

# Commercial Variable Recurring Payments Model Clauses

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# Preface

Variable Recurring Payments have the potential to offer customers more choice about how they pay and how merchants receive their payments. They will bring more competition into the payments landscape.

The Joint Regulatory Oversight Committee has identified VRP as a test case for premium APIs – where the data holder can charge for API access. The ecosystem has therefore the opportunity to develop a commercial approach to open banking that will unlock investment and innovation in a great customer experience.

This report on model clauses for VRP is a stepping-stone in developing the VRP product. UK Finance, in association with Addleshaw Goddard, have with a diverse set of twelve UK Finance members, including six banks, five fintechs, one schemes and a wider Engagement Forum, developed a set of proposed standard arrangements which could inform a multi-lateral agreement or bi-lateral contracts.

Our objectives are to drive competition and increase efficiencies by removing some of the transaction cost of bi-lateral negotiations, and to ensure customers have a consistent experience. The clauses are open source and their use is entirely voluntary.

There is more work to do to bring VRP to life – on the technology, customer protection, the commercial and contractual model, piloting the most attractive use cases and ensuring VRP provides a great customer experience.

We have however pushed back on the PSR's proposals to expand VRP on behalf of our members from across the payments ecosystem, including fintechs. UK Finance would like to see industry working in partnership with JROC and industry bodies to develop and expand VRP through a commercially driven model that has customers at its heart with carefully targeted regulatory support.

I would like to extend my personal thanks to Rebecca Hickman, Jack Houselander, Al Mangan and the team at Addleshaw Goddard and to the co-chairs Stephen Wright, NatWest and Charles Damen, Token, who have all skilfully steered the work and encouraged participation in it. I'd like to thank too the other members, stakeholders and the team at UK Finance, who have contributed to the report.



**Jana Mackintosh**

Managing Director, Payments, Innovation and Resilience

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# 1. Background & Methodology

## 1.1 Background

The use of open banking payments is increasing and is now being seen as a way to introduce more choice in the payments space, particularly in relation to merchant payments. Open banking payments also have the potential to offer greater choice to customers and businesses, and a number of major UK merchants now offer open banking payments as a way to pay.

As identified in the 'The Future Development of Open Banking Payments' report published by UK Finance in association with Addleshaw Goddard LLP in March 2022, there is now a desire from industry participants to use the frameworks developed to meet regulatory requirements in commercial models that will help drive innovation and competition in payments. The first area where there is a desire to collaborate is with the ability to make recurring payments where the amount and timing of the payment can vary. These types of payments can cover a wide range of use cases including subscriptions, digital content and utilities (water, gas and electricity).

To support these payment types, payment service providers are looking at the use of Variable Recurring Payments (VRPs) as an alternative payment methodology. VRPs are recurring payments from an account initiated by a payment initial service provider (PISP) using a long-held consent (as opposed to a one-off consent) obtained from the account holder, where the timing and/or amount of each payment need not be fixed. The account holder can define the parameters of their consent for these payments to be made from their account, such as maximum payment amount, frequency e.g. time window such as day/week/fortnight/month/half year/year and the duration of the mandate.

## 1.2 Evolution of VRPs: Sweeping to Non-Sweeping

In the UK, there are currently two regulatory regimes which require account providers to enable their payers to grant authorised PISPs access to their accounts for the purposes of initiating payments. These are:

- (a) the Retail Banking Market Investigation Order 2017(CMA Order); and
- (b) the Payment Services Regulations 2017 (PSRs 2017).

Pursuant to the CMA Order, some account servicing payment service providers (ASPSPs), known as the CMA9, are obliged to allow access to their VRP API for the purposes of sweeping.

In a nutshell, [sweeping VRPs](#) allow payers to move funds automatically between two bank accounts belonging to the same payer. The bank accounts can be held at different

financial institutions as long as the accounts are held by the same payer. These are otherwise known as 'me-to-me' payments. Expanding on the existing capabilities, VRP technology holds great potential in providing a new and convenient payment method, going beyond 'me-to-me' transactions for businesses and consumers, and moving into non-sweeping use cases. Such payments are becoming known as commercial variable recurring payments (cVRP).

However, whilst the long-term regulatory framework remains to be set out, there is currently no general regulatory obligation on an ASPSP to permit a PISP access to its VRP API (should it have one). Therefore, should an ASPSP choose to implement or open up access to its VRP APIs, it is likely to want to enter into a written arrangement with a PISP setting out the terms of such access. Discussions are already taking place between PISPs and ASPSPs wishing to collaborate to enable VRPs for a variety of use cases. However, even with the best intentions, fully negotiated agreements take time to agree and implement.

Consequently, there is a desire amongst industry participants to develop a framework to:

- ▶ enable market co-ordination and harmonisation to keep market entry costs down and facilitate participant access; and
- ▶ establish a clear basis for consumers to use VRPs with confidence.

### 1.3 Joint Regulatory Oversight Committee

The Joint Regulatory Oversight Committee (JROC) was established in April 2022 and is responsible for overseeing the next phase of open banking in the UK. The committee is co-chaired by the Financial Conduct Authority (FCA) and the Payment System Regulator (PSR).

In April 2023, JROC published its 'Recommendations for the next phase of open banking in the UK'. This roadmap involved setting up dedicated workstreams to action the six key themes and priorities outlined in the recommendations. To support this, JROC launched two new working groups on variable recurring payments and a future open banking entity.

For VRPs, JROC set up a working group (the JROC WG) and three sub-groups (SGs) to develop a [blueprint for implementing non-sweeping VRP](#) (referred to as “commercial VRPs” or “cVRPs” in the rest of the document). The JROC WG and SGs were asked to:

1. Identify use cases which should be included in a “Phase 1” roll-out;
2. Define the set of functional, payer protection, and commercial model requirements needed to support this roll-out; and
3. Recommend actions (and identify an owner for these actions) to be taken forward to meet those requirements.

Following the JROC WG, JROC published the 'VRP Working Group – Blueprint' in December 2023 (cVRP Blueprint), alongside the PSR's proposals for Expanding VRP. In it, JROC set out its target of a Phase 1 rollout of non-sweeping VRPs by the third quarter of 2024 for these low risk use cases (the cVRP Pilot). Further, JROC said it considers that there is a need for a multilateral agreement between PISPs and ASPSPs for cVRPs (MLA) to enable easier market access to participants and limit the cost and inefficiencies from bilateral arrangements.

As a result, it is acknowledged that the work undertaken as set out in this report, to develop contractual clauses which provide baseline positions, for cVRPs, could helpfully feed into the development of the cVRP framework and creation of an MLA.

## **1.4 Payment Systems Regulator**

The expansion of VRP is widely regarded as a fundamental building block for the advancement of the next stage of open banking in the UK.

The Payment Systems Regulator's consultation sought stakeholder input on the “possible need” for a multilateral agreement that “binds PSPs and sending firms in a central set of rules”, and also on the price that sending firms can charge PISPs for non-sweeping VRPs in the use cases proposed for the cVRP Pilot. The PSR has called for views on its proposals and is not expected to respond until Summer 2024.

## **1.5 Methodology**

UK Finance established the VRP Model Clauses Project Group (the Working Group or WG). The group was formed by 12 UK Finance members: Barclays, Go Cardless, HSBC UK, Lloyds Banking Group, Mastercard, Nationwide, NatWest, Santander, Tink (owned by Visa), Token, Truelayer and Volt (the Funders). These members can broadly be split into PISPs and ASPSPs, with equal numbers of each and equal representation for each member, although some ASPSPs also act as PISPs.

The WG membership was established after discussion with the Open Finance Association (OFA) and, upon agreeing to facilitate the work, UK Finance offered all members of the OFA the opportunity to take part. The OFA is a representative body of PISPs and, as such, has helped ensure cross-sector membership amongst the Funders.

UK Finance has instructed Addleshaw Goddard to provide expert legal advice, which includes reviewing meeting outputs and ensuring discussions are not sensitive/likely to restrict competition. On competition law specifically, Addleshaw Goddard issued a note to UK Finance, which was then circulated to members, outlining the competition law risks and the measures implemented by the Working Group to mitigate these risks (the Advice).

The Funders are each members of UK Finance with a strong pre-existing interest in cVRPs. The only criterion for membership of this group was payment of Addleshaw Goddard LLP's legal fees, with each Funder paying an equal share. While each of the Funders are UK Finance members, UK Finance membership is not a criterion for WG membership (and indeed, not all OFA members are also UK Finance members).

## 1.6 Project aims

The aim of the Working Group of the project was to facilitate the industry led development of a set of model clauses and explanatory notes as a stepping stone towards an MLA.

The output (i.e. model clauses) will be open source.

Use of the model clauses by any market participant is voluntary, with no obligation on the Funders or Non-Funders to comply.

Explanatory notes will be drafted to accompany the standard terms developed. These notes will explain the intended effect of the terms and, where applicable, note areas of disagreement or commentary in the WG (which may be useful to contextualise the terms for users/ help them decide if they would like to use them).

## 1.7 Meeting methodology

- ▶ UK Finance facilitated the project by providing a forum for the Working Group's discussions and workshops.
- ▶ Following a vote by the Funders, the co-chairs of the Working Group were appointed. These were NatWest and Token (the Co-Chairs).
- ▶ Meetings were considered quorate if two thirds of total membership attended with a cross spectrum of member categories represented.
- ▶ Draft minutes including an action list were circulated shortly after each working group.
- ▶ The Working Group convened on six occasions to discuss and establish the baseline approach for the Model Clauses. The discussions focused on various specific topics, including:
  - **Liability and Dispute Handling:** This involved addressing issues related to disputed payment liability, buyer protections, payment dispute resolution, and complaint resolutions.
  - **Merchant Onboarding and VRP Mandate Set-Up:** The discussions centred around the process of onboarding and monitoring merchants and setting up VRP mandates. As below, standards for Biller onboarding were explicitly scoped out, i.e. to be agreed bilaterally between parties rather than being set multilaterally at this stage.



- **Operational Controls:** This topic covered aspects such as adherence to open banking standards and change management.
- ▶ Addleshaw Goddard lawyers attended every workshop, with competition lawyers present at all particularly sensitive meetings.

## 1.8 Access to discussions

UK Finance also held meetings of an "engagement forum" (EF) for interested firms and stakeholders on the progress of the project. The EF convened to review and comment on the model clauses and explanatory notes EF meetings will be minuted and shared with the WG.

Additionally, Open Banking Limited and Pay.UK joined the Funder workshops as observers. They actively participated in meetings. UK Finance also worked with the Observers to ensure end users and market participants have access to and visibility of the EF. All relevant trade bodies (including the OFA) will be invited to join the EF.

Further, UK Finance liaised with the Payment Systems Regulator to ensure both it and the FCA were kept updated with the WG's progress. As mentioned above, cVRPs are a core part of the PSR's blueprint for the future of open banking.

The WG also ensured engagement with end-user representatives. Consumer representatives were invited to the EF, and UK Finance also commissioned a consumer representative to review the model clauses and notes.

The results of discussion with wider industry through the EF will be fully considered, with any areas of disagreement documented and set out in the commentary attached to the model clauses. The model clauses themselves will be available to all on fair, reasonable and non-discriminatory terms through free publication on the UK Finance website.

We understand the WG and EF have been publicised in the industry, including through references in the work in the JROC WG and its cVRP Blueprint.

The terms of reference have been assessed for competition risk – the model clauses set out in this report have also been reviewed for competition risk. In order to ensure that the industry collaboration is compliant with competition law, the key considerations to consider were:

- (a) **Membership and governance of the WG:** As explained in the Advice, it was important to ensure the membership and operation of the WG did not unjustifiably exclude or discriminate against non-members, as this could distort competition between the members and non-members (e.g. if the members pushed for reform which benefitted them and harmed non-members). This risk was mitigated by the WG's diverse membership, its transparent and objective criteria for membership (limited to the requirement to pay a share of Addleshaw Goddard LLP's fees), and

through the EF (which allowed for wider industry engagement with the WG's work).

- (b) Outputs of the WG: As explained in the Advice, it was also important to ensure that the WG's output (i.e. model clauses) did not restrict competition or harm consumers, e.g. by leading to higher prices or worse terms for cVRPs. This risk was mitigated by Addleshaw Goddard reviewing the model clauses to ensure they did not address key competitive parameters, by the fact that model clauses are non-compulsory, and by the fact that the most sensitive topics (i.e. the ones most likely to impact competition between cVRP stakeholders) were scoped out of the project altogether (see 1.4, below).
- (c) Spillover risks: As explained in the Advice, it was also important to ensure the WG and cVRP discussions did not become a vehicle through which advertent or inadvertent collusion could take place in other areas. These risks were mitigated by UK Finance's usual and existing safeguards, as recorded in the Terms of Reference (which Addleshaw Goddard reviewed), including the circulation of minutes and agendas. Attendance of lawyers at workshops provided a further mitigation.

## 1.9 Scope

The following topics were out of scope of this initial project:

TOPIC	DESCRIPTION
Buyer Protections	A buyer protection regime above and beyond what is provided for by regulation.
Delegated SCA	Standards for use cases where an ASPSP agrees to delegate conducting SCA to a PISP.
Data Protection and Information Security	Data Protection and Information Security provisions and standards. Anticipate these will be developed bilaterally at this stage.
Commercials – incl. pricing and SLAs	Commercial terms (which will be negotiated bilaterally at this stage).

Where topics are out of scope, the Model Clauses will not preclude the parties from developing/negotiating terms and standards to address those topics but this will be a matter for bilateral agreement.

## 2. Commercial CVRP Participants

### ▶ (a) Payer

Payers hold a payment account with an ASPSP. Payer can authorise and initiate payment transactions to payees. Payers can also provide consent to third party providers (TPPs), such as PISPs, to access their account information or initiate payments on their behalf.

### ▶ (b) Biller

Billers provide goods or services to the payer. They are the payees under these payment arrangements.

In some use cases, the Biller will provide some of the payment order details to a PISP who will use this when setting the parameters of the cVRP mandate and when initiating each payment. The payment order information provided by the Biller may include: the amount of an individual cVRP, and the payee details.

### ▶ (c) PISP

PISPs are responsible for initiating payment transactions on behalf of payers.

In the context of cVRP, PISPs are responsible for submitting mandate parameters to the ASPSP and initiating commercial cVRP payments within those parameters.

