

NORTH YORKSHIRE COUNTY COUNCIL

CORPORATE AND PARTNERSHIPS OVERVIEW AND SCRUTINY COMMITTEE

14 NOVEMBER 2011

PROPOSED CHANGES TO NO COLD CALLING ZONE PROTOCOLS AND ENFORCEMENT

Report of the Corporate Director – Business and Environmental Services

1.0 PURPOSE OF REPORT

- 1.1 The No Cold Calling Zone (NCCZ) initiative was commenced in November 2005 as a pilot project to test ways of protecting vulnerable residents from doorstep crime. The initiative has proved to be both effective and popular with residents, with the result that there are now 400 NCCZs in the County. Although the initiative has been running for six years, the criteria for the creation of zones, which has evolved with time, has yet to receive official approval by elected members as a policy of the County Council.
- 1.2 The existing NCCZ initiative relies on 'people power' and the zones have no legal status, which has been seen as a weakness. A change in the law in 2008, with the introduction of the Consumer Protection from Unfair Trading Regulations, now provides an opportunity to refine the initiative by minor alterations to signage, thereby providing legal sanctions against those cold callers who ignore the request of residents.
- 1.3 To seek the input of the Committee and invite it to endorse the proposals.

2.0 BACKGROUND

- 2.1 No Cold Calling Zones are primarily designed to tackle crime arising from doorstep callers, bogus workmen, high pressure sales people, bogus officials and distraction burglary.
- 2.2 Whilst this type of criminal behaviour can impact anybody in any place, older people or those with learning difficulties are particularly vulnerable, especially those living alone. The typical victim is an 81 year old female living alone.
- 2.3 The number of doorstep crime incidents reported to the N'Yorks trading standards service has grown significantly over the last ten years. Last year there were 282 complaints and 93 people are known to have fallen victim to these crimes.

- 2.4 Surveys have shown that the reporting rate for doorstep crime victims is only 14% and that figure was confirmed during the recent investigation and prosecution of the Price family of travellers when victims were traced via cheque payments into the family's bank accounts. Despite being cheated out of thousands of pounds only 14% had reported the matter to the authorities.
- 2.5 No Cold Calling Zones give communities the confidence to say 'No' to uninvited salespeople. They deter cold callers as residents have been made aware of their legal rights, neighbours feel empowered to speak on behalf of each other to turn callers away, residents are more likely to take details of vehicles or ID used by cold callers for later identification and residents have a contact number for trading standards if in difficulties. The zone boundaries are marked with street signage and residents are given stickers to display at their front doors to give cold callers a clear indication that they are not welcome.
- 2.6 Follow up maintenance visits to existing zones take place every three years and include a survey of residents. In every case, over 90% of residents report a drop in the number of cold callers, over 90% feel more able to deal with calls if they do occur and residents report that they feel safer in their own homes as a result.
- 2.7 As other local authorities followed North Yorkshire's lead, the popularity of NCCZs spread across the country and concerns were raised by the Direct Selling Association that they could be a threat to their members' legitimate trade. As a result of those business concerns, the Office of Fair Trading (OFT) sought leading counsel's opinion on three points of law: Did local authorities have the power to establish NCCZs: Was the establishment of NCCZs in breach of the Human Rights Act: Was the establishment of zones contrary to EU law?
- 2.8 The full text of counsel's opinion, dating from December 2007 is at Appendix A to this report. Since its publication all new N'Yorks zones have had to meet the criteria.

3.0 ADOPTION OF A POLICY REQUIRING 100% AGREEMENT AMONGST residents

- 3.1 From the outset of the NCCZ initiative in North Yorkshire it has been a prerequisite that there was a 100% agreement within the community covered by a zone that everyone was in agreement for its creation. The initial thoughts were that no one should be prevented from having cold callers if that was their wish. Anyone whose rights were restricted would have grounds for complaint and would undermine the fundamental principle that the authority was not imposing constraints on trade but was supporting the wishes of the whole community. This approach has been vindicated in talks with major companies using doorstep cold calling who have acknowledged that there is no commercial sense in paying staff to go into an area where they will get a 100% refusal.

