

Portland

Merricks vs Mastercard: Class Uptake Analysis

Portland Communications Report

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1. *Introduction to the project*

Project background

Portland Communications (**Portland**) was instructed by Mastercard (in collaboration and with input from Walter Hugh Merricks CBE) to design and deliver a survey that would assist the Competition Appeal Tribunal in relation to the joint application for a Collective Settlement Approval Order dated 16 January 2025 and made by Mr Merricks and Mastercard in Case No 1266/7/7/16 (the **Proceedings**).

This report examined, amongst other matters, how uptake might be impacted by the quantum of financial recovery out of the settlement funds and the possible steps that class members may have to take to make a claim from the settlement funds.

Instructions

Portland received instructions from Freshfields LLP on behalf of its client, Mastercard. Freshfields took responsibility for liaising with and obtaining input from Willkie Farr & Gallagher (UK) LLP, the solicitors of the class representative in the Proceedings, Mr Merricks.

Portland was instructed to:

- Design and deliver a survey targeting 5,000 participants, representative of the class in the Proceedings, including:
 - Questionnaire design of 36 questions
 - Scripting, fieldwork and respondent incentive fees¹
 - Data processing and analysis
 - A set of data tables
 - Peer review of questionnaire and methodological approach
- Provide detailed analysis of survey data, which it has done from page 10 of this report.

¹ Those who were eligible and completed the survey were paid a small financial incentive for taking part. Payments were handled by Cint – Portland’s fieldwork partner - or Cint’s panel partners. For a more detailed explanation of the recruitment process, see page 8.

2. Methodology

Methodology: Survey design

There were six sections in the questionnaire, covering questions about:

1. Demographics
2. Class member screening
3. Behavioural questions
4. Likelihood to claim from settlement funds (i) – generic testing
5. Awareness of the Proceedings
6. Likelihood to claim from settlement funds (ii) – testing by reference to the Proceedings

The paragraphs below summarise the questions in each section of the survey and the rationale for their inclusion. The survey questions themselves are provided at **Annex 2** to this report.

Section 1. Demographics (Q1-4)

Questions on demographics covered gender, age and region. Weighting by gender, age, and region ensures survey results reflect the wider population, using benchmark data from sources like the Office of National Statistics (ONS). The survey data has been weighted to be nationally representative, with a specific adjustment for the age criterion of the class definition. While gender and region are weighted to reflect the overall UK population distribution, the age weighting specifically accounts for only those born before July 1991 (the eligible class members). This means our weighting approach ensures the sample reflects the national population structure, but with age weights specifically calibrated to the subset of the population eligible to submit a claim for financial recovery out of any settlement funds.

These factors shape public attitudes and correct sampling imbalances, improving accuracy and reliability.

Section 2. Class member screening (Q5-7)

Questions in this section were used to screen out participants who did not fall within the class definition and who would not be eligible to submit a claim for a share of any settlement funds in the Proceedings.

The class definition is: 'Individuals who during the claim period purchased goods and/or services from businesses selling in the United Kingdom that accepted Mastercard cards, at a time at which those individuals were both (1) resident in the United Kingdom for a continuous period of at least three months, and (2) aged 16 years or over; together with the personal/authorised representative of the estate of any individual who meets that description and was alive on 6th September 2016, but subsequently died'. In order to avoid introducing complexity, the survey questions did not seek to include personal or authorised representatives of estates that fell within the class definition.

To be eligible to submit a claim for a share of any settlement funds in the Proceedings, individuals also need to have lived in the UK on 6 September 2016. However, the survey design did not screen out individuals who did not live in the UK on 6 September 2016 given that those individuals may still fall within the class of represented persons if they had previously opted in to the Proceedings. A vast majority (98%) of the total sample lived in the UK on 6 September 2016.

If participants' answers to questions in these sections indicated that they did not fall within the class, no further questions were asked and they were excluded from the survey sample. The final sample of 5,088 participants only includes participants who successfully passed the screening process and completed the survey – for the purposes of this report, we refer to these participants as 'eligible class members'.

Section 3. Behavioural questions (Q8-20)

Questions in this section were developed to elicit information on whether participants were most likely to submit a claim in practice, beyond those who merely say they would claim but were unlikely to actually submit a claim.

Participants were asked questions about their past behaviour in relation to consumer rights issues, such as whether they have taken specific actions to seek compensation from an organisation over the past three years, their typical reaction to communications regarding their consumer rights, and their approach to claiming for compensation based on the likelihood of success. Based on best practice, behavioural questions of this type help to produce a more accurate estimate of future behaviour than questions based on intention alone.

To test how much time participants would be willing to spend providing personal information in order to submit a claim, they were randomly assigned one 'context' (a possible scenario), out of a possible six. Participants were not yet provided with information about the Proceedings. Each 'context' was a different possible amount of financial recovery.

Section 4. Testing likelihood to claim from settlement funds (i) – generic testing (Q21-24)

Questions in this section were developed to indicate how likely participants would be to go through the process of submitting a claim following a settlement in any collective proceedings.

Firstly, participants were given information about how collective settlements and distribution to class members work. Then they were asked, if they found out they were eligible for a claim, how likely they would be to submit a claim depending on the steps they had to take. The relevant “steps” included providing certain personal information and/or documentation, and waiting 3-6 months before receiving payment.² These reflect the proposed steps that represented persons will need to take in order to make a claim for part of the settlement sum in the Proceedings.

Section 5. Awareness of the Proceedings (Q25-27)

Questions in this section asked whether participants were already aware of the Proceedings and their eligibility to submit a claim. Participants were then shown the class definition and asked to identify whether, having seen the class definition, they believed that they fell within the class. Although all participants passed the demographic screening process at the beginning of the survey, we also wanted to test their ability to identify themselves as a member of the class. This question could have been used to create segments but was ultimately not used to analyse likely take-up.

Section 6. Testing likelihood to claim from settlement funds (ii) –testing by reference to the Proceedings (Q28-36)

Questions in this section were developed to indicate how likely participants would be to go through the process to submit a claim for payment, and to provide the information necessary, following a settlement in the Proceedings.

All survey participants were shown information about the Proceedings and randomly assigned one ‘context’ out of a possible six. Although being the same methodological approach used in Section 3, this was a different set of questions with a different intention. These were mutually exclusive sections of the questionnaire, and the randomisation in Section 3 had no impact on the randomisation in Section 6. Each ‘context’ was a different amount and/or range of

² Exhibit WHM4/10/135, Epiq’s Notice and Administration Plan, paragraph 8.4: the relevant personal details are as follows: full name of represented person, date of birth, full name of personal representative (if applicable), postal address, email address, telephone number, payment details, statement of truth.

financial recovery from the settlement funds of the Proceedings. In addition to being asked about one of six 'contexts', all participants were also asked about their likelihood to claim if the amount of financial recovery from the settlement funds was unknown.

In each 'context', participants were asked, if they found out they were eligible for a claim, how likely would they be to provide certain personal information and/or documentation in order to make a claim, and wait 3-6 months before receiving payment. These metrics were included as they reflect the process that represented persons will need to complete in order to make a claim for payment out of the settlement sum in the Proceedings.

