

MoneySavingExpert

Response to Payment Systems Regulator Consultation *APP scams: Requiring reimbursement*

MoneySavingExpert (MSE) welcomes the opportunity to respond to this PSR Consultation on requiring reimbursement for Authorised push payment (APP) scams.

We will be focusing our response on questions outlined in Part A, “The reimbursement requirements we propose” section of the consultation.

Question 1: Do you have views on the impact of our proposals on consumers?

MSE welcomes the PSR’s direction of travel on tackling APP scams and is in support of mandatory reimbursement for victims.

While the voluntary Contingent Reimbursement Model (CRM) code has gone some way to providing protections for consumers who fall victim to APP scams, it is MSE’s view that mandatory reimbursement should lead to stronger, more consistent protection across the industry and a reduction in consumer harm. Coupled with the PSR’s recently announced intentions to broaden the rollout of Confirmation of Payee (CoP), we are pleased to see the regulator taking further positive steps to tackle APP scams.

Prevention is ultimately better than cure and so MSE warmly welcomes planned work to improve intelligence sharing to spot fraudulent transactions and stop them from happening in the first place. Moreover, MSE hopes that the proposal to assign responsibility for allowing fraudulent payments to both the sending and receiving payment service providers (PSPs) would incentivise better industry processes and increase prevention. In cases where APP fraudsters still manage to get through, mandatory reimbursement would provide an extra safety net in efforts to protect consumers’ money and wellbeing.

If mandatory reimbursement of APP scams is rolled out, the PSR and other relevant bodies must ensure they have strong oversight to ensure its success. Moreover, robust monitoring capabilities must also be in place across the industry to mitigate the potential unintended consequence of fraudsters migrating to other forms of criminal activity in reaction to strengthened protections in the APP space.

More broadly, MSE believes cross-sector collaboration is needed to tackle the full life cycle of scams. APP scams and other forms of fraud are not exclusive to the banking or wider financial services sector, as while payments are taken in this space, they are also being enabled by other industries. Continued stakeholder engagement and work is therefore needed to address the role of other organisations outside of the financial services industry in facilitating this crime, such as social media platforms and telecommunications firms, alongside plans to require the reimbursement of APP scams. MSE would welcome work to share intelligence across platforms and industries with the aim of preventing consumers losing money to this type of crime.

Question 4: Do you have comments on our proposals: • that there should be a consumer caution exception to mandatory reimbursement • to use gross negligence as the consumer caution exception • not to provide additional guidance on gross negligence?

MSE supports the proposal to use gross negligence as the consumer caution exception to mandatory reimbursement. As the PSR rightly points out, fraudsters are increasingly creative and sophisticated. They use constantly evolving tactics, including social engineering, to achieve their criminal aims and their victims are diverse. Scams can happen to everyone, including – but by no means limited to – those in vulnerable situations. For example, we have seen and had conversations with people of varying ages and genders, across all income and educational backgrounds, who have become victims of scams. MSE believes the use of a gross negligence exception will set a higher bar and therefore drive better outcomes for consumers than the voluntary CRM code currently does, providing improved rights for all of those taken in by scammers’ tactics.

Moving to a higher standard of caution than enabled through the CRM code should also hopefully incentivise PSPs to improve their fraud detection and prevention processes and share intelligence with others, hopefully leading to a reduction in APP scams occurring in the first place.

MSE does not anticipate that the gross negligence exception would lead to a significant reduction in customer caution. Consumers will often take great care and act prudently to avoid scams, but still fall victim to fraudsters’ tactics. We haven’t come across any evidence to support the argument that a gross negligence exception would lead to moral hazard around consumer behaviour.

Moreover, TSB told both the PSR and the Lords Fraud Committee that it has not seen evidence of customers taking less care since the introduction of its own fraud refund guarantee, which sets a higher bar for reimbursement than the CRM code.¹ As the industry initiative which is most directly comparable with the mandatory reimbursement proposals laid out by the PSR, MSE believes this assertion provides further re-assurance.

Question 5: Do you have comments on our proposal to require reimbursement of vulnerable consumers even if they acted with gross negligence?