- 3.2 In the six years since the initiative started there have been 10 proposed zones which have not been created due to objections from a resident. In those instances the remaining residents have been provided with individual door stickers but no street signs have been erected.
- 3.3 In April 2011 a request from Potto Parish Council for a zone to cover the village was unable to be fulfilled following an objection by one resident living in the centre of the village. The Parish Council asked the County Council to reconsider its 100% policy as it felt the “hurdle rate of 100% agreement to be undemocratic and unrealistic in establishing zones” and should be reconsidered.
- 3.4 It was this request which highlighted the fact that the 100% requirement was a criteria set by officers which had never been considered or agreed by elected members and as such could not be said to be County Council policy.
- 3.5 The committee is invited to endorse the 100% agreement requirement as County Council policy.

4.0 ADOPTION OF A POLICY TO PRIORITISE THE CREATION OF ZONES BY GREATEST NEED

- 4.1 The popularity of the zones has been such that even with the 'vulnerability' criteria, the demand for new zones has outstripped the capacity to create them. This has resulted in an increase in waiting time of several months.
- 4.2 There is a capacity for roughly 50 new zones to be created per annum (the exact figure will depend on the size of zones required) but the practice of simply placing the zones in a 'queue', in line with the time of receipt of a request, is no longer tenable. Whilst requests are received from a variety of sources, neighbourhood watch, parish councils, residents groups, elected members, sheltered housing associations etc, there are a certain number which arise as a result of a resident, usually elderly and sometimes with early symptoms of dementia falling victim to bogus callers and then often being repeatedly victimised. There is a real need in these instances for some urgent action to do our best to protect those members of a community who have such an obvious need. Regrettably, one such resident in Scarborough who the local police had identified was targeted again before a zone was set up. This has highlighted the fact that with a backlog of several months it would be immoral to leave such people to wait their turn in the queue.
- 4.3 It is for that reason that a draft method of assessing the relative need for the creation of a zone in order to determine priority has been developed. In short, we are responding to residents' needs rather than their 'wants' to make best use of resources. There is a need to prioritise the timetable for NCCZs and some applicants will need to 'stand aside' and allow those with a greater need to move up the queue.

4.4 The proposed draft together with the rationale is attached at Appendix B to this report and the committee is invited to adopt it as County Council policy.

5.0 ADOPTION OF A POLICY TO AMEND THE WORDING ON NCCZ STREET SIGNAGE AND DOOR STICKER TO MAKE THE ZONES LEGALLY ENFORCEABLE

5.1 In May 2008, the Consumer Protection from Unfair Trading Regulations came into force and create a criminal offence in relation to those traders who conduct personal visits to a consumer's home and ignore the consumer's request to leave or not to return.

5.2 In August 2009, Suffolk trading standards sought opinion from legal Counsel as to the wording of door stickers etc which would satisfy the requirements of the regulations in order to constitute a 'request' by a consumer.

5.3 This change in the law provides an opportunity to refine the NCCZ initiative by making minor alterations to street signage and door stickers, thereby providing legal sanctions against those cold callers who still ignore the wishes of residents.

5.4 Appendix C to this report details a recent prosecution taken by North Lincolnshire trading standards service, which was widely reported in the national press and confirms that legal action can be successful.

5.5 The committee is invited to adopt the proposal to amend the wording of NCCZ signage to provide an opportunity to take legal action in appropriate cases.

6.0 RECOMMENDATION(S)

6.1 Members consider the proposed changes to the No Cold Call Zone procedure and the creation of a County Council Policy and provide their views for consideration by the Corporate Director BES, in conjunction with the Executive Members for BES.

