

Payment Systems Regulator Panel Annual Report 2019-20

Chairman's Foreword

This was the fifth full year of the Panel's operations, and the fifth full year of my role as Chair. It is our job to provide independent advice to the PSR, giving support where needed, and criticism where justified. Our members come from a very wide range of backgrounds, including user communities – from private consumers through small businesses to large corporates and the government – and providers of payment services, including banks, card companies, an ATM network and fin tech experts. But although most members have a 'day job', they are expected to participate as individuals rather than as delegates, and to engage constructively with a diverse range of colleagues.

This mix of expertise and experience works really well in the complex field of payments. We are not expected to achieve unanimity on all issues, and the PSR has made it clear that it welcomes divergent views. Active discussion within the Panel is indeed strongly encouraged, and there is no interest in hiding differences of viewpoint. But it is striking how often there is agreement round the table – backed by a strong degree of consensus on the importance to the UK as a whole of a payments system that is trusted, secure and inclusive. The Panel's structure also helps, by providing a forum in which all participants can hear the views of all the others, rather than being confined to specific user or provider groups.

One challenge in the early stages of the Panel's operations was getting the PSR as a whole to make effective use of the Panel's independence and expertise. This challenge never disappears completely, as new members of staff and new Panel members arrive, and new issues crop up, sometimes with great urgency. But links have improved substantially at all levels, from the Board downwards. I send reports of all of our discussions directly to the Board, and these are included in the formal meeting agendas. Board members, including the Chair of the PSR Charles Randell, are regularly welcomed at our Panel meetings; whilst staff are encouraged to seek Panel input at the earliest possible stage in policy development, before firm proposals are identified. As Panel Chair, I have also been invited to meet regularly with Charles Randell both individually on a one-to-one bases and with Chairs of other FCA Panels. It is clear to me that the governance of the PSR is more than ever in listening mode.

What is not in doubt is that there is a lot of listening needed. As the year 2019-20 drew to a close, the headlines inevitably became dominated by COVID-19. The pandemic was beginning to have major ramifications for the payments sector, and for all its stakeholders – especially those dependent on cash. The economics of the ATM market and cash supply system were already under great strain before the pandemic, but became seriously disrupted as lockdown took hold. What was already a major Panel concern became an even greater one. Similarly, the country faced a rapid increase in the economic stress faced by many payment users – businesses and private individuals alike, in struggling to stay afloat. One concern of the Panel in a serious and rapidly changing situation has been that the PSR needs to make the maximum use of intelligence and available data in keeping up to date with developments in the market, and need to stand ready to respond rapidly.

A second concern of the Panel has been that the underlying problems identified prior to the pandemic – such as competition in the card market, resilience and cyber-security, the funding of compensation for APP scams, the effective rollout of New Payments Architecture and the longer term challenges faced by small businesses – have not gone away. You can read some more about some of these concerns on pages 5-6 below. The PSR will need to find a way to balance the immediate actions created by COVID-19 with the longer term challenges of 'business as usual', especially if the impact of the pandemic proves to be long-lasting.

These will be matters for my successor, as this is my final annual report as Panel Chair, ahead of my planned retirement at the end of November 2020. I wish my successor well in what has been a fascinating role.

I would like to thank all my colleagues on the Panel for their support, and to add best wishes especially for the five Panel members who retired during 2019-20 – Mike Agate, Ahmed Badr, Mark Barnett, Cate Kemp and Pam Meadows. Warmest thanks are also due to Chris Hemsley, Managing Director of the PSR and his colleagues in the Executive, and to the members of the Secretariat, Heather Kempton, Belle Babirye and Judy Wakeford who have provided such excellent support.

S. A. J. Locke

Stephen Locke

Chairman, Payment Systems Regulator Panel



Introduction

The PSR Panel is established by statute as an independent body to the PSR. Its role is to contribute towards the effective development of the PSR's strategy, policy and other activities, across all the areas where the regulator operates. The Panel's core objective is to add value to the PSR's work by providing advice that draws in-depth on the perspectives, experiences and concerns of all categories of users and providers across the payments landscape. It also provides a forum for the regulator to test out ideas and propositions that are still on the drawing board.