In accordance with the PSRs 2017, PISPs are responsible for initiating payments in accordance with the payer (and in some cases the payees') instructions. If a payment goes wrong, PISPs must investigate any unauthorised or incorrect payments, as requested by the ASPSP, and immediately refund a ASPSP on request in circumstances the PISP is found to be responsible for the payment issue.

Some PISPs may also be responsible for onboarding, contracting, and managing relationships with Billers. The model clauses have been drafted on this basis.

However, we are aware that there are other models where the PISP does not have a relationship with the Biller. This may be because introductions to Billers are through technical service providers (TSP) or aggregators / gateways, or because the model is set up on the payer side. The model clauses contemplate a series of alternative contracting models that have emerged to date. We describe these models in Section 4 Model Clauses and explain how the Model Clauses apply in these scenarios. However, it is important to recognise that further models may develop and the application of the model clauses to these new operating models will need to be considered more closely for those arrangements.

We use the term PISP in the report below. However, where the contracting party is a TSP, it is expected that the roles and responsibilities will be flowed down to the PISP.

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## 3. Arrangements Covered by the Model Clauses

### 3.1 Adherence

### 3.2 The Issue

Pursuant to the CMA Order, the CMA9 were required to build standards to enable variable recurring payments in the context of sweeping. There was a general consensus in the Working Group that since these VRP standards already exist, they should become the foundation for model clauses relating to cVRPs, rather than requiring participants to build new standards.

The current VRP standards are owned and maintained by Open Banking Limited (OBL). The Working Group wants to be able to build on the existing OBL VRP infrastructure and standards to implement VRPs quickly.

However, as cVRP is not mandated by the CMA Order, there is no statutory requirement to adhere to OBL standards which apply to VRP in the context of cVRP. If the existing OBL standards for VRP are to be adhered to for cVRP, it is necessary to put this adherence on a contractual footing.

### 3.3 How the Issue is addressed

(a) **As a result, it was considered that the key arrangements that need to be standardised covered by the model clauses are:**

- (i) Adherence to VRP standards
  - (A) API specification
  - (B) use of Open Banking certificates
  - (C) use of Directory Services
- (ii) Obligation to publish technical specification
- (iii) How to implement changes to the VRP standards
  - (A) General changes

- (B) Mandatory changes
- (C) Dual running of API specifications
- (D) Breaking and non-breaking changes

(b) **Adherence to VRP standards**

In the absence of a regulatory mandate requiring adherence to a particular set of standards, it is necessary to put adherence to the relevant standards on a contractual footing. Therefore, the drafting requires the ASPSP to adhere to the standards identified in the agreement between the ASPSP and the PISP.

JROC are considering mandating adherence to OBL standards for non-sweeping VRPs and has expressed a desire for industry to adhere to these standards in its VRP Working Group – Blueprint. However, at the time of publication of these Model Clauses adherence to OBL standards for cVRP was not mandated.

It was flagged during the EF that other standards and directory services may exist or be developed in the future and therefore, for competition reasons, the model clauses should be more scheme, standard and directory agnostic. Taking this feedback onboard, the model clause has been drafted so that each ASPSP and PISP bilaterally agrees the standard to which they wish to adhere. The clause also recognises the possibility of the Standard Setting Body integrating more than one directory service (i.e. it acknowledges the possibility, even if theoretical at the moment, of competition for directory services).

The model clause then set out the minimum expectations on what will need to be adhered to, reflecting the Working Group's current requirements: As a result, the ASPSP and the PISP will be required to adhere to the agreed standards relating to VRPs. At a minimum this will require:

- ▶ the ASPSP agreeing to adhere to the agreed standard API specification;
- ▶ the PISP agreeing to identify itself using either:
  - qualified certificates for electronic seals as referred to in Article 3(30) of the Regulation (EU) No 910/2014; or
  - certificates issued by the Standard Setting Body.
- ▶ both the ASPSP and PISP agreeing to enrol in the directory services offered by the agreed standard.

The group discussed whether to put adherence to other OBL artefacts that may be relevant on a contractual footing. For example:

- ▶ the Customer Experience Guidelines,
- ▶ Operational Guidelines, or
- ▶ other supplemental guidance or documents produced by OBL in relation to VRP.

The general view was that adherence to these other artefacts should not be put on a contractual footing at this time. This is because the position set out above reflects more closely the existing legal and regulatory regime. Currently, as we say, there is no legal or regulatory obligation to offer cVRP or use the OBL standards in relation to cVRP. More generally, adherence to the Customer Experience Guidelines (CEG) and Operational Guidelines (OG) is only mandatory (for the CMA9 in relation to single immediate payments and Sweeping VRPs).

During the Working Group, one member did suggest adherence should be to all OBL artefacts relevant to VRPs, such as the CEG and OG. We are also aware that the JROC VRP Blueprint suggested that the CEG and OG should be mandatory for both ASPSPs and PISPs.

The Working Group agreed that if the OBL Standard is adhered to, further work is needed to assess the suitability of other OBL artefacts for the purpose of cVRP. In addition, further enhancements may be needed to those artefacts, Such work would take place as a next step in the aim to help develop good customer journeys that provide certain information consistently. This will help build trust and familiarity in the use of their payment type. Therefore, members should keep adherence under review.

### **Model clause**

**We have drafted clause 9.1 to capture the requirement to adhere to the OBL VRP standards and close this gap.**

#### **(c) Publishing technical specifications**

In order to enable PISPs (and technical service providers) to build solutions for cVRPs, the Working Group agreed that, under the model clauses, ASPSPs should be required to publish technical specifications on their websites (including changes) to enable PISPs (and technical service providers) to integrate with its cVRP APIs.

This obligation is similar to that currently set out under the Technical Standards on Strong Customer Authentication and Common and Secure Methods of Communication (RTS-SCA) for APIs used to enable open access pursuant to the PSRs 2017.

### **Model clause**

**We have drafted clause 10.1 to capture this requirement.**

#### **(d) Change management**

Without a consistent and predicable basis for technical changes to be made to the cVRP APIs, there is a risk of unexpected interruption to cVRPs. Similarly, a consistent approach by ASPSPs and PISPs to legal and regulatory changes will help support the integrity and consistency of cVRP.

## Changes to ASPSP APIs

At present, no change management processes or standardised requirements for managing updates to OBL VRP standards currently exist as between ASPSP and PISPs..

For current purposes, we are focusing on change management in the context of technical changes and would expect change management more generally to be governed by parties change / variation provisions.

Under the model clauses, the ASPSP will be able to make changes to its APIs by giving at least 90 days' advance notice to the PISP, unless a shorter notice period is required to comply with law, regulation or OBL standards requirements. If the ASPSP makes any such change, it should not result in a degradation of functionality or security.

One member suggested that changes should only be allowed during specified change window periods, with changes at certain times per year prohibited. There is currently no general agreement to this. This is also not a restriction currently imposed in other open banking payment arrangements. Consequently, this has not been incorporated into the model clause.

The Working Group is supportive of model clauses which restrict changes to those that do not materially degrade the functionality and security of the API.

### **Model clause**

**We have drafted clause 10.3 – 10.6 to capture these requirements.**

## Dual running of API specifications

It is important for the effective and continuous running of cVRPs as an alternative payment methodology, that any changes to the API do not disrupt the usage of cVRP by payers and Billers. Therefore, under the model clauses, where changes to an API will mean that the PISPs cannot continue using it, an ASPSP will be required to keep the previous API in use. This dual running of APIs will last for a period of at least 90 days from the effective date of the change to the API. This dual running requirement will only apply where the updated API is not backwards compatible.

### **Model clause**

**We have drafted clause 10.7 to capture this requirement.**

### **(e) Future steps**

This position could be built on in the MLA which would include centralised governance for change management, maintenance and further development of cVRP standards. We would therefore also expect change going forward to be managed centrally in the MLA.



Given the desire to utilise existing open banking infrastructure for VRPs as much as possible, the industry will need to keep on top of developments that take place concerning the future of the Open Banking Limited (OBL) as these discussions will be integral not only to the ability to continue using the existing infrastructure, but how the OBL standards are maintained and the way in which OBL standards can be accessed and utilised for purposes other than those required by the CMA Order.

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## 4. Building Payers Confidence

### 4.1 The issue

As this is a new payment method, payers need to have a good understanding about this new way of setting up recurring payments and awareness of their rights and responsibilities when paying this way and who to contact if there is an issue. Payers may also not recognise cVRP payments being taken from their account or understand how to control cVRP payments.

As a result, payers should understand, by the time the cVRP mandate is set-up:

- ▶ that they are consenting to variable and recurring payments with the biller
- ▶ the protections offered by cVRPs
- ▶ the key terms associated with cVRPs
- ▶ how to manage and cancel cVRP transactions
- ▶ who to contact if there is an issue with a cVRP transaction

Currently, in a sweeping VRPs context, there are no standards or rules around what information relating to a cVRP should be provided to payers. The view of the Working Group was that:

- ▶ (a) a consistent approach to the process for putting in place and confirming a cVRP mandate will help build familiarity and confidence in cVRPs; and
- ▶ (b) providing clear and consistent information on what cVRPs are, how they work and the payer's rights and protections will help with payer understanding and build trust in the payment type.

That said, while model clauses the user consent to VRP mandate may be helpful, consensus emerged that it would need to be done in a manner reasonable and proportionate and based on the use case so as to not inhibit innovation and future development of cVRP use cases. Therefore, the model clauses set out the minimum requirements for mandate set-up. These can be built on by the participants.

### 4.2 How the issue has been addressed

With the above in mind, the Working Group have agreed standardised arrangements covering:

- ▶ Agreeing mandate parameters
- ▶ Providing payers with information about what cVRPs are and how they work

- ▶ Confirming mandate set-up
- ▶ Pre-notification of payments
- ▶ Setting mandate parameters reasonably and proportionally

The aim of the following model clauses is to build a high quality payer experience and as a result, trust and confidence in cVRPs if they are to be adopted on a mass scale.

It is also important that individual firms ensure they consider the requirements of the Consumer Duty when designing customer journeys and when communicating with customers (which will include, setting up the mandate, confirming mandate set-up, providing the disclosure information and pre-notification advice).

#### **(a) Agreeing mandate parameters**

Sweeping VRP mandate parameters were created pursuant to the CMA Order and these are reflected in the OBL API specification. These will be used for the creation of cVRP mandates.

It is important that payers agree mandate parameters that are clear and specific to ensure that their explicit consent is captured to each payment order made under that cVRP mandate, to meet regulatory obligations as set out in PSRs 2017 Regulation 67.

It is also important that payers have clarity of the mandate parameters they are consenting to as this will help mitigate the risk of potential payer confusion when payments start being made pursuant to that mandate.

Consequently, the Working Group has suggested that the PISP should be required to ensure the cVRP mandate parameters are clearly displayed to the payer. This will include displaying the following information:

- (i) the name and account details of the Biller,
- (ii) payment collection frequency of cVRP and/or payment dates;
- (iii) expiry of cVRP mandate;
- (iv) maximum amount of the cVRP per payment collection frequency; and
- (v) any other relevant parameters agreed (which may be use case specific).

The model clauses aim to set out the minimum information that should be displayed / communicated to payers during mandate set-up. Participants that have signed up to the model clauses are still free to agree the inclusion of additional information, enabling flexibility on a risk based and use case specific basis.

By building a consistent approach to mandate set-up, the Working Group aims to build recognition and in turn confidence in the use of this new payment type.

**We have drafted model clauses 2.1 – 2.2 to reflect the above.**

**(b) Providing payers with information about what cVRPs are and how they work**

The Working Group thought that to help build payer understanding and trust in the use of cVRPs as a payment methodology, PISPs should be required as part of mandate set-up to provide, or require Billers to provide, payers with clear information about what cVRP payments are, the key terms associated with cVRP payments and the level of protection available with cVRP payments.

There are currently no regulations or rules standardising the information that should be given to payers so that they understand what they have signed up to and the key protections. For some other payment types (e.g. Direct Debits or continuous payment authorities on cards with a credit line), consumers are generally provided with information which contains some standardised messages as well as common descriptions of their rights and obligations.

The issuance of standardised information could help consumers understand what they have signed up to. In addition, as discussed in the section on liability and disputes handling, there are potential scenarios where a payer may not have protection under the PSRs 2017 when using cVRPs (as they would for an authorised or incorrectly executed payment). It was suggested that certain information is provided to payers about their rights and the level of protection available with cVRP payments when setting up a mandate.

The proposal is on the same basis as discussed in the Liability and Dispute Handling sections and set out in Appendix B of the draft Model Clauses.

**We have drafted model clause 2 to capture the requirement to provide the payer with specified information.**

**Appendix B contains a sample information leaflet that could be used.**

**(c) Confirming mandate set-up**

The Working Group considered that providing a confirmation of mandate set-up is important to reassure the payer that their instructions have been accepted which is important to help build trust and confidence in the adoption of cVRP.

Providing a confirmation could also give payers a reference point to refer to which would go some way to reducing the risk of payer confusion, leading to customer complaints.

As a result, the Working Group agreed model clauses under which ASPSPs must notify the PISP once the ASPSP has set up the cVRP Mandate on the payer's account.

Under the clauses, the PISP should then be required to ensure that the information about mandate set-up is made available to the payer once it has confirmation that the mandate has been set up on the payer's account.

The method for making this information available should be left to the participants to decide.

**We have drafted model clause 3.3 – 3.4 to capture this requirement.**

**(d) Pre-notification of payments**

As cVRPs can offer a high degree of flexibility in terms of the amounts, frequency and period over which payments can be made, it has the potential to cause payer confusion if the payment is not as expected or higher than expected.

It was also suggested by the Working Group that a pre-notification of scheduled payments would be beneficial so that payers have visibility of out-goings and thus can ensure that they have sufficient funds so that they do not accidentally go into an overdraft. It will also help payers identify payments being taken in error.

However, it was noted that a pre-notification would not be appropriate in all use cases, more specifically payer attended payments. As the Working Group members look to the pilot, it agreed that this stage 1 of the development of model clauses for cVRP should restrict the pre-notification requirement to specific scenarios:

- ▶ where regular future payments are being taken pursuant to a mandate,
- ▶ the payments can vary in amount and / or frequency,
- ▶ the scenario is one of a payer unattended payment.