DAVID BOWE

Corporate Director – Business and Environmental Services

Author of Report: Derek Harry Smith, Section Leader, Consumer Services

Appendix A: OFT Guidance

Appendix B NCCZ Prioritisation

Appendix C: CPR Prosecution

Background Documents: None

APPENDIX A

OFFICE OF FAIR TRADING

To:
Head of Service
Local Authority Trading Standards
Service

Date 10 December 2007

Direct (020) 7211 8821
line
Email Christine.wade@oft.gsi.gov.uk

Dear colleague

Cold Calling Control Zones

As you will be aware, the Office of Fair Trading (OFT) has sought advice from Philip Sales QC (First Treasury Counsel for Common Law) and Jason Coppel (a barrister specialising in public law and human rights issues) in relation to the establishment and support of No Cold Calling Zones by local authorities.

Background

Local authorities, through their Trading Standards Services (TSS), play a vital role in tackling doorstep crime¹, often working in partnership with other agencies. To this end, many TSS have been instrumental in the establishment of Cold Calling Control Zones, including No Cold Calling Zones which purport to prohibit all (or certain categories of) uninvited callers.

OFT has worked with key partners to encourage a move away from restrictive No Cold Calling Zones, to Cold Calling Control Zones which focus on informing consumers of their legal rights and giving them confidence to take control of their doorsteps.

We are aware that there are arguments for maintaining No Cold Calling Zones in certain circumstances, but also that the legality of doing so has been questioned.

Legal position

A summary of the advice received from Counsel is attached at Annex A. In issuing this summary it is our aim to provide guidance on the legal issues that have been raised by stakeholders.

In particular, the legal advice we have received confirms that proportionality is key to determining whether the acts of local authorities in relation to No Cold Calling Zones are lawful. Proportionality raises complex issues for consideration which local authorities will need to assess on a case by case basis and it is up to local authorities to determine ultimately whether they are acting within their powers and to take appropriate advice in relation to the exercise of those powers.

¹ In which we include bogus and rogue doorstep trading



INVESTOR IN PEOPLE

Office of Fair Trading
Fleetbank House
2-6 Salisbury Square
London EC4Y 8JX
Switchboard: (020) 7211 8000
www.oft.gov.uk

The advice is provided on the basis that only the courts can decide whether the acts of local authorities are legal.

OFT policy

The OFT supports initiatives that improve consumer protection, in particular for disadvantaged consumers who may be particularly vulnerable to exploitation, where those initiatives allow legitimate business to operate without hindrance. Examples include Cold Calling Control Zones which focus on consumers being more informed and empowered to deal with doorstep crime, but which do not purport to restrict business activity. We also encourage signposting of consumers to reputable traders through initiatives such as local authority approved trader schemes, and the OFT's Consumer Codes Approval Scheme.

We recognise that there may be circumstances in which No Cold Calling Zones, set up in accordance with the legal advice, may be an appropriate response to doorstep crime.

Ultimately we seek to encourage TSS to take a risk-based and proportionate approach to implementing measures to benefit consumers – an approach that results in intervention only where there is a clear case for protection. The cost to business through intervention by local authorities should be a factor taken into consideration before intervention. Essentially, the benefits to consumers arising from measures aimed at crime reduction should outweigh the costs to business of having restrictions imposed. This is in line with the Hampton² principles. It is not possible to say definitely at this stage how the Legislative and Regulatory Reform Act 1996 will apply to No Cold Calling Zones but local authorities will be required to have regard to the Hampton principles set out in section 21 and the Regulatory Compliance Code when they come into force (expected to be Spring 2008). This matter has not been considered by Counsel.

Yours faithfully,



Christine Wade
Assistant Chief Executive
Consumer Advice and Trading Standards

Annex A

Legal professional privilege and confidentiality

We are providing you with a summary of Counsel's advice in recognition that we have a common interest in obtaining clarity as to the legality of No Cold Calling Zones. We do not

² Set out in *The Hampton Review – Reducing administrative burdens: effective inspection and enforcement*

believe that disclosure to you in these circumstances amounts to a waiver of privilege, and on that basis we are willing to share the summary with you. However, disclosure to you is made on the basis that the summary remains OFT's, that it is treated as the product of legally privileged advice and that its content remains confidential to the local authority. Further, that the summary should only be disseminated to those officers and members of the local authority with direct involvement in the issue of No Cold Calling Zones. This means that the local authority must not disclose the summary to anyone else, refer to it or quote from it without the express consent of the OFT.

