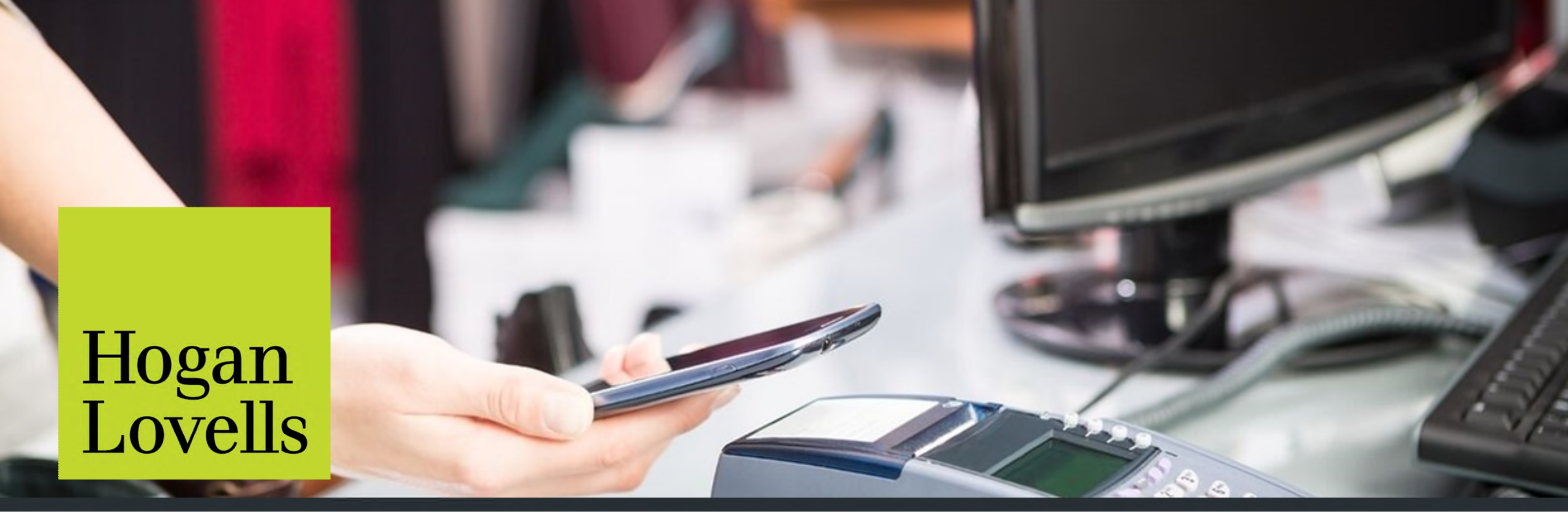

# APP fraud: UK PSR confirms introduction of ‘world first’ reimbursement requirement

The Payment Systems Regulator (PSR) has published a policy statement on its new reimbursement requirement to fight authorised push payment (APP) fraud. Subject to a few exceptions (eg removal of the minimum threshold for claims and extension of the time limit for reimbursement to five business days), the core elements of the new regime are largely unchanged from the consultation proposals. However, there are several loose ends still in need of tying up before the requirement is introduced in 2024, for example the development of additional guidance on the customer standard of caution (gross negligence). The PSR highlights that the UK is the first country in the world to implement consistent standards to reimburse victims of APP fraud, and maintains that other jurisdictions are ‘watching closely in considering their own approaches’. It acknowledges that payment firms will need support to achieve some of the outcomes it’s seeking, but it expects industry to start implementation work now.

For more on the PSR’s September 2022 consultation proposals (CP22/4), take a look at our Engage article 'APP fraud: PSR proposals mean that mandatory reimbursement for scam victims is on the way'. For a summary of how the policy statement aligns with the consultation proposals, see ‘Ten key policies underpinning the new reimbursement requirement’ and ‘How will the new reimbursement requirement be implemented by the PSR?’ below.

### Outcome-based approach (and shared cost of reimbursement) will incentivise innovation by the industry to design fraud out of the system

The PSR’s outcome-based approach to the new reimbursement requirement is aimed at giving Pay.UK and the industry the space to innovate and to choose how best to deliver it, including in terms of defining the operational processes involved.