The Working Group's view was also that this obligation should not be too onerous on Billers given many will already use Direct Debits to receive payments and this payment scheme requires a pre-notification where the payment amount changes. As a result, Billers should be able to leverage the existing infrastructure, which may only be applicable to specific use-cases.

The Consumer representatives flagged that it is important that customers understand how to cancel a particular payment, or mandate, and that this information should be given to them in the pre-notification of payment advice. As not all payments will be future dated they will not all be individually cancellable, therefore, the model clauses try to address these concerns by requiring that PISPs (or the PISP procures the Biller) to explain in the pre-notification that if a customer does not recognise the payment or thinks it should not be made, they should contact either the Biller or their account provider.

## Appropriate time-frame for notification

It is also important that such pre-notifications fit in with legal requirements and payers' existing expectations under the PSRs 2017. According to the PSRs 2017, payers can cancel future dated payments up to the day before the payment is taken. Therefore, the pre-notification must be sent in good time to allow a payer to consider their legal rights. It was also suggested this should be a minimum of 48 hours before the payment is due to be made.

Whilst it may be technically possible for a payer to cancel their cVRP mandate on a dashboard made available to them at any time, the general view was that a payer should nevertheless be notified, in the circumstances above, so that they could decide to cancel a single payment with their ASPSP, where these are future dated payments, and not the entire mandate. Cancellation of single payments in other circumstances is not a function available at present.

**We have drafted model clause 5 to capture these requirements.**

Content of the pre-notification

The content will be for the PISP and Billers to agree and not be specified by the model clauses.

### **(e) Setting mandate parameters reasonably and proportionally**

A concern raised from the discussions on liability was that the nature of cVRPs creates new scenarios for payer confusion and complaints which are not currently managed under the regulatory framework (i.e. the PSRs 2017).

For example, as a payer consents to payments being taken within certain parameters (minimum and maximum payment amounts), a payment could be made for any value within those parameters. A payer may dispute the amount taken, as being more than they reasonably thought would be taken in relation to the underlying contract for goods / services.

As the payment that has been made is within the consent parameters set up by the payer, arguably the payer has consented to the payment under Reg 67 PSRs 2017. Where the payer has consented to the payment, then they will have no protection under the PSRs 2017, as they would do if the payment was not authorised or executed incorrectly. In addition, for payer-initiated transactions, the rights of refund under PSRs 2017 Reg 78 for payment transactions where the amounts are not known in advance, will not be available.

In order to help improve payer protection around the use of this payment, it was suggested that PISPs should ensure that it agreed with Billers that mandate parameters set will be reasonable and appropriate for the use case and taking into account the

underlying sale of goods or services. Discussions considered whether guideline parameters could be developed by use case to give more clarity and certainty here as to what is "reasonable and appropriate". The WG acknowledged this could be a "day 2" enhancement and/or area to be considered in an MLA.

However, to provide more prescription around mandate parameters would require detailed information about the underlying billing arrangement. The aim of the standardised arrangements is therefore, to require the PISP and Biller to consider their individual use case and set parameters appropriately, rather than prescribing what those parameter limits should be.

By creating a contractual obligation for PISPs to agree with payers, either directly or through Billers, cVRP mandate parameters that are appropriate and proportionate the underlying billing arrangement / use case, this creates a contractual obligation on PISPs to take use case factors into account when setting the parameters.

In addition, this provides ASPSPs with a contractual right of action should a PISP set the parameters too widely. The setting of parameters too widely would be evident from complaints received by the ASPSP and the complaints data and MI that should be provided by the PISP to the ASPSP on request. Enabling the ASPSP to intervene aims to improve consumer protection and also reduce ASPSP liability risk.

**We have drafted model clause 4 to capture the requirement to set mandate parameters appropriately.**

**We have drafted model clauses 6.11 – 6.13 to oblige PISPs and Billers to collate compliant information and provide to the ASPSP on request.**

**(f) Future steps**

Mandating the content of the pre-notification would be more appropriate under an MLA type arrangement and is something that should be looked at when developing the MLA.

Extending the pre-notification requirement to other use cases should be kept under review.

## 5. Managing Risk of Participants

### 5.1 The Issue

As cVRPs are a new payment method, in order for confidence and trust to be built in cVRP, payers should have a good experience using them.

Onboarding Billers who are operating a legitimate business and selling products for which cVRP payments are suitable will not only help promote good payer experiences and reduce the risk of bad actors participating in cVRP payments will reduce risk and liability for ASPSPs and PISP. In turn this should help keep costs to enter to a minimum.

There are no regulatory provisions in place which limit which type of entity a PISP may onboard specifically in relation to cVRP. In order to reduce the risk of an unsuitable Biller or bad actor being onboarded, there needs to be co-operation on the basis of agreed key principles around Biller onboarding. Agreeing Model Clauses to capture a baseline position in this regard can help address this gap.

Furthermore, monitoring of Billers on an on-going basis (whilst they use cVRP) is imperative to be able to identify Billers who are operating a legitimate business, and reduce the risk of bad actors participating in cVRP payments. This will help:

- (a) promote good payer experiences and reduce the risk of bad actors participating in cVRP payments;
- (b) ASPSPs and PISP manage liability risk that can arise from payer complaints and providing redress; and,
- (c) protect the integrity of the ecosystem, encouraging others to become participants.

### 5.2 How the Issue is being addressed

The model clauses designed to reflect this principle will cover:

- ▶ standard minimum Biller onboarding checks noting that some firms will go beyond these checks
- ▶ co-operation and data sharing obligations between PISPs and ASPSPs
- ▶ arrangements for dealing with situations when a Biller has been on-boarded outside of the agreed due diligence checks and risk framework
- ▶ on-going Biller monitoring

As above, standards for onboarding of Merchants and what merchant information is required for a type of merchant and/or use case has been scoped out.



**(a) Standard minimum Biller onboarding checks**

Under the model clauses, the PISP would be required to undertake appropriate Biller onboarding checks to minimise the risk of an unsuitable or bad actor Biller being onboarded. These will include requiring PISPs to check the Biller:

- ▶ has clear terms and conditions in place
- ▶ has clear cancellation, returns and refunds policies (as applicable)
- ▶ has payer support arrangements in place, with clear contact details

There are also obligations on the PISP to:

- ▶ not onboard Billers who will offer cVRP payment acceptance in the context of higher risk use cases (which would be defined bilaterally between the PISP and ASPSP), unless specifically agreed and related risk mitigations put in place; and
- ▶ put in place measures designed to ensure that any change to the Biller's business or to the information provided by the Biller during onboarding is identified and reassessed against the Biller onboarding checks.

**We have drafted model clause 7.1 – 7.4 to capture these requirements.**

**(b) Co-operation and data sharing obligations between PISPs and ASPSPs**

To support the above, ASPSPs and PISPs could also be generally required to co-operate and take steps in relation to a particular Biller who may be a bad actor (e.g. to address excessive numbers of complaints) e.g. suspending access to the cVRP API.

Each of the ASPSP and the PISP could also be required to keep full and complete data and records in relation to complaints about Billers and reasonably share such information with each other upon request (subject to compliance with data protection law).

**We have drafted model clause 8 to capture this requirement.**

**(c) Arrangement for dealing with situations when a Biller has been on-boarded outside of the agreed due diligence checks and risk framework.**

If the PISP onboards a Biller which is outside the scope of the Biller onboarding checks, then the PISP could be required to take steps to address this which may include offboarding the Biller where appropriate.

**We have drafted model clause 7.4 to capture this requirement.**

**(d) On-going Biller monitoring**

In addition to the Biller on-boarding checks identified above, the Working Group were of the view that the PISP should monitor the Biller against these criteria on a regular basis. This is similar to other payment arrangements. However, these model clauses set a

minimum set of Biller due diligence requirements that can be used as the baseline position to address this principle.

**Model clause 7 captures the on-going requirement on PISPs to monitor Billers comply with the Biller due diligence requirements.**

### 5.3 Managing issues

If the PISP continues to provide cVRP services to a Biller, then under the model clauses, the ASPSP will have a contractual right to ask the PISP to address the issue with the Biller. This may include requiring the PISP to work with the Biller to ensure it can comply with the Biller due diligence requirements and take steps to ensure the Biller operates within the agreed risk tolerances. If such talks fail, this may result in the PISP being contractually obliged to off-board the Biller.

**Model clause 7.4 also reflects this principle.**

Finally, under the model clauses, ASPSPs and PISPs would also be required to co-operate in taking the steps identified above and in relation to a particular Biller who may be a bad actor (e.g. to address excessive numbers of complaints).

**Model clause 6.4 also reflects this principle.**

In order to help the ASPSP and the PISP co-operate to address issues identified about Billers, under the model clauses both parties would be required to keep full and complete data and records in relation to complaints about Billers and reasonably share such information with each other upon request (subject to compliance with data protection law).

Furthermore, PISPs would be required to collate complaint data regarding complaints received by Billers relating to each cVRP, and share this on request with ASPSPs. This will not include complaint data about the underlying transaction for goods or services.

**Model clause 7.2(c) and 6.11 requires PISP and ASPSP to retain complaints data and share it.**

**Model clause 6.12 requires a PISP to procure that a Biller retains complaints data and shares it with the PISP.**

### 5.4 Future development

The Biller due diligence checks were designed with the Payment Systems Regulator's Phase 1 / pilot in mind. As cVRP becomes a more commonly used payment and is used in different use cases, such as the e-commerce space, then additional Biller due diligence checks should be considered by the ASPSP and PISP.

WG Members suggested additional Biller checks that could be considered in future as cVRP propositions develop include AML/Sanctions/Financial Crime, information and cybersecurity arrangements, data privacy policies and financial stability.

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## 6. Liability

### 6.1 The Issue

The PSRs 2017 offer the primary safeguards against liability for payers when payment transactions are processed incorrectly or without their authorisation. This protection includes:

- ▶ liability for unauthorised payment transactions (regulations 76 and 77);
- ▶ liability for non-execution or defective or late execution of payment transactions (regulations 91, 92, 93 and 94); and
- ▶ right of recourse (regulation 95).

The WG members decided, in this initial stage of developing the cVRP, not to include model clauses which extend liability to cover payment issues that arise with cVRPs where no consumer protection currently exists under the PSRs 2017. For example:

- ▶ Payment made within mandate consent parameters, but payer says the amount charged was incorrect;
- ▶ Payment made within mandate consent parameters, but payer says amount was more than what they reasonably expected; or
- ▶ Payer complains more was taken than expected or could afford as the mandate parameters were too wide.

The Working Group will consider whether additional consumer protections in the above areas could be brought in or will be discussed along with 'buyer protections' as explained below.

The Working Group also considered whether to create Model Clauses to allocate liability in the case of Biller insolvency (for example, when goods or services are not then provided). However, it was considered these discussions should be held alongside discussions on extending consumer protection to also cover buyer protections.

Buyer protections refers to consumer protections when an issue arises in relation to the provision of goods or services by a Biller. Examples include:

- ▶ the goods/services paid for have not been provided (or fully provided), including in circumstances where a Biller is insolvent;
- ▶ the goods are defective or services not of satisfactory quality;
- ▶ the goods/services do not match the Biller's description of them; and
- ▶ the Biller has agreed to refund (or partly refund) or void a cVRP because of issues with the goods/services provided, or because the payer changed their mind about the purchase but has failed to do this.

Buyer protections were out of scope of this initial phase and creation of Model Clauses and there was a desire to progress within the current legal regime initially. However, participants are free to agree additional liability protections bilaterally as they feel appropriate. Furthermore, the Working Group members are keen to continue discussions on how to improve consumer protections for these types of issues when cVRP is used to pay for the underlying transaction. Such conversations need to take place in the context of all open banking payments, not just cVRPs. Please refer to the 'Next Steps' section for further details on how the industry proposes to move these discussions forward.

## 6.2 How the issue is addressed

Despite the Working Group not extending ASPSP or PISP liability beyond the existing PSRs 2017 framework, the Working Group members were keen to find alternative means to mitigate complaint risk and protect the payer. As a result, model clauses in the following areas were agreed:

- ▶ Biller onboarding criteria
- ▶ Information disclosures at mandate set-up
- ▶ Parameters of mandate set-up
- ▶ Pre-notification of cVRP payment
- ▶ Bad actors
- ▶ High risk use cases

### (a) Merchant onboarding process

There is a risk that bad actors may damage the reputation and goodwill of cVRP and could also increase the liability faced by ASPSPs and PISPs when offering this payment type.

Undertaking an appropriate level of due diligence and collecting key information on an ongoing basis about Billers who wish to offer a cVRP option to their payers is important to help ensure that disputes are minimised, any disputes that do arise can be handled effectively and promptly, and ASPSPs have a comprehensive understanding of the Billers they are partnering with, allowing them to make informed decisions and take appropriate actions when necessary. All of this is with the aim of reducing the risk of a payer having a poor experience.

Full details of the approach to Biller on-boarding are set out above.

### (b) Information disclosures at mandate set-up

The Working Group consensus was that payers should be made aware of the protections offered by cVRP and understand the roles and responsibilities of the ASPSP, PISP, and Biller when setting up a mandate. To achieve this, it was agreed that the model clauses would introduce requirements on what information should be displayed to payers.

PISPs therefore should be required to provide clear information to payers during the mandate set-up process. This information, at a minimum, should outline the payers' rights and the level of protection available to them specifically related to cVRP.

The provision of minimum information to the payers will actively help improve payer understanding and raise awareness of what to do if something does go wrong. This in turn should help reduce complaint risk, particularly in scenarios relating to complaints around the amount taken that is within cVRP mandate parameters.

Further details of what information disclosures should be disclosed can be found above.

### **(c) Parameters of mandate set-up**

A way to mitigate the risk of payment errors is to ensure that mandate parameters are set appropriately. PISPs would be required to provide instructions to Billers during the mandate set-up process. These instructions should guide the Billers in setting the mandate parameters in a manner that aligns with the specific transactions processed using cVRP.

It is also important that a payer is given clear information about the mandate they are consenting to, together with a confirmation of mandate set-up. This will help mitigate the risk of potential payer confusion when payments start being made pursuant to that mandate.

Further details on the model clauses for setting mandate parameters are set out in the 'Building Payer Confidence' section above.