It should be noted that as each participant was randomly assigned a 'context', the sample size that saw each 'context' is around a sixth of the whole survey size. This is a typical, and statistically valid, methodology used by opinion researchers to reliably test responses to a given scenario. This approach avoids the risk of participants having to consider a range of similar scenarios and their response to one scenario impacting their responses to other scenarios – this is referred to as question order bias. As per the questionnaire design, all questions relating to the Proceedings were asked at the end of the survey to further minimise question order bias.³

Peer Review of survey design methodology

Portland recommended that the survey design methodology be reviewed by a leading academic in the field of public research and engagement. This approach was supported by Mastercard and Mr Merricks. The purpose of the peer review was to provide an additional layer of challenge and input into the methodology, and to assure the Tribunal of its credibility by providing validation from a respected independent academic.

On Portland's recommendation, the parties agreed to work with Professor Will Jennings, Associate Dean, Research & Enterprise at the University of Southampton. Professor Jennings' letter is annexed to this report at **Annex 3**.

³ Question order bias defines a condition in which a respondent may react differently to questions based on the order in which the questions appear in the survey as their responses to previous questions influence how they answer following questions.

Methodology: Survey Implementation

At the outset, Portland proposed two alternative robust sampling approaches, a 2,000-respondent sample and a 5,000-respondent sample. Portland advised Mastercard and Mr Merricks that both sampling approaches would provide credible and reliable data while offering different levels of analytical capability, as follows:

- A 2,000-respondent sample:
 - delivers a 95% confidence level with a $\pm 2.2\%$ margin of error. This means that if we were to repeat this survey 100 times, in 95 of those 100 cases, the results would be within 2.2 percentage points of the true value in the whole class;
 - This margin of error accounts for random sampling variation, meaning that if a survey reports 50% support for a policy, the true level of support in the whole class is likely between 47.8% and 52.2%.
 - enables analysis across key demographic groups;
 - provides reliable insights for core research questions; and
 - is cost-efficient while maintaining statistical validity.
- A 5,000-respondent sample:
 - offers enhanced ability to analyse multiple, more granular sub-groups;
 - delivers a 95% confidence level with a $\pm 1.4\%$ margin of error. This means that if we were to repeat this survey 100 times, in 95 of those 100 cases, the results would be within 1.4 percentage points of the true value in the whole class;
 - This margin of error accounts for random sampling variation, meaning that if a survey reports 50% support for a policy, the true level of support in the whole class is likely between 48.6% and 51.4%.
 - is particularly valuable for understanding niche segments and awareness levels;
 - enables sophisticated demographic cross-analysis; and
 - provides more robust A/B testing, especially at sub-group level. A/B testing is where different groups of people are randomly assigned

slightly different versions of a question to allow estimations of the impact of certain factors. We refer to these groups as “contexts” in this report, as outlined above in the section titled ‘Methodology: Survey Design’.

Mastercard and Mr Merricks instructed Portland to use a 5,000-respondent sample.

Portland surveyed 5,088⁴ eligible class members (as expanded below) online between January 28th and February 1st, 2025. Data was weighted to the latest Office of National Statistics (ONS)⁵, Scotland’s Census⁶, and Northern Ireland Statistics Research Agency⁷ figures for age, gender and region for the eligible class’s age group. For the avoidance of doubt, all 5,088 participants whose responses are analysed in this report were eligible class members (see the ‘Methodology: Survey design’ section above).

Methodology: research process and recruitment

Once the questionnaire had been developed and approved, Portland programmed and prepared it for fieldwork using its survey software. Then, using a trusted research panel marketplace (Cint), Portland uploaded the survey link to their platform.

As a research panel marketplace, Cint helps researchers access research panels. These panels comprise of a pre-recruited group of individuals who have agreed to take part in studies, in exchange for a small financial incentive.

Cint distributed the survey through its network of panel providers. Participants are typically invited to take part in the survey via email, mobile notifications or in-app alerts, depending on each panel’s process.

Panel members click the link and, if eligible, will complete the survey. If they are ineligible (because quotas are full or the panel member failed a class member screening question), they are redirected away from the survey.

Those who were eligible and completed the survey were paid a small financial incentive for taking part. Payments are handled by Cint or its panel partners.

⁴ As Professor Jennings confirmed in his peer review, a sample of 5,000 respondents is more than sufficient in terms of statistical power of analysis of subgroups.

⁵ <https://www.ons.gov.uk/>

⁶ <https://www.scotlandscensus.gov.uk/>

⁷ <https://www.nisra.gov.uk/>

As part of research best practice (which both Portland and Cint adhere to), strict quality control measures were implemented. This included flagging and disregarding responses that were completed too quickly, or where the same response was repeatedly selected throughout the survey.

3. Introduction to the Results and Analysis

Before summarising the key findings of the survey, this report addresses the key considerations that have informed the data analysis process.

The considerations were grounded in standard opinion research methodologies, as confirmed by Professor Will Jennings in his peer review of the survey questionnaire.⁸

Overclaim and biases

It is well known that opinion research is likely to deliver results that show a degree of overclaim from the public.⁹

Survey participants tend to alter their responses based on certain biases, including social desirability bias¹⁰ and acquiescence bias.¹¹ It is, therefore, the responsibility of analysts working in the field of opinion research to minimise the impact of these types of biases on the results.

Instead of simply accepting participants' answers at face value, and considering answers to single questions in isolation, it is necessary to consider participants' answers to the full set of questions to critically assess and predict the realistic consumer behaviour that the survey is seeking to test.

Segmentation

A number of different factors were identified that could have an impact on the likely take-up rate from the settlement sum in the Proceedings. While it is impossible to provide exact predictions, various combinations of traits and behaviours (referred to as segments in this report) can be used to come to a more accurate estimate of the likely take-up rate.

The respondents were segmented into 5 different groups. The segments were defined by reference to a combination of:

- **Willingness to take part**

⁸ The letter is attached in **Annex 3**

⁹ Paulhus, Delroy L et al. "The over-claiming technique: measuring self-enhancement independent of ability." *Journal of personality and social psychology* vol. 84,4 (2003): 890-904. doi:10.1037/0022-3514.84.4.890. See also Patrick M Kuhn, Nick Vivyan, Reducing Turnout Misreporting in Online Surveys, *Public Opinion Quarterly*, Volume 82, Issue 2, Summer 2018, Pages 300–321, <https://doi.org/10.1093/poq/nfy017>.

¹⁰ Social desirability bias happens when respondents provide answers they believe are more socially acceptable, rather than their true opinions or behaviours.

¹¹ Acquiescence bias happens when respondents tend to agree with statements regardless of their actual views.

- **Past behaviour traits**
- **Awareness of the Proceedings**

These variables cannot be considered in isolation because individual factors cannot reliably estimate future behaviour. For example, it is not possible to determine how likely a respondent would be to submit a claim by solely considering that participant’s awareness of the Proceedings. That is why the report provides data cuts that *combine* the factors, as can be seen below. The underlying data is set out in **Annex 1** of this report.