While change began with the contingent reimbursement model (CRM) Code, the PSR now expects to see *‘much wider and more significant change for all payment firms as the industry moves to better protect customers and the UK payment ecosystem from fraudsters’*.


Figure 2 in Chapter 1 of the policy statement sets out the outcomes that the PSR expects the new reimbursement requirement to incentivise. In outline, these are:

- **Unlocking greater data sharing** across the payment sector including **enhanced sharing of risk indicators**
- **Tighter controls on accounts** to prevent fraudsters' access to banking services.
- **Risk-based approach** with PSPs empowered to hold and/or stop payments.
- **Improved victim aftercare** and customer education to reduce repeat victimisation.
- **Effective, data-driven interventions** to change customer behaviour when a payment is identified as fraudulent.

The PSR also points out that, with payment firms sharing the cost of reimbursement, the policy will for the first time create consistent financial incentives for the whole Faster Payments industry to invest in more effective prevention of APP fraud.

### Ten key policies underpinning the new reimbursement requirement

The new reimbursement requirement is built on ten key policies. The following table sets out each policy and indicates how it aligns with the proposals in the PSR's September 2022 consultation:

| * Key policy | Aligns with PSR CP22/4? |
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| 1. **Reimbursement requirement for APP fraud within Faster Payments.** Sending PSPs must reimburse all customers who fall victim to APP fraud (noting the exceptions and limits set out in policies 3 to 10). The reimbursement requirement does not apply to: civil disputes; payments which take place across other payment systems; international payments; payments made for unlawful purposes. | **Yes.** The PSR has also clarified that the new reimbursement requirement will apply to payment initiation service (PIS) transactions (see Annex 2 of PS23/3 for further details, including examples of how the PSR sees this working in practice). It has also refined its approach to implementation to place obligations directly on all PSPs within the scope of the policy, including indirect participants in Faster Payments (rather than via Indirect Access Providers (IAPs)). |
| 2. **Sharing the cost of reimbursement.** Receiving PSPs must pay sending PSPs 50% of the reimbursement that the sending PSP paid to the customer. A time period will be set by Pay.UK with an ultimate backstop to ensure receiving PSPs reimburse sending PSPs.<br><br>Pay.UK will be responsible for defining the operational guidance and processes for the | **Yes.** The PSR explains that currently, insufficient data is available to support a more refined reimbursement cost allocation model. However, Pay.UK will lead work to consider how a more refined reimbursement cost allocation model could be developed.<br><br>If disputes arise, PSPs are best placed to determine the best way to resolve these, for example agreeing to use independent external |


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| reimbursement process between sending and receiving PSPs, including setting a reasonable time period for this reimbursement. There will be an ultimate backstop period to prevent receiving PSPs avoiding their obligation to reimburse sending PSPs.<br><br>Note also on allocation of repatriated funds where customers have already been reimbursed, this should be split between PSPs in the same way as reimbursement. | arbitration or other existing mechanisms. This policy does not prevent Pay.UK from introducing any additional dispute resolution processes if judged appropriate. |
| 3. **Exceptions for APP fraud claims.** There are two exceptions to reimbursement (noting the other policies) under the new reimbursement requirement:<br><br>a. Where the customer has acted fraudulently ('first-party fraud')<br><br>b. Where the customer has acted with gross negligence. This is the customer standard of caution for APP fraud claims. | **Yes.** *In response to consultation feedback, the PSR will develop additional guidance on the customer standard of caution (gross negligence) to be consulted on in Q3 2023 and published in Q4 2023. The PSR has formed a steering group with the FCA and FOS to help advise on the guidance. It will also be engaging with key stakeholders as it develops the guidance. The guidance will reinforce the PSR's expectation that PSPs must reimburse APP fraud victims in most cases.* |
| 4. **Time limit to reimburse.** Sending PSPs must reimburse customers within five business days under the new reimbursement requirement. For specific actions, the sending PSP can 'stop the clock' (eg to gather additional information from victims to assess vulnerability – see Box 5 in Chapter 5 of the policy statement). | **Yes.** However, this has been extended from the proposed 48-hour time limit to reimburse. There is no limit to how many times a PSP can use the 'stop the clock' provision (subject to other requirements in legislation including Payment Services Regulation 2017 regulation 101(7)) but it should be used in proportion to the value and complexity of the claim. |
| 5. **Claim excess.** Sending PSPs have the option to apply a claim excess under the new reimbursement requirement (but this will not apply to vulnerable customers – see policy 9). *The PSR will consult on the appropriate level for this and publish the maximum excess in PSR guidance in Q4 2023.* | Subject to consultation |
| 6. **Minimum threshold.** There is no separate minimum value threshold for APP | **No.** The PSR has removed the £100 minimum threshold for claims. However, the PSR will consult on the appropriate level for the claim |