MSE supports the PSR’s proposal to require reimbursement of vulnerable consumers even if they acted with gross negligence. As the regulator rightly highlights, this cohort of consumers may be more at risk of being taken in by the social engineering tactics commonly perpetrated by fraudsters, and less able to exercise caution and protect themselves from APP scams than their counterparts. Moreover, the existing CRM code already exempts consumers who are vulnerable to APP scams from its exceptions to reimbursement including that of gross negligence.

It therefore seems logical that this group of customers be reimbursed under all circumstances as outlined in the PSR’s proposals, as this action should place greater incentives on PSPs to improve their monitoring and safeguarding processes for vulnerable customers and stop people falling victim to APP scams.

¹ PSR Consultation Paper, “Requiring Reimbursement for Authorised push payment (APP) scams,” November 2022, p.26. <https://www.psr.org.uk/media/kzIncenx/psr-cp22-4-app-scams-reimbursement-september-2022-v6.pdf>; House of Lords Fraud Act 2006 and Digital Fraud Committee, “Report of Session 2022–23, Fighting Fraud: Breaking the Chain,” November 2022, p.116. <https://publications.parliament.uk/pa/ld5803/ldselect/ldfraudact/87/87.pdf> (Links last accessed 30 November 2022).

Question 8: Do you have comments on our proposals that: • sending PSPs should be allowed to set a minimum claim threshold • any threshold should be set at no more than £100 • PSPs should be able to exempt vulnerable consumers from any threshold they set?

MSE has some concerns that a minimum claim threshold of up to £100 could lead to the possibility of APP fraudsters migrating to different tactics and adopting a “little and often” approach to target their victims through smaller payments. Where there are gaps in consumer protections, there is always a risk that the problem could move to those areas where safeguards are the weakest. The PSR needs to be taking steps to ensure fraudsters don’t transition to other tactics as rules become tighter elsewhere in the APP space, and avoid scammers taking advantage of a minimum threshold if it’s adopted.

Moreover, what constitutes a significant amount of money vastly differs depending on consumers’ personal circumstances. For someone with low financial resilience, for example, losing an amount of money up to £100 through an APP scam and having no recourse to reimbursement could cause notable financial and emotional detriment. There is a risk that people who can least afford to lose money could end up even more targeted by fraudsters if their tactics change, as these consumers may be more likely to make smaller payments below the proposed minimum threshold. It seems fairer for consumers for there to be no minimum threshold in place, but if the PSR was to go ahead with this plan, MSE supports the exemption for vulnerable customers, to avoid the decision to disregard smaller claims disproportionately impacting the most vulnerable.

There is also a possibility that setting the minimum threshold at a level up to £100 could lead to under-reporting of APP scams under this amount. If the PSR does follow through with this proposal, strong and sufficient industry monitoring and reporting requirements need to be in place to counter the risk of inconsistency in the reporting of smaller scams.

Question 13: Do you have comments on our proposal for a 50:50 default allocation of reimbursement costs between sending and receiving PSPs?

MSE broadly welcomes the 50:50 default allocation of reimbursement costs between sending and receiving PSPs. There is currently very limited liability on receiving PSPs, who contribute less than 5% on average to APP scam reimbursement costs, despite fraud being perpetrated on their systems.² The PSR’s proposal for shared liability between sending and receiving PSPs should help to prompt better outcomes for consumers through placing stronger incentives on the latter group to make faster progress to get ahead of APP scams before they occur. Alongside improved intelligence sharing and near market-wide adoption of CoP, this should lead to better detection and prevention.

² PSR Consultation Paper, “Requiring Reimbursement for Authorised push payment (APP) scams,” November 2022, p.33. (Data supplied by UK Finance for January to June 2021).
<https://www.psr.org.uk/media/kzIncenx/psr-cp22-4-app-scams-reimbursement-september-2022-v6.pdf>
(Link last accessed 30 November 2022).

About MoneySavingExpert.com

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It has more than 8.4 million people opted-in to receive the weekly MSE's Money Tips email, and more than 12.4 million unique monthly site users who visit more than 21.8 million times a month. This includes the MSE Forum, which has more than two million registered users. In September 2012, it joined the MoneySupermarket.com Group PLC.

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