

11 October 2023

Dear Chris Hemsley,

We are writing as a coalition of organisations who have long campaigned for mandatory reimbursement for Authorised Push Payment (APP) fraud victims to emphasise our concerns with the Payment Systems Regulator's (PSR) recent reimbursement proposals.

The PSR's new redress system must be fairer and more effective in reimbursing victims than the current voluntary Contingent Reimbursement Model (CRM) Code. Yet, as we set out in our recent responses to the PSR's latest consultations on a new consumer standard, a claims excess and a maximum reimbursement level, we believe these proposals mark a significant step backwards from the proposals previously put forward and could represent a dilution of the protections given to consumers under the current reimbursement regime.

The PSR initially proposed that there should be a consumer caution exception "set at a high bar, higher than in the CRM Code". The new proposals clearly place very high expectations on consumers, yet where a victim has not met just one of the three expected requirements, their bank is not obliged to reimburse them. There is very little mention of what should be expected of payment firms - the burden appears to fall more heavily on victims of fraud. Most notably, the proposals require consumers to 'have regard' to tailored, specific warnings raised by their bank. Still, firms are not required to provide evidence that their warnings are effective for different groups of consumers in different circumstances and show that this evidence is relevant to a specific scam case. This approach would mark a departure from the protections under the CRM Code, where banks must provide effective warnings tailored to the specific APP scam types identified.

We are also concerned that the PSR has given credence to the industry's unsubstantiated claims that the new system could lead customers to take less caution when making payments, and is imposing an excess on claims to address this 'moral hazard'. This is despite the PSR noting that it has received no quantitative evidence as to whether the new requirement will impact the likelihood of moral hazard to back up such assertions.

As your consultation accepts, an excess of £100 would mean that almost a third of APP scams would not be eligible for reimbursement, while an excess of £250 would exclude over half of APP scams. Suppose the PSR were to introduce an excess. In that case, consumers aware of the lack of protections may be less likely to report fraud for amounts that would not be liable for reimbursement, and banks may not be incentivised to prevent lower-value scams. This policy could lead to a significant gap in the collection and reporting of lower-value scams, such as purchase scams, which could significantly undermine the fight against fraud and potentially encourage criminals to change tactics to commit lower-value fraud.

Furthermore, we are deeply disappointed with the PSR's proposal to delay the 'go live' date for mandatory reimbursement by six months to October 2024. This new announcement means these crucial protections will not be in place until almost eight years after Which?'s super-complaint to the PSR. This is despite discussions around introducing consistent minimum standards for reimbursement spanning many years and the government announcing its commitment to legislate to make reimbursement mandatory back in November 2021. With victims having to shoulder a third of all reported APP scam losses in 2022 to the value of £127.5 million, this delay will lead to unnecessary emotional and financial harm for victims.

Consumers desperately need stronger protections in the form of mandatory reimbursement in all but exceptional cases. However, we do not believe the PSR's new proposals properly reflect the intentions of the Financial Services and Markets Act or meet the PSR's strategic priority to ensure that users are adequately protected when using payment systems. **To deliver a system of reimbursement that better supports APP scam victims and incentivises the payments industry to prevent all types of fraud, we call on the PSR to:**

- **abandon its proposals for an excess on APP scam claims;**
- **require firms to continually test and evidence that their warnings are effective and 'consumer, scam, and transaction specific', and ensure it is clear to firms that failing to act on a warning is not on its own sufficient evidence that a consumer has acted negligently; and**
- **not delay the implementation of the mandatory reimbursement system to October 2024.**

As a coalition of organisations committed to providing support and improving consumer protections, we see first-hand the devastating financial and emotional impact payment fraud has on victims of crime. We, therefore, urge you to reflect on our recommendations in determining your final policy positions for the end of this year so that consumers are better protected should they become a victim of APP fraud.

Yours sincerely,

Caroline Abrahams
Charity Director, Age UK

Rachel Almeida
Assistant Director, Victim Support

Louise Baxter
Head of the National Trading Standards
Scams Team

Rocio Concha
Director of Advocacy, Which?