The Money Charity Response – PSR Call for Views on Authorised Push Payment (APP) Scams (April 2021)

The Money Charity is a Financial Capability charity whose vision is to empower people across the UK to build the skills, knowledge, attitudes and behaviours to make the most of their money throughout their lives, helping them achieve their goals and live a happier, more positive life as a result.[1]

We welcome the opportunity to respond to the Payment Systems Regulator's Call for Views on Authorised Push Payment (APP) Scams. This is a type of crime that is damaging many UK consumers and we agree with the PSR that the current framework for refunding victims of APP scams is not fully effective.

In this response, we set out our Key Points, make some overall comments on the issue then answer the questions posed in the Call for Views.

[1] See box on back page.

Key Points

1. We support the proposed rule-based approach of Measure 3A, i.e. that victims of scams should be automatically reimbursed by the sender PSP, with sender and recipient PSPs sharing the costs appropriately so that both sides of the transaction are incentivised to bear down on and eliminate APP scams.

2. We agree with the proposals on publishing APP scam statistics and sharing risk data. We suggest that PSR considers designating APP scam statistics as “official statistics” under the Statistics and Registration Service Act 2007.

Overall Comments

As a Financial Capability and Wellbeing charity, we deliver education on personal finance, budgeting, credit, financial goal-setting and related matters. This includes methods of payment and payment hazards such as account fraud and APP scams. We have been concerned about APP scams for some years and feel that the frequency of such scams is too high, with too much money being lost. Rather than being a rare criminal exception, APP scams seem to provide steady business to a section of the criminal community. We do not think that enough effort has yet been made by the banking and payments industries, working with law enforcement, to shut down APP scams.

The CRM code was a step in the right direction, but we agree with the PSR that the rate of reimbursement is still too low. It is extremely unlikely, in our view, that half of all scam victims are “negligent”. Such a judgement ignores the fact that the whole purpose of competent scamming is to extract money from people *without* them needing to be negligent. If scammers relied on negligence, rather than deception, they would be much less successful than they currently are.

If scamming only damaged individuals in minor ways this might not matter so much, but scamming has major effects on many victims. Some lose their life savings. The effect of these losses is devastating psychologically as well as financially. Victims typically feel humiliated and violated, lose self-confidence and feel embarrassed even to speak about their losses. The scammers know what they are doing but do not care. In the criminal mind, the victims deserve what they get.

We support the introduction of Measure 3A, an automatic reimbursement rule, and look forward to greater and more systematic efforts by the industry, working with law enforcement, to bear down on and eliminate scams.

Answers to consultation questions

Question 1: Do you have any comments on the data presented in the Call for Views? Do you have any supplementary information on customer outcomes under the CRM Code?

We agree with the PSR that APP scam reimbursement rates are too low and that it is unlikely that consumers are negligent in 50% of cases. No one sets out to be scammed. Scammers present as plausible and legitimate to lure consumers into making incorrect payments. They use psychological tactics such as rushing or scaring people to lower their victims' defences. The whole point of scamming is to get money off people *without* the target needing to be negligent. If scammers relied on negligence rather than deception, they would not be very good at their job.

Question 2: Do you have any comments on the appropriate balance of liability for APP scams costs between individuals and PSPs?

We are comfortable with PSPs carrying the cost of APP scams, for three reasons:

1) Some victims of scams lose very large amounts of money, sometimes their whole life savings, which is an extremely severe event and damaging psychologically as well as financially. The damage relative to the individual is far higher than the cost of APP scams to PSPs. The victims of scams are victims of crime and our sense of natural justice says that they should be reimbursed, either via recovery of the money from the criminal or via an economic mechanism such as PSP reimbursement, which is effectively a form of anti-scam insurance.

2) Scammers exploit vulnerabilities in the Faster Payments System, particularly around identification of payee accounts and ultimate payees, so PSPs should take responsibility for this.

3) Requiring PSPs to shoulder the cost of APP scam reimbursement incentivises PSPs to find more effective ways of suppressing scams at source, i.e. preventing scammers from exploiting the Faster Payment system. This is a law enforcement issue, which PSPs need to tackle (or tackle more) with the relevant public authorities.

Question 3: Do you have any comments on our analysis of what is driving the CRM Code outcomes we're seeing?

We agree that the current terms of the CRM code are capable off too wide interpretation, leading to an unacceptably wide range of outcomes. As pointed out in our answer to Question 1, the idea of "negligence" is problematic, in that the point of competent scamming is to get money off people *without* people needing to be negligent. There is also the problem that people who seem to be “more negligent” might simply be more vulnerable, due to cognition, disability or mental health issues or their general situation in life.

Question 4: What could be done to ensure consistency in the outcomes of dispute resolution, and to give customers and industry transparency into how these outcomes are arrived at?

The best way of getting consistency is to have a rule that victims of APP scams should be refunded by the sending PSP. This will be clear and easy to explain.

