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Executive Summary

- Currently, the UK does not have a mandatory requirement for businesses and shops to accept cash. Cash is ‘legal tender’ but the public do not have a right to use cash.
- Recent trend suggests that use of cash is on the rise. Between May- November 2024, more than 2/3 of the UK population have experienced problems paying by card and phone, so 68% of the surveyed in a survey of 2,000 UK citizens in 2024 are now carrying cash. More than half (53%) said they use cash at least once a week, compared to 47% when similar research was carried out last year.
- Cash is thus a national necessity for many, especially the vulnerable and financially excluded. It is a matter of consumer choice, civil liberty and a budgeting tool during a cost-of-living crisis.
- We are aware the challenges of a mandatory requirement to accept cash, but we believe that the ‘freedom to contract’ principle enjoyed by businesses is too protective of businesses.
- If the needs of the consumer and the rights of citizens are to be respected, cash use, as well as access, are essential. To be refused medicine in a pharmacy or food in a supermarket because a person can only pay with cash is unfair and illogical.
- We call for the government to change the policy, so that it is mandatory to accept cash in shops and businesses, unless exceptions apply such as agreement to the contrary between the parties, or when the good faith principle applies such as suspicion of money-laundering.

Main Submission

Legal Tender

1. In England and Wales, legal tender comprises of Royal Mint coins and Bank of England notes. In Scotland and Northern Ireland, it is only Royal Mint coins. Card payments, cheques...etc. are not considered as legal tender.
2. 'Legal tender' in the UK does not mean that citizens have a right to pay in cash. It means that once the buyer pays off their debt, the seller cannot sue the buyer for failure to repay. Thus, 'legal tender' has a very narrow and confusing definition in the UK.
3. UK businesses and shops can refuse cash or indeed card payments. They can accept whatever form of payment they wish.¹ In a petition to mandate cash acceptance in 2022, the government said that: "The government does not plan to mandate cash acceptance. Businesses can choose the forms of payment they accept. The government's proposals for legislation support cash acceptance."
4. In the Euro area, Euro banknotes and coins are legal tender, so shops and businesses are obliged to accept cash, unless there is agreement to the contrary and the 'good faith' principle, i.e. money laundering is suspected. This is the same for public authorities in the Euro area, unless otherwise stated by the law. In France, a commercial trader who will not accept cash (limits apply) risks a fine of €150.²
5. The concept of legal tender as interpreted by the Court of Justice for Euro banknotes implies: (i) mandatory acceptance, (ii) at full face value and (iii) with the effect of discharging payment obligations.
6. The UK government's statement on businesses having the freedom to choose the payment forms they accept seems to ignore the public's right to freedom (or limited right in some circumstances) to choose their payment forms. 8% of the surveyed respondents in the petition of 2022 suffer from a mental or physical health condition that makes it difficult for them to use cash alternatives to pay.³ Their freedom to use digital payments is therefore very restricted.

Reasons for mandatory acceptance of cash

6. The reasons for the mandatory acceptance of cash are firstly, cash is still important to many citizens for many reasons including freedom of choice and civil liberty. It is especially important for the vulnerable, the disabled, the elderly, those in domestic abusive relationships and those who do not have the financial or digital skills to use digital financial payments. Secondly, the financially excluded such as asylum seekers and migrants often prefer or have

¹ Bank of England, 'What is Legal Tender?' <https://www.bankofengland.co.uk/explainers/what-is-legal-tender> Accessed 26/11/2024.

² Republique Francaise, 'Cash Payment' (May 2023), <https://www.service-public.fr/particuliers/vosdroits/F10999>. Accessed 29 November 2024.

³ House of Commons Petitions Committee, 'Why are MPs debating the acceptance of cash?' (Petitions Committee, 20 March 2023) <https://ukparliament.shorthandstories.com/acceptance-of-cash/index.html#> Accessed 26/11/2024

no choice but to use cash because they may not have access to payments from the private sector. Thirdly, international students studying in the UK who have not opened a bank account yet when they first arrive will also need to pay cash in the interim period.

7. Several UK universities have cashless campuses to create a better user experience for many. However, many students work part-time in the retail and hospitality sectors where tips are paid in cash. For students who wish to purchase food and drink on university campuses, payment in cash should be allowed to enable them to purchase food and drink. Refusal of cash is decidedly unhelpful for some students.

8. Cash is preferred by many because paying in cash hurts more psychologically than by cards, so it makes the buyers think more carefully before paying. Cash is more private as it is anonymous. Over 5 million UK adults rely on cash in their day-to-day lives and cash remains the preferred payment method for 21% of the population.

People on low incomes often prefer cash to budget more effectively. They say that they can manage money better when it is tangible, and they can see and feel it when it leaves their purse, wallet or pocket. This is a major issue in ensuring the financial inclusion of all citizens.