Summary of advice received from Counsel³

1. It is for local authorities to determine whether they are acting within their powers and local authorities need to take their own advice in relation to the exercise of their own powers. This advice is therefore provided to local authorities for guidance only and on the assumption that they will consider for themselves whether they have the power to support the establishment of No Cold Calling Zones ("Zones"), and will take appropriate legal advice.
2. Three potential difficulties with establishing Zones were considered:
 - Do local authorities have the power to establish or support Zones (the *vires* question)?
 - Is the establishment of Zones in breach of the requirements of the Human Rights Act?
 - Is the establishment of Zones contrary to EU law?
3. In summary, Counsel considered that local authorities are likely to be acting lawfully in establishing or supporting the establishment of Zones where any measures taken by the local authority are a **proportionate** means of achieving **crime reduction / crime prevention** objectives.

Vires to support or establish No Cold Calling Zones - Local Government Act 2000

4. It is considered that it is within the powers of local authorities to establish or support the establishment of Zones by virtue of Section 2 Local Government Act 2000 (LGA 2000) (the 'promotion of well-being' power), where local authorities consider that doing so will achieve the promotion of well-being objectives as set out in section 2(1)(a)-(c)⁴. There would appear to be no relevant prohibition, restriction or limitation on this power within the meaning of section 3(1) LGA 2000. In particular, section 3(1) is not engaged by the licensing provisions of the House to House Collections Act 1939 (and in future, Charities Act 2006), the Gas Act 1986 and Electricity Act 1986 and the certification provisions of the Pedlars Act 1871. These Acts do not create a right for those in possession of such a licence or certificate to conduct door to door activities – in other words, the holding of a certificate or licence is a necessary but not sufficient condition for those activities.

Impact of the Human Rights Act 1998

³ This advice relates to the position in England and Wales only

⁴ (a) the promotion or improvement of the economic well-being of their area (b) the promotion or improvement of the social well-being of their area and (c) the promotion or improvement of the environmental well-being of their area.

5. Local authorities and the police are public authorities for the purposes of Section 6 Human Rights Act 1998 (HRA 1998) and must not act in a way which is incompatible with a Convention right. Despite the absence of direct sanctions in relation to Zones, local authorities' support for and/or establishment of Zones are likely to be regarded as 'acts' for the purposes of HRA 1998, since Zones are intended to affect behaviour and may have indirect effects.

6. The HRA 1998 is potentially engaged by the establishment of Zones in a number of ways, but in particular it is likely that the rights under Article 10 of the European Convention on Human Rights (ECHR) of both cold callers and householders would be affected by the Zones. This is on the basis that cold callers will seek to provide information (for example, commercial, political or religious information) and an apparent prohibition of cold calling is likely to interfere with this. Additionally, Article 10 rights may also be engaged where a householder is willing to impart information to a cold caller (e.g. to journalists) but is in practice discouraged or prevented from doing so.

The other rights that may be engaged are:

Article 8 – Right to respect for private and family life

7. It is considered that there is probably insufficient impact on the rights of householders in Zones to engage their article 8 rights. It is potentially relevant that if a householder wishes someone to call it is open to him to contact that person and invite them to their home (such that there would be no breach of a cold calling ban).

8. Whilst there is case law that suggests that occupational or professional activities can fall within the ambit of 'private life', it is considered unlikely that, generally speaking, a cold caller's Article 8 rights would be engaged by the establishment of a Zone. In the case in question (*Sidabras v Lithuania* (2004) 42 EHRR 6), the applicants were prevented from undertaking a wide range of professional/occupational activities, whereas Zones affect only a small range of the professional/occupational activities which individuals could pursue and only in a particular area. There is therefore likely to be insufficient impact for Article 8 to be engaged in this regard.