Question 5: Are there any other issues with the CRM Code you would like to tell us about?

No.

Question 6: Do you have any comments on Measure 1, or its effectiveness and proportionality? For example, do you have feedback on the information we propose for publication outlined above, or on who should publish the data?

We agree with the publication of APP scams data and we think they should be published either by Pay.UK or the PSR, to ensure the data are comprehensive, timely and complete. We suggest PSR explore designating APP scam data as “official statistics” under the Statistics and Registration Service Act 2007, as this ensures quality control and regularity in publication.

Question 7: Do you have any comments on Measure 2, or its effectiveness and proportionality? For example, do you have feedback on its feasibility, how it could work, or whether the issues and requirements set out would be best dealt with by a working group?

We support the use of advanced data analysis to detect fraud. The sharing of risk scores seems like a sensible and necessary part of this, as many transactions involve a transfer of money between PSPs. The highest probability of APP scams seriously damaging to the consumer arises when payment of a large sum is made to an account that has not previously been a payee for that payer. In these cases, automated checks should be run to ensure as far as possible that the payee is legitimate and correctly identified, to signal to the payer if there is a problem and take other necessary steps (e.g. a freeze on on-transfers from the payee account while further checks are made) to prevent fraud.

We feel there is still much more that the banking system in partnership with law enforcement can do to prevent APP scams and catch the fraudsters responsible.

Question 8: Do you have any comments on Measure 3A? For example, do you have feedback on the design, or its effectiveness and proportionality?

We agree with Measure 3A, which in our view is necessary to incentivise additional efforts by the banking system to bear down on and eliminate APP scams.

We agree with the proposal in paragraph 4.38 that "the scheme rules could impose the obligation to reimburse the APP scam victim on the sending PSP, which would then be able to apply to recover some of those funds from the receiving PSP."

Imposing the repayment responsibility on the sending PSP ensures that the consumer gets reimbursed in a timely fashion. Enabling the sending PSP to recover some of the funds from the receiving PSP ensures that responsibility is taken at both ends of the transaction and that the PSPs work together to detect and eliminate APP scams.

We do not see a case for exclusions. We agree with paragraph 4.40 that "it is unlikely that many transactions are entered into by people not caring whether the other party could be a fraudster." What consumers want is a quick and trouble-free transaction that results in them receiving the good or service they are purchasing. Being scammed is a humiliating and costly experience (in time and inconvenience) and not something that anyone welcomes. Where people are scammed it is much more likely to reflect the sophistication of the scammer than the carelessness of the consumer.

Question 9: Do you have any comments on Measure 3B? For example, do you have feedback on the design, or its effectiveness and proportionality?

We are not in favour of Measure 3B, given experience to date with the CRM code. The rules-based approach of Measure 3A is our preference.

Question 10: Do you have any comments on the issues set out in paragraphs 4.46 to 4.62? For example, do you have feedback on whether we should use a direction or a rule change to pursue these measures, or whether Bacs should be included?

We agree with the approach suggested, particularly implementing Measures 2 and 3 by means of rule changes. On Measure 1, designating APP scam statistics as "official statistics" under the Statistics and Registration Service Act 2007 could help ensure the quality and timeliness of the data collection by individual PSPs.

Regarding the inclusion of BACS, we think this should be carefully considered. While BACS is not the main channel for scams at the present time, it is possible that if scams using Faster Payments become harder, there could be some migration to BACS, so this needs to be anticipated.

Question 11: Do you have any comments on our proposal to conduct an equality impact assessment for any measures developed following this call for views?

We agree that it is vital to conduct a full equality impact assessment, for the reasons set out in the Call for Views, paragraphs 5.1 to 5.3.

Experience with the coronavirus pandemic has led to a heightened awareness of inequality in the UK, with starkly different health and economic outcomes for different sections of the population, for example people from BAME backgrounds, people with disabilities or living in care homes, older people, women (especially mothers), people working in the gig economy or in self-employment etc. The pandemic also coincided with the Black Lives Matter movement and, more recently, with increased public concern about violence against women and aspects of policing. These are indicators of heightened public sensitivity about the ways that structural inequalities, sometimes subtle, sometimes glaring, can produce different outcomes for different people, depending on their backgrounds.

We therefore agree that it is right and timely for the PSR to conduct full quality impact assessments of all its proposals, including on APP scams.

The Money Charity is the UK's Financial Capability charity providing education, information, advice and guidance to all.

We believe that everyone achieves Financial Wellbeing by managing money well. We empower people across the UK to build the skills, knowledge, attitudes and behaviours to make the most of their money throughout their lives, helping them achieve their goals and live a happier, more positive life as a result.

We do this by developing and delivering products and services which provide education, information and advice on money matters for those in the workplace, in our communities and in education, as well as through influencing and supporting others to promote Financial Capability and Financial Wellbeing through consultancy, policy, research and media work.

We have a 'can-do' attitude, finding solutions to meet the needs of our clients, partners, funders and stakeholders.

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