### **(d) Pre-notification of cVRP payment**

Another approach to mitigate payment errors within a mandate is through the implementation of pre-notification before a cVRP payment is initiated. PISPs could require Billers to notify payers in advance of upcoming cVRP payments.

By providing advance notification of an upcoming cVRP transaction, the risk that a payer becomes confused by a cVRP should be reduced because it would give the payer an opportunity to raise any questions with the Biller in advance. This would also help to reduce the risk of a payment dispute arising after the cVRP transaction is completed.

Details of the circumstances when a pre-notification will be sent and what it should contain are set out above in the section titled 'Building Payer Confidence'

### **(e) Dealing with Bad actors**

To address concerns regarding bad actors, it is recommended that, under the model clauses the baseline position is that ASPSPs and PISPs are required to cooperate and take necessary steps when dealing with Billers which are accepting cVRP transactions in a manner that either the ASPSP or PISP considers is not in compliance with applicable law or regulation, which is detrimental to the payer or which reflects negatively on cVRP acceptance as a whole (referred to as Damaging Practices).

One member suggested that the ASPSP and PISP should mutually agree that a Damaging Practice has occurred before any action is taken. For now, this is something for the participants to consider and could be discussed further in the context of Dispute Handling when developing an MLA.

**We have reflected this requirement in model clause 8.3 and 8.4.**

The WG agreed the inclusion information sharing provisions between ASPSPs and PISPs.

**We have drafted model clause 8.3 to reflect this.**

#### **(f) High Risk use cases**

As the initial roll out of cVRP will be for what has been considered by JROC as 'low risk use cases', the Model Clause gives contractual effect to this by requiring a PISP to avoid on-boarding Billers who would offer cVRP as a payment method in higher risk use cases. What constitutes a 'high risk use case' is to be agreed bilaterally between the parties.

ASPSPs and PISPs would be free to support higher risk use cases under the proposed drafting, subject to agreement and appropriate risk management controls being agreed.

The drafting also requires the PISP to conduct due diligence on each Biller, on an ongoing basis, designed to check that the Biller is not using cVRP in relation to high risk use cases.

By only servicing Billers from these 'low risk use cases', there is an expectation that there will be less complaints, meaning the liability risk is lower for ASPSPs and PISPs.

Fewer complaints will also help build trust in the new payment methodology.

**We have drafted Model Clause 9 to reflect this.**

## **6.3 Future steps**

During the WG, it was noted that Billers who are considered bad actors tend to move between different PISPs, highlighting the need for an effective mechanism and potentially buyer protections to address this issue. The challenge lies in tracking bad actors, particularly when there is a disproportionate number of complaints associated with them. Whilst information sharing provisions between ASPSPs and PISPs have been included in the model clauses, a central data sharing system managed through an MLA should be considered as a future development.

One observer also suggested that VRPs for debt collection should be prohibited until appropriate protections are in place to prevent use of cVRPs in a way that could cause harm or detriment to payers. For now, this is something for the participants to consider and could potentially be discussed further when developing an MLA.

Finally, the content of pre-notifications should be kept under view so that information clearly articulates to customers how they can manage individual payments and mandates, as use cases and technology develop.

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## 7. Dispute Handling

### 7.1 The Issue

The PSRs 2017 provide that the payer can contact its bank for complaints about unauthorised or incorrectly executed transactions.

This simplistic approach encounters a couple of issues in the context of cVRPs, for example:

- ▶ there are other ways a payment can go wrong which are not currently dealt within in the PSRs 2017 framework (we explain these in the Liability section);
- ▶ the flexibility with the amounts, frequency and period over which recurring payments can be paid has potential to cause payer confusion if the payment is not expected or higher than expected; and
- ▶ the ASPSP may not always be the most appropriate party to contact in the first instance (e.g. payments were made to a Biller and the payer complaint relates to the underlying transaction for which cVRP was used).

Therefore, it is important a payer knows who to contact if they have a complaint in any given circumstance.

Furthermore, a cVRP involves the payer having arrangements with a Biller (for the sale of goods or services), the ASPSP (who provides the payer 's payment account) and the PISP (who the payer instructs to initiate cVRP transactions from its payment account). These multiple touchpoints can mean that multiple parties need to help investigate and resolve any disputes the payer raises about its cVRP transactions.

Having effective disputes handling and record keeping processes in place to ensure complaints and disputes are handled and resolved promptly and correctly is important to help build customer trust and confidence in cVRPs.

### 7.2 How the Issue is addressed

The baseline principle under the model clauses is that parties will continue to comply with their legal obligation to handle disputes raised to them.

The PISP and the ASPSP will each direct payers to the Biller to resolve a complaint in the first instance where they reasonably consider that the Biller is the most appropriate person to resolve that Payer Dispute.

Both ASPSPs and PISPs must then co-operate and share data in order to manage complaints and disputes over who is responsible.

The drafting then sets out:

- (a) Who the ASPSP and PISP are to direct the payer to resolve a complaint;
- (b) Dispute handling, covering
  - (i) Obligations to co-operate to resolve a complaint expediently and efficiently;
  - (ii) Information requests
  - (iii) Complaints forwarding
  - (iv) Communication channels
  - (v) Obligations to maintain records to help manage both complaints and complaint risk on an on-going basis
- (c) Who the payer should contact

The baseline principle under the model clauses is that parties will continue to comply with their legal obligation to handle disputes raised to them.

The PISP and the ASPSP will each direct payers to the Biller to resolve a Payer Dispute in the first instance where they reasonably consider that the Biller is the most appropriate person to resolve that Payer Dispute.

**We have drafted clause 6 to capture the requirement to reflect these obligations.**

We have also introduced an obligation, in the model clauses, to help build payer confidence in cVRPs to provide certain information when setting up a cVRP mandate.

The issuance of standardised information could help payers understand what they have signed up to. In addition, as discussed in the Liability section, there are potential scenarios where a payer may not have protection under the PSRs 2017 when using cVRP (as they would for an authorised or incorrectly executed payment). It was suggested that certain information is provided to payers about their rights and the level of protection available with cVRP payments when setting up a mandate to help with customer understanding and mitigate the risk of complaints.

The proposal is on the same basis as discussed in the Liability and Dispute Handling sections and set out in Appendix B of the draft Model Clauses.

**We have drafted model clause 2.1 and 2.2 to capture the requirement to provide the payer with specified information.**

**Appendix B contains a sample information leaflet that could be used.**



## (d) Managing Disputes

### Obligations to co-operate

The PSRs 2017 provide that the payer can contact its bank for complaints about unauthorised or incorrectly executed transactions. However, the PSRs 2017 do not provide specific standards for how ASPSPs and PISPs should communicate and cooperate with each other when investigating payer complaints related to payment issues.

Effective communication and cooperation between ASPSPs and PISPs are essential for the timely and proper resolution of payer complaints, considering their respective roles and potential liability for payment errors and other types of complaint.

ASPSPs and PISPs should establish clear communication channels and protocols for handling payer complaints about payment issues to ensure a smooth resolution process. This includes defining what constitutes a dispute / complaint (referred to as Damaging Practices), the responsibilities and expectations of each party, establishing appropriate co-operation requirements, and setting reasonable timeframes for response and resolution.

The model clause requires the ASPSP and PISP to:

- (i) develop, maintain and apply practices to identify any Billers which may be acting in a manner that would cause Customers to have a poor experience with cVRP; and
- (ii) co-operate with each other, exchange information and take steps and resolve issues including in relation to a particular Biller identified as a potential bad actor.

**We have drafted model clause 8 to provide a baseline framework, allowing participants to determine how they will cooperate with each other based on their specific propositions and circumstances.**

The drafting permits participants to establish their own communication processes in line with their business models and regulatory requirements, while ensuring compliance with relevant data protection and security standards. Communication processes and data exchange between participants is an area that could be considered for future development. Some Working Group participants expressed a desire for a central communication channel for these purposes. Such a process or any further standardisation would be best structured and contracted for under an MLA. Therefore, this should be the subject of future discussions.

## Information requests

To ensure prompt and effective investigation of payment disputes, the ASPSP can request information from a PISP to help it investigate a complaint.

To enable a PISP to do this, it is necessary for an ASPSP to provide a minimum level of information to help a PISP identify the cVRP transaction in contention.

Such agreed arrangement will help PISPs to promptly and efficiently deal with the complaint, helping to mitigate payer detriment and build trust in the payment method.

Furthermore, PISPs should also be under a contractual obligation to require a Biller to provide it with information about a cVRP transaction on request to help the ASPSP and PISP investigate the complaint.

**We have drafted model clause 6.3 – 6.6 to capture this requirement.**

## Complaints forwarding

Currently, ASPSPs are responsible for handling and investigating payer complaints related to potential unauthorised or incorrectly executed payments. However, there are different complaints regimes that apply to payment services depending on the eligibility of the complainant under the DISP rules, which only applies to individuals or micro-enterprises. When a complaint pertains to the initiation or execution of a payment, the DISP forwarding rules come into effect. However, there is a lack of clarity regarding the application of the DISP complaints forwarding rule when the complaint relates to the cVRP mandate itself, such as its creation, mandate parameters, or cancellation.

To ensure effective complaint resolution, and to help ensure an ASPSP can meet its legal obligations under the PSRs 2017 to handle certain complaints, under the model clause, clear requirements should be established for PISPs to promptly forward any payer complaints they receive to the relevant ASPSP, where it believes it is the appropriate party to deal with the complaint rather than the Biller. This will not preclude the ASPSP from further referring the payer to the Biller to attempt to resolve an issue, should it deem appropriate.

ASPSPs would then be required to deal with complaints forwarded to it within the normal timeframes for payment services, starting from the date the complaint was forwarded to it.

**The model clause 6.7 therefore proposes that PISPs:**

- ▶ promptly forward to the ASPSP any complaint it has received which it reasonably thinks the ASPSP is required to handle;
- ▶ inform the payer about this, including details of why it has been forwarded and the name of the ASPSP. PISP could be required to forward in a timely manner; and
- ▶ do not provide the payer with its view as to whether a refund is likely.

## Defined communication channels

During the discussion, the WG considered various communication channels, such as alternative dispute resolution and arbitration. It was noted that ASPSPs and PISPs already have existing lines of communication in place. However, it was also noted that the current methods of communication, such as email or support forms, may not be suitable for payment disputes given the sensitive nature of information involved.

The WG agreed that the immediate focus should be on establishing secure communication channels, which involves proposing standardised the communication methods to facilitate effective discussions. The group agreed that at this stage the participants should designate a single point of contact and specify the method of communication to be used. This would help ensure consistency and streamline communications.

Parties will also be obliged to update each other if the contact details change.

**Model clauses 6.9 – 6.10 are drafted to meet this objective.**

## Record Keeping

As explained below in this report, data retention of Payer cVRP mandate consents, mandate parameters and payments made under them are key to helping resolve complaints in an effective and timely manner and reduce the risk of bad actors participating in cVRP payments.

## 8. Record Keeping

### 8.1 The Issue

Full and complete data retention of payer cVRP mandate consents, mandate parameters and payments made under them is key to helping resolve complaints in an effective and timely manner and reduce the risk of bad actors participating in cVRP payments.

There are no specific requirements on ASPSPs and PISPs to retain data in relation to cVRP mandate consents, parameters and changes, as it is questionable how the current complaint rules and regulatory data retention rules apply to cVRP mandates when the mandate itself is not a regulated payment service and currently sits outside of the regulatory framework. Noting of course, that individual payments made pursuant to that mandate will be subject to standard regulatory record keeping obligations..

This is particularly important while Customers initially become familiar with cVRP as a payment method because during this period there are likely to be relatively high numbers of questions about cVRPs being asked by Customers.

Data retention requirements will also help manage complaints, which we discuss in the Disputes Handling section.

### 8.2 How the issue is being addressed

As a result, the Working Group agreed that recording keeping requirements should be included in the model clauses to cover:

- ▶ In the case of the PISP, the requirements could include:
  - records of the Customer's consent to the cVRP mandate;
  - records of the agreed mandate parameters;
  - records of the Customer's request to initiate a cVRP payment; and
  - records of any payer cVRP mandate cancellation requests.
  
- ▶ In the case of the ASPSP, the requirements could include:
  - records of the cVRP mandate being set-up on the Customer's account according to the instructions received from the PISP;
  - records of cVRP payments executed according to the initiation request received from the PISP; and
  - records of changes to or cancellation of the cVRP mandate according to instructions received from the PISP or the payer directly.

### Timeframe for retaining records

Under the model clauses, retention of data should be for at least the duration of the mandate plus the later of the date that is six years after (a) the last payment transaction or (b) expiry or revocation of the mandate (and be exercised in accordance with data protection law).

We have drafted model clause 6.11 – 6.13 to capture this requirement.

# Model Clauses

Unless stated otherwise or the context requires otherwise, capitalised terms have the meaning given to them in Appendix A (Glossary).

## 1 Contracting Models

### Explanatory Notes

	How to use the Model Clause
Model Clause name	Contracting Models
Purpose of Model Clause	To accommodate different contracting and distribution models within which the Model Clauses can be used.
Topics addressed	All
cVRP issue	<p>cVRPs are a new payment method and building a high-quality customer experience, trust and confidence in them is critical if they are to be adopted on a mass scale.</p> <p>The WG acknowledged the emergence of different contracting and distribution models through which cVRPs can be made available to customers. It is important that the Model Clauses can be used across the different models in order for the agreed principles to be reflected consistently.</p>
Key principles that address the issue	The drafting aims to define the common contracting and distribution models and provide rules about how the other Model Clauses should be interpreted within each of those.
Additional notes for users of Model Clause	<p>The WG acknowledged that over time new contracting and distribution models may emerge.</p> <p>Where this is the case, users can bilaterally agree to include defined additional models, thus using this Model Clause according to the agreed roles and responsibilities of the parties in that new model.</p> <p>To avoid confusion in circumstances where an entity (which may be a PISP or a technical services provider) partners with a Third Party PISP to deliver cVRP acceptance services to a Biller, the term <b>Company</b> is used throughout the Model Clauses to refer to the entity which contracts with the ASPSP under an agreement enabling access to the ASPSP's cVRP APIs incorporating the Model Clauses.</p>
Interaction with other clauses	<p>This Model Clause should be read alongside all other Model Clauses.</p> <p>Where it is used to accommodate a new model, the agreed roles and responsibilities of that new model should be reviewed against the other Model Clauses as appropriate.</p>

## Model Clause text

# 1 Contracting Models

- 1.1 The ASPSP has agreed to make available to the Company an API to enable the creation and maintenance of cVRP Mandates, enabling Billers to accept cVRP transactions.
- 1.2 The Company may facilitate such cVRP transactions being accepted by Billers under different contracting models as follows:
- (a) the Company may contract with Billers in order to offer its services to Customers which are to initiate cVRP transactions that are paid from the Customer's account with the ASPSP to the Biller (PISP Model);
  - (b) the Company may act as a PISP to the Customer and either:
    - (i) contract with a third party payment services provider (Third Party PSP) who:
      - (A) acts as an Introducer; and
      - (B) receives the Customer's funds for the sale of the Biller's goods or services on behalf of the Biller; or
    - (ii) act as a payment services provider to the Biller so that it can receive the Customer's funds for the sale of the Biller's goods or services, on behalf of the Biller.