Table 1 below sets out an analysis of the different segments and, in the right-hand column, the proportion of participants who fall within each of those segments (*before* testing for the likelihood that participants from each of those segments will claim from settlement funds, which are addressed in Tables 2 and 3 below).

Table 1: The Segments

Segment	Segment definition	% of total participants that were not screened out
1 – The Class as a whole	All participants who fell within the class definition . ¹²	100%
2 – Willing	Those who said they would be willing to provide certain personal information , and who said they would be likely to wait 3-6 months for payment . ¹³	47%
3 – Willing & Aware	Those who said they would be willing to provide certain personal information , and who said they would be likely to wait 3-6 months for payment . AND Those aware of the Proceedings and who did not say they would not claim , despite knowing their eligibility. ¹⁴	13%

¹² Respondents who said they were at least 32 years old in Q3 and said ‘yes’ in Q5 or Q6.

¹³ Respondents who said ‘yes’ in Q34 + ‘very likely’ or ‘somewhat likely’ in Q35.

¹⁴ Respondents who said ‘yes’ in Q34 + ‘very likely’ or ‘somewhat likely’ in Q35

+ ‘Yes, I had heard a lot about it’ or ‘Yes, I had heard a little about it’ in Q25

+ ‘Yes, I knew I was eligible and plan to claim compensation’ or ‘No, I didn’t know I was eligible to claim compensation’ in Q26.

	Those who said they would be willing to provide certain details about themselves , and who said they would be likely to wait 3-6 months for payment .	
	AND	
4 – Willing & Behaviourally Likely	Those who exhibited at least two self-advocacy behaviours such as writing a complaint or challenging a bill, those who always make relevant claims in situations where it is effectively guaranteed they will receive compensation , and those who actively seek out, or check for, compensation schemes . ¹⁵	21%

	Those who said they would be willing to provide certain details about themselves , and who said they would be likely to wait 3-6 months for payment .	
	AND	
5 – Willing, Aware & Behaviourally Likely	Those who exhibited at least two self-advocacy behaviours such as writing a complaint or challenging a bill, those who always make relevant claims in situations where it is effectively guaranteed they will receive compensation , and those who actively seek out, or check for, compensation schemes .	7%
	AND	
	Those aware of the Merricks vs Mastercard case and their eligibility to claim, and who did not say they would not claim . ¹⁶	

¹⁵ Respondents who said 'yes' in Q34 + 'very likely' or 'somewhat likely' in Q35 + selected at least two options in Q8

+ 'I always make relevant claims myself and share information about relevant claims with friends and family' or 'I always make relevant claims myself but don't typically tell others about them' in Q13

+ 'I actively seek out and investigate potential consumer compensation schemes' or 'I check for compensation schemes when I remember or hear about them' in Q14.

¹⁶ Respondents who said 'yes' in Q34 + 'very likely' or 'somewhat likely' in Q35 + selected at least two options in Q8

+ 'I always make relevant claims myself and share information about relevant claims with friends and family' or 'I always make relevant claims myself but don't typically tell others about them' in Q13

+ 'I actively seek out and investigate potential consumer compensation schemes' or 'I check for compensation schemes when I remember or hear about them' in Q14

+ 'Yes, I had heard a lot about it' or 'Yes, I had heard a little about it' in Q25

+ 'Yes, I knew I was eligible and plan to claim compensation' or 'No, I didn't know I was eligible to claim compensation' in Q26

Likelihood of submitting a claim

After analysing the results to determine the percentage of total participants who fell within each segment, further analysis was conducted to understand how many participants within each segment responded ‘somewhat likely’ and ‘very likely’ to the following question: “**How likely, or unlikely, would you be to submit a claim for compensation in the following ‘context’?**” As explained in the ‘Methodology: Survey design’ section above, participants were presented with different ‘contexts’, each with a different possible amount of financial recovery from the settlement funds.

Analysing responses across each ‘context’ allows for the identification of which behavioural factors most strongly influence decision-making and to understand how they interact in realistic ‘contexts’ involving overlapping factors, rather than requiring participants to consider each factor in isolation, which would not reflect the reality they would face in practice.

How to read and interpret the results

Sample

- As detailed in the Methodology: survey design section above, all individuals who did not meet the criteria for Class membership were screened out of the survey. Therefore, the sample of the survey only comprises **eligible class members**.
- As such, all results and percentages are of eligible class members – not the UK public as a whole.

Data table structure

- **Table 2** shows the percentage of all survey participants within each ‘context’, for each segment, who answered they would be ‘very likely’ to submit a claim.
- **Table 3** shows the percentage of all survey participants within each ‘context’, for each segment, who answered they would be either ‘very likely’ or ‘somewhat likely’ to submit a claim.
- **Tables 2 and 3** are useful to understand the uptake *within the whole class for each ‘context’*.
- The rows show how the percentage of participants who are ‘very likely’ or ‘somewhat likely’ to submit a claim varies when presented with different financial recovery ‘contexts’.
- The columns show how the estimated percentage of participants who are ‘very likely’ or ‘somewhat likely’ to submit a claim varies when each of the five segments are added in to the analysis and taken into account.

- The percentage estimates become more realistic and relevant moving from left to right in the tables, subject to our comments on Segments 4 and 5 in the ‘Analysis of Results’ section below.

Likelihood of submitting a claim

- From a qualitative point of view, the responses that should be considered in this analysis are *very likely*, and *somewhat likely*, to claim.
- **The report analyses the data in different ways. One approach analysed *very likely* responses alone (Table 2).**
 - This provides a more conservative estimate of likely uptake rates by only accounting for the most committed potential claimants.
 - As set out above, the report notes that participants tend to overclaim in surveys. Therefore, placing greater weight on *very likely* alone removes the tentatively positive responses that are likely an overclaim anyway.
- **Another approach analysed *very likely* and *somewhat likely* in combination (Table 3).**
 - This provides a more rounded estimate of likely uptake by looking at the full range of positive intent.
 - While those who say they are *somewhat likely* are tentatively positive, they still indicate meaningful intent to act.
- One could look at the two different figures for each of the two analyses above as a realistic range.

Variation in likelihood

Across the six contexts it is possible for the segment specific datapoints for likelihood of submitting a claim (as set out in Tables 2 and 3) to be marginally higher than the corresponding proportion of total survey respondents that fall into each segment (as set out in Table 1).

Context-Based Percentage vs. Total Sample Percentage

- The total sample proportions listed in Table 1 refer to the **entire dataset**.
- Table 2 and 3, however, show **percentages within each context**. Each row in the table looks at a **subset of respondents** who saw a particular context, so the percentages within each row are independent of the total sample proportions.

Different Contexts Drive Different Likelihoods

- If a particular context makes people more willing to submit a claim, then the percentages within that row may exceed the proportion of that segment in the total sample.
- For example, a context that makes people more willing to submit a claim (e.g., "Likely to be £45 but could be as high as £70") may see a higher percentage of people in Segments 4 and 5 compared to the percentage of the total sample size.

