

# The private parking sector single Code of Practice

## Version 1

Management, control and enforcement of vehicles on private land



# Table of Contents

|   |    |
|---|----|
| Foreword  | 1  |
| Scope<br>one                                    | 2  |
| Terms and Definitions<br>two                    | 4  |
| Signs and surface markings<br>three             | 8  |
| Accessible parking<br>four                      | 12 |
| Duration of parking period<br>five              | 14 |
| Payment of a parking tariff<br>six              | 16 |
| Camera images – e.g. ANPR<br>seven              | 18 |
| Parking charge<br>eight                         | 20 |
| Escalation of costs<br>nine                     | 23 |
| Action to recover unpaid parking charges<br>ten | 24 |
| Complaints handling<br>eleven                   | 24 |
| Insurance<br>twelve                             | 25 |
| Professional standards<br>thirteen              | 26 |

|   |    |
|---|----|
| <b>Relationship with landowner</b><br>fourteen .....  | 27 |
| <b>Self-ticketing</b><br>fifteen .....  | 28 |
| <b>Incentive Schemes</b><br>sixteen .....   | 28 |
| <b>Recording and Reporting</b><br>seventeen .....   | 28 |
| <b>Monitoring Compliance with the Code</b><br>eighteen .....  | 30 |
| <b>Warranties and Disclaimers</b><br>nineteen .....   | 31 |
| <b>Entrance signs</b><br>Annex A .....  | 32 |
| <b>Consideration and grace periods</b><br>Annex B .....   | 34 |
| <b>Appeals and Liability</b><br>Annex C .....   | 37 |
| <b>Auditing</b><br>Annex D .....  | 39 |
| <b>Terminology in parking operator/debt resolution<br/>agent communication</b><br>Annex E .....     | 41 |
| <b>Appeals Charter - Exempt vehicle cases, no-<br/>stopping zones, and appeals</b><br>Annex F ..... | 43 |
| <b>Sample landowner/operator notice</b><br>Annex G .....  | 48 |
| <b>Sanction Scheme</b><br>Annex H .....   | 51 |

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# Foreword

We are delighted to introduce the first version of a private parking sector single Code of Practice ("The Code") for parking on private land.

This Code of Practice for the sector has been jointly created by the British Parking Association (BPA) and International Parking Community (IPC) and is largely based on the Government's Private Parking Code of Practice which was initially published in February 2022 before being withdrawn in June 2022.

The BPA and IPC are continuing to raise standards by adopting a joint Code which comes into effect from the 27th June 2024.

The Code sets out straight-forward rules for all private parking companies to follow across the sector helping to ensure that private parking companies continue to provide professional services whilst maintaining consistency to the motoring public.

In drafting the Code, we have made amendments to the Government's withdrawn code, these include but are not limited to:

- Amendments to improve its deliverability and intelligibility
- Amendments to reference the current compliance monitoring framework of DVLA Accredited Trade Associations (ATA) and the addition of an agreed and consistent sector sanction scheme
- Amendments to reference the current independent appeals services.
- Amendments where current standards are higher than those in the Government's withdrawn code
- An amended Annex F to include a more detailed Appeals Charter

- An amended Annex C – to clarify who is liable, can appeal or transfer liability
- Retaining the current cap on parking charges and debt resolution fee; there needs to be sufficient deterrents in place and a resolution process before court action

The publication of a private parking sector single code of practice is a significant step towards implementing consistent standards across the profession.

The Code permits a period of transition where ATA members will be required to meet the new standards in full by December 2026. All signage, which gives the motoring public clear instruction, must be compliant with the Code for all new sites and locations from October 2024.

The BPA and IPC are committed to continuing to work together to:

- Update and maintain the Code

Provide guidance on the Code interpretation

- Maintain a consistent sanction scheme
- Create a more consistent second stage appeals process

We look forward to the continued collaboration of the BPA and the IPC to drive consistent and improved standards for consumers and companies alike.



**Anjna Patel MBE Chair of the Board of Directors, BPA & Will Hurley, Chief Executive Officer, IPC.**

# Scope

01

## Scope

This Code of Practice (“the Code”) specifies requirements for the operation and management of private parking by companies engaged in managing activities on two categories of controlled land:

- Open to the Public – this is land where there is an open invitation for any member of the public to park their vehicle, subject to terms and conditions. This will include free parking areas, where there is a limit on the length of time a vehicle may be parked and areas where parking may be made for a fee. It should be noted that even on such car parks there will be terms and conditions which must be complied with for example, parking within a bay, correctly inputting the vehicle’s registration number, making the correct payment (this list is not exhaustive). There are also likely to be areas within the car park where parking is not permitted.
- Restricted areas – This is all other areas of controlled land. This includes no parking areas, roads or areas where there is an invitation for certain people to park their vehicle such as customers of a particular shop, residents or those displaying a permit or Blue Badge (this list is not exhaustive).

The Code is applicable to all parking operators who are members of the British Parking Association (BPA) and the International Parking Community (IPC). Members must comply with the Code, which includes the requirement to cooperate with their DVLA Accredited Trade Association (ATA) and comply with any requests made by them. It is applicable in all areas of Great Britain and Northern Ireland.

Parking operators who comply with the Code will be entitled to request registered keeper data from the DVLA, for the purpose of contacting the registered keeper of vehicles in relation to the alleged incident. DVLA considers the release of data under Regulation 27 of the Road Vehicles (Registration and Licensing) Regulation 2002. The Code does not apply:

- where civil enforcement regulations or their equivalent apply on any public roads or regulated car parks, or
- to non-members of the BPA and the IPC

Nothing in the Code overrules the provisions and enforcement of byelaws where they apply. However, where there are byelaws and the parking operator is not prohibited from, and chooses to manage the land under contract law, they are obliged to comply with the Code.

Where “NOTES” within the Code purport to impose a standard on an operator they are not mandatory. They are an indication of best practice which should be aspired to by those managing land. It is recognised, that for an operator, complying with the “NOTE” is not always possible and there will be circumstances where compliance is unachievable and sometimes unhelpful. Not complying with a “NOTE” is not a breach of the Code. Parking operators and motorists are reminded of the spirit of the Code which is accountability and compliance.

Some “NOTES” are merely informative to help with the interpretation of the Code.

The Code provides for a period of transition where operators will have time to ensure compliance with the Code. The following table shows the key dates.

|                  |   |
|------------------|---|
| June 2024        | The Code is published   |
| 1st October 2024 | All new sites must be compliant with the Code requirements relating to controlled land.                             |
| 1st October 2024 | All aspects of the Code must be complied with except signage or other related clauses applicable to existing sites. |
| 01 October 2024  | All new self-ticketers must be registered with their ATA.   |
| 01 October 2024  | All reporting obligations in clause 17 must be complied with.   |
| 31 December 2026 | All aspects of the Code must be complied with for all sites.  |

# Terms and Definitions

02

## Terms and Definitions

For the purpose of the Code, the following terms and conditions apply:

### 2.1. Accredited Trade Association (ATA)

the British Parking Association (BPA) and the International Parking Community (IPC).

### 2.2. Appeals Service

body appointed by the ATA to administer independent adjudication on appeals against parking charges. For members of the BPA, it means Parking on Private Land Appeals (POPLA) and for members of the IPC it means the Independent Appeals Service (IAS).

### 2.3. Not Used

### 2.4. Automatic Number Plate Recognition (ANPR)

technology that uses specialist cameras, software and image processing to capture vehicle registration mark (VRM) images.

*NOTE: ANPR is often used at the entry and exit points of parking premises to record the time at which a vehicle enters and exits the controlled