The Third Party PSP or the Company (as applicable) will, in turn, as a separate payment transaction remit the funds received to the Biller (PSP Model);
  - (c) the Company may contract with a third party who is not a payment services provider but acts as an Introducer enabling the Company to offer its cVRP transaction acceptance services to Billers (Payment Gateway Model); or
  - (d) the Company may act as a technical services provider which provides technical services (such as API integration, information technology and communication infrastructure and/or processing and storage of data) which enable but do not constitute payment initiation services. The Company may contract with a third party PISP (Third Party PISP) to enable that PISP to create cVRP Mandates and initiate payments pursuant to them (TSP Model). In the TSP Model, the Third Party PISP may in turn contract with Introducers (including payment services providers) in order to establish the relationship with the Biller.

The applicable model will be agreed in writing between the ASPSP and the Company.

## 2 Information Disclosures

### Explanatory Notes

	How to use the Model Clause
Model Clause name	Information Disclosures
Purpose of Model Clause	Requirement for the PISP to ensure that as part of the cVRP Mandate set-up, the Customer is provided with clear information about what cVRPs are, the key terms associated and the level of protection available with VRP payments.
Topics addressed	Building payer confidence, Liability, Dispute Handling, and Biller Monitoring
cVRP issue	<p>cVRPs are a new payment method and building a high-quality customer experience, trust and confidence in them is critical if they are to be adopted on a mass scale.</p> <p>The rights and levels of protections available to Customers when using cVRPs are different to some other payment methods regularly used by Customers.</p> <p>However, unlike some other payment types, there are currently no regulations or rules standardising the information that should be given to payers so that they understand what they have signed up to and the key protections. For confidence and trust to be built in cVRP, it is important for Customers to have a clear understanding of their rights and level of protection available when paying with cVRPs and who to raise the complaint with.</p>
Key principles that address the issue	<p>The drafting aims to oblige the PISP, or procure the Biller, to provide the Customer with information about their rights and level of protection available to them when paying with cVRP.</p> <p>This information would be provided during the mandate set-up process.</p> <p>The provision of minimum information to the Customer will actively help raise awareness of Customer rights and protections in relation to cVRPs and who to contact to help resolve any issues.</p>
Additional notes for users of Model Clause	<p><b>An indicative example of how the information disclosures required by this Model Clause could be made is given at Appendix B (cVRP Information Leaflet).</b></p> <p>This example is for illustrative purposes only and its form is not mandated.</p>

	<p>The requirement of this Model Clause is to ensure the information described by this Model Clause is provided to Customers, but PISPs would retain flexibility about how this is done.</p> <p>The parties can bilaterally agree to supplement the information in the leaflet with additional information.</p>
Interaction with other clauses	<p>This Model Clause should be read alongside Model Clause 3 (Agreeing mandate parameters) which:</p> <ul style="list-style-type: none"> <li>▶ sets out the specific mandate information required to be displayed; and</li> <li>▶ includes a requirement to confirm the below information after mandate set up.</li> </ul>

## Model Clause text

## 2 Information disclosures

- 2.1 The Company will ensure (or will procure that the Biller or, where applicable, the Third Party PISP ensures) that the information set out in clause 2.2 is made available to all Customers before agreeing to the cVRP Mandate.
- 2.2 This information should as a minimum contain the following:
- (a) a description of cVRPs;
  - (b) information that the Customer should try to resolve issues with the Biller at first instance;
  - (c) that, in at least the following circumstances, the Customer can raise an issue relating to the cVRP with the ASPSP if the Customer considers:
    - (i) the cVRP transaction or cVRP Mandate is fraudulent;
    - (ii) the cVRP transaction was made without their permission;
    - (iii) the cVRP transaction was made outside of the cVRP Authorisation Parameters; or
    - (iv) there has been any other payment error, mistake, or delay with the cVRP transaction,
  - (d) that the Customer should contact the Biller if there is an issue with the goods and/or services purchased from the Biller; and
  - (e) the time limits within which the Customer may raise a dispute about a cVRP transaction.



### 3 Agreeing mandate parameters

#### Explanatory Notes

	How to use the Model Clause
Model Clause name	Agreeing mandate parameters
Purpose of Model Clause	Requirement for PISP to ensure cVRP mandate parameters are well defined and clearly displayed to Customers.
Topics addressed	Building payer confidence and liability
cVRP issue	<p>cVRP are a new payment method and building a high quality customer experience, trust and confidence in them is critical if they are to be adopted on a mass scale.</p> <p>There is currently no standard approach to creating a cVRP Mandate. It is important that Customers agree mandate parameters that are clear and specific to ensure that their explicit consent is captured to each payment order made under that cVRP Mandate, to meet regulatory obligations as set out in PSRs 2017 Regulation 67.</p> <p>cVRP can offer a high degree of flexibility with the amounts, frequency and period over which recurring payments can be paid. This provides convenience to Customers and Billers but has potential to cause Customer confusion if the payment is not expected or higher than expected. It is therefore important that Customers have clarity of the mandate parameters they are consenting to as this will help mitigate the risk of potential Customer confusion when payments start being made pursuant to that mandate.</p>
Key principles for standardisation that address the cVRP issue	<p>The drafting aims to require that PISPs clearly display the mandate parameters to Customers when capturing consent. To help build familiarity and trust, minimum information should be displayed.</p> <p>To also help build payer confidence, a confirmation of mandate set-up is to be made available by PISPs to Billers. This will help to reassure the Customer that their instructions have been accepted. Providing a confirmation could also give Customers a reference point to refer to which would go some way to reducing the risk of customer confusion, leading to Customer complaints about the consent a Customer is giving.</p> <p>The drafting also requires the PISP and ASPSP to maintain records in connection with these obligations.</p>
Additional notes for users of Model Clause	<p>This clause will need to be re-visited as the API specification changes to include more targeted data sets suitable for cVRPs.</p> <p>Clause 3.2(b) is drafted to cover the scenario where the payment is being sent to an account belonging to the Biller or to a third-party providing settlement accounts to the Biller.</p>
Interaction with other clauses	It should be read alongside the Model Clause 2 (Information Disclosures).

## Model Clause text

### 3 Agreeing mandate parameters

#### Information disclosure

- 3.1 The Company will (or will procure that the Biller or, where applicable, the Third Party PISP will) when agreeing the cVRP Authorisation Parameters with the Customer, ensure that (a) such parameters are clearly communicated to the Customer; and (b) the Customer is provided with at least the information set out clause 3.2.
- 3.2 This information should as a minimum contain the following:
- (a) the legal name and any trading names of the Biller to which the cVRP is payable;
  - (b) the account details to which the cVRP is payable;
  - (c) the frequency of the cVRP and/or the date(s) on which the cVRP is to be made (if appropriate for the use case);
  - (d) the maximum amount of the cVRP per payment collection frequency (if appropriate for the use case);
  - (e) the expiry date of the cVRP Mandate; and
  - (f) any other relevant parameters agreed between the PISP and the Customer.

#### Confirmation of cVRP Mandate

- 3.3 The ASPSP will notify the Company once the ASPSP has set up the cVRP Mandate on the Customer's account in a timely manner.
- 3.4 The Company will (or will require the Biller or, where applicable, the Third Party PISP, to), following receipt of notice from the ASPSP in accordance with clause 3.3, send a notice or make available to the Customer the information required to be displayed to the Customer in accordance with clause 2.1 and 2.2 in a timely manner.

#### Records

- 3.5 The Company and ASPSP will maintain records in connection with their obligations set out in this clause 3 in accordance with [Model Clause 6 (Disputes Handling)] .

## 4 Setting mandate parameters Reasonably and Proportionally

### Explanatory Notes

	How to use the Model Clause
Model Clause name	Setting mandate parameters Reasonably and Proportionally
Purpose of Model Clause	Requirement for PISP when setting up mandate parameters, to set those parameters appropriately (and not too widely) in the context of the transactions that will be processed using cVRP.
Topics addressed	Building payer confidence and Liability
cVRP issue	cVRP can offer a high degree of flexibility with the amounts, frequency and period over which recurring payments can be paid. This provides convenience to Customers and Billers but has potential to cause Customer confusion if the payment is not expected or higher than expected.
Key principles that address the issue	<p>The drafting aims to require that PISPs agree the cVRP Authorisation Parameters with Customers appropriately (either directly or through Billers), taking into account the nature of the underlying sale of goods or services.</p> <p>By not setting the cVRP Authorisation Parameters too widely, the risk that a Customer becomes confused by a cVRP should be reduced because it would be proportionate to the underlying purchase.</p> <p>This should in turn help build Customer trust and confidence in cVRP and mitigate the risk to some extent of Customers making claims that payments were taken beyond their expectations.</p>
Additional notes for users of Model Clause	<p>The drafting does not prescribe precise limits within which the cVRP Mandate Authorisation Parameters should be set as this would require detailed information about the underlying billing arrangement. Instead, it sets a general standard that the parameters should be appropriate and proportionate to the underlying billing arrangement, gives contractual force to the factors that need to be taken into account when setting the parameters and a contractual right of action should the parameters be set extremely wide for the use case.</p> <p>This clause will need to be re-visited when developing the arrangements in a multi-lateral agreement as the rights of action will differ.</p>

## Model Clause text

# 4 Setting mandate parameters Reasonably and Proportionally

## cVRP Authorisation Parameters

- 4.1 The Company will (or will procure that the Biller or, where applicable, the Third Party PISP will) when establishing the cVRP Authorisation Parameters with the Customer set those parameters appropriately and proportionately in relation to the sale of goods or services to which the cVRP relates. This must include consideration of:
- (a) the expected frequency (or infrequency) of the Customer's payments that will be made using cVRP;
  - (b) the expected period over which the Customer's payments will be made using cVRP; and
  - (c) the expected (variability of) amounts of the Customer's payments that will be made using cVRP.
- 4.2 If the ASPSP considers that the cVRP Authorisation Parameters have not been appropriately and proportionately set taking into account the factors set out in clause 4.1 above, then the ASPSP may treat this as a Damaging Practice under Model Clause 8 (Co-Operation).

## 5 Pre-Notification of cVRP

### Explanatory Notes

	How to use the Model Clause
Model Clause name	Pre-Notification of cVRP transaction
Purpose of Model Clause	Requirement for PISP to notify Customers in advance of cVRP transactions being made.
Topics addressed	Building payer confidence and Liability
cVRP issue	<p>cVRP can offer a high degree of flexibility with the amounts, frequency and period over which recurring payments can be paid.</p> <p>This provides convenience to Customers and Billers but has potential to cause Customer confusion if the payment is not expected due to the lapse in time from when the cVRP Mandate was set up.</p> <p>As amounts vary, customers may not be expecting the amount of the payment and are more likely to challenge it if they are not expecting it.</p>
Key principles that address the issue	<p>The drafting requires the PISP to:</p> <ol style="list-style-type: none"> <li>1. notify Customers in advance of requesting a payment through the cVRP Mandate;</li> <li>2. provide minimum information in relation to the upcoming payment so that the Customer can check and, if necessary, query it with the Biller; and</li> <li>3. require a PISP to send a further notification to a Customer if any of the information in the original notification is incorrect.</li> </ol> <p>By providing advance notification of an upcoming cVRP transaction, the risk that a Customer becomes confused by a cVRP should be reduced because it would give the Customer an opportunity to raise any questions with the Biller in advance.</p> <p>This would also help to reduce the risk of a payment dispute arising after the cVRP transaction is completed.</p> <p>This should in turn help build Customer trust and confidence in cVRP.</p>
Additional notes for users of Model Clause	<p>The WG noted that a pre-notification of upcoming cVRP may not be appropriate or operationally feasible in all use cases. The inclusion of this Model Clause will therefore be limited to specified use cases.</p> <p>Consequences of failure to send a pre-notification will be dealt with as a contractual breach pursuant to the broader terms of the bilateral Agreement.</p>

The Model Clause does not mandate any particular method of sending the pre-notification (e.g. email to Customer, push notification) and so provides flexibility for how this is done in practice.

#### *Future Development*

The WG decided that Billers should send such notifications, leveraging existing infrastructure.

In the future, it is expected that Customers will have the ability to amend/edit a cVRP Mandate, and these Model Clauses will need to be updated to reflect such functionality.

### **Model Clause text**

## **5 Pre-Notification of cVRP transaction**

- 5.1 Subject to clause 5.3, the Company will (or will require the Biller or, where applicable, the Third Party PISP to) notify the Customer before each cVRP transaction (cVRP Pre-Notification), within a reasonable timeframe to enable the Customer to act on a cVRP transaction, and in any case, no less than 48 hours prior to such cVRP transaction.
- 5.2 The cVRP Pre-Notification will include:
- (a) the upcoming cVRP transaction date;
  - (b) the amount of the upcoming cVRP transaction;
  - (c) the Biller's full legal name, and where applicable, company number, and where appropriate, any trading and/or brand name; and
  - (d) information that the Customer should contact the Biller or their account provider if they do not recognise the payment or think it should not be made.
- 5.3 A cVRP Pre-Notification will be required where all of the following conditions are satisfied:
- (a) the Customer has agreed to a cVRP Mandate which authorises the PISP to initiate regular cVRP payments to the Biller until the expiry date (where an expiry date is defined in the mandate);
  - (b) the regular payments agreed under the cVRP Mandate vary by amount and/or frequency; and

- (c) the regular payments are made in respect of an on-going provision of goods and/or services by the Biller which does not require the Customer to request such goods and/or services on each occasion before a payment is initiated by the Company (or Biller, or Third Party PISP, as appropriate).