The Panel has a diverse membership drawn from across a wide range of payment user and payment provider interests. Members represent different constituencies of service users, including individual consumers, large and small corporate customers, and the Government (as a user of payment services); and on the provider side, members include senior experts from payment systems operators, banks, credit card services and technology providers.

During 2019-20, the Panel continued to make a priority of encouraging PSR staff to make full use of the Panel, both by seeking collective Panel input at an early stage in policy development, and by tapping into the expertise and experience available from individual members. The Panel has four main meetings a year, which are complemented by a number of ad hoc workshops on specific topics. The main meetings tend to focus on issues with a strategic cross-sectoral impact, and each meeting is followed by a report from the Chair providing advice and feedback directly to the PSR Board. The Panel's workshops tend to be more informal - providing an opportunity for Panel members to work closely with PSR staff in exploring evidence and ideas in more detail than a formal Panel meeting would allow. For example, in January 2020, Panel members held an informal subgroup meeting with PSR staff to discuss the policy implications arising from the PSR's smaller business research before the initial findings were published in February 2020.

The Panel attaches great importance to maintaining an open line of communication with the PSR Board, Chief Executive, Executive Committee and staff- not just through exchanges of papers and formal written reports but also through face-to-face contact. To facilitate these links, the Panel has continued to welcome senior PSR staff to join Panel meetings as guests to observe exchanges directly and engage in detailed discussions where appropriate.

Strategic issues

One important focus during the year was the Panel's participation in the early stages of the PSR's long term strategy planning, based around the desired outcomes for users of payment services over the next 5-10 years. But Panel members are keen to help the PSR identify user interests, and the potential roles for, and constraints on, payment service providers. During the year the Panel had a series of constructive engagements with the PSR on these issues, and was able to complement its formal meeting agendas with a more interactive workshop in December 2019, to help inform the PSR's early thinking on longer term objectives for the sector as a whole.

Key themes that the Panel has highlighted during the last year include the extent and pace of change in the regulatory landscape and its implications for resourcing and availability of expertise both among payment providers and the wider community; the need to maintain the resilience of, and confidence in, payment systems and infrastructure at a time of rapid change; data confidentiality and integrity; the risks and challenges for the payments industry and its stakeholders of the UK's withdrawal from the EU, and the resulting limits to 'bandwidth' for coping with other developments; the risks to the viability of the cash infrastructure; and – linked to this – the position of disadvantaged consumers and small businesses that risk getting left behind by wider changes in technology and the market place. The Panel also highlighted the need for the PSR to ensure that all its actions are effectively aligned with the PSR's emerging longer term aims and that's these actions provide clear and consistent messages across the entire payments landscape.

The full impact of the Coronavirus (Covid-19) pandemic only started to be felt towards the end of 2019-20. In discussions with the PSR at its April 2020 meeting (and so, strictly, outside this reporting period), the Panel welcomed the regulator's commitment to engage and communicate with a wide range of stakeholders, and stressed the need to listen out for concerns raised by the payments provider and user communities as the virus crisis runs its course, and to respond flexibly and rapidly to the payments issues that are arising on the ground. It will also be important for the PSR to maintain its intelligence of longer-term changes that may arise from the current crisis, including in consumer behavior, and any new vulnerabilities that might emerge as a result.

Priority Issues for the Panel

As the PSR's role continued to develop in the fast-moving payments landscape, the Panel discussed a number of risks and concerns throughout the year, including those which may be beyond the PSR's remit but which could have significant impact on the industry it regulates.