Debt advisors often recommend to people in debt to tear up their plastic cards and budget in cash. Forcing people on to digital payment methods could lead to a loss of control over finances and spiralling debts for some.

9. Cash is a vital form of payment when other ways of paying, such as digital payments, are affected or unavailable. Between May- November 2024, more than 2/3 of the UK population have experienced problems paying by card and phone, so 68% of the surveyed in a survey of 2,000 UK citizens in 2024 are now carrying cash.⁴ More than half (53%) said they use cash at least once a week, compared to 47% when similar research was carried out last year. In light of an increase in online frauds, the trend appears to be that the UK public are increasingly relying on cash again. The Royal Society for Arts, Manufactures and Commerce its 2022 report “The cash census”⁵ revealed that that 64% of the population were concerned about fraud when making digital payments.

10. Cash use is important in educating children about the value of money. Financial education lessons with school children still depend on the handling of coins. This tangible ability to handle cash assists in learning about the value of money. The Just Finance

⁴ KPMG, ‘Consumers turn to cash in the face of recent payment issues’ <https://kpmg.com/uk/en/home/media/press-releases/2024/11/consumers-turn-to-cash-in-the-face-of-recent-payment-issues.html> Accessed 29/11/2024

⁵ Royal Society of Arts, ‘The Cash Census’ (30 March 2022) <https://www.thersa.org/reports/the-cash-census> Accessed 29/11/2024

Foundation,⁶ a national charity promoting financial education in primarily schools, still depends on children learning about money through the handling of cash.

Evaluation of government's reasons for rejecting mandatory cash acceptance and evidence

10. Some reasons cited by the government for opposing mandatory cash acceptance are that cash can be expensive to handle, can be subject to theft and leave small businesses, especially in the rural areas, vulnerable and targeted by criminals.⁷
11. We are aware that cash can be expensive to handle, because banks charge between 70p to £1 for every £100 taking. Businesses also find it increasingly difficult to deposit cash in banks, because many bank branches have closed down. More than 6,000 UK bank branches have closed down between 2015-2024.⁸ This has increased the time spent queuing in banks to deposit cash.⁹ The impending increasing closure of post offices just adds to the problem.
12. But non-cash transactions are chargeable too, Businesses are charged a card transaction fee of between 1.5%-3.5% (£1.50-£3.50) for the use of credit cards and 0.25%-0.35% (25p-35p) for the use of debit cards. American Express is an exception, where they charge 1-2% higher than the average cards. There are often also charges for the card reader equipment, set up charges, authorisation fees and minimum monthly service fees. Particularly regarding American Express, some retailers often refuse to accept this card because of the high charges levied by the provider. In a cashless society, payment card providers could easily increase these charges when no cash option is any longer available.
13. We understand that on average, SME estimate that accepting cash costs 57% more than accepting digital financial payments.¹⁰ Interestingly, a FCA survey of small business owners shows that they do not consider the cost of payment methods a major factor in their decision-making. Their awareness of the different charges between cash and cards remains low too. This suggests that amongst small business owners, their motivation for accepting cash is because it gives customers choice. Customer choice is about treating consumers fairly. The FCA stresses that the fair treatment of consumers involves attending to the needs of various consumer groups. Refusing to serve someone with a drink in a café because they can only pay in cash is essentially unfair treatment¹¹, In fact,

⁶ Just Finance Foundation, 'Empowering Children with Financial Education' <https://www.justfinancefoundation.org.uk/> Accessed 29/11/2024

⁷ Ibid (n3)

⁸ The Guardian, 'More than 6,000 UK bank branches now gone in nine years of 'disastrous' closures' (17 May 2024) <https://www.theguardian.com/money/article/2024/may/17/more-than-6000-bank-branches-now-gone-in-nine-years-of-disastrous-closures> Accessed 26/11/2024

⁹ Financial Conduct Authority, 'Cash Acceptance within SMEs', <https://www.fca.org.uk/publication/research/cash-acceptance-within-smes.pdf> Accessed 26/11/2024

¹⁰ D Findling, 'Accepting Cash vs Credit Cards for Your Small Business' (1 August 2020) <https://squareup.com/gb/en/the-bottom-line/managing-your-finances/the-cost-of-cash-versus-credit-for-small-business>. Accessed 26/11/2024.