5.4 The Company will (or will require the Biller or, where applicable, the Third Party PISP to) submit a further cVRP Pre-Notification promptly if the Biller becomes aware that any of the information included in the previous cVRP Pre-Notification is inaccurate, incomplete or does not include all of the information listed in clause 5.2.

## 6 Disputes handling

### Explanatory Notes

	How to use the Model Clause
Model Clause name	Disputes handling
Purpose of Model Clause	To set out key principles which the ASPSP and PISP will follow when working together to resolve Customer disputes.
Topics addressed	Dispute Handling
cVRP issue	<p>A cVRP involves the Customer having arrangements with a Biller (for the sale of goods or services), the ASPSP (who provides the Customer's payment account) and the PISP (who the Customer instructs to initiate cVRP transactions from its payment account).</p> <p>These multiple touchpoints can mean that multiple parties need to help investigate and resolve any disputes the Customer raises about its cVRP transactions.</p> <p>Having effective disputes handling and record keeping processes in place to ensure complaints and disputes are handled and resolved promptly and correctly is important to help build customer trust and confidence in cVRPs.</p>
Key principles that address the issue	<p>The baseline principle is that parties will continue to comply with their legal obligation to handle disputes raised to them.</p> <p>The PISP and the ASPSP will each direct Customers to the Biller to resolve a Customer Dispute in the first instance where they reasonably consider that the Biller is the most appropriate person to resolve that Customer Dispute.</p> <p>The drafting requires the ASPSP and PISP to handle Customer Disputes, co-operate, maintain records, and exchange information in accordance with agreed principles.</p>

Additional notes for users of Model Clause

ASPSPs and PISPs can further build on these in their Agreements as required.

In relation to 6.4, the ASPSP and PISP should set out the minimum information to be included in the information request to enable the PISP to respond and reply.

Examples are provided in the Model Clause for participants to build on bilaterally. Further information may include sort code and account number, and, in a situation where the payment has gone to a third party settlement account, it might be helpful for the ASPSP to also provide the name of the settlement account holder.

In relation to clause 6.5, the parties will need to insert a target timeframe within which the PISP will respond to a request from the ASPSP for information to help it resolve a Customer Dispute. The timeframe may differ depending on the type of complaint due to regulatory requirements. For an unauthorised transaction, the ASPSP may require a immediate response (unless it decides to refund a Customer and then investigate the complaint thereafter), and for incorrect payments, the ASPSP may require a response without undue delay.

Please note however, that where timelines / SLAs are to be agreed bilaterally, this may lead to an inconsistent outcome for Customers.

In relation to clause 6.9, each party will need to provide details in respect of the contacts who will receive communications pursuant to this Model Clause and the communication channel through which those communications will be sent.

In relation to clause 6.11, the ASPSP and PISP should set out the minimum information they will each retain in connection with cVRP transactions according to their respective roles. Examples are provided in the Model Clause for participants to build on bilaterally.

#### *Future development*

The WG noted that following the initial phase, participants can make a more informed determination on whether a dispute mechanism is needed, including establishing standardised and secure communication channels, and potentially the involvement of an ADR body.

In addition, in the future, transaction identifiers may be established, which will make it easier to track, identify and deal with a disputed cVRP transaction. The clause will need to be updated if and when that occurs.



Furthermore, in the future, it is expected that Customers will have the ability to amend/edit a cVRP Mandate. The clause will need to be updated if and when that occurs, to support the handling of disputes.

This clause will need to be looked at again when developing an MLA and when the new authorised push payment fraud rules come into effect.

In light of the above, this clause should be kept under review.

The current drafting is also not suitable for an MLA.

Interaction with other clauses

This Model Clause should be read alongside:

- ▶ Model Clause 2 (Information Disclosures) which requires the PISP to display information to the Customer at the mandate set-up stage, including that it should first contact the Biller in the event of a query about a cVRP transaction;
- ▶ Model Clause 3 (Agreeing mandate parameters) which requires the PISP to ensure mandate parameters are well defined and clearly displayed to Customers;
- ▶ Model Clause 4 (Setting mandate parameters Reasonably and Proportionally) which requires a PISP to set mandate parameters reasonably and appropriately for the use case)
- ▶ Model Clause 8 (Co-Operation) which requires the ASPSP and PISP to co-operate, and in particular in relation to Damaging Practices; and
- ▶ the confidentiality, information security, notices, record retention, dispute resolution and personal data related clauses of the agreement between the ASPSP and the PISP.

## Model Clause text

# 6 Disputes Handling

## Who the payer should contact

- 6.1 Each of the ASPSP and the Company will treat and resolve disputes received from Customers in relation to a Customer's cVRP transaction (a Customer Dispute) in accordance with its obligations under applicable law and regulations.
- 6.2 The Company and the ASPSP will (or, where applicable, the Company will require the Third Party PISP to) each direct Customers to the Biller to resolve a Customer Dispute in the first instance where they reasonably consider that the Biller is the most appropriate person to resolve that Customer Dispute.

## Information requests

- 6.3 A party may request information from the other party to help it resolve a Customer Dispute where: (a) it considers it reasonably necessary to do so; and (b) it is not required to hold that information itself.
- 6.4 If a party makes such a request under clause 6.3, it should include sufficient information about the Customer Dispute in the request to reasonably enable the other party to respond. Such information must include, at a minimum:
- (a) the name of the Customer (or route to the Customer via an identifier);
  - (b) the date of the disputed cVRP transaction;
  - (c) the amount of the disputed cVRP transaction; and
  - (d) the name of the cVRP Biller (and the name of the account holder receiving the Customer's funds pursuant to the cVRP transaction if different from the Biller).
- 6.5 Where the Company receives a request from the ASPSP under clause 6.3, the Company will aim to provide a substantive response to the ASPSP within [◆] of the date of the request.
- 6.6 The Company will require the Biller (or, where applicable, the Third Party PISP) to provide the PISP with information about cVRP transactions it accepts upon request by the Company for the purpose of investigating and resolving a Customer Dispute within such period to enable the Company to comply with its obligations in clause 6.5.

## Complaints forwarding

- 6.7 If the Company receives a Customer Dispute which it reasonably believes the ASPSP is required by applicable law and regulation to resolve, then the Company will:
- (a) promptly[, and in any case, within [●] of receipt of such Customer Dispute, forward such Customer Dispute to the ASPSP;
  - (b) inform the Customer that the Customer Dispute has been forwarded, together with an explanation of why it has been forwarded and the name of the ASPSP; and
  - (c) will not provide the Customer with its view as to whether the ASPSP will or is likely to refund the Customer.

6.8 Where the Company forwards a Customer Dispute to the ASPSP under clause 6.7, the ASPSP will treat and resolve that Customer Dispute in accordance with its obligations under applicable law and regulation.

## Communication channels

6.9 Without prejudice to any notice to be served under clause [[♦] (Notices)], all communications made under this Agreement in relation to this clause 6 (Disputes handling) will be sent by [♦] to the following contact details:

- (a) in the case of the ASPSP, to: [♦]
- (b) in the case of the PISP, to: [♦]

6.10 The ASPSP or the Company may change the contact details set out in clause 6.9, by notifying the other party of the changes to the contact details. Any such change of contact details will be notified to the other party's contact details set out in clause 6.9 (as changed from time to time).

## Record Keeping

6.11 The ASPSP and Company will (or, where applicable, the Company will require that the Third Party PISP will) each maintain proper records of Customer cVRP transactions in connection with their respective roles in the making of a cVRP transaction. This will include:

- (a) in the case of the Company (or, where applicable, the Third Party PISP), records of:
  - (i) the Customer's cVRP Mandate;
  - (ii) the Customer's consent to the cVRP Mandate;
  - (iii) the Customer's cVRP Authorisation Parameters;
  - (iv) the request to initiate the cVRP;
  - (v) any cVRP Mandate cancellation requests;
  - (vi) any information relating to Damaging Practices; and
  - (vii) Complaints Information; and
- (b) in the case of the ASPSP, records of:
  - (i) the cVRP Mandate being authenticated set up on the Customer's account;
  - (ii) the execution of the cVRP;

- (iii) any cancellation of a cVRP Mandate according to instructions received from the Company (or, where applicable, the Third Party PISP) or the Customer directly; and
- (iv) any information relating to Damaging Practices.

- 6.12 The Company will (or, where applicable, require the Third Party PISP to) require the Biller to maintain complete records of cVRP transactions it accepts and the sale of goods or services to which its cVRP transactions relates. This must include records of :
- (a) the name of the Customer or route to the Customer via an identifier;
  - (b) the purchase amount and dates of the related cVRP transactions;
  - (c) a description of the goods or services purchased; and
  - (d) Complaints Information.
- 6.13 Subject to applicable data protection law, throughout the term of the Agreement and for a period of at least six years following the later of: (i) the last cVRP initiated by the PISP (or, where applicable, the Third Party PISP) in connection with this Agreement or (ii) expiry or revocation of the cVRP Mandate, (a) each of the ASPSP and the Company will (or, where applicable, the Company will require the Third Party PISP to) maintain the records set out in clause 6.11; and (b) the Company will require the Biller to maintain the records set out in clause 6.12.

## 7 Biller Onboarding, monitoring and information

### Explanatory Notes

	How to use the Model Clause
Model Clause name	Biller Onboarding, Monitoring and Information
Purpose of Model Clause	Requirement for PISP to conduct appropriate due diligence on the Biller and collect key information about the Biller and its business.
Topics addressed	Liability, Dispute Handling, Biller Onboarding and Biller Monitoring and Building payer confidence.
cVRP issue	<p>There is a risk that bad actors may damage the reputation and goodwill of cVRP and could also increase the liability faced by ASPSPs and PISPs when offering this payment type.</p> <p>Undertaking an appropriate level of due diligence and collecting key information on an ongoing basis about Billers who wish to offer a cVRP option to their customers is important to help ensure that disputes are</p>

	<p>minimised, any disputes that do arise can be handled effectively and promptly, reducing the risk of a customer having a poor experience.</p> <p>This should in turn help build trust and confidence in cVRPs and manage costs of participation.</p>
<p>Key principles that address the issue</p>	<p>The drafting aims to, in the agreement between the ASPSP and PISP:</p> <ol style="list-style-type: none"> <li>1. Contractually oblige the PISP to: (a) develop, maintain and apply appropriate Biller onboarding criteria; and (b) collect reasonable information about the Billers to whom it offers cVRP acceptance services.</li> <li>2. Allow the ASPSP to raise concerns or questions to the PISP about its Biller onboarding criteria or information collected about Billers – for example, if excessive complaints are received about a Biller. (Note that the drafting below does not, at this stage, seek to define "excessive complaints").</li> <li>3. Allow the ASPSP to raise concerns or questions to the PISP about any Biller onboarded outside of agreed parameters;</li> <li>4. Require the PISP to co-operate with the ASPSP in addressing those concerns and questions.</li> <li>5. Requiring the PISP to put in place measures designed to ensure that any change to the Biller’s business or to the information provided by the Biller during onboarding is identified and reassessed against the Biller onboarding checks.</li> <li>6. Obtain sufficient information to enable the ASPSP to direct customers to the Biller should it determine the Biller is the most appropriate person to resolve the issue.</li> </ol> <p>Having robust Biller onboarding criteria in place and collecting key information about Billers helps ensure that reputable and trustworthy Billers are onboarded. This should help reduce the Customers having a poor experience with the Biller and help manage and/or direct Customer complaints, including in relation to issues with the Biller collecting payments using a cVRP Mandate.</p> <p>In addition, appropriate due diligence on Billers should also help liability risk of bad actors by enabling PISPs to identify genuine Billers, their services and business models.</p>
<p>Additional notes for users of Model Clause</p>	<p>This clause would need to be looked at again in the context of any MLA arrangement.</p> <p>The ASPSP and PISP should set out onboarding checks and the Biller information PISPs should complete and collect. Examples are provided in the Model Clause for participants to build on bilaterally.</p> <p>In relation to Model Clause 7.2(a)(vi), there were mixed views at the WG about including this information security provision all cases, and that it may be appropriate only for certain types of Billers – for example, those handling large volumes of payments or who hold customer data.</p>

Overly onerous requirements should be avoided to prevent hindering the market.

#### *Future Development*

Additional Biller on-boarding criteria will be required if a liability regime for buyer protections has been developed. It is most appropriate to consider the additional criteria required under an MLA arrangement. For example:

- checking whether Billers are covered by a relevant industry scheme offering protection against Biller insolvency for higher risk Billers (e.g. ATOL/ABTA in the travel industry) as and when such use cases are in scope; and/or
- reviewing the financial stability of the Biller.

Certain Biller Information e.g. a description of the Biller's business type and sector; and types of products sold by Biller, may be captured by reference to established industry and interoperable identifiers (such as Payment Purchase Codes) if developed for cVRP.

In addition, further criteria and processes can be developed overtime, perhaps including by reference to Biller or transaction risk identifiers.

These latter two developments would require an MLA to implement.

Interaction with other clauses

This Model Clause should be read alongside Model Clause 9 (High Risk Use Cases) which requires the PISP to avoid onboarding Billers who would offer cVRP as a payment method in higher risk use cases unless otherwise agreed with the ASPSP.

## Model Clause text

### 7 Biller onboarding, monitoring and information

7.1 The Company will (or, where applicable, require the Third Party PISP to), before contracting with a Biller to provide services enabling the Biller to accept cVRPs from its Customers, and thereafter on an ongoing basis, conduct appropriate due diligence checks on the Biller designed to check that the Biller is operating a legitimate business (Biller Due Diligence Checks). The Biller Due Diligence Checks will include:

- (a) requiring the Biller to confirm that at all times it:
  - (i) makes available to Customers clear terms and conditions and policies governing the Biller's sale of goods and/or services to Customers in accordance with applicable law and regulation, including (as applicable) terms and conditions relating to cancellations, returns and refunds;

- (ii) has Customer support arrangements in place, with clear contact details, and provides support to Customers, in relation to the goods and/or services purchased by such Customers;
  - (iii) complies with all applicable laws and regulations applicable to its sale of goods and/or services to Customers; and
  - (iv) the Biller is complying with its obligations set out in clause 7.2.
- 7.2 The Company will (or, where applicable, require the Third Party PISP to), during the period it provides services enabling the Biller to accept cVRPs from its Customers:
- (a) collect and require the Biller to provide information about the Biller, its business and the products it provides to Customers (Biller Information). The Biller Information will include:
    - (i) the legal name and any trading names of the Biller;
    - (ii) the registered office and principal place(s) of business addresses of the Biller;
    - (iii) customer service contact details;
    - (iv) a description of the Biller's business type and sector;
    - (v) a description of the types of products sold by the Biller; and
    - (vi) confirmation that the Biller will, at all times, implement and maintain an information security control environment which will ensure the confidentiality and security of any customer data in the Biller's possession or under the Biller's control.
  - (b) maintain and implement measures to ensure that (i) any change to the Biller's business or to the information provided by the Biller as part of the initial and any subsequent Biller Due Diligence Checks is identified by the Company; and (ii) Biller Due Diligence Checks are undertaken in the context of such changes.
  - (c) collate information on complaints it has received directly and from information provided by Billers. In this regard, the company must (or, where applicable, require the Third Party PISP to) require the Biller to provide information to it of complaints received by the Biller from a Customer in relation to the use of cVRP as a payment method. Such collated information will include:
    - (i) the number of complaints; and

- (ii) the nature of the complaint,

(Complaints Information). For the avoidance of doubt, Complaints Information does not include details of complaints relating to goods and/or services provided by a Biller to which a cVRP transaction relates.

- 7.3 Subject to applicable data protection law, throughout the term of the Agreement and for a period of at least six years following the later of: (i) the last cVRP initiated by the Company (or, where applicable, the Third Party PISP) in connection with this Agreement or (ii) expiry or revocation of the cVRP Mandate, the ASPSP may request reasonable information from the Company about the Biller Due Diligence Checks and/or Biller Information.
- 7.4 If, during the term of this Agreement, the Company or the ASPSP identifies that a Biller has not complied with or is not complying with the requirements included in clause 7.1(a) or 7.2(a) or 7.2(c):
- (a) the party who has identified the non-compliance shall notify the other party of the same, with such notice setting out reasonable details of the non-compliance; and
  - (b) if requested by the ASPSP, the Company and ASPSP shall discuss and agree what steps the Company will take in respect of such Biller, which may include offboarding the Biller.
- 7.5 In connection with any request or notification received by a party under clause 7.3 or 7.4, the receiving party will:
- (a) answer the request in a timely manner; and
  - (b) co-operate with the other party to address any concerns raised in a reasonable and proportionate manner.



## 8. Co-Operation

### Explanatory Notes

#### Model Clause text

	How to use the Model Clause
Model Clause name	Co-Operation
Purpose of Model Clause	Requirement for ASPSPs and PISPs to generally co-operate to help ensure issues and complaints are resolved promptly and to take steps to address issues in relation to a particular Biller who may be a bad actor.
Topics addressed	Liability and Dispute Handling
cVRP issue	<p>There is a risk that Customers may have a poor experience if complaints are not handled effectively and promptly or if they deal with a bad actor which could lead to the reputation and goodwill of cVRP being damaged.</p> <p>This risk is especially acute during the period where cVRP is being adopted as a payment method for the first time by Customers.</p>
Key principles that address the issue	<p>The arrangement requires the ASPSP and PISP to:</p> <ol style="list-style-type: none"> <li>1. develop, maintain and apply practices to identify any Billers which may be acting in a manner that would cause Customers to have a poor experience with cVRP; and</li> <li>2. co-operate with each other, exchange information and take steps and resolve issues including in relation to a particular Biller identified as a potential a bad actor.</li> </ol> <p>Effective co-operation between the PISP and ASPSP can help identify and investigate bad actors and resolve issues (including those associated with bad actors) in a timely manner.</p> <p>Minimising bad actors is important to help build customer trust and confidence in cVRP.</p>
Additional notes for users of Model Clause	<p>Participants to consider what constitutes an excessive number of complaints, for example, something similar to card scheme dispute monitoring program (i.e. by reference to the total number of payment disputes and ratio of disputed payments to captured payments). However, such an approach may be better framed within an MLA construct.</p> <p>This Model Clause should be read alongside the governance, termination and personal data related clauses of the bilateral agreement between the ASPSP and PISP.</p>

## 8 Co-operation

- 8.1 The ASPSP and the Company will each develop, maintain and apply practices to identify any Billers which are accepting cVRP transactions in a manner that is not in compliance with applicable law or regulation, which is detrimental to the Customer or which reflects negatively on cVRP acceptance as a whole (collectively, Damaging Practices).
- 8.2 The circumstances in which Damaging Practices arise include, but are not limited to:
- (a) an excessive number of complaints or complaints of a material nature (such as a fraudulent or insolvent Biller) being received by the ASPSP and/or Company (or, where applicable, the Third Party PISP) in respect of such Biller;
  - (b) an excessive number of complaints or complaints of a material nature (such as a fraudulent or insolvent Biller) identified by either the ASPSP or Company as a result of the Complaints Information;
  - (c) cVRP Authorisation Parameters not being appropriately and proportionately set pursuant to clause 4.2;
  - (d) the Biller requesting transactions outside of the cVRP Authorisation Parameters;
  - (e) the Biller requesting duplicate cVRP transactions in relation to goods or services sold by the Biller;
  - (f) the ASPSP or the Company reasonably suspects that the Biller has treated Customers unfairly based on evidence of complaints from Customers in relation to the Biller's use of cVRP or the underlying purchase that cVRP relates to; and/or
  - (g) any other practices agreed in accordance with Clause [8.1.] above.
- 8.3 Subject to applicable data protection law, throughout the term of the Agreement and for a period of at least six years following the later of: (i) the last cVRP initiated by the Company (or, where applicable, the Third Party PISP) in connection with this Agreement or (ii) expiry or cancellation of the cVRP Mandate, each of the ASPSP and the Company agree to:
- (a) cooperate in good faith with each other in relation to this Agreement;
  - (b) promptly share information in relation to Damaging Practices (including, in the case of the Company, any Complaints Information); and

- (c) take reasonable and proportionate steps to address Damaging Practices. Such steps may include, but are not limited to:
- (i) agreeing that the Company will (or procure the Biller or, where applicable, the Third Party PISP will) take steps to reduce the cVRP Mandate parameters when agreeing new cVRP Mandates; or
  - (ii) agreeing the Company will (or, where applicable, requiring the Third Party PISP to) address the issues with the Biller and provide opportunity to address the Damaging Practice.

8.4 Where the either party identifies that Damaging Practices have occurred, then it shall promptly notify the other party of this together with reasonable information about the Damaging Practice. Following such notification, the parties shall use their best endeavours to address Damaging Practices, as set out in clause 8.3. If there is evidence that Damaging Practices are continuing or likely to reoccur, the ASPSP may take any steps it deems necessary to address the Damaging Practice (which may include preventing the Biller from accepting further payments using cVRP), subject to due consideration of the potential Customer detriment.

## 9 High Risk Use Cases

### Explanatory Notes

	How to use the Model Clause
Model Clause name	High risk use cases
Purpose of Model Clause	To set out some general parameters around the use cases that cVRPs will initially be rolled out to.
Topics addressed	Liability and Biller Onboarding and Biller Monitoring
cVRP issue	The agreed approach by industry is to initially roll out cVRPs to use cases which carry a lower risk of potential for Customer disputes and poor experience. This is intended to help build trust and confidence in cVRPs as a new payment method. Parties are free to roll out to other use cases. However, caution needs to be taken to ensure risk of rolling out wider than these use cases is capable of being managed to help create high quality customer experience, trust and confidence in cVRPs if they are to be adopted on a mass scale.

<p>Key principles that address the issue</p>	<p>The drafting requires the PISP to avoid onboarding Billers who would offer cVRP as a payment method in higher risk use cases unless otherwise agreed with the ASPSP.</p> <p>The drafting also requires the PISP to conduct due diligence on each Biller, on an ongoing basis, designed to check that the Biller is not using cVRP in relation to high risk use cases.</p> <p>The criteria for higher risk use cases would be agreed on a case by case basis between the PISP and ASPSP and the Model Clause populated accordingly.</p> <p>By offering cVRP in the context of lower risk use cases, the likelihood of Customers having a poor payment experience when compared to higher risk use cases is lower.</p> <p>There is also an expectation that there will be less complaints with the lower risk use cases, meaning the liability risk is lower for ASPSPs and PISPs. Fewer complaints will also help build trust in the new payment methodology.</p> <p>ASPSPs and PISPs would be free to support higher risk use cases under the proposed drafting, subject to agreement and appropriate risk management controls being agreed.</p>
<p>Additional notes for users of Model Clause</p>	<p>The parties will need to agree what the high risk use cases are bilaterally.</p> <p>As and when developed, one option for the parties will be to agree high risk use cases by reference to established industry and interoperable identifiers. An MLA would be needed to give this proper effect.</p>

**Model Clause text**

**9 High Risk Use Cases**

- 9.1 The Company may not (and, where applicable, will require that the Third Party PISP does not) (i) enter into Biller Agreements with Billers relating to High Risk Use Cases; or (ii) during the period it provides services enabling the Biller to accept cVRPs from its Customers, allow the Biller to use cVRP for High Risk Use Cases, without the prior written agreement of the ASPSP. This consent may be subject to ASPSP and Company's (or, where applicable requiring the Third Party PISP's) compliance with agreed risk management arrangements in relation to the High Risk Use Cases.
- 9.2 The Company will (or, where applicable, require the Third Party PISP to), on an ongoing basis, conduct appropriate due diligence checks on each Biller designed to check that such Biller is not using cVRP in relation to High Risk Use Cases.
- 9.3 For the purposes of this clause 9 (High Risk Use Cases), the following are considered High Risk Use Cases:

## 10. Adherence to cVRP Standards

### Explanatory Notes

#### Model Clause text

	How to use the Model Clause
Model Clause name	cVRP Standards
Purpose of Model Clause	Delivering cVRP in a consistent way and utilising existing standards and infrastructure
Topics addressed	Adherence to Relevant Open Banking Standards
cVRP issue	<p>Adherence to existing standards for VRP (the sweeping VRP standards maintained by OBL) is not legally required for cVRP.</p> <p>Delivering cVRP in a consistent way is key to avoiding the risk of market fragmentation and poor customer experience.</p> <p>In the absence of a future entity responsible for maintaining and further developing standards that apply to cVRP, the existing OBL standards developed for sweeping VRP are capable of being leveraged to deliver the first phase of cVRP in a harmonised and familiar way. Alternatively, ASPSPs may choose to develop their cVRP APIs to alternative standards which may emerge over time.</p>
Key principles that address the issue	<p>In the absence of a regulatory mandate requiring adherence to a particular set of standards, it is necessary to put adherence to the relevant standards on a contractual footing. Therefore, the drafting requires the ASPSP to adhere to the standards identified in the Agreement between the ASPSP and the PISP.</p> <p>The drafting also requires the ASPSP to publish technical specifications to enable PISPs to integrate with its cVRP APIs.</p>
Additional notes for users of Model Clause	<p>JROC are considering mandating adherence to OBL standards for non-sweeping VRPs and has expressed a desire for industry to adhere to these standards in its VRP Working Group - Blueprint. However, at the time of publication of these Model Clauses adherence to OBL standards for cVRP was not mandated and it has therefore been drafted agnostically to accommodate other standards which may be adopted.</p> <p>In relation to Model Clauses 10.2 – 10.4, the square bracketed text should be populated with details of the Relevant Standards which the ASPSP and (if applicable) PISP should comply with in relation to cVRP. The Model Clause has been pre-populated with details of the relevant OBL standards identified by Working Group participants for ease of reference but these should be adjusted bilaterally as appropriate.</p> <p>This position could be built on by the MLA which would include centralised governance for maintenance and further development of cVRP standards.</p>

## 10 Adherence to cVRP Standards

- 10.1 The ASPSP and PISP will adhere to the standards published by [OBL] (**Standard Setting Body**) applicable to cVRPs (**Relevant Standards**) as set out in clause 10.2 and 10.3 and as amended from time to time.
- 10.2 In the case of the ASPSP, the Relevant Standards include:
- (a) the VRP API Specification
  - (b) [◆];
- 10.3 The ASPSP also agrees to enrol in one of the directory services offered by the Standard Setting body and accept, for the purpose of identification, either:
- (a) qualified certificates for electronic seals as referred to in Article 3(30) of the Regulation (EU) No 910/2014; or
  - (b) certificates issued by the Standard Setting Body.
- 10.4 In the case of the PISP, the PISP will:
- (a) enrol into any directory services provided by the Standard Setting Body; and
  - (b) identify itself to an ASPSP using one of the means of identification listed in clause 10.2.

## 11. API Change Management Procedure

### Explanatory Notes

	How to use the Model Clause
Model Clause name	API Change Management Procedure
Purpose of Model Clause	To ensure a consistent and predictable basis for technical changes to be made to the cVRP APIs
Topics addressed	Adherence to cVRP Standards and Change Management
cVRP issue	<p>Without a consistent and predictable basis for technical changes to be made to the cVRP APIs, there is a risk of unexpected interruption to cVRPs.</p> <p>Similarly, a consistent approach by ASPSPs and PSPs to legal and regulatory changes will help support the integrity and consistency of cVRP.</p>

	<p>In order to require the parties to implement changes to the relevant cVRP standards, obligations to manage and implement updates needs to be put on a contractual footing.</p> <p>This is key to improving consistency and reducing the risk of market fragmentation.</p>
<p>Key principles that address the issue</p>	<p>The drafting requires the ASPSP to notify the PISP of changes to its APIs, and to ensure any changes do not degrade the functionality or security. The Model Clause sets a baseline position to ensure a consistent approach is taken in respect of technical changes and changes required by law or regulation.</p> <p>The drafting also requires the parties to use best endeavours to incorporate any relevant model clauses suggested by industry bodies in the future aimed at developing a standardised approach to cVRP.</p> <p>The drafting requires ASPSPs to publish details of new APIs in advance of them coming live.</p> <p>In some cases, ASPSPs will be obliged to ensure it supports previous versions of its API for an agreed period (for example, when the new API is not backwards compatible).</p>
<p>Additional notes for users of Model Clause</p>	<p>This Model Clause should be read alongside:</p> <ul style="list-style-type: none"> <li>▶ Model Clause 10 (Adherence to cVRP Standards) which requires the PISP to comply with the relevant cVRP standards applicable to Sweeping VRPs in the context of cVRPs;</li> <li>▶ the clauses in bilateral agreements relating to the making available of the cVRP API to the PISP; and</li> <li>▶ the general change management related provisions of the agreement between the ASPSP and PISP.</li> </ul> <p>For current purposes, we are focusing on change management in the context of technical changes, and would expect change management to be governed centrally in any MLA. This would include a more detailed process for classifying changes – for example, as a breaking change or non-breaking change.</p>

**Model Clause text****11 API Change Management**

- 11.1 The ASPSP will make available to the Company the relevant API Materials as amended from time to time to enable the Company to integrate with and use its cVRP APIs for the purposes set out in this Agreement. The Company will ensure it complies with the terms included in the API Materials in connection with the integration and use of the cVRP API. "API Materials" means all information made available by the ASPSP in respect of the cVRP API, including all technical documentation and operations information.
- 11.2 The Company will not obtain any rights in the API Materials.
- 11.3 The ASPSP may make changes to its cVRP APIs or API Materials (API Change) in its sole discretion from time to time on giving notice to the Company at least 90 days prior to the effective date of the API Change, except where a shorter period is required to comply with applicable law or regulation, the requirements of a regulator or the Relevant Standards (API Change Notice), and shall publish the revised API Materials (as appropriate) on its public website.
- 11.4 The ASPSP will ensure that the API Change Notice includes sufficient detail to enable the Company to understand and take any action required as a result of such API Change.
- 11.5 Following receipt of an API Change Notice by the Company, where applicable, the Company will promptly take any reasonable action required by that API Change Notice.
- 11.6 The ASPSP will ensure that any API Change which relates to a change to the API does not result in a material degradation of functionality or security of the API.
- 11.7 For a period of at least 90 days following the effective date of any API Change which relates to a change to the API which is not backwards compatible, the ASPSP will ensure that it supports the then previous version of the API, unless it is prohibited by law, the requirements of a regulator or the Relevant Standards from doing so.
- 11.8 The parties acknowledge the general industry appetite to provide a baseline framework for certain arrangements for the provision of cVRPs, which includes incorporating model clauses into this Agreement (Model Clauses). The parties acknowledge that the substance of the Model Clauses may be amended from time to time. The parties agree to work together to consider and, where appropriate, incorporate such amendments into this Agreement. Accordingly, where the Model Clauses are amended:



- (a) either party may submit a request to the other party to change the Agreement to reflect such amendments; and
- (b) the parties shall, following such request, use best endeavours to promptly discuss such amendments and, where appropriate, agree an amendment to this Agreement.

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## 5. Next Steps

VRP is a new type of payment method. They are enabled through open banking technology. The CMA mandated nine UK banks (the CMA9) to implement VRPs for payments between accounts belonging to the same person, which are called 'sweeping'. As explored previously, there is a strong market desire to expand VRP use cases to enable payments between accounts in different names – cVRPs.

cVRPs are also seen as an opportunity to kickstart the broader monetisation of open banking. By entering into commercial agreements, participants will learn the necessary processes and approach to further open banking monetisation opportunities.

Regulators also see the potential of cVRPs to help unlock the potential for open banking over the next few years. The expansion of cVRPs as a pilot for a wider roll out of additional use cases, and ultimately as an enabler for account-to-account retail transactions, is considered a key next step in fostering continued innovation in open banking.

However, to develop as a viable payment option, in a way that is not disparate or fragmented, consistent customer experience and customer outcomes are imperative to help build familiarity, trust and confidence in cVRP as a viable alternative payment methodology. In order to facilitate this, in the absence of a regulatory framework, a contractual footing is needed. Whilst the end goal is widely viewed to be a multilateral agreement or 'scheme', parties can continue to be able to trial and test cVRPs on a bilateral contracting model basis if they wish to do so.

The model clauses project has begun a process of standardisation to encourage market entry by reducing contractual transaction costs, save time and to provide customers with consistency and protection. But to scale, further enhancements will be required. Some of the further technical enhancements identified through the Working Groups include:

- ▶ Updates to the VRP API specification to enable greater data sharing between participants;
- ▶ creation of payment risk indicators;
- ▶ creation of Biller category codes to help identify transactions and manage Biller participation risk;
- ▶ the provision of consent dashboards and their accessibility to payers; and
- ▶ a dispute management platform and process.

Future work was also identified as needed in the following areas:

▶ **Adherence**

The Working Group agreed that if the OBL Standard is adhered to, further work is needed to assess the suitability of other OBL artefacts for the purpose of cVRP. In addition, further enhancements may be needed to those artefacts, Such work would take place as a next step in the aim to help develop good customer journeys that provide certain information consistently. This will help build trust and familiarity in the use of their payment type.

▶ **Biller due diligence**

The Biller due diligence checks were designed with the pilot in mind. As cVRP becomes a more commonly used payment and is used in different use cases, such as the e-commerce space, then additional Biller due diligence checks should be considered by the ASPSP and PISP.

WG Members suggested additional Biller checks that could be considered in future as cVRP propositions develop include AML/Sanctions/Financial Crime, information and cybersecurity arrangements, data privacy policies and financial stability.

▶ **Name of payment type**

As a new payment method, it is largely untried with customers and merchants. We have had feedback, with which we agree, that the VRP will need a brand, consistent language to explain it to customers, testing and research with customers, more thorough engagement with the customer community and most importantly further development on customer protection (in the meantime use cases have to be assessed carefully for risk).

▶ **Testing with payers**

It has also been suggested that ASPSPs and PISPs conduct market research once they have started launching cVRPs to see how some of the "arrangements" are landing and what could be done better.

The following key topics will also need to be addressed to enable market scale:

- ▶ Consumer protections; and
- ▶ Potential commercial models;

## Consumer Protections

The lack of buyer protection/protection against insolvency are major gaps in the protections available to consumers when using VRPs. It is also widely recognised that insufficient customer protection and liability arrangements may act as a barrier to building trust in the new payment type and therefore, wider scaling. Furthermore, the Working Group members are keen to continue discussions on how to improve consumer protections. However, it is important that such conversations take place in the context of all open banking payments, not just cVRPs. For at least one member these protections should be comparable to other payments methods (such as cards).

Furthermore, we expect to hear more from the Payment Systems Regulator later this year on its proposals to introduce a consumer protection regime.

## Commercial model

A sustainable commercial model could aim to support growth and innovation in relation to cVRPs.

The Payments Systems Regulator is currently consulting on using its powers to set the parameters for a central price for VRPs based on a cost recovery model for the sending firm that applies previously published pricing principles and enables sending firms to cover relevant incremental costs. The Payments Systems Regulator have also announced it intends to detail consultation this year on the development of a commercial model.

The outcomes from this consultation will be integral to the future growth of cVRP and open banking payments more generally.

## A path to a multi-lateral agreement

Some of these enhancements and developments will, either by design or necessity, need to be supported by a multilateral framework which ensures all participants agree to implement a consistent approach.

This approach would involve the establishment of a comprehensive set of rules for the operation of cVRP and to administer and manage changes to the standards. Effectively, a new scheme rulebook based on an MLA which willing participants can join on a voluntary basis (unless mandated by regulatory action).

An MLA would need to be co-ordinated, administered and enforced by a governance body – either a commercial or industry body. It would require strong central oversight and governance and so a suitable governance body would need to be identified to perform this role. The governance body would also need to have a role in managing and

enforcement of the standards. This is important to ensure all participants are properly upholding the standards.

Further work will need to be undertaken to define the detailed roles and responsibilities of the governance body, including:

- ▶ how it would be composed and make decisions
- ▶ whether responsibility would sit with an existing entity
- ▶ what the extent of its administration and coordination role would be
- ▶ how changes to the industry framework standards and documents would be managed
- ▶ whether it would be responsible for managing, monitoring or enforcing compliance with the standards
- ▶ how it would be funded

## Final Comments

There is support for the work announced by the Joint Regulatory Oversight Committee on developing the [functional requirements and dispute resolution framework](#).

We look forward to working with JROC and industry bodies on that work and ensuring that VRP can be developed to allow UK customers and businesses more choice about how they make and receive payments.

# Appendix A

## Glossary

- ▶ **Agreement** means the agreement between an ASPSP and a Company under which the ASPSP enables the Company to access its cVRP APIs.
- ▶ **API** means, in respect of an ASPSP product, function, process or application, software or code that allows external systems to communicate in accordance with strictly defined parameters with relevant components of the ASPSP's systems which relate to that product, function, process or application, for which the ASPSP has granted the Company express authorisation to use in connection with the Agreement and "APIs" shall be construed accordingly.
- ▶ **ASPSP** means an account servicing payment service provider.
- ▶ **Biller** means a seller of goods and/or services who use cVRPs to take payment from a Customer for purchases by such Customer of such goods and/or services.
- ▶ **Biller Agreement** means a contract between the Company, or, where applicable, the relevant Third Party PISP, and a Biller pursuant to which cVRP transaction acceptance services are made available to the Biller.
- ▶ **Company** means the entity contracting with the ASPSP under the Agreement and as identified in the Agreement.
- ▶ **Customer** means a person who holds a payment account with an ASPSP and gives consent to the PISP to initiate a payment order from that payment account pursuant to a cVRP Mandate.
- ▶ **cVRPs** means a series of payments of varying amounts and frequency which are initiated by a PISP to a Biller based on the terms of the cVRP Mandate and which are not sweeping-VRPs as defined by the Competition and Markets Authority in its public letter of 14 March 2022.
- ▶ **cVRP Authorisation Parameters** means the agreed parameters of the cVRP Mandate including: (i) the Biller to which the cVRP is payable; (ii) the frequency of the cVRP and/or the date(s) on which the cVRP is to be made; (iii) the amount of the cVRP; and (iv) any other relevant parameters agreed between the Company, or, where applicable, the relevant Third Party PISP and the Customer.
- ▶ **cVRP Mandate** means a long held consent given by a Customer to the Company, or, where applicable, the relevant Third Party PISP to initiate a series of payments of varying amounts and frequency and which will be subject to the cVRP Authorisation Parameters.
- ▶ **Introducer** means any third party with whom the Company or, where applicable, a relevant Third Party PISP, has established a relationship, and through whose platform

and/or introduction, the Company or, where applicable, the relevant Third Party PISP, provides its cVRP transaction acceptance services to a Biller;

- ▶ **OBL** means Open Banking Limited or its successor from time to time.
- ▶ **PISP** means a payment initiation service provider.
- ▶ **Relevant Standards** has the meaning given to it in Model Clause 10 (Adherence to cVRP Standards)
- ▶ **Sweeping VRPs** has the meaning given to it in the Competition and Markets Authority's public letter of 14 march 2022.
- ▶ **Third Party PISP** has the meaning given to it in Model Clause 1 (Contracting Models).

# Appendix B - Indicative cVRP Information Leaflet

**[Drafting note: draft of the indicative cVRP Information Leaflet for comment by Members.]**

## What are VRPs?

Variable Recurring Payments (**VRPs**) are a new type of payment instruction that can be set up and used to make a series of future payments directly from your bank account to someone else.

To set up a VRP, you will need to set up a VRP instruction/mandate with a payment initiation service provider (PISP). A PISP is a payment service provider that is authorised by the FCA that you can ask to initiate payments from your bank account. You will be presented with this payment option whilst on the checkout page of the biller / service provider website.

Once you have given your consent to the VRP instruction a PISP can then initiate a series of payments on your behalf within the agreed parameters of the instruction. This means the PISP will initiate these payments for the amounts and at the frequency requested by you and/or the biller / service provider, provided they are within the agreed parameters.

You can find more information about VRPs here.**[Drafting note: link to Biller and/or PISP website to be included as appropriate]**

## How are you protected?

As with all types of payment, there may be situations where things go wrong. If you notice a payment has been made to a biller / service provider which you think is incorrect, perhaps because:

- ▶ you do not recognise the amount; or
- ▶ you do not think the payment should have been made,

You should contact the [biller / service provider] to try to resolve the issue.

If the [biller / service provider] does not resolve the issue or you think a VRP payment has been taken from your bank account:

- ▶ fraudulently or the instruction to take the payment has been made fraudulently;



- ▶ without your permission;
- ▶ outside of the VRP instruction parameters you agreed to; or
- ▶ because of some other error, or mistake, or delay has occurred in processing the payment

then you can also contact your bank account provider. Your bank account provider will investigate the issue and decide whether to reimburse and whether to offer any other compensation.

Issues with goods/services, and other consumer disputes

When things go wrong with the actual purchases you make using a VRP payment, rather than an issue with the payment itself, then you should contact the [biller / service provider] and ask them to resolve the issue directly with you.

We recommend accessing the [biller / service provider] complaints policy. They will have a legal obligation to consider your complaint in accordance with the applicable laws and regulations that apply to them.

### **Time limits**

Any complaint about the payments taken should be raised with your bank account provider within 13 months from the date of the transaction.

If your complaint relates to the goods / service you purchased, please refer to the [biller's / service provider's] compliant policy for details of when you should raise the complaint.

### **More information**

Please see:

[link to PISP complaint policy if one]

[link to [biller / service provider] complaints policy]

## DISCLAIMER

### Disclaimer for draft report

The Model Clauses in this document are in draft form and have been prepared in advance of the final workshop with UKF cVRP Model Clauses Working Group members. The purpose of this document is to obtain feedback on the substance of the drafts of these Model Clauses.

### Overall disclaimer

The Model Clauses [(once finalised in the final report)] are for industry participants to use, amend and negotiate on an open source basis in bilateral contracts between ASPSPs and PISPs under which an ASPSP permits a PISP access to its cVRP API for the purposes of that PISP offering cVRP as a payment method to businesses and consumers. The Model Clauses will need to be considered against other provisions in such contracts to ensure there are no conflicts and may need to be adapted depending on the go-to-market model.

Neither UK Finance, Addleshaw Goddard LLP nor any of the contributors to the Model Clauses owe a duty of care to any party in relation to their preparation and do not accept any liability for any loss incurred by any person relying on or using the Model Clauses. Users should use their own professional judgement in the application of them to any particular circumstance and seek independent legal advice where necessary.