Natural Variation in Subsamples

- Since the contexts are randomly assigned, the proportion of each segment within a given context may **not** perfectly match the overall sample's segment proportions.
- This is expected in survey research, especially if the context itself influences respondents' likelihood of falling into certain segments.

Deductions from the data

- This survey data can be dissected at a total level, or at a level where responses are dissected by demographics or behaviours.
- However, this analysis has some limitations. For example, while we have ascertained current claimed awareness among participants, we cannot gauge likely future awareness (e.g. after a period of advertising of the settlement) as that modelling does not fall within the remit of this survey.

4. Uptake analysis

Table 2: % of total participants within each context who said they would be very likely to submit a claim

'CONTEXT'	SEGMENT 1 – TOTAL CLASS	SEGMENT 2 – WILLING	SEGMENT 3 – WILLING & AWARE	SEGMENT 4 – WILLING & BEHAVIOURALLY LIKELY	SEGMENT 5 – WILLING, AWARE & BEHAVIOURALLY LIKELY
LIKELY TO BE £45	25%	21%	6%	10%	3%
LIKELY TO BE £45, BUT COULD BE AS LOW AS £2.50	17%	16%	6%	9%	4%
LIKELY TO BE £45, BUT COULD BE AS LOW AS £2.50 OR AS HIGH AS £70	23%	21%	7%	11%	5%
LIKELY TO BE £23, BUT COULD BE AS LOW AS £2.50 OR AS HIGH AS £45	18%	17%	6%	8%	3%
LIKELY TO BE £23, BUT COULD BE AS LOW AS £2.50 OR AS HIGH AS £70	20%	18%	7%	10%	4%
WOULD BE £4.50	11%	10%	5%	6%	3%
UNKNOWN	20%	18%	6%	9%	4%

Table 3: % of total participants within each context who said they would be very likely or somewhat likely to submit a claim

'CONTEXT'	SEGMENT 1 – TOTAL CLASS	SEGMENT 2 – WILLING	SEGMENT 3 – WILLING & AWARE	SEGMENT 4 – WILLING & BEHAVIOURALLY LIKELY	SEGMENT 5 – WILLING, AWARE & BEHAVIOURALLY LIKELY
LIKELY TO BE £45	61%	43%	11%	19%	6%
LIKELY TO BE £45, BUT COULD BE AS LOW AS £2.50	50%	38%	11%	18%	6%
LIKELY TO BE £45, BUT COULD BE AS LOW AS £2.50 OR AS HIGH AS £70	58%	47%	13%	23%	8%
LIKELY TO BE £23, BUT COULD BE AS LOW AS £2.50 OR AS HIGH AS £45	48%	38%	11%	18%	6%
LIKELY TO BE £23, BUT COULD BE AS LOW AS £2.50 OR AS HIGH AS £70	57%	46%	13%	22%	8%
WOULD BE £4.50	29%	23%	8%	12%	5%
UNKNOWN	55%	41%	11%	19%	6%

Analysis of Results

The analysis examined what proportion of the entire class falls into each segment.¹⁷

Overview

- **When considering the estimated percentage of the class that will seek to make a claim from the settlement funds, Portland recommends considering both Segment 4 and Segment 5 results as equally valid indicators. Given the distinct insights provided by both segments, the midpoint between the two may provide the most balanced estimate for the Tribunal's consideration.**
- Initial survey percentages are likely overstated due to well-documented survey biases as outlined above in the 'Introduction to the Results and Analysis' section. The progressive narrowing of segments from 11-61% in Segment 1 to 3-8% in Segment 5 is likely to reflect a more realistic uptake probability when accounting for actual compensation-seeking behaviours and awareness.
- The most critical factors reducing estimated uptake include that:
 - The survey identifies that 73% of the class are currently unaware of the Proceedings (those who did not say 'yes, I heard a little about it' or 'yes, I heard a lot about it' at Q25)
 - The survey indicates that only 14% of the class actively seek compensation from available schemes (those who said 'actively seek compensation from available schemes' at Q14)
 - The survey indicates that only 68% of the class would be willing to provide relevant personal details to receive compensation¹⁸ (those who said 'yes' at Q22)

Analysis of Segments 4 and 5 Results

The analysis of Segments 4 and 5 provides important insights into likely uptake rates and claim behaviour patterns. Both segments represent refined and behaviourally representative groups, though each offers distinct perspectives on potential claim rates.

The results in respect of Segment 5 show relative consistency across different financial recovery 'contexts', with only minor variations in estimated uptake rates despite significant differences in potential amounts of financial recovery. These small variations in uptake rates between 'contexts' - such as the 1% difference

¹⁷ This analysis allows for a more nuanced, multi-dimensional analysis of financial recovery claim likelihood both at a segment-level view and total class view

¹⁸ Exhibit WHM4/10/135, Epiq's Notice and Administration Plan, paragraph 8.4: the relevant personal details are as follows: full name of represented person, date of birth, full name of personal representative (if applicable), postal address, email address, telephone number, payment details, statement of truth.

between the £45 fixed financial recovery 'context' (3%) and the £45 with £2.50 minimum 'context' (4%) - should be interpreted with caution given the sample size and that such minor variations may not represent materially significant differences in likely behaviour. Moreover, the consistency in estimated uptake rates by Segment 5 participants under different scenarios may be due to the fact that participants that exhibited very high levels of awareness of the Proceedings are likely to submit a claim regardless of the amount of financial recovery offered. Portland notes that this hypothesis is supported by the estimated uptake rates for Segment 3 participants (who were also "aware" of the Proceedings), which are also relatively consistent across the different compensation scenarios.

When considering the comparative reliability of Segments 4 and 5, several factors should be considered:

1. Awareness Considerations: Survey responses regarding awareness typically involve some degree of over-reporting, as noted in behavioural research. Additionally, the planned publicity and noticing campaign that will be conducted in relation to the settlement of the Proceedings could lead to changes in awareness beyond current levels, suggesting that current awareness levels may be a less reliable predictor of ultimate claim behaviour.
2. Communication Impact: While specific communications testing was not included in this research, it is reasonable to assume that an effective publicity and noticing campaign would increase likely uptake rates. However, the precise magnitude of this increase cannot be quantified based on the available data.

Given these considerations, Portland cannot definitively state that either segment is more reliable than the other. Both Segments 4 and 5 provide valuable insights and should be taken into account when considering likely uptake rates. Portland considers that the midpoint between the two segments may offer a balanced estimate of take-up rates for the Tribunal's consideration.

It's important to note that while these segments represent the most refined analysis, predicting exact uptake rates remains challenging. The data suggests a likely range rather than a precise figure, with both Segments 4 and 5 representing plausible 'contexts' depending on the effectiveness of future communication efforts and other external factors.

Portland's Credentials

Portland Communications' research team are the full-service opinion research and insights arm of Portland. The team designs and executes research programmes to help clients understand their audiences, beliefs, motivations and priorities – and what it might take to change their mind. The team are methodologically agnostic and have deep experience running national and international research programmes for clients, ranging from FTSE 100 companies and law firms, to political parties and NGOs.