9. There is, however, a possibility that Article 8 might be engaged if a cold caller were able to demonstrate that the ability to make a cold call is an intrinsic part of his ethnic identity. It is conceivable that such a challenge might be made by members of the travelling community (see *Chapman v UK* (2001) 33 EHRR 399).

Article 9 ECHR – Freedom of thought, conscience and religion

10. It is conceivable that Article 9(1) might be held to be engaged in relation to religious cold callers – for example Jehovah's witnesses - in particular if such callers can demonstrate that it is necessary for them to cold call as part of the manifestation of their beliefs.

Article 1, Protocol 1 – right to peaceful enjoyment of possessions

11. Although there may be exceptional cases, generally Article 1, Protocol 1 is unlikely to be engaged. *Countryside Alliance and others v AG and others* [2006] 3 WLR 1017 showed that established good will (i.e. existing clientele) is a possession, whereas future income which a person or business expects to earn is not. By its very nature, cold calling in the great majority of cases will not relate to existing clientele, but will be done for the purpose of attracting future income.

12. Articles 8, 9 and 10 are qualified rights. A public authority may interfere with these rights where its actions are in accordance with the law (Article 8) or prescribed by law (Articles 9, 10) and where they are necessary in a democratic society and pursue a legitimate aim as set out in relation to each Article. Similar principles would apply to Article 1, Protocol 1 if it were engaged.

In accordance with / prescribed by law

13. It is considered that the provisions of the LGA 2000 provide a basis in domestic law for the interference with these rights in relation to the establishment of Zones (see paragraph 4 above).

14. The legal position needs to be sufficiently foreseeable – an individual affected by any measure must be able to work out what the effects (including legal effects) of the regime are on him (taking into account the fact that a person can seek legal advice). Relevant considerations will be whether information is publicly available and whether the exercise of any discretion is subject to court control.

15. The relevant law must also be accessible. Given that the basic legal power for Zones is contained within public legislation, and where a Zone is set up by way of notices (which allow individuals to ask for further information) this condition is likely to be met.

Legitimate Aim

16. Where Zones are targeted at the prevention of crime this will be a legitimate aim which, in principle, justifies interference with Convention rights. Where there is no clear connection with crime, but the Zone has been introduced to reduce identified problems of nuisance, this may also be a legitimate aim (the protection of the rights and freedoms of others). But if the aim is merely to address nuisance to householders it may be more difficult to establish that the zones are a proportionate measure (see below).

Necessary in a democratic society

17. Any interference must be in response to a pressing social need and be proportionate to the aim pursued. The more serious the problem the more likely that a measure will be a proportionate response to it. Therefore, a Zone introduced to deal with crime is more likely to be a proportionate measure than one that is directed at reducing nuisance, particularly as in the later case there will be less restrictive measures that can be taken by householders themselves (such as the display of appropriate notices).

18. The factors that Counsel considered are key to ensuring that the Zones are proportionate are set out at [26] below. If, as will usually be the case, there is no formal prohibition or

restriction associated with a Zone this will be relevant to proportionality, it being easier to justify effects which are less restrictive on cold callers.

Unfair Commercial Practices Directive (2005/29 EC) (the Directive)

19. Article 4 of the Directive prevents member states from restricting freedom to provide services and free movement of goods for reasons falling within the field approximated by the Directive. The field approximated by the Directive is that of unfair commercial practices which harm consumers' economic interests.

20. A Zone which purported to prohibit cold calling would constitute a state measure, notwithstanding the absence of any formal sanctions attached to it, and so could potentially be a restriction within Article 4 of the Directive.

21. Would it restrict freedom to provide goods or services in the manner proscribed by the Treaty? A Zone could have the result of reducing purchases of goods or services which emanate from other EU Member States. It is unlikely that this would engage Article 28 of the EC Treaty (free movement of goods), as measures dealing with such 'selling arrangements' have been held not to do so. The position under Article 49 (free movement of services) is at present unclear: in particular, it is not clear whether Article 49 is engaged by a measure, like a Zone, which may have the effect of reducing cross-border service provision but which has an equal impact on purely domestic service providers. Accordingly, it is prudent to assume that a Zone would restrict freedom to provide services.

