

Bird & Bird

# The PSR Panel's Digital Payments Initiative Report

*25 May 2022*



# Introduction

On **10 May 2022**, the PSR Panel [published](#) its Digital Payments Initiative Report ([the report](#)). The PSR Panel, which is independent to the PSR, contributes towards the effective development of the PSR's strategy and policy and offers advice and early input on the PSR's work.

Last year, the PSR tasked the Panel with developing and understanding the different uses for digital payments, assessing what barriers there might be and identifying what appropriate regulatory action might be required. This was set against a backdrop of dwindling use of cash, a fast-growing and changing market in digital payments and a continued focus on ensuring trust in digital payments.

The report highlights the challenges to the take-up of digital payments and what the potential solutions and regulatory actions could look like. Dr Ruth Wandhöfer, Chair of the PSR Panel, said the recommendations of the report aim to assist the PSR on the “*development of a strategic roadmap for open banking, including unlocking the potential of open banking payments*” in line with the [PSR 2022 Strategy](#).

This note details the main challenges, concerns and recommendations set out in the report.

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# Executive Summary

The report identified barriers to the greater take-up of digital payments and proposed recommendations for addressing existing obstacles. It highlighted the potential of open-banking retail payments to increase competition between payment systems and promote innovation across the payments ecosystem. It also included a set of technical recommendations to release the potential of open banking.

The report is divided into two sections:

- a The first part of the report focuses on the four high-level areas that need to be addressed to enable greater take-up of digital payments:
  - Improving awareness, understanding and trust in digital payment options;
  - Reducing digital exclusion;
  - Tackling barriers to new digital payment services and service features, including enabling new functionalities;
  - Putting better data in place to monitor the transition to digital payments.

The Panel's key recommendations include that the PSR should:

- engage with the industry to encourage the use of consistent terminology for account-to-account retail payments to help generate consumer familiarity and confidence.
  - consider the need for merchants to be able to compare cards and other payment options (including account-to-account payments).
  - challenge those having the tools to address the roots of digital exclusion and remove those barriers to the take-up of digital payments.
  - improve data gathering which is relevant to achieving its strategic outcome for everyone to have access to payment services that meet their needs.
- b The second part of the report identifies **open-banking retail payments** as an area having the potential to increase competition between payment systems and services as well as promote innovation in new service features.

This section also includes a set of technical recommendations to tackle barriers to new digital payment services that could enable more people - particularly the cash-reliant - to use digital payments and unlock the potential of open banking.

The Panel noted there has been a range of recent innovations in card-based digital payment services enabling them to better address users' needs, including: (i) banking and card app functionality that enables consumers to freeze their card themselves quickly and easily where they might have lost their card; (ii) gambling blocks on cards; and (iii) digital wallets with special features for people on low income.

## Barriers to the greater take-up of digital payments

### Lack of awareness and understanding of digital payment options

- i **Concern:** Consumers' confusion was likely to increase as new digital payment options emerge, including open banking-based account-to-account retail payments, since consumers have limited awareness of the open banking principles, and most of them are not yet familiar with the open banking retail payment experience.
- ii **Recommendation:** The PSR should engage with the industry to encourage the use of consistent terminology for account-to-account retail payments, building on the OBIE's work, to help generate consumer familiarity and confidence.
- iii **Concern:** Many merchants are not readily able to understand and compare relevant features of digital payment services. The PSR's card acquiring market review (CAMR) explained that merchants find it difficult to compare card acquiring services as prices are not typically published and pricing structures and approaches to headline rates vary significantly. Additionally, the often-indefinite duration of card acquiring and payment facilitation contracts which, in the majority of cases, is accompanied by the lack of portability of POS terminals and significant early termination fees – does not allow merchants to consider switching to a different provider.
- iv **Recommendation:** The PSR must consider the need for merchants to be able to compare cards and other payment options (including account-to-account payments) as part of the PSR's design of its proposed CAMR remedies.

### Digital exclusion

- i **Concern:** People on low income and those having some sort of vulnerability have been identified as the most heavily reliant on cash.
- ii **Recommendation:** Whilst it was acknowledged that the tools for addressing problems associated with insufficient access to digital and financial infrastructure; inadequate digital skills; and lack of financial capability lie beyond the direct remit of the PSR. The PSR must challenge those having the tools to address the roots of digital exclusion and remove those barriers to the take-up of digital payments.

### Failure of digital payment options to meet consumer needs

- i. **Concern:** The key drivers for those who continue to rely on cash are: perceived convenience; trust; and help in budgeting. The Payment Strategy Forum<sup>1</sup> previously found that customers want greater control over recurring payments and consumers wanted real-time balance information to enable them to manage cashflow more efficiently. In addition, the lack of visibility and control over 'card on file' recurring payments makes it easier for consumers to be harmed by 'subscription traps'.
- ii. **Concern:** In relation to safety and trust, many consumers are worried about the risk of falling victims to fraud when using digital payments and they are particularly reluctant to share their banking details or respond to digital messages containing a 'request to click'. There was a 71% increase in authorised fraud losses between the first half of 2020 and 2021<sup>2</sup>.