Our Core Capabilities:

- Quantitative Research: Large-scale public polling, specialised audience surveys, segmentation analysis, and comprehensive opinion tracking
- Qualitative Research: Focus groups, in-depth interviews, and communities.
- Secondary Research: Literature reviews, comprehensive case study development, and systematic desktop research

The project lead for this work was Dr Gabriel Milland, Partner and head of Portland's Research practice. A former national newspaper political correspondent and foreign editor, he subsequently moved into government leading the communications teams at two major Whitehall departments. His last role in government was as a temporary special adviser to the Prime Minister in Downing Street, where he helped lead on the UK's response to Covid with a focus on public behaviour and attitudes. Gabriel has expertise in opinion research for government, political parties, campaigns and many of the world's biggest businesses. He holds a PhD in communications history from the University of Leicester.

Gabriel and his team were assisted by Simon Pugh, Partner who leads Portland's Disputes Communications practice where he has worked on a number of high-profile collective proceedings. Every year, Portland produces an annual report examining public attitudes to collective proceedings, including testing public awareness of some of the largest claims before the CAT.

5. Annex 1: Behavioural traits of eligible class members

This annex sets out the results to the behavioural questions (Q8-14) and awareness questions (Q25-26). These questions were seen by all participants and the sample was not split in any way. This section of the report provides the standalone data on behavioural traits of eligible class members.

We used these results in our segmentation analysis set out in the ‘Introduction to the Results and Analysis’ and ‘Uptake analysis’ sections above.

Behavioural Attributes

Though most members of the surveyed group say they read communications about their rights as consumers, the survey indicates that only about a third said they carefully read communications and file them away for future reference (30%).

- 48% said they will quickly scan communications for anything important and 5% said they usually ignore, delete, or throw away any information about their rights as a consumer.

Over the past three years, the survey indicates that most participants have taken at least one action to seek compensation from an organisation (84%). These are the self-advocacy behaviours that contributed to the segmentation, as outlined above. This is outlined in the tables below.

- As shown in Table 4:
 - Most participants have returned a product for a refund (61%).
 - More than half of participants said they had switched service providers to get a better deal (52%) and about a third said they had challenged a bill or a charge (34%).
- As shown in Table 5:
 - Two-thirds of participants said that in cases with a chance of compensation (e.g. delayed flights or faulty products), they make relevant claims themselves (65%) and only 14% said they only make claims when someone tells them about the claim. 15% said they generally do not make claims.
- As shown in Table 6:
 - When compensation is effectively guaranteed (e.g. product warranty, insurance claims, cancelled flights), about 7 in 10 participants said they always make relevant claims themselves (72%).

Table 4: % of total participants who said they have taken specific consumer-advocacy actions in the past three years

In the past three years, which of these actions have you taken? Please select all that apply.	% of participants
Returned a product for refund	61%
Switched service providers (e.g. energy, phone, broadband) to get a better deal	52%
Challenged a bill or charge	34%
Written a complaint to a company	26%
Made an insurance claim	16%
None of these	16%
NET: At least one action	84%
NET: At least two actions	59%

Table 5: % of total participants who would make a claim in the following circumstances

We'd like you to think about situations where there is a chance you might be entitled to make a claim or receive compensation (e.g. delayed flights or faulty products). In this context, which statement best describes your approach?	% of participants
I always make relevant claims myself and share information about relevant claims with friends and family	32%
I always make relevant claims myself but don't typically tell others about them	33%
I only make claims when someone tells me about them	14%
NET: Claimers	79%
I generally don't make claims even if I might be entitled to compensation	15%
Don't know	6%

Table 6: % of total participants who would make a claim in the following circumstances

We'd now like you think about situations where it is effectively guaranteed that you will receive compensation if you make a claim (e.g. product warranty, insurance claims, or cancelled flights). In this context, which statement best describes your approach?	% of participants
I always make relevant claims myself and share information about relevant claims with friends and family	37%
I always make relevant claims myself but don't typically tell others about them	35%
NET: Always claim themselves	72%
I only make claims when someone tells me about them	14%

NET: Claimers	86%
I generally don't make claims even if I am entitled to compensation	9%
Don't know	5%

Although most participants in the surveyed group have previously sought compensation from an organisation and a majority make relevant claims themselves, only 14% actively seek out and investigate potential compensation schemes. This is outlined in Table 7 below.

- Most participants only check for compensation schemes when they remember or hear about them (39%) or rely on others to inform them about potential compensation schemes (21%).

Table 7: % of total participants who look out for compensation schemes they might be eligible to claim

Which of the following applies to you when thinking about how you look out for compensation schemes you might be eligible to claim?	% of participants
I actively seek out and investigate potential compensation schemes	14%
I check for compensation schemes when I remember or hear about them	39%
I rely on others to inform me about potential compensation schemes	21%
I have no interest in seeking out compensation schemes	20%
Don't know	5%

Awareness of the Proceedings and Eligibility

Among the surveyed group, awareness of the case itself and of potential eligibility to submit a claim for payment out of settlement funds is low. Three-quarters of the class said that they had not heard about the Proceedings prior to the survey (approximately 73%). Only a fifth (approximately 20%) of the surveyed group said they had heard a “little” about the Proceedings and approximately 8% said that they had heard “a lot” about the case.¹⁹

- Among those who had heard at least a little about the case before they took the survey, 42% answered they “didn't know [they] were eligible to claim compensation”.

¹⁹ Please note that the total percentages add up to greater than 100% as a result of rounding.

- A third (32%) of those surveyed who had heard about the case knew they were eligible and planned to submit a claim and a quarter (27%) knew they were eligible but did not plan on submitting a claim for payment out of settlement funds.
- As noted above, these results test current awareness of the Proceedings. While specific communications testing was not included in this research, it is reasonable to assume that an effective publicity campaign would increase participation rates. However, the precise magnitude of this increase cannot be quantified based on available data.

6. Annex 2: Questionnaire

Merricks/Mastercard: CAT Settlement Support Research

Demographics

1. What is your gender?

[Single select]

- Female
- Male
- Other

2. How old are you? Please select your age from the dropdown.

[Single select]

- Under 18
- 18
- 19
- 20
- 21
- ...
- 31 [SCREEN OUT ANYONE AGED 31 OR UNDER]
- 32
- ...
- Over 81

3. And which month were you born in? Please select your month from the dropdown.

[Single select]

- January
- February
- March
- April
- May
- June
- July [IF SELECTED "32" in Q2 SCREEN OUT]
- August [IF SELECTED "32" in Q2 SCREEN OUT]
- September [IF SELECTED "32" in Q2 SCREEN OUT]
- October [IF SELECTED "32" in Q2 SCREEN OUT]
- November [IF SELECTED "32" in Q2 SCREEN OUT]
- December [IF SELECTED "32" in Q2 SCREEN OUT]

4. Which region of the UK do you live in?

[Single select]

- North East
- North West
- Yorkshire and the Humber
- East Midlands
- West Midlands
- East of England
- Greater London
- South East
- South West
- Wales
- Scotland
- Northern Ireland

Class Member Identification

- 5. Were you living in Scotland for at least three months between 22 May 1992 and 21 June 2008?**

[Single select]

- Yes
- No
- Can't remember

- 6. Were you living in England, Wales, or Northern Ireland for at least three months between 20 June 1997 and 21 June 2008?**

[Single select]

- Yes
- No
- Can't remember

[SCREEN OUT ANYONE WHO SAID "NO" OR "CAN'T REMEMBER" TO Q5 AND Q6]

- 7. Were you living in the UK on 6 September 2016?**

[Single select]

- Yes
- No
- Can't remember

Behavioural Segmentation

NOTE

This section has been developed to give us the best possible idea who, within the class, are *most likely* to claim – adding an extra layer of analysis, beyond those who just say they will claim. Due to the nature of survey biases associated with claimed future behaviour, we intend to use the following questions to 'segment' the class into those more likely, and those less likely, to seek compensation. This will not be a guarantee either way, but it will provide us with an estimate.