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| fraud claims under the new reimbursement requirement. | excess and acknowledges that this could act as a *de facto* minimum threshold depending on how it is structured and implemented. |
| 7. **Maximum level of reimbursement.** There is a maximum level of reimbursement for APP fraud claims (by value) under the new reimbursement requirement, but the PSR states this doesn't prevent PSPs from voluntarily reimbursing customers above this limit. *The PSR will consult on the appropriate maximum value for individual APP fraud claims in Q3 2023 and publish this in PSR guidance in Q4 2023.* | **No.** The PSR did not consult on a maximum level of reimbursement. |
| 8. **Time limit to claim.** Sending PSPs have the option to deny APP fraud claims submitted more than 13 months after the final payment to the fraudster.<br><br>Pay.UK is to keep the 13-month period under review. | **Yes.** The PSR clarifies that the exception to this rule will be when the new reimbursement requirement first becomes effective – the new requirement will only apply to Faster Payments made after day one (see Annex 3 (Question-by-question feedback and response to our consultation) to the policy statement).<br><br>The PSR states that if the sending PSP decides to refuse a claim and the customer does not agree with the outcome, the customer may have the opportunity to pursue a claim via the FOS for up to six years from a problem happening, or longer if still within three years of the customer becoming aware (or of when the customer should reasonably have become aware) of the problem. |
| 9. **Treatment of vulnerable customers.** The customer standard of caution and claim excess must not be applied to vulnerable customers. | **Yes.** The PSR has now mandated the exception to the claim excess for vulnerable customers. PSPs are expected to comply with the FCA's guidance on vulnerability and be mindful of their obligations under the Consumer Duty. *In Q3 2023, it will consult on whether the maximum level of reimbursement (see policy 7) will apply to vulnerable customers.* |
| 10. **Approach to 'multi-step' fraud cases.** The new reimbursement requirement applies to the Faster Payment to an | **Yes.** The PSR clarifies that it is not referring here to fraud across different payment systems, eg where a victim sends a crypto transaction to |


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| account controlled by a person other than the customer, where the customer has been deceived into granting that authorisation for the payment as part of an APP fraud. | a fraudster. *It will consider whether any further guidance is required on the scope of its requirements as it develops the legal instruments to implement its policy.* |

**Taken and adapted from Table 1 in Chapter 1 of [PSR PS23/3](#)*

Chapter 5 of the policy statement aims to demonstrate how the PSR expects the new reimbursement requirement to work in practice, placing the ten key policies in the context of a case illustrating the four stages of the reimbursement journey.

### How will the new reimbursement requirement be implemented by the PSR?

The PSR will implement the new reimbursement requirement through a combination of Faster Payments rules and PSR directions. It wants to establish an agile set of rules capable of future adaptations to address the ever-changing fraud threat. All PSPs using Faster Payments will be required to comply with the rules. Pay.UK as the payment system operator will manage and maintain the rules.

The PSR will direct Pay.UK to put the new reimbursement requirement into Faster Payments rules using its powers under section 55 of the FSBRA. This will be supported by a general direction under section 54 on all in-scope PSPs, which will place a regulatory obligation on these firms to comply with the relevant Faster Payments rules. This last element differs from the PSR's consultation proposals and is in response to a recommendation made by the Treasury Sub-Committee on Financial Services Regulations in February 2023 which the PSR subsequently accepted. The Sub-Committee had expressed concerns about the role of Pay.UK in the proposed reimbursement scheme, as an industry body subject to inherent conflicts of interest.