22. Therefore, the key question on application of the Directive is whether Zones are established 'for reasons falling within the field approximated by the Directive' (Article 4). The purpose of the Directive is to focus on unfair commercial practices harming consumer's economic interests - for example pressure selling.

23. Where the **primary** purpose of a Zone is crime prevention or crime reduction in a general sense, including crimes such as theft and burglary, it is unlikely to be a measure falling within the field of the Directive. Even if the Zone also has the incidental effect of preventing or reducing crimes which are concerned with consumers' economic interests this is unlikely to offend the Directive's maximum harmonisation principle. It is also possible to envisage Zones which are introduced in order to prevent nuisance in a sense which does not correspond with the protection of consumers' economic interests.

24. However, if the primary purpose of a Zone was to prevent *economic* crimes that purpose would trespass upon the objectives of the Directive and would probably not be permitted. Likewise, if the primary purpose of a Zone was to prevent pressure selling, a matter which is regulated by the Directive, that would not be permitted (as the Directive does not envisage the prohibition of cold calling as such, but only when accompanied by other aggressive conduct, such as refusing to leave when requested to do so).

Proportionality and crime reduction objectives of zones

25. The issue of proportionality is key to determining whether the acts of local authorities in relation to Zones are lawful.

26. The following matters will go to establishing that a Zone is a proportionate measure:

- The core objective of the Zone is crime prevention or reduction (including reducing the fear of crime).
- There is a real prospect that establishment of the Zone will assist in achieving the crime reduction objective
- An identified problem in relation to crime exists – in particular, there is specific intelligence / evidence of high levels doorstep crime in relation to the specific geographic area in question
- The size of the Zone is limited and directly corresponds to the geographic scope of the identified problem. Zones that are very large and are not tailored to the specific problem which has been identified, are unlikely to be defensible as proportionate.
- Consideration is given to what cold calling activities should be caught by the Zone, and whether it is possible to target only those activities causing the identified problems.
- There is a high concentration of consumers who are particularly vulnerable to exploitation (including consumers who have a higher propensity to be misled) within the area.
- There is consultation with householders within the area of the proposed Zone (see further below).

The need to maintain specific Zones should be reviewed on a regular basis to ensure it remains a proportionate measure.

Consultation

27. It is strongly recommended that before establishing a Zone, local authorities take steps to identify and consult with those who may be directly affected by the Zone.

28. It is recommended that the individual views of householders within a potential Zone are sought by letter drop or some similar means. Organisations which represent the interests of traders and representatives of other organisations which cold call (or are likely to call) door to door in the area in question should also be consulted.

29. Consultation should include seeking views on proposals on the operation of the Zone, such as the form of wording used on signage. Points raised by those who may be affected may well go towards ensuring measures taken are proportionate. To this end it would be prudent for local authorities to place proposals on their website, inviting views and seeking representations by a certain date. Notices outlining proposals could also be displayed within the proposed Zone.

Effects of zones and enforcement

Notices

30. A local authority must take care not to misstate the legal effects of a Zone (for example on notices) or the consequences for a person who cold calls within a Zone.

31. Whilst it is not considered necessary that the full terms of a local authority's policy in relation to a Zone is set out on signage within the Zone, any summary given should not be misleading and the full details should be publicly available (for example, by telephone and on the local authority's website). This information should be sufficient to allow those wishing to cold call within the Zone to consider how they are affected by it and to seek legal advice if they wish to inform themselves precisely about their legal position.

32. Use of logos (eg police logos) on notices is likely to do no more than amount to an implied statement of interest in, and endorsement of, a Zone and is thus unlikely to amount to a misrepresentation of the legal position so as to make a notice unlawful.

Bye-laws

33. The general power to make byelaws under section 235 of the Local Government Act 1972 in order to suppress nuisances is available to local authorities. The creation of a byelaw in support of a Zone is likely to fall within this power if it is directed at the prevention of crime or nuisance.