8. In the past three years, which of these actions have you taken? Please select all that apply.

[Multi select]

- Written a complaint to a company
- Switched service providers (e.g. energy, phone, broadband) to get a better deal
- Returned a product for refund
- Made an insurance claim
- Challenged a bill or charge
- None of these

9. [ROW OPTIONS BASED ON SELECTION IN Q8] In the past three years, how much money did you save or how much compensation did you receive on average for each of these actions?

[Grid, single select]

Columns

- No compensation
- Less than £10
- £10 - £29.99
- £30 - £49.99
- £50 - £69.99
- £70 - £99.99
- More than £100

Rows

- Written a complaint to a company
- Switched service providers (e.g. energy, phone, broadband) to get a better deal
- Returned a product for refund
- Made an insurance claim
- Challenged a bill or charge

10. When you receive communications about your rights as a consumer, what do you typically do?

By 'rights as a consumer' we mean things like letters or emails about changes to your bank account terms, or updates to your insurance policies.

[Single select]

- Read them carefully and file for future reference
- Quickly scan the main points for anything important
- Only look at them if I notice a problem with my account or service
- Usually ignore, delete or throw them away without reading
- Don't know

11. Which statement best describes your approach to managing your money and financial products (e.g. bank accounts, credit cards, loans, insurance, or utility bills)?

[Single select]

- I regularly compare prices and switched providers to get the best deals
- I switch providers or take up offers when I come across them
- I only make changes when I experience poor service or high charges
- I generally stick with my current providers to avoid the hassle of making changes
- Don't know

12. We'd like you to think about situations where there is a chance you might be entitled to make a claim or receive compensation (e.g. delayed flights, or faulty products). In this context, which statement best describes your approach?

[Single select]

- I always make relevant claims myself and share information about relevant claims with friends and family
- I always make relevant claims myself but don't typically tell others about them
- I only make claims when someone tells me about them
- I generally avoid making claims even if I am entitled to compensation
- Don't know

13. We'd now like you think about situations where it is effectively guaranteed that you will receive compensation if you make a claim (e.g. product warranty, insurance claims, or cancelled flights). In this context, which statement best describes your approach?

[Single select]

- I always make relevant claims myself and share information about relevant claims with friends and family
- I always make relevant claims myself but don't typically tell others about them
- I only make claims when someone tells me about them
- I generally avoid making claims even if I am entitled to compensation
- Don't know

14. Which of the following best applies to you when thinking about how you look out for compensations schemes you might be eligible to claim?[Single select]

- I actively seek out and investigate potential consumer compensation schemes
- I check for compensation schemes when I remember or hear about them

- I rely on others to inform me about potential compensation schemes
- I have no interest in seeking out compensation schemes
- Don't know

[RANDOMLY ASSIGN PARTICIPANTS INTO SIX DIFFERENT BUCKETS. EACH BUCKET TO BE ASSIGNED TO A DIFFERENT QUESTION IN THIS SERIES]

15. If you found out you were likely eligible for £45 in compensation, how much time would you be willing to spend providing information to receive this money?

[Single select]

- More than 2 hours
- 1-2 hours
- 30-60 minutes
- Less than 30 minutes
- Wouldn't bother regardless of time
- Don't know

16. If you found out you were likely eligible for £45 in compensation, but could be as low as £2.50, how much time would you be willing to spend providing information to receive this money?

[Single select]

- More than 2 hours
- 1-2 hours
- 30-60 minutes
- Less than 30 minutes
- Wouldn't bother regardless of time
- Don't know

17. If you found out you were likely eligible for £45 in compensation, but could be as low as £2.50, or as high as £70, how much time would you be willing to spend providing information to receive this money?

[Single select]

- More than 2 hours
- 1-2 hours
- 30-60 minutes
- Less than 30 minutes
- Wouldn't bother regardless of time
- Don't know

18. If you found out you were likely eligible for £23 in compensation, but could be as low as £2.50, or as high as £45, how much time would you be willing to spend providing information to receive this money?

[Single select]

- More than 2 hours
- 1-2 hours

- 30-60 minutes
- Less than 30 minutes
- Wouldn't bother regardless of time
- Don't know

19. If you found out you were likely eligible for £23 in compensation, but could be as low as £2.50, or as high as £70, how much time would you be willing to spend providing information to receive this money?

[Single select]

- More than 2 hours
- 1-2 hours
- 30-60 minutes
- Less than 30 minutes
- Wouldn't bother regardless of time
- Don't know

20. If you found out you were likely eligible for £4.50 in compensation, how much time would you be willing to spend providing information to receive this money?

[Single select]

- More than 2 hours
- 1-2 hours
- 30-60 minutes
- Less than 30 minutes
- Wouldn't bother regardless of time
- Don't know

Claimant Testing (i)

INFO: A class action (or collective action) is a legal case where one person represents a large group of people who have all been affected by the same issue. Rather than everyone bringing their own separate case for a relatively small sum of money, a representative can bring a claim on behalf of a large class of people for all the alleged loss suffered by the class, without any input required from represented persons during the proceedings. This makes it more practical for people to seek justice, especially when many people have experienced similar harm.

When a collective action is settled, individual class members are then entitled to claim a portion of the settlement sum to be distributed to the class. If you are eligible and submit a verified claim, you are guaranteed to receive a portion of the settlement.

21. If you found out you were eligible to submit a claim for payment following the settlement of a class action, how likely or unlikely would you be to do so?

[Single select]

- Very likely
- Somewhat likely
- Neither likely nor unlikely
- Somewhat unlikely
- Very unlikely
- Don't know

22. If, in order to submit a claim for payment following settlement of a class action, you had to provide the following, would you register to claim?

Please note, you would only have to provide information details – not any supporting documentation.

- Full name**
- Postal Address**
- Email Address**
- Telephone Number**
- Banking information**
- Date of birth**
- Country of residence at a given point of time**
- Statement of Truth (i.e. an agreement that the facts about your eligibility are true and accurate, and a warning that any false statements could constitute a breach of contract or criminal offence)**

[Single select]

- Yes
- No
- Don't know

23. If you found out you were eligible to submit a claim for payment following the settlement of a class action, how likely or unlikely would you be to do so, if you had to provide the following?