### Failure of digital payment options to meet small business needs

- i **Concern:** Digital payments may not currently meet the needs of small businesses for various reasons, including: delays in card scheme settlements and setting up direct debit mandates; difficulties in reconciliation (particularly where multiple payment methods are involved); and the inability to store and process payments data that could enable merchants to improve the day-to-day management of their business, facilitate an analysis of sales patterns and improve customer payment journeys<sup>3</sup>. Moreover, some small merchants may be unable to secure digital payment options at prices they are willing or able to pay (e.g., small merchants might not be able to access

<sup>1</sup> <https://www.psr.org.uk/media/1x4bh2ar/payments-strategy-forum-design-principles.pdf>

<sup>2</sup> 8 Government-coordinated action needed as fraud losses rise by 30 per cent, UK Finance.

<sup>3</sup> Research commissioned by Pay.UK from Revealing Reality, 2021.

Direct Debit at an acceptable price point or they might face increasing costs of card payment services such as acquiring services).

### Lack of data on the barriers to take-up of digital payments

- i **Concern:** The PSR does not appear to have a sufficiently detailed understanding of **trends** relating to the range of different digital payment services, taking into account the characteristics, needs and concerns of users of different digital payment services. **Recommendation:** The PSR has been urged to improve data gathering which is relevant to achieving its strategic outcome for everyone to have access to payment services that meet their needs.

## *Solutions to facilitate the take-up of open banking*

The report suggested **technical recommendations** for the PSR in the following areas:

- 1 The potential of open banking to address unmet user needs in retail payments
  - Open banking can unlock the potential of **account-to-account retail payment services** over the next few years. There is a need to further develop the open banking regime so that in the future consumers can execute retail payments **directly from their account**, thus offering an alternative to card payments. Open banking has the potential to **increase competition between payment systems and to enable the development of new payment services and service features**.
  - **Technical Recommendation:** The PSR, **alongside the FCA, should take a regulatory oversight** role and ensure that open banking payments develop beyond the CMA Order<sup>4</sup> to enable competitive new account-to-account retail payment services, while ensuring appropriate consumer protection.
- 2 Addressing barriers to new retail payment functionalities:
  - a **Variable Recurring Payments (VRPs)**
    - VRPs have the potential to provide consumers with greater control over recurring and frequent digital payments, as a result of being able to specify payment parameters up front.
    - VRPs enable convenient, **low friction retail payments with enhanced control for consumers**
    - VRPs could be **more easily accessible to small merchants than Direct Debit** since the precise nature of payments is agreed in the VRP consent and there is potentially less risk for the merchant being exposed to any liabilities under the Direct Debit Guarantee.
    - VRP could also provide **additional benefits for open banking retail payments**, including **immediate settlement for the merchant; potential for value-added services; and potential to reduce the costs borne by merchants**.
    - **Technical recommendation:** To ensure VRP retail services are safe for consumers, **the PSR should consider requirements on all banks to provide VRP API access for all use cases** (beyond the sweeping use case already mandated by the CMA on CMA9 banks) on a basis equivalent to the CMA's requirements for sweeping and single payment API access<sup>5</sup>. Additionally, the PSR should ensure:
      - arrangements for operationalising the appropriate allocation of liability for unauthorised or defective payments; and
      - of consent dashboards, or equivalents, to a standard that enables all consumers to easily identify, amend and revoke retail VRP consents.
  - b **Balance visibility in open banking retail payment customer journey**
    - The **open banking Customer Experience Guidelines currently prohibit banks from showing the balance on an additional screen in the payment journey when account selection is in the 'merchant domain'**. In practice, this means that, where banks choose, or do not have the risk appetite to show the balance

<sup>4</sup> [https://www.openbanking.org.uk/wp-content/uploads/2021/04/Notice\\_of\\_proposed\\_changes\\_to\\_the\\_open\\_banking\\_roadmap\\_-\\_web\\_publication\\_-\\_cma\\_gov\\_uk\\_-\\_May\\_2020\\_.pdf](https://www.openbanking.org.uk/wp-content/uploads/2021/04/Notice_of_proposed_changes_to_the_open_banking_roadmap_-_web_publication_-_cma_gov_uk_-_May_2020_.pdf)

<sup>5</sup> [https://assets.publishing.service.gov.uk/media/622ef8f8d3bf7f5a89aecea5/Sweeping\\_Clarification\\_-\\_Summary\\_of\\_Responses\\_.pdf](https://assets.publishing.service.gov.uk/media/622ef8f8d3bf7f5a89aecea5/Sweeping_Clarification_-_Summary_of_Responses_.pdf)

on the authentication screen before the consumer has proved his identity, the consumer does not have the option to check their balance.

- **Technical recommendation:** To resolve this, the PSR should ask the OBIE to consider updating its existing guidelines to allow all banks to show the customer's balance in their payment journeys. This should include allowing banks to show the balance when an open banking payment uses account selection at merchants (either as an additional screen after authentication or as part of the authentication screen).

