

UK Government Consultation on Access to Cash (September 2021)

This response is provided by a working group of the Centre for Commercial Law at the University of Aberdeen. The working group consists of Dr Burcu Yüksel Ripley, Dr Alisdair MacPherson and Professor Donna McKenzie Skene.

General Comments

We recognise that protecting access to cash where necessary is essential and, overall, we support the proposals outlined in the Consultation Paper with the aim of achieving this protection.

Looking ahead, as we noted in our response to the Call for Evidence on Access to Cash in November 2020 (<https://www.abdn.ac.uk/law/documents/CCL%20response%20to%20call%20for%20evidence%20on%20access%20to%20cash%2023.11.2020%20-%20Final.pdf>), a more comprehensive review and ongoing monitoring of the developments would be useful in this area in parallel to technological progress and potential behavioural changes regarding use of cash in the post-COVID-19 era. This would allow alternative innovative approaches to be developed and tested, such as shared banking hubs (see <https://www.bbc.co.uk/news/business-58245844>), to ensure access to cash.

We note that the Consultation Paper, in parts, gives consideration to Northern Ireland separately from Great Britain. As will be seen in our response below, this approach seems reasonable to us due to peculiarities, including the banking market, of Northern Ireland. However, we wonder whether particularities of Scotland (and other specific areas of the UK) were also given consideration in the preparatory work of this consultation with a view to allowing for requirements in Scotland separately from England and Wales. Certain peculiarities of Scotland are to some extent similar to those of Northern Ireland. As also noted in the findings of the ‘Where to Withdraw? Mapping Access to Cash Across the UK’ Report (2020), in Scotland (as a more rural region with some remote areas with larger distances to travel), mean average distance (in metres) to the nearest free access point (excl. cashback) is 614, compared with 326 in London, 661 in Wales and 678 in Northern Ireland (see p.5 of the Report). The Report further states at p.24 that: “Scotland, in particular, is skewed by a small number of very large distances as shown by the fact that neighbourhoods at the 99th percentile are almost 6km from a free cash access point.” We think that this data also makes a case for allowing for requirements in Scotland separately from those for England and Wales.

Responses to Consultation Questions

Question 1: Do you agree that legislation should provide the government with powers to set geographic requirements to ensure the provision of withdrawal and deposit facilities to meet cash needs through time?

Yes, we agree. This seems to be an appropriate way to ensure access and coverage of facilities.

Question 2: Do you agree that legislative geographic requirements should target maximum simplicity?

Yes, we agree. However, this needs to be within reason to ensure the requirements remain proportionate in meeting cash needs and demand over time.

Question 3: Do you agree that geographic requirements should initially be set to provide a level of reasonable access to all areas, reflecting the current distribution of cash access facilities?

Yes, we agree. This, in principle, sounds reasonable subject to the caveat that the current distribution of cash access facilities is sufficient. It would be useful to take the current distribution as a starting point, but we note that the distribution, for some areas, might show considerable differences between now and the pre-COVID position (if there have been closures of facilities recently).

Question 4: Do you agree it is necessary to allow for requirements in Northern Ireland and Great Britain separately?

Yes, we agree. This seems necessary due to the peculiarities of Northern Ireland in this area.

Regarding Great Britain, we note peculiarities of Scotland for consideration, which may justify a different approach too. This could also, arguably, be true for Wales and certain regions of England.

Question 5: Do you think that requirements in Northern Ireland and Great Britain should be set at a consistent level?

Consistency may seem to serve maximum simplicity, but it may not reflect local needs. We think that it is important to strike a balance between these two aims. This can be done by setting requirements which are not over-complicated but recognising peculiarities of different places, such as population density, cash reliance practices for small value transactions in remote locations due to high card payment charges, distances to travel to access cash in rural and urban areas, and range and availability of public transport in those areas.

Regarding Great Britain, we note peculiarities of Scotland (in particular) and the importance of setting requirements in Scotland corresponding to local needs.

Question 6: Do you agree that requirements should be targeted at the largest payment account providers?

Yes, we in principle agree. However, we wonder whether this may create competition disadvantages. We also wonder if there are multiple large payment account providers, how this would work in terms of division of responsibility among those providers.

Question 7: Are there other factors beyond those listed that the government should take into consideration when designating firms?

It would be useful to have more clarity on division of responsibility among providers and on the criterion for establishing geographic coverage of firms, especially given that firms have different market shares in different parts of the country. In addition, it should be noted that the same distances might have a varying impact on access to cash in rural and urban areas, and dependent upon local geographies and infrastructure (roads, public transport links etc).

Question 8: Do you agree that the FCA should be the lead regulator for monitoring and enforcing requirements on access to cash?

Yes, we agree with the Government's view that there would be benefit in giving a single authority the overall responsibility for maintaining a well-functioning retail cash distribution network and that the FCA seems well placed to take on this responsibility. This responsibility

should include ensuring effective coordination with HM Treasury, the Bank of England and the Payments System Regulator as needed.

Question 9: Do you agree with giving the FCA discretion on additional requirements for qualifying cash facilities?

Yes, we agree, subject to appropriate provision for review of the exercise of that discretion. This discretion would also enable the FCA to be responsive to new innovative solutions. We additionally support an inclusion of a provision for review of requirements for qualifying cash facilities in future.

Question 10: Are there any other factors, beyond those listed, that the FCA should consider as part of evaluating qualifying cash facilities?

The factors listed appear to be appropriate, so long as “hours of availability” also includes the days of availability (the days during the week and taking account of holidays etc).

Question 11: If geographic requirements are being met at a national level, do you think there are any circumstances in which the FCA should nevertheless be able to intervene at a local level?

Yes, we think that the FCA should be able to intervene at a local level where local needs have been unmet for access to cash for any reason. This could be the case particularly in rural areas and/remote locations often with small populations which require large distances to travel to access to cash, need more infrastructure, and have less and/or intermittent access to mobile banking due to broadband issues as well as cost.

Question 12: Do you have any other views regarding the future role of the regulators in protecting cash?

We think it would be useful to monitor developments and market practice in this area.