The PSR expects this approach to implementation to evolve over time as it looks to Pay.UK to introduce the changes necessary to reach all participants and enforce the requirements. The PSR will consult on the structure and wording of the legal instruments in early Q3 2023. Table 2 (Implementation approach) in Chapter 1 of the policy statement sets out more detail on what key policies and/or tasks will be covered by the instruments.

### PSPs should be acting now to implement the new reimbursement requirement

To comply with the new requirements, the PSR states that industry will need to meet a number of minimum conditions by day one. According to the PSR, it is up to firms, individually and collectively, how they meet these conditions (if not already in place). They include that:

- PSPs can effectively communicate, share information on APP fraud claims and compensate each other for the cost of reimbursement in line with the PSR's requirements;
- APP fraud cases can be tracked to enable reimbursement and repatriation across PSPs;
- PSPs can initiate and engage with reimbursement requests from a sending PSP to a receiving PSP for


50% of a claim after it has reimbursed the customer; and

- APP fraud claims can be assessed, and the outcome communicated to the victim, within five business days (subject to the 'stop the clock' provision).

The PSR believes industry must now begin allocating appropriate resources to understanding how they can meet these conditions and collaborate where necessary.

### How will PSPs' implementation of the new reimbursement requirement be monitored?

Pay.UK will create and implement a compliance monitoring regime for all requirements across all in-scope PSPs, including indirect participants. The general direction that the PSR gives will require all in-scope PSPs to provide data to Pay.UK.

To achieve an effective monitoring regime, ie one that will measure whether PSPs are consistently complying with the scheme rules on reimbursement requirements, Pay.UK and industry will need to complete several key actions including agreeing new systems and governance processes.

The PSR will require Pay.UK to provide it with a summary of PSP performance and compliance with the new reimbursement requirement. The information gathered will inform the PSR's monitoring of the general direction it gives to PSPs. The high-level areas the PSR expects Pay.UK to gather data and analyse data on are listed at paragraph 6.31 of the policy statement. The PSR is also working with Pay.UK to agree a high-level approach and principles for how it will monitor compliance.

### What about enforcement?

The PSR will be responsible for enforcing the general direction on Faster Payments participants and the specific direction and section 55 rule change requirement placed on Pay.UK. This latter requirement will involve Pay.UK notifying the PSR of any proposed changes to the relevant reimbursement rules. This will allow the PSR to raise any concerns and to intervene, if necessary (including by using its powers under section 55), if it does not consider the changes will support its policy objectives. The PSR will keep the need for this safeguard under review.

Pay.UK will follow its enforcement procedures for direct Faster Payments participants. This includes referring to the PSR if PSPs do not take corrective steps following Pay.UK's initial steps. Examples of where the PSR would expect Pay.UK to refer a case to it include:

- Consistent failure by a PSP to abide by the new reimbursement requirement and underlying policies, eg where a PSP has failed over a sustained period to improve timeliness of reimbursement.

- An extreme compliance failure by a PSP to abide by the new reimbursement requirement, eg where a PSP refuses to implement the new reimbursement requirement.

As only direct Faster Payments participants are subject to Pay.UK rules and enforcement, the PSR will be responsible for enforcing compliance of in-scope indirect Faster Payments participants.

### What about APP fraud in other payment systems?

Work to consider whether the new reimbursement requirement (or equivalent protections) should apply to other payment systems has already started. The PSR is


working with the Bank of England, as the operator of CHAPS, to define a model for reimbursement which reflects the unique characteristics of CHAPS, is simple to operationalise, and creates comparable protections for customers. It expects to adopt a similar approach to that for Faster Payments and will announce timings for consultation and implementation alongside its consultation on the draft legal instruments for Faster Payments participants and Pay.UK in early Q3 2023.

The PSR is engaging with the FCA on the application of the reimbursement requirement to 'on us' payments, where the fraudster uses an account provided by the victim's own PSP.

The PSR points out that APP fraud also impacts users of Bacs. It states that it will consider risks across different payment systems and, where necessary, address them with future action. It also observes that although it is not a type of push payment fraud, the same principle applies to authorised card fraud.