[Single grid]

ROWS

- Very likely
- Somewhat likely
- Neither likely nor unlikely
- Somewhat unlikely
- Very unlikely
- Don't know

COLUMNS

- Had to provide the information listed previously (full name, postal address, email address, telephone number, banking information, date of birth, country of residence at a given time, statement of truth)

- Had to upload certain documentation or evidence

24. If, in order to receive payment of a settlement sum in a class action, you had to wait 3-6 months for the payment to be awarded, and you would not know how much you would get until that period had ended, how likely or unlikely would you be to register for payment?

[Single select]

- Very likely
- Somewhat likely
- Neither likely nor unlikely
- Somewhat unlikely
- Very unlikely
- Don't know

Awareness of Class Action

INFO: Between 1992 and 2010, Mastercard is alleged to have charged unlawful fees to businesses for card transactions, which were then allegedly passed on to consumers through higher prices for goods and services sold by businesses. This led to a class action, representing around 44 million UK residents who were 16 or older between 1992 and 2010, and made purchases from Mastercard accepting businesses.

A settlement of the case has already been agreed but is subject to approval by the Competition Appeal Tribunal. If approved by the Competition Appeal Tribunal, anyone meeting the relevant criteria may be able to claim a proportion of the settlement funds. To do so, they must follow a process to sign up to have their eligibility verified and then receive their payment.

25. Before today, had you heard of this specific case?

[Single select]

- Yes, I had heard a lot about it
- Yes, I had heard a little about it
- No, I had not heard anything about it

26. [ALL AWARE OF CASE BEFORE TODAY] You said you were aware of this case before today. Were you previously aware of your eligibility as a member of the class to receive payment in any settlement?

[Single select]

- Yes, I knew I was eligible and plan to claim compensation
- Yes, I knew I was eligible but do not plan to claim compensation
- No, I didn't know I was eligible to claim compensation

27. Anyone is automatically a member of the class if they:

- (i) **Either:** lived in Scotland (for at least a continuous period of three months) between 22 May 1992 and 21 June 2008. **Or:** lived in England, Wales or Northern Ireland (for at least a continuous period of three months) between 20 June 1997 and 21 June 2008
- (ii) **Were aged 16 or over during this time**
- (iii) **Bought goods and services from Mastercard accepting businesses, irrespective of the means of payment used, in Scotland between 22 May 1992 and 21 June 2010, or England, Wales and Northern Ireland between 20 June 1997 and 21 June 2010.**
- (iv) **Were living in the UK on 6 September 2016**

Based on the information provided, would you say you are eligible for compensation?

[Single select]

- Yes
- No
- Don't know

Claimant Testing (ii)

[RANDOMLY ASSIGN PARTICIPANTS INTO SIX DIFFERENT BUCKETS. EACH BUCKET TO BE ASSIGNED TO A DIFFERENT QUESTION IN THIS SERIES]

28. How likely, or unlikely, would you be to submit a claim for compensation in the following context?

The amount of compensation was likely to be £45.

[Single select]

- Very likely
- Somewhat likely
- Neither likely nor unlikely
- Somewhat unlikely
- Very unlikely
- Don't know

29. How likely, or unlikely, would you be to submit a claim for compensation in the following context?

The amount of compensation was likely to be £45, but could be as low as £2.50.

[Single select]

- Very likely
- Somewhat likely
- Neither likely nor unlikely

- Somewhat unlikely
- Very unlikely
- Don't know

30. How likely, or unlikely, would you be to submit a claim for compensation in the following context?

The amount of compensation was likely to be £45, but could be as low as £2.50 or as high as £70.

[Single select]

- Very likely
- Somewhat likely
- Neither likely nor unlikely
- Somewhat unlikely
- Very unlikely
- Don't know

31. How likely, or unlikely, would you be to submit a claim for compensation in the following context?

The amount of compensation was likely to be £23, but could be as low as £2.50 or as high as £45.

[Single select]

- Very likely
- Somewhat likely
- Neither likely nor unlikely
- Somewhat unlikely
- Very unlikely
- Don't know

32. How likely, or unlikely, would you be to submit a claim for compensation in the following context?

The amount of compensation was likely to be £23, but could be as low as £2.50 or as high as £70.

[Single select]

- Very likely
- Somewhat likely
- Neither likely nor unlikely
- Somewhat unlikely
- Very unlikely
- Don't know

33. How likely, or unlikely, would you be to submit a claim for compensation in the following context?

if the amount of compensation would be £4.50.

[Single select]

- Very likely
- Somewhat likely
- Neither likely nor unlikely
- Somewhat unlikely
- Very unlikely
- Don't know

34. If, in order to receive this payment from the settlement sum, you had to provide the following details, would you register to join?

- a. Full name
- b. Postal Address
- c. Email Address
- d. Telephone Number
- e. Banking information
- f. Date of birth
- g. Country of residence at a given point of time
- h. Statement of Truth (i.e. an agreement that the facts about your eligibility are true and accurate, and a warning that any false statements could constitute a breach of contract or criminal offence)

[Single select]

- Yes
- No
- Don't know

35. If, in order to receive this payment from the settlement, you had to wait 3-6 months for the payment to be awarded would you register to make a claim?

[Single select]

- Very likely
- Somewhat likely
- Neither likely nor unlikely
- Somewhat unlikely
- Very unlikely
- Don't know

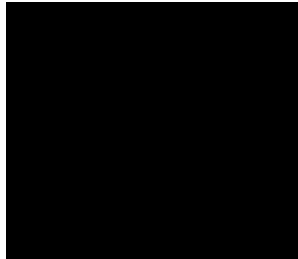
36. How likely would you be to submit a claim for compensation, if the amount of compensation was unknown?

[Single select]

- Very likely
- Somewhat likely

- Neither likely or unlikely
- Somewhat unlikely
- Very unlikely
- Don't know

7. Annex 3: Professor Will Jennings' letter



12th February 2025

Case No. 1266/7/7/16 – Mr Walter Merricks CBE v Mastercard Incorporated & Others (the “Proceedings”)

Re: Survey Questionnaire Review

Dear Registrar,

Credentials

My current position is Professor of Political Science and Public Policy at the University of Southampton. I am also a political analyst for Sky News and a Fellow of the Academy of Social Sciences. I have published widely in the areas of public opinion research, specialising in the study of electoral behaviour, trust, competence and the accuracy of opinion polls. I served on the inquiry set up by the British Polling Council into the performance of the pre-election polls at the 2015 general election and served on the editorial boards of a number of leading international journals in the field of public opinion research and political science.

Please note that my review of the survey questionnaire, as outlined below, for the Proceedings is conducted in a wholly personal capacity and does not represent the views of my employers.

Instructions

Portland has asked me to review its survey design methodology. The goal is to ensure that the methodological approach is sound and appropriate to survey the likely take-up of class members in relation to financial recovery of any settlement funds in the Proceedings.