Access to Cash

During the year, the Panel discussed the implications of the steady decline in the use of cash in the UK, and the need for an urgent and coordinated policy response to issues raised. The Panel welcomed the PSR's research on consumer cash needs, which highlighted that whilst there is a specific group of people who remain wholly or substantially reliant on cash, there is also a large proportion of users not categorised as vulnerable who have a strong preference for cash in certain situations, even though they are otherwise comfortable with non-cash alternatives. The Panel stressed that it might not take much for this latter group of users to switch quite quickly, putting increased strains on the already-stressed economics of the existing cash system, including the ATM market. The Panel urged the PSR to seek to identify and monitor closely potential trigger points for any step changes of this kind. The discussion also highlighted the need to maintain a cash system to sustain the economy in the event of disruption to digital payments, especially given possible vulnerabilities to the growing cyber threat.

The Panel discussed the research findings on why people access cash in particular ways and how the need to travel some distance to access cash in the light of decreasing ATM provision is disproportionately impacting users from disadvantaged socio-economic groups and in remote areas. This will raise some difficult policy challenges. The Panel considered that one emerging priority – especially given the trend of some businesses ceasing to accept cash altogether- was to help all consumers get access to the range of cash alternatives that are available to them and to encourage providers to maintain and promote them.

Authorised Push Payment (APP) Scams

The high profile incidence of APP scams continued to be a major challenge for the payments sector and the PSR, along with other regulators and the trade body, UK Finance. Development of an effective policy response continued during the year. Whilst the Panel welcomed the general acceptance of the challenge and noted the progress made in some areas, the Panel also expressed concern about the risks to consumers and the reputation of payments providers of continuing with a temporary and fragmented approach to the funding of the 'no-blame' contingent reimbursement model. Whilst the Panel recognised the limitations of the PSR's powers in this particular area, it encouraged the PSR to take a strong leadership role in enabling the sector as a whole to deliver a solution.

The Panel also highlighted how the handling of APP scams raised critical questions about data confidentiality and integrity. Open banking has given consumers greater control over their money, but has also raised the danger of consumers getting mixed messages about when and how to share data safely. The Panel encouraged the PSR to continue to work with other regulators and industry bodies, and to play a leading role in setting expectations of what is needed to prevent detriment, in particular through the delivery of clear and consistent language provided to consumers.

Cards

The market for card-acquiring services has been of long-standing concern to a number of Panel members and the Panel was pleased that the PSR had made this area a priority for investigation. But significant concerns were raised about the pace of this work. Whilst the Panel thought the specific issues being considered remain relevant, members stressed that, following the implementation of PSD2, changes in this area beyond card-acquiring were fast-paced, and there was a risk that the findings would be overtaken by developments in the market. The Panel urged the PSR to reach conclusions as quickly as possible, to set the framework for wider discussion about the policy issues, and for further stages in identifying any remedies needed.

Appendix 1 - Members of the PSR Panel between April 2019-March 2020

Stephen Locke <i>(Chairman)</i>	Independent Adviser
David Brooks	Head of Finance Operations, Sainsburys
Andrea Dunlop	Divisional CEO, Paysafe
David Gaselee	Director of Transaction Product Management, Barclays Corporate Bank
Flora Hamilton	Head of Financial Services, CBI
Andrew Hewitt	Director of Payment and Data Solutions, FIS
John Howells	CEO, LINK Scheme
Matthew Hunt	Chief Operating Officer, Executive Director, PAY.UK
Conor Langford	Director of Strategic Accounts, Visa
Jana Mackintosh	Head of Public Policy and Regulatory Affairs, WorldPay
Mark O'Keefe	Founding Director, Optima Consultancy
Jo Oxley	Director, Government Banking Service
Paul Rodgers	Chair and Founder, Vendorcom
Paul Thomalla	Senior Vice President, Global Corporate Relationships and Business Development, ACI Worldwide
Sian Williams	Head of National Services, Toynbee Hall
Mike Agate <i>(until Nov 2019)</i>	Federation of Small Businesses
Ahmed Badr <i>(until Nov 2019)</i>	Head of Legal, GoCardless
Mark Barnett <i>(until Nov 2019)</i>	President, Mastercard UK and Ireland
Cate Kemp <i>(until May 2019)</i>	Global Transaction Director, Lloyds Bank
Pamela Meadows <i>(until Nov 2019)</i>	Financial Services Consumer Panel member

Appendix 2 - Payment Systems Regulator Panel Terms of Reference

1. The Payment Systems Regulator Panel ('the Panel') is established by the Payment Systems Regulator ('PSR') under the Financial Services (Banking Reform) Act 2013. The Panel represents the interests of participants in regulated payment systems and those who use, or are likely to use, services provided by regulated payment systems.