34. However, powers to make byelaws must be exercised consistently with the Human Rights Act 1998. Therefore, as with the establishment of Zones, where they interfere with Convention rights the effect of byelaws must be proportionate to the aims they seek to promote

35. Existing 'touting' byelaws - which create offences in relation to the selling of services for activities in the street or a public place -- are likely to be of limited utility in support of Zones. This is because they do not apply to the selling of goods, and do not apply to off-street selling, such as to residents of properties that do not front directly onto the street. (But, conversely, they could apply to selling of services door to door to houses which fronted directly onto the street, such that the seller was standing on the street when the selling occurred.

Effect on certifying / licensing regimes

36. Breach of a Zone may be a relevant consideration for licensing / certifying bodies and may affect renewal of licences / certificates (for example, under the Pedlars Act).

Town and Police Clauses Act 1847

37. The presence of notices in Zones may have an evidential impact in a prosecution under section 28 as to whether there has been a wilful or wanton disturbance of an inhabitant.

Anti Social Behaviour Orders (ASBOs)

38. It is unlikely that breach of a Zone would of itself satisfy the legal test for granting an ASBO.

APPENDIX B

Prioritisation criteria for No Cold Calling Zone creation

Doorstep Crime incident has occurred	= 25 points
County Council elected member support	= 10 points
Person willing to act as liaison/maintenance contact	= 5 points
Percentage of residents over 65 years of age	= 0 – 10 points
Size of zone (1 – 20 : 21 – 60 : 61 – 80 : 80+ homes)	= 2 : 3 : 2 : 1 points
Type of housing (ie bungalows, sheltered housing etc)	= 0 – 3 points
Police crime figures	= 0 – 3 points
Prevalence of cold calling	= 0 – 3 points
Reason for request	= 0 – 2 points

Rationale

The popularity of No Cold Calling Zones has meant that a backlog of requests has developed as demand exceeds staff capacity. It is the intention that all requests will be placed on a waiting list but greater priority will be given to those areas where there is a 'need' rather than a 'want'.

When a resident has fallen victim to 'doorstep crime' there is an obvious need to protect them from being targeted again and those zone requests meeting that criteria will always get preference.

Elected members are the democratic representatives of a community and know the concerns and needs of local residents within a neighbourhood. It is important to ensure that the constraints on legitimate businesses which sell 'door to door' are proportionate to the risks to residents. Elected member support for a zone ensures that a request from a neighbourhood is balanced with the needs of the wider local community and that resources are justifiably targeted in that area.

Once created, there is a need to maintain the zone to ensure signage remains clear and that new residents are made aware of the rationale behind its creation, together with the need to issue replacement door stickers. A local contact minimises ongoing staff costs and provides feedback to confirm that demographic changes have not altered the need for a zone, therefore its existence remains proportionate.

Whilst age is not the only reason to regard residents as being vulnerable, the typical victim of doorstep crime is an older adult. The demographic profile of a neighbourhood is an indication as to the likely proportionality in creating a zone.

Smaller zones tend to be most successful in that there is a close community bond which diminishes with size. However the fixed costs involved in setting up a zone mean that an optimum size is usually in the range 21-60 homes and the majority of existing zones fall into this category. Larger zones tend to attract objections in that there is less of a sense of neighbourliness and the vulnerable residents are not as apparent to the whole community.

Certain types of housing, such as bungalows, tend to attract cold callers and the police crime statistics give some 'fine tuning' guidance when deciding priorities between otherwise equal proposed zones. The 'tie breaker' question as to the reason for a request enables residents to raise issues which might otherwise not be apparent.

Whilst the prioritisation process may have its flaws it should help to ensure that those communities with a real need are at the front of the queue and that resources are used to best effect.

Landmark ruling slams the door on cold calling double glazing salesmen

By Chris Brooke

A HOMEOWNER has won a landmark legal battle against doorstep double glazing salesmen who refused to take no for an answer.

John Wigmore, 63, was so fed up with cold callers from Safestyle (UK) constantly knocking on his door that he asked the company to make sure his family was left in peace.