Portland specifically asked me to review and provide comment on and suggest amendments where necessary on:

- The sample design which aims to be representative of the class
- The sample size (n=5,000)
- The proposed weighting to this population using ONS estimates
- The methodology - online through a research panel
- Question wording and framing
- The experimental design

Portland also indicated that it would consider any other points I wished to make. For the avoidance of doubt, my review is restricted to the design of the survey questionnaire, and I do not comment on the results of the study.

The following sections outline all comments from my review of the survey questionnaire:

The sample design which aims to be representative of the class

Given the estimate indicated in the questionnaire that 44 million UK residents may be eligible to receive payment from the settlement sum, the screening questions relating to age and residence are appropriate and likely to be effective in ensuring that the sample is representative of the class (i.e. UK residents who were 16 or older during the relevant time period).

The sample size (n=5,000)

Based on the screening process above, and Office of National Statistics (**ONS**) data on population age¹, my calculation is that roughly 75% of a national sample of 18+ respondents will be aged 32 or above. The design of the survey questionnaire means that anyone who does not satisfy the class definition will be screened out, such that all 5,000 respondents in the sample fall within the class. In my view, a sample of 5,000 respondents is more than sufficient in terms of statistical power for analysis of subgroups – such as the segmentation based on propensity to submit a claim for compensation (unless those subgroups make up a very small proportion of the sample).

The proposed weighting to this population using ONS estimates

Weighting the population to ONS estimates for individuals aged 32 or above would seem appropriate, based on the likelihood that nearly all of this population would have had transactions with Mastercard-accepting businesses in the relevant period (1992 – 2008), and my recommendation would be to follow standard practice in weighting (where each respondent is assigned a weight to ensure their demographic group in the sample matches its proportion in the population) based on ONS population targets.

The methodology - online through a research panel

While traditional face-to-face surveys have some benefits in terms of representativeness (especially in terms of reaching low-attention groups), the response rates of household surveys have been declining (in some cases worryingly so), and an online research panel offers a method that is cost-effective and much quicker by comparison and will offer estimates of public opinion that overall are nationally representative. It is entirely appropriate for the purpose of this study and analysis.

Question wording and framing

The design of survey questions is to a high standard using engaging wording for the questions which are of appropriately designed length to maintain respondent comprehension and motivation throughout. Additionally, the descriptive response options for the questions are methodologically sound and ensure accurate and meaningful data collection.

The questions used for screening and propensity to claim are well designed and likely to be informative (as far as possible) on generalised propensity to claim. The wording on questions that test propensity to claim seems like an effective way to measure propensity to make a claim. Specifically, the proposal to segment based on things like a respondent's awareness of the case and their eligibility to claim, their willingness to provide the required information and wait 3-6 months, and their past behaviour is an appropriate step to developing some estimate of propensity to seek compensation as it ensures that Portland will be able to take into account behaviour that could lead a respondent to be more likely to claim. I have set out below why each of these factors is relevant to estimating propensity to claim:

- i) Respondents' awareness of the case and their eligibility to claim (Q25-26) – This metric provides valuable insights into a potential claimant's awareness and may help inform estimates of likelihood to act, though it should be interpreted with caution given potential limitations in

¹ [Population estimates for the UK, England, Wales, Scotland, and Northern Ireland - Office for National Statistics](#)

measuring population-level knowledge, since survey respondents have a tendency to overreport knowledge / awareness, and caution should be exercised over directly extrapolating these results to the rate of knowledge of the class as a whole.²

- ii) Respondents' willingness to provide the required information and wait 3-6 months (Q34-35) – This factor helps filter out less committed potential claimants, focusing the estimation on individuals who demonstrate the persistence and motivation necessary to complete the claims process.
- iii) Respondents' past behaviour when it comes to self-advocacy and consumer protection (Q8) – Previous proactive behaviour is a strong predictor of future action, helping to identify individuals more likely to pursue their claim through persistence and engagement with consumer protection mechanisms. Methodologically, this behavioural segmentation is sound because it leverages predictive indicators of individual action, using demonstrated characteristics and past behaviours to create a more nuanced and accurate estimate of potential claim participation.

This approach is standard in data analysis, where segmentation techniques rely on identifying key behavioural patterns to predict future actions and outcomes.

Including contextual information about the case after the preceding general questions is good practice as it avoids influencing respondents. I would also expect the more direct questions relating to a non-specific class action, namely Q21-24 to be informative.

Experimental design

The inclusion of an experimental design (i.e. a structured approach that systematically tests hypotheses by manipulating variables, randomly assigning participants to conditions, and controlling for biases to establish causal relationships in research) for likely take-up rates (Q15-20) is sound. Assigning respondents randomly to the six alternative treatments relating to differing compensation payment amounts has a strong logic and is a parsimonious design in terms of analysis since the post-survey analysis can conduct clearly interpretable statistical tests of differences in average responses for the different groups across the scenarios (a 'difference-in-means' test is a very simple example). It is likely, because of standard overclaiming in survey responses, that a higher number of respondents will say they would come forward to seek payment than the actual number that will come forward (since responding to a survey requires no real investment of time or effort compared to actually submitting a claim), but this design will allow Portland to identify the relative effects of different levels of payment.

An important consideration of experimental design is the statistical power to infer differences between groups. For a total sample of 5,000, I would expect that each treatment (i.e. the condition being manipulated and tested) would be shown to a little over 800 respondents. The statistical power of an experimental design is a function of both the sample size of the respective groups, the required level of statistical significance, and the expected effect size (in this case the expected magnitude of difference between survey options). While I am not in a position to make a quantitative assessment of the expected effect size, I would expect there to be substantial differences between at least some of these scenarios (for example between £45 and £4.50) which means the experiment is likely to have sufficient statistical power to draw significant inferences.

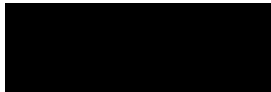
² I have been told that, if the Tribunal approves the proposed settlement, the class representative's claim administrator will undertake a further noticing phase regarding class members' entitlement to submit a claim. I have not seen the details of the plan for this noticing and publicity campaign; however, I would expect such a campaign would increase class-wide knowledge of the claim.

My assessment of the second experimental test (Q28-33) is largely the same - there should be sufficient difference between the effective size and sufficient sample size for the treatment groups in order to draw statistically significant inferences regarding differences in means (averages). A point commonly raised regarding surveys containing multiple experiments is whether a treatment for a respondent in an earlier part of the survey could contaminate their response to a subsequent experiment. I am not concerned about this possibility in this case. Primarily this is because respondents receive new information in each treatment (for Q28-33) about the level of payment that will be more salient than the information received earlier in the survey (for Q15-20) and this is the direct focus of the question.

Conclusion

Based on my independent review of the questionnaire and methodology, this is overall a well-designed and carefully constructed survey that adheres to high professional standards. The design of survey questions is to a high standard, with appropriate attention paid to question wording, response options, and overall flow. The methodological approach reflects established best practices in survey research. Overall, it is methodologically sound and has the potential to produce a robust set of results.

Sincerely,

A solid black rectangular box redacting the signature of Professor Will Jennings.

Professor Will Jennings

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**LONDON • BRUSSELS • WASHINGTON, DC •
NAIROBI • DOHA • SINGAPORE**