### c Open banking payments at point of sale

- There is a need to extend open banking retail payments to POS transactions (physical payments). To date, iPhone NFC chips are not accessible to apps other than Apple Pay and the European Commission has opened an investigation against Apple in this respect<sup>6</sup>.
- **Technical recommendation:** The PSR must consider the actions that might be needed to upgrade the existing POS ecosystem in a way that could enable contactless open banking payments at POS.

### d Request for payment services

- The adoption of 'Request to Pay' (RTP)<sup>7</sup> messaging framework is necessary to see trusted brands, such as energy and water utilities, broadband, TV and mobile using request for payment services.
- The additional control afforded by request for payment services may encourage more consumers to make use of digital recurring payments, such as Direct Debits by reducing the price premium they may currently face for non-standard payment methods.
- **Technical recommendation:** The PSR could work with sectoral regulators, potentially through the UK Regulators Network<sup>8</sup>, to raise awareness in relation to request for payment services, in the context of sectoral regulators' responsibilities and objectives for protecting vulnerable customers.

## 3 Improving the consumer experience of existing recurring payment services

- There is a case for a modernised Direct Debit sign-up process that could reduce friction, encourage more people to sign-up to recurring payments involving Direct Debit and assist in the transition to new recurring payment products in the near future.
- **Technical recommendation:** The PSR, alongside the FCA, should consider encouraging banks to provide digital alerts ahead of Direct Debits (DD) to improve digital adoption of DD.

## 4 Improving consumers' trust by addressing fraud risks

- Open banking retail payments also have the potential to limit the risk of fraud. Specifically, the risk of misdirected payments and scams is reduced where (a) the PISP (rather than the consumer) populates the payee's account details; (b) information on banking credentials or card details is not shared with merchants; and (c) the PISP may undertake due diligence on payees (in addition to that undertaken by the payee's bank).
- **Technical recommendation:** The PSR should help ensure effective incentives on PISPs to prevent fraud and scams in the following ways:
  - by ensuring the completion of the Lending Standards Board's work to enable PISPs to join the Contingent Reimbursement Model (CRM) Code. In practice, this would enable PISPs to become subject to standards for protecting consumers from Authorised Push Payment (APP) scams and, where fault lies with them, to bear appropriate liability.
  - through its work on potentially mandatory requirements that would require Faster Payments participants to reimburse consumers for APP scam losses, ensuring that, where fault lies with PISPs, they also bear appropriate liability for reimbursement.
  - by ensuring that ASPSPs' policies on transaction limits and blocking are responsive to the effectiveness of an individual PISP's processes for reducing fraud risk, e.g., populating payee fields or undertaking effective due diligence on payees.

<sup>6</sup> [https://ec.europa.eu/commission/presscorner/detail/el/ip\\_20\\_1075](https://ec.europa.eu/commission/presscorner/detail/el/ip_20_1075)

<sup>7</sup> Request to Pay, Pay.UK <https://www.wearepay.uk/what-we-do/overlay-services/request-to-pay/>.

<sup>8</sup> <https://www.ukrn.org.uk/>



- 5 Incentivising performance of open banking interfaces that would be adequate for retail payment use cases
- For open banking payment services to compete successfully in a retail context, they need to be highly reliable. Reliability depends in part on the performance and availability of ASPSPs' APIs, on which open banking services rely. The effective application of sanctions for poor reliability of APIs could incentivise performance.
  - **Technical recommendation:** The PSR, along with the FCA, should consider ways to ensure that the performance and reliability of technical infrastructure supporting open banking account-to-account payment services, including APIs, is maintained at a level that is competitive for retail use cases.
- 6 Enabling the use of digital identity within digital payment services
- There is potential for businesses to use the open banking framework to build additional value-added services that could enable consumers to share wider digital identity attributes with merchants. Combining open banking payments with wider identity authentication services can enhance the consumer experience, reduce identity theft and fraud, encourage the take-up of digital payments, and assist open banking payments compete with cards.
  - **Technical recommendation:** The PSR should engage with the Government on the development of digital identity standards and ensure that open banking capabilities can be used vis-à-vis implementing digital IDs in payment transactions.

## Next steps

The PSR is now expected to engage with industry and relevant authorities on the barriers and solutions that the Panel have identified to enable greater and easier use of digital payments, with a workshop planned in June 2022. The PSR will set out its response to the Panel's recommendations later in the summer.

Whether the PSR adopts all of the Panel's recommendations and how it impacts its strategy and work streams going forwards remains to be seen. This equally applies to the question of whether the report's key proposals such as: the take up of account-to-account retail payments; the introduction of banking and card app functionality that enables consumers to freeze their card themselves; and digital wallets with special features for people on low incomes, will ultimately have any impact on the industry. That said, the direction of travel is clear.

Our payments team will continue monitoring the situation and keep you up-to-speed with the latest developments.

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