Repeated complaints to the firm made no difference and for three years police and trading standards officers were not able to do anything either.

Then a law to protect consumers from unfair practices came into force which meant the company's defiance could be treated as a criminal offence.

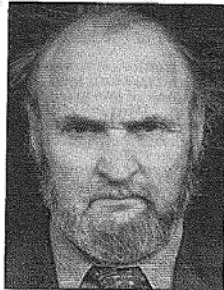
So Mr Wigmore wrote to the double glazing firm again, requesting that its sales staff stay away from his house and quoting the new law. Three more visits from salesmen followed and the company was then taken to court by North Lincolnshire Council.

HPAS Ltd, trading as Safestyle (UK), denied three offences of engaging in unfair commercial practice, but was found guilty after a three-day trial this week at North Lincolnshire Magistrates Court.

The firm was fined £4,000 and ordered to pay £18,000 costs.

It is believed to be the first conviction under the new regulations and a major victory for those annoyed by unwanted door-to-door salesmen and women.

Mr Wigmore, an electrical technician from Seunthorpe, first complained about the



Home win: John Wigmore

cold callers in August 2005. They continued to knock at his home address where he lived with wife Lavinia, 64, and daughter Abigail, 26. He was later told that because the company had so many callers it was impossible to prevent canvassers visiting individual addresses.

The Wigmore's had had at least 12 unwanted sales visits and, following the introduction of the new law in May 2008, trading standards staff

'Harassed and intimidated'

were able to take an active interest, the court heard.

In November 2008 the company told its agents not to knock on the door, otherwise there would be serious disciplinary action. But the warning failed to work. There were three more visits between May and October 2009 which led to legal action.

Safestyle agent Darren Booth visited despite seeing a notice outside Mr Wig-

HOW THE LAW WORKS

ALL businesses - from fortune tellers to double glazing salesmen - are under a legal duty not to trade unfairly.

Rules introduced in 2008 ban the use of misleading statements, fake credentials and aggressive sales practices.

If a salesman continues in their pitch after a customer says 'no', they could be committing an offence and be at risk of up to two years' jail.

And mediums and fortune-tellers can no longer claim

their services are 'experientially proven'.

The Consumer Protection Regulations ban 31 types of unfair sales practices. Among the tactics now illegal are bogus closing-down sales and limited time offers that tempt consumers to spend but are later extended.

Also banned are false testimonials from 'customers' giving favourable reviews.

Offences are dealt with under civil or criminal law.

more's home stating: 'Salesmen, do not knock. Leave the premises. Do not return.'

District Judge Daniel Curtis rejected the company's claims that it had taken all reasonable precautions to prevent the offences being committed and that it had acted with all due diligence.

The court heard that the company had around 850 canvassers who were self-employed agents paid a fee when an appointment was made, as well as a commission when there was a sale.

Mr Wigmore said yesterday: 'My wife and I felt harassed and intimidated and I even wrote to the company telling them that there was no chance of getting a sale here so if they continued to call it would be treated as personal harassment.'

'But it continued and thanks to the change in the law I was able to pursue it all the way.'

He added: 'This isn't just for me but for the rest of the country and especially for people who are less robust or more vulnerable than me.'

Many are elderly who feel intimidated.'

The Consumer Protection from Unfair Trading Regulations came into force in May 2008, introducing a general duty to ensure that traders act fairly towards the public.

Martyn Hocking, the editor of Which?, said: 'We all hate receiving junk mail or sales calls, and it's even worse when you have specifically asked for your details to be removed from a mailing list.'

'Many people think this is just something they have to put up with, but that's not the case.'

'Get on to the TPS [Telephone Preference Service] and MFS [Mailing Preference Service] websites and register your details, which should help reduce unsolicited calls and mail.'

'But, if junk mail and calls continue, consider taking it further.'

'This case goes to show that Trading Standards can, and will, take serious steps to stop companies harassing consumers.'

c.brooke@dailymail.co.uk