics, “[Nature of Fraud and Computer Misuse in England and Wales: Year Ending March 2019](#)”, 19 March 2020

1 Practical advice on how to avoid being scammed

To combat scams, Trading Standards promote the following tips:

- Stop, think and be sceptical. If something sounds too good to be true it probably is.
- Do not be rushed into sending off money to someone you do not know, however plausible they might sound and even where an approach is personalised.
- Ask yourself how likely it is that you have been especially chosen for this offer – thousands of other people will probably have received the same offer.
- Think about how much money you could lose from relying to a potential scam – it's not a gamble worth taking.
- If you are unsure of an offer, speak to family or friends and seek advice from Citizens Advice before sending any money or giving out any banking or credit card details.

A separate Library briefing paper, "[Consumer protection: online scams](#)", provides further detailed information. In addition to looking at the scale of the problem, it considers the different types of scams, who are the targeted victims, and what is being done to combat them. This paper also considers the [draft Online Safety Bill](#) published on 12 May 2021. Parliament is currently scrutinising the draft Bill, which aims to establish a new regulatory framework to tackle all harmful content online. Crucially, the Bill has been widened in scope to include user-generated fraud resulting in financial harms

3 Unsolicited emails (spam)

Spam is digital junk mail, usually comprising unsolicited direct marketing emails

Spam is digital junk mail, comprising emails that the recipient did not want or ask to receive. The recipient may have entered their email address in a website, thereby inadvertently agreeing to receive information. Details might have been added to a mailing list that is then sold on to scammers (although most reputable traders do not sell their marketing lists). Whilst spam is annoying, it is generally harmless, unlike phishing emails, which try to trick people into revealing personal information.

3.1 How can unsolicited emails be stopped?

Relevant legislation

Individuals are protected from unsolicited spam emails through the [Privacy and Electronic Communications \(EC Directive\) Regulations 2003](#) (the ‘PECR’), which came into force on 11 December 2003.⁷ They give people specific privacy rights in relation to electronic communications.⁸ There are specific rules on:

- marketing calls, emails, texts and faxes
- cookies (and similar technologies)
- keeping communications services secure
- and customer privacy as regards traffic and location data, itemised billing, line identification, and directory listings.

The Regulations sit alongside the “[UK General Data Protection Regulation](#)” (UK GDPR) and the [Data Protection Act 2018](#). This means if an organisation sends electronic marketing or uses cookies or similar technologies it must comply with both PECR and the UK GDPR. It is important to note that the PECRs will apply even if an organisation is not processing personal data. For example, the marketing rules apply even if the organisation cannot identify the person they are contacting.

⁷ The 2003 Regulations implement [European Directive 2002/58/EC](#) (also known as “the e-privacy Directive”), and remain in force as retained EY law now that the UK has left the EU. . On 5 January 2021, the Council of the European Union released a new [draft version](#) of the e-Privacy Regulation, which is meant to replace the e-Privacy Directive. The European Commission approved a first draft of the e-Privacy Regulation in January 2017. The draft regulation has since been under discussion in the Council.

⁸ The PECRs have been amended several times. For instance, amendments were made in 2018 to ban cold calling of claims management services and to introduce director liability for serious breaches of the marketing rules. In 2019 changes were made to ban cold calling of pensions schemes in certain circumstances.

The Information Commissioner's Office (ICO) is responsible for taking enforcement action against organisations that persistently ignore their obligations. Information is available on the [ICO website](#).

3.2 Protective filtering services or software

A free filtering service offered by some internet service providers (ISPs)

Some Internet Service Providers (ISPs) offer a free filtering service where emails are re-directed to a dedicated inbox folder. The subscriber can then either check this folder for any emails they do not want to receive or choose not to check the folder in which case the filtered emails will usually be deleted automatically after a certain period. Alternatively, an individual could purchase an email filtering product.

It is worth noting that some email handling software may have some filtering functions built-in that can be configured to delete emails without downloading them, based on criteria such as certain words in the title of the body of the email, or the blocking of certain senders.

4 Nuisance Calls: Unsolicited sales and marketing, and silent calls

A separate Library briefing paper, “[Nuisance calls, unsolicited sales and marketing, and silent calls](#)” provides detailed information about the regulations which seek to address nuisance calls. This includes unsolicited sales and marketing calls, and the main ways in which individuals can try to reduce the number of unwanted calls or texts they receive.

4.1 Silent and unwanted marketing calls

Nuisance calls (i.e., unsolicited and unwanted marketing messages, silent or abandoned calls) and spam texts cause widespread harm and inconvenience, as acknowledged by previous and current Governments and the relevant regulators – [Ofcom](#) (the communications regulator) and the [Information Commissioner’s Office](#) (ICO). Ofcom deals with silent calls while the ICO deals with marketing calls.

As well as Ofcom and the ICO, the [Telephone Preference Service](#) (TPS) offer advice and assistance. If a person is concerned about unwanted marketing calls, he/she can register their phone number with the TPS. There are also other options available, including call-blocking technology.

4.2 Action taken

- In July 2014, section 393 of the [Communications Act 2003](#) was amended to permit Ofcom to share information about companies involved in nuisance calls with the ICO.
- On 1 April 2019, the [Financial Conduct Authority](#) (FCA) took over responsibility⁹ for regulating claims management companies.
- [Calling Line Identification](#) - In April 2016, the Government introduced regulations to force marketing companies to use ‘Calling Line Identification’ (CLI). A CLI service displays a caller’s telephone number

⁹ On 1 April 2019, the [Financial Conduct Authority](#) took over responsibility for regulating claims management companies from the closed [Claims Management Regulator](#)

on the recipient's handset/caller display system (where available) before the recipient accepts the call, allowing them to reject it if they choose.

- Enforcement action - Ofcom takes enforcement action against companies for persistent misuse of a communications network, including silent and abandoned calls.
- The ICO can issue fines to companies responsible for nuisance calls and texts.

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