The PSR confirms that the requirement to reimburse victims of APP fraud will carry over into the New Payments Architecture (NPA), which is being delivered by Pay.UK. The PSR has set a deadline of 1 July 2026 by which migration to the new, competitively procured NPA infrastructure must be complete.

### Other measures to tackle APP fraud

The PSR outlines other measures it's involved in as part of a multi-pronged approach to tackling APP fraud. It points out that it is:

- **Publishing a balanced scorecard of APP fraud data (referred to as 'Measure 1')** - finalised in March 2023 with a direction to 14 PSPs to provide six-monthly data showing how effectively firms are handling APP fraud;

- **Increasing intelligence sharing (Measure 2)** – by tasking industry with developing a data and intelligence sharing tool to consider the riskiness of payments and improve fraud prevention. Pay.UK, with the support of UK Finance, is now taking forward a project to deliver Enhanced Fraud Data (EFD). The PSR expects PSPs to start implementing aspects of the system by the end of 2023; and

- **Expanding the rollout of Confirmation of Payee (CoP) -** with the October 2022 publication of the final policy statement and direction on 400 new PSPs to expand CoP.

In addition, the PSR highlights:

- **Government's Fraud Strategy:** The PSR emphasises that almost all respondents to CP22/4 agreed that further action was needed across the wider fraud ecosystem. The PSR has identified the key actions from the Home Office's May 2023 Fraud Strategy that reflect the priorities identified by stakeholders during its consultation, grouped into four themes: legislation; data sharing; customer education and victim support; and law enforcement. On the legislative front, key actions are creating a wider statutory framework to support the new reimbursement requirement, from tackling online advertising to the Treasury's commitment to examining the best way of letting PSPs adopt a risk-based approach to inbound and outbound payment processing.


- **Fraud origination data:** The PSR is in the early stages of considering what data could be collected on APP fraud origination and is aware that some PSPs are already capturing some of this data when recording instances of fraud. Over the coming months, it will engage with relevant stakeholders and consider the policy options and the channels available to it to collect this data and how it might best use it.

- **CRM Code:** The PSR expects the CRM Code requirements to stay in place until the new reimbursement requirement comes into force. It points out that there are some additional benefits enshrined within the CRM Code, eg it already applies to CHAPS and 'on us' payments and has additional provisions around prevention, detection and commitments to improving customer education.

- **Consumer Duty:** The PSR sets out how the new reimbursement requirement aligns with the Duty to support good customer outcomes. For example, in relation to the Duty's cross-cutting rule that requires firms to avoid causing foreseeable harm, the FCA specifically highlights scams as an example of foreseeable harm.

The PSR points out that 'collaboration is critical' to tackling APP fraud and confirms that it is 'engaging extensively' with the FCA, the Treasury, the Home Office, Ofcom, the Department for Digital, Culture, Media and Sport, police forces and other public bodies to stop fraudsters operating in the UK.


### Next steps

The new reimbursement requirement will come into force in 2024. The PSR will consult on a specific start date alongside its draft legal instruments in early Q3 2023, with the final legal instruments due to be published in Q4 2023. However, it expects industry to start work now to implement the new reimbursement requirement. It also clarifies that this does not prevent PSPs from voluntarily reimbursing victims of APP fraud now, including providing reimbursement under the CRM Code. As mentioned above, the PSR expects the CRM Code requirements to stay in place until the new reimbursement requirement comes into force.

Figure 3 in Chapter 1 of the policy statement sets out a high-level timeline with key milestones. Figure 8 in Chapter 6 sets out an engagement roadmap, with further detail on how the PSR will engage stakeholders through 2023.

Pay.UK has started to consider what it will need to do for implementation, and the PSR expects that it will work with industry to accelerate implementation planning ahead of the new reimbursement requirement coming into force in 2024.

The PSR will review the effectiveness of the new reimbursement requirement within two years (i.e. in 2026), incorporating the lessons learned during implementation.

If you would like to discuss the potential impact of the PSR's new reimbursement requirement on your business, please get in touch with us.

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