Scope

2. The Panel makes representations to the PSR on the extent to which its general policies and practices are consistent with its general duties, and how its payment systems objectives may best be achieved, as required under the Financial Services (Banking Reform) Act 2013. See Appendix 1 for the general duties.
3. In considering the PSR's work, the Panel will focus on the PSR's objectives of promoting effective competition, promoting development and innovation and ensuring that payment systems are operated and developed in the interest of all those who use payment systems. The Panel will also have regard to the regulatory principles as attached in Annex 2.
4. The Panel's views are independent of the PSR. It does not carry out responsibilities on behalf of the PSR, but provides input and advice on development of PSR activities.

The Panel's Duties

5. The Panel will:
 1. Meet regularly (usually between four and six times a year) and be available at other times to be consulted by the PSR on specific high-level issues.
 2. Identify key issues which the Panel thinks the PSR should be considering when the PSR presents proposals to the Panel for consideration.
 3. Be proactive in bringing to the attention of the PSR, new or additional issues to be considered or research to be carried out by the PSR to assist the PSR in fulfilling its objectives.
 4. Maintain the confidentiality of information provided to the Panel when indicated by the PSR.
6. In fulfilling these duties, the Panel may:
 1. Request access to all information from the PSR which it reasonably requires to carry out its work. This will generally not include confidential information about specific regulated firms, individuals or markets.
 2. Have access to and engage regularly with the PSR Chairman, Board, Managing Director and senior executives of the PSR.

Membership

7. The PSR Board appoints Panel members, with HM Treasury's approval required for the appointment or dismissal of the Chair. Members will normally be appointed for a two or three year term, and will usually serve a maximum of two three-year terms.
8. The PSR will appoint to the Panel such persons representing participants in regulated payment systems and those who use, or are likely to use, services provided by regulated payment systems.
9. Members are appointed in an individual capacity on the basis of their experience and current role, and not as representatives of specific constituencies or organisations. They are expected to understand the general viewpoint of their sector and be able to contribute constructively in Panel discussions towards the development of the PSR's strategic thinking from that perspective. There is no express requirement on Panel members to consult with colleagues or related organisations on the issues discussed by the Panel, although they are free to do so (subject to confidentiality) if they wish to. Nor is the business of the Panel a substitute for formal public consultation processes by the Payment Systems Regulator with the sector or interests concerned. It may from time to time be appropriate for Panel members to discuss the general issues on Panel agendas on an informal basis, as a means of enhancing members' input to the Panel. But Members will also be required to respect the requirements of confidentiality: to enable the Panel to function effectively and provide early input to PSR policy development and other decisions, Panel members will often not be able to share the details of discussions which take place with those outside the Panel and PSR. Any such confidentiality requirements will be clearly flagged by the Secretariat.

PSR and Financial Conduct Authority Duties

10. Under the Financial Services (Banking Reform) Act 2013, the PSR must consider representations made to it by the Panel, and must from time to time publish in such a manner as it thinks fit, responses to the representations.
11. The PSR will provide the Panel with early access to appropriate information in order for the Panel to fulfil its duties and will ensure secretariat support is provided to the Panel to enable it to operate effectively.
12. The PSR Board will consider any proposals from the Panel for additional funding for specific projects (including research) which the Panel considers necessary in order for it to fulfil its duties under these terms of reference.

Accountability

13. The Panel will publish an annual report on its work, which will be presented to the PSR Board.