¹¹ Financial Conduct Authority. <https://www.fca.org.uk/firms/fair-treatment-customers>

98% of small business owners would not turn away customers if they want to pay in cash.¹²

14. According to the Commercial Victimization Survey 2022, the most common type of crime experienced by businesses was theft by a *customer* (11% of premises). This seems to suggest stealing of items rather than robbery with forced attempt to take cash behind the till.¹³
15. In Denmark, payees in physical trade are obliged under the Danish Payment Card Act 1984 to accept cash, unless exceptions apply. Exceptions include for example, remote trade, including internet trade, self-service environments and night-time trading between 22:00-06:00. In areas of high robbery risks, there is no obligation to accept cash after 20:00. 24-hour pharmacies are however, always obliged to accept cash.¹⁴
16. The Danish example illustrates two points. First, there is an inference that night-time trading is riskier and more prone to robbery risks. In light of this, they use a sensible approach and allow payees not to accept cash during night-time trading and in high-risk areas. Secondly, when it comes to purchasing medication from pharmacies, cash acceptance is mandatory due to the importance of access to healthcare. The former protects businesses and the latter protects the public. A balanced approach is thus possible from the Danish illustration.
17. Access to broadband and WiFi is challenging in rural and remote regions. 70% of adults who have not used the internet before living in rural areas.¹⁵ Therefore, small businesses operating in remote or rural areas often do not have much choice but to accept cash.
18. We therefore submit that mandatory acceptance of cash, subject to reasonable exceptions (as for example in France), is necessary. This is particularly important in areas where internet connection is poor, and digital payment systems are inefficient. In rural areas of Scotland, only 75% of rural premises have access to a download speed of 10Mbit/s (acceptable connection speed) or higher. This contrasts with 100% of urban premises in Scotland having access to the same download speed.¹⁶
19. We support the Broadband Universal Service Obligation where anyone in the UK can request a connection costing up to £3,400 to give them an acceptable connection speed. Nevertheless, this is a right to request only, and there is no guarantee that the request will be successful and is subject to the cost cap.

¹² Ibid (n11)

¹³ Home Office, *Official Statistics Crime against businesses: findings from the 2022 Commercial Victimization Survey* (5 October 2023) <https://www.gov.uk/government/statistics/crime-against-businesses-findings-from-the-2022-commercial-victimisation-survey/crime-against-businesses-findings-from-the-2022-commercial-victimisation-survey> Accessed 26/11/2024

¹⁴ Danmarks Nationalbank, 'The role of cash in a society with low usage of cash' (30 November 2023) <https://www.nationalbanken.dk/en/news-and-knowledge/publications-and-speeches/analysis/2023/the-role-of-cash-in-a-society-with-low-usage-of-cash#chapter-01> Accessed 27/11/2024

¹⁵ Access to Cash Review, 'Is Britain Ready to Go Cashless?' (December 2018) <https://www.accesstocash.org.uk/media/1159/interim-report-final-web.pdf> . Accessed 26/11/2024.

¹⁶ Ibid

20. We believe therefore, the ‘freedom to contract’ principle operating in the UK operates too heavily in favour of businesses, which needs to be rebalanced in light of the under-protection of the public in digital and social rights.

Rebalancing the needs of the public

21. In Sweden, there is no obligation for payees to accept cash. However, certain public sector service providers such as public health may be obliged to accept cash. This is important for the public to access medicine and treatment. The Danish example also supports the public’s right to use cash for medicines.
22. Although the UK Financial Services and Markets Act 2023 protects *access to cash* by requiring the Financial Conduct Authority to try to ensure reasonable provision of cash deposit and withdrawal services for personal and business current accounts in the UK or part of the UK, we need similar protection for the other aspect of legal tender, namely *acceptance of cash*. There is no point having good policies to access cash if people cannot use that cash in day-to-day transactions. Not balancing access and the right to use cash is fundamentally illogical.
23. According to a FCA survey, 44% of small business owners accept cash because they believe that accepting cash is a community service.¹⁷ For necessities and small transactions such as medicine, food, groceries, we believe that payees must accept cash to safeguard the interests of the public, especially the most vulnerable. Acceptance of cash therefore has a civic contribution which we submit that cannot be ignored.
24. We call for the acceptance of cash for normal day to day commercial activity to be made mandatory throughout the UK. Of course, there are always limitations to cash acceptance, such as maximum limits for payment in cash for certain transactions. But in general, if the needs of the consumer and the rights of citizens are to be respected, cash use, as well as access, are essential. To be refused medicine in a pharmacy or food in a supermarket because a person can only pay with cash is unfair and illogical. All commercial traders should have an obligation to accept cash. We believe that there is a balanced approach to be struck between payees and the public, whilst refocusing the public’s rights.

Conclusion

Cash use is evidently important for many people, not only as a matter of choice and civil liberty, but for many it is essential in budgeting effectively in cost-of-living crisis. There is evidence too that cash use is remaining steady for significant sections of the population.¹⁸

¹⁷ Ibid (n11)

¹⁸ UK Finance, ‘Half of all payments now made using debit cards’ <https://www.ukfinance.org.uk/news-and-insight/press-release/half-all-payments-now-made-using-debit-cards> Accessed 29/11/2024

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It is our considered view that a cashless society, in which cash is no longer widely accepted, would lead to greater financial exclusion for many, greater marginalisation of vulnerable groups, potentially greater over indebtedness, and the creation of a commercial system that no longer treats consumers fairly. Having policies to access cash is ultimately pointless without similar policies to use cash. This is the key challenge if the UK Government wants to truly create an inclusive society.

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