



House of Commons
Treasury Committee

**The future of cheques:
Government and
Payments Council
Responses to the
Eighteenth Report
from the Committee**

Twenty-third Report of Session
2010–12



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*Report, together with formal
minutes*

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The Treasury Committee

The Treasury Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of HM Treasury, HM Revenue and Customs and associated public bodies.

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The committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No 152. These are available on the Internet via www.parliament.uk.

Publication

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the Internet at www.parliament.uk/treascom.

The Reports of the Committee, the formal minutes relating to that report, oral evidence taken and some or all written evidence are available in printed volume(s). Additional written evidence may be published on the internet only.

Committee staff

The current staff of the Committee are Chris Stanton (Clerk), Lydia Menzies (Second Clerk), Jay Sheth, Peter Stam, Renée Friedman, Antonia Brown (on secondment from the Bank of England), and Lara Joseph (on secondment from the FSA) (Committee Specialists), Phil Jones (Senior Committee Assistant), Steven Price and Baris Tufekci (Committee Assistants) and Nick Davies (Media Officer).

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Contents

Report	<i>Page</i>
The future of cheques: Government and Payments Council Responses	3
Conclusions and recommendations	5
Appendix 1: Letter from Mark Hoban MP, Financial Secretary to the Treasury	6
Appendix 2: Government Response	7
Appendix 3: Payments Council Response	10
Formal Minutes	12
List of Reports from the Committee during the current Parliament	13

The future of cheques: Government and Payments Council Responses

1. On 15 June 2011 we took evidence from the Payments Council as part of our inquiry on cheques. Subsequently, on 12 July 2011, the Payments Council withdrew its plans for the abolition of cheques and undertook to maintain the cheque system indefinitely.

2. On 24 August 2011 we published our Report on *The future of cheques*. In the Report we argued that cheques should not be withdrawn until an alternative was widely available and accepted by members of the public. On 24 and 25 October 2011 respectively, the Payments Council and HM Treasury responded to our Report.

3. Our Report, whilst welcoming the Payments Council's decision in this area, expressed a concern that the long-term future of cheques was not yet secured. First, we noted that "although the plans to abolish cheques have been abandoned, it may still be in banks' own interest to discourage customers from using the cheque facility". As a result we argued that the Payments Council "must ensure that the banks do not attempt to abandon cheques by stealth, or deter customers from using cheques". Secondly, we noted that the abolition of the cheque guarantee card scheme had "directly led to more businesses refusing to accept cheques" and was likely to have contributed to declining cheque usage. We called on the Payments Council "to examine reintroducing the cheque guarantee card".

4. We welcome the fact that the Payments Council is now undertaking research—the results of which will be available by the end of 2011—on the impact of the closure of the card scheme, and has promised that "if so indicated by the research, we will revisit the business case for the closure of the scheme". **The Payments Council must provide further details of the research it is undertaking on the guarantee card as well as the decision-making process it will undertake once the research is complete.**

5. **There is a case for reintroducing either the cheque guarantee card scheme or an alternative mechanism to ensure cheque acceptors have confidence when accepting cheques. Without such a scheme there is a risk that more and more shops and other bodies will refuse to accept cheques; the cheque would wither on the vine. An increasing number of shops and other organisations are refusing to accept cheques as a result of the abolition of the guarantee card. The Government threatened to legislate to preserve cheques prior to the Payments Council's change of heart. When the Payment Council's report is to hand, the Government may wish to consider whether intervention on the guarantee card is also warranted.**

6. The Government in its response to our Report accepted the case we made for bringing the Payments Council within the scope of financial regulation and has committed itself to consult on this issue in early 2012. Whilst we did not reach a conclusion in our Report on who should be responsible for oversight of the Payments Council, there may be a case for the new FCA to take on this responsibility. We will no doubt look more closely at the issue upon publication of the Government's consultation paper. **Bringing the Payments**

Council within the scope of financial regulation is needed to ensure there is never again a repetition of the cheques debacle. The Payments Council was able to take decisions affecting millions of people at its own initiative without any effective scrutiny by a regulatory body.

Conclusions and recommendations

1. The Payments Council must provide further details of the research it is undertaking on the guarantee card as well as the decision-making process it will undertake once the research is complete. (Paragraph 4)
2. There is a case for reintroducing either the cheque guarantee card scheme or an alternative mechanism to ensure cheque acceptors have confidence when accepting cheques. Without such a scheme there is a risk that more and more shops and other bodies will refuse to accept cheques; the cheque would wither on the vine. An increasing number of shops and other organisations are refusing to accept cheques as a result of the abolition of the guarantee card. The Government threatened to legislate to preserve cheques prior to the Payments Council's change of heart. When the Payment Council's report is to hand, the Government may wish to consider whether intervention on the guarantee card is also warranted. (Paragraph 5)
3. Bringing the Payments Council within the scope of financial regulation is needed to ensure there is never again a repetition of the cheques debacle. The Payments Council was able to take decisions affecting millions of people at its own initiative without any effective scrutiny by a regulatory body. (Paragraph 6)

Appendix 1: Letter from Mark Hoban MP, Financial Secretary to the Treasury

I am pleased that the Payments Council has responded to probing by your Committee, and to public opinion, by committing to maintain cheques as long as customers need them. The decision reflects the view I expressed in my letter to the Committee that cheques should not be withdrawn until the alternatives were widely available and accepted. I am grateful to you and the Committee for your subsequent report on the future of cheques. The Government welcomes the report. Many of the Committee's recommendations are addressed to the Payments Council and the banks, and I look forward to their response.

You also made a number of recommendations for Government. The Government broadly accepts the recommendations, and I enclose a point by point response. This shows how the Government is responding by ensuring that cheques continue to be available, by strengthening the protection for consumers, and increasing competition in retail banking.

However, there is one area where the Government believes it may be necessary to go beyond the Committee's recommendations, if it is to consider bringing the Payments Council within the scope of regulation.

This is because extending regulation here would need to include the relationship between the Payments Council, its members and inter-bank payment systems. I therefore propose to consult on the options, including options for creating a new regulatory structure for the Payments Council and the inter-bank payments regime. The consultation will take place early in 2012. Any reform would take account of the Government's regulatory reform agenda with a view to not creating significant new regulatory burdens for industry.

25 October 2011

Appendix 2: Government Response

The Government welcomes the report¹ of the Treasury Committee, published on 24 August 2011, regarding the future of cheques, and thanks the Committee for their work. Many of the Committee's recommendations are addressed to the Payments Council and the banks. We look forward to their response. This response seeks to address the Committee's recommendations to the Government.

The response from the Government is in plain text and the Committee's conclusions and recommendations are in bold text.

Acceptance of cheques by Government

We are led to believe that the announcement to abolish cheques may have led some Government bodies to refuse acceptance of cheques. We recommend government ensure that all departments and agencies of both local and national government continue to accept cheques. (Paragraph 22)

There has been no decision by central Government departments or bodies to stop taking payments by cheque. People will continue to be able to pay by cheque for necessities like prescriptions, TV and driving licenses, passports, car tax discs and other taxes.

Cheques may not be a suitable form of payment in some circumstances, like paying for on-line services or when cash is necessary, such as in car parks. Each department and agency must take a decision on what is an acceptable form of payment depending on the individual circumstances.

The situation for business services is more complex. HMRC is under no obligation to accept a cheque by post for Corporation Tax or VAT. From 1 April 2010 it became mandatory for all VAT-registered traders with a turnover of £100,000 or more, and any newly registered traders (regardless of turnover), to submit their VAT returns online and pay electronically. From 1 April 2011, companies and organisations have been required to submit their company tax returns online and pay all Corporation Tax and related payments (such as interest) electronically.

For the above categories of business, HMRC will not accept a cheque by post. It will nonetheless be possible for a business that wishes to pay Corporation Tax or VAT by cheque to do so by taking a cheque, together with a HMRC payslip, to their own bank or building society or to a participating Post Office.

The Government cannot speak for local Government. However, it remains possible to pay for many local government services by cheque.

1 *The future of cheques*, Eighteenth Report of Session 2010–12, HC 1147

Powers of the Financial Conduct Authority and Regulation of the Payments Industry

The Payments Council is an industry-dominated body with no effective public accountability. It should not have unfettered power to take decisions on matters, such as the future of cheques, that are of vital personal importance to millions of people. The Treasury should make provision in the forthcoming Financial Services Bill to bring the Payments Council formally within the financial regulation system, to be overseen by the regulatory body the Treasury identifies as being most appropriate. (Summary)

The Treasury should confirm whether the current Draft Financial Services Bill contains the powers that would allow the new Financial Conduct Authority to intervene to protect bank customers by preventing cheques being withdrawn. If it does not, we recommend that the Government consider the case for inserting such provisions in the Bill which will be presented to Parliament. (Summary)

The Government accepts the case made by the Committee for bringing the Payments Council within the scope of financial regulation. The Government believes this may necessitate going beyond the Committee's recommendation to include the relationship between the Payments Council, its members and inter-bank payment systems.

The Government is developing a number of options for potential reforms. The Treasury will publish a consultation on the options, including options for creating a new regulatory structure for the Payments Council and the inter-bank payments regime, taking into account the need to preserve the stability and integrity of payment systems; maintain open competition; promote innovation; and reflect the needs of end users, as well as the needs of payment service providers. The consultation will take place early in 2012. Any reform would take account of the Government's regulatory reform agenda with a view to not creating significant new regulatory burdens for industry

Furthermore, the Financial Secretary to the Treasury wrote to the Committee on 14 June 2011 to confirm that the Government would consider intervening to ensure that banks keep cheques. The Government has ensured that the Financial Conduct Authority (FCA) will be able to require banks and building societies to take or refrain from specified action, such as withdrawing cheque services from both new and existing customers.

Section 137A of the draft Financial Services Bill provides the FCA with a power to make rules applying to regulated firms. The power can be used when the FCA considers (among other things) that it is desirable to exercise the power to advance any of the FCA's operational objectives, provided that it passes a cost-benefit test.

Section 137C of the draft Bill provides that the FCA may in particular make "product intervention" rules. These rules may impose requirements on financial products (see subsection (2)(b)). The FCA may make additional provision as to the consequences of breaching a product intervention rule including providing that an agreement entered into in breach of the product intervention rule is unenforceable. The exercise of the rule making power is subject to the duty to consult on draft rules and to carry out a cost-benefit analysis of any proposed rules.

Cheque services include both issuing cheques and accepting cheques from other banks. It would be for the FCA to decide how widely to draw the requirement; for example, whether to extend it to bankers drafts, giro payments, foreign currency cheques, cross border foreign cheques, and other services, such as other deposit and counter services, cheque verification, and faster presentation. Although this power does not extend to ordering the cheque clearing system to be kept open, in practice requiring banks to accept cheques issued by each others' customers is likely to mean that they will need to maintain cheque clearing arrangements.

Duty of the Financial Conduct Authority to Promote Competition

In order to improve consumer choice, there must be more competition in banking, and the payments system must be capable of taking advantage of innovation in the consumer interest. It is essential that the Treasury respond positively to the recommendations of the Independent Commission on Banking and of this Committee that the new Financial Conduct Authority have a primary duty to promote competition. (Paragraph 48)

The Government strongly welcomes the Commission's proposal on increasing competition in retail banking. The White Paper *A new approach to financial regulation: the blueprint for reform* stated that the Government will continue to consider the FCA's statutory remit during the pre-legislative scrutiny phase of the Financial Service Bill. We will carefully consider ICB's recommendations as part of that process.

The Government is clear that the Financial Conduct Authority (FCA) needs to play a significant role in promoting competition in financial services. The draft Financial Services Bill gives the FCA a primary duty to promote competition. This means that that when the FCA has identified a problem, it will, in all cases, consider how to address it by promoting competition (unless this would be incompatible with its other objectives).

Appendix 3: Payments Council Response

Cheque Guarantee Card Scheme

Prior to the Committee's report being published, the Payments Council had already committed to commissioning independent market research to measure the impact of the closure of the Cheque Guarantee Card Scheme. This research includes consumers who wrote guaranteed cheques and businesses that accepted them. Broadly, the research covers:

The extent to which acceptors may have changed their behaviour following closure of the Cheque Guarantee Card Scheme—e.g. whether or not they are now less willing to accept cheques and whether they are now more willing to accept other methods of payment.

The experience of consumers when attempting to pay by cheque—whether they have experienced a change in the number of businesses willing to accept payment by cheque or experienced an increase in the willingness to accept other payment methods.

The level of awareness of the Cheque Guarantee Card Scheme closure

We will receive the results of this research by the end of year. If so indicated by the research, we will revisit the business case for the closure of the scheme. We will share this research with you, and will publish it on the Payments Council website.

Bank communications to customers

The Payments Council agrees that consistency of consumer messages is important and we find it disappointing to find instances when banks have given out conflicting information. This is one of the reasons why we developed an industry resource on payment methods called 'Pay Your Way', which provides objective and impartial consumer information on the different ways to pay. There is a consumer-facing website as well as a booklet, which is also available for banks to use directly with their customers. We have highlighted the particular recommendations you have made in relation to banks' customer communications to Payments Council members.

The continued availability and efficient processing of cheques

The Cheque & Credit Clearing Company has been tasked by the Payments Council to look at options to achieve substantial efficiencies in cheque processing, part of which is to ensure the preservation of the integrity of the cheque clearing systems despite declining volumes. The Company is due to report to the Payments Council Board in December. We have been clear that the impact on customers must be part of the consideration and the business case.

Composition of the Payments Council Board

We are about to commence our Governance Review and Assessment of Performance of the Payments Council. This assessment is at the request of the OFT, made as a

recommendation in their first review of the Council in 2009. The composition, powers and role of the Payments Council will be assessed as part of the review, including the Treasury Committee's specific concern over whether the voting powers of the independent directors need to be increased.

We will ensure that the review is conducted in a transparent manner, and ask a wide spread of stakeholders for their views. Additionally, any individual or organisation that we do not contact directly will be able to submit comments for consideration as the criteria will be publicly available on our website. Professor Martin Cave, one of our independent directors and who has experience of conducting independent reviews for the government, will be leading the review. We will be publishing the conclusions of the Governance Review and Assessment of Performance early next year. We would welcome any further input you would wish to make into the review and I know colleagues will be in touch with you separately about this.

As you may be aware, the Payments Council's new chief executive, Adrian Kamellard, starts on 1 November. He will be keen to hold an early meeting with you and to update you on the progress of the Payments Council's activity.

Finally, the 2011 National Payments Plan is being published this week, which extends and refocuses our work plan for the next three years. We will ensure that a copy is shared with you.

Formal Minutes

Wednesday 9 November 2011

Members present:

Mr Andrew Tyrie, in the Chair

Michael Fallon

Jesse Norman

Mark Garnier

David Ruffley

Stewart Hosie

John Thurso

Mr Andrew Love

Draft Report (*The future of cheques: Government and Payments Council Responses to the Eighteenth Report from the Committee*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 6 read and agreed to.

Papers were appended to the Report as Appendices.

Resolved, That the Report be the Twenty-third Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned till Wednesday 23 November 2.00 p.m.]

List of Reports from the Committee during the current Parliament

Session 2010–12

First Report	June 2010 Budget	HC 350
Second Report	Appointment of Dr Martin Weale to the Monetary Policy Committee of the Bank of England	HC 195
Third Report	Appointment of Robert Chote as Chair of the Office for Budget Responsibility	HC 476
Fourth Report	Office for Budget Responsibility	HC 385
Fifth Report	Appointments to the Budget Responsibility Committee	HC 545
Sixth Report	Spending Review 2010	HC 544
Seventh Report	Financial Regulation: a preliminary consideration of the Government's proposals	HC 430
Eighth Report	Principles of tax policy	HC 753
Ninth Report	Competition and Choice in Retail Banking	HC 612
Tenth Report	Budget 2011	HC 897
Eleventh Report	Finance (No.3) Bill	HC 497
Twelfth Report	Appointment of Dr Ben Broadbent to the monetary Policy Committee of the Bank of England	HC 1051
Thirteenth Report	Appointment of Dr Donald Kohn to the interim Financial Policy Committee	HC 1052
Fourteenth Report	Appointments of Michael Cohrs and Alastair Clark to the interim Financial Policy Committee	HC 1125
Fifteenth Report	Retail Distribution Review	HC 857
Sixteenth Report	Administration and effectiveness of HM Revenue and Customs	HC 731
Seventeenth Report	Private Finance Initiative	HC 1146
Eighteenth Report	The future of cheques	HC 1147
Nineteenth Report	Independent Commission on Banking	HC 1069
Twentieth Report	Retail Distribution Review: Government and Financial Services Authority's Responses	HC 1532
Twenty-first Report	Accountability of the Bank of England	HC 874
Twenty-second Report	Appointment of Robert Jenkins to the interim Financial Policy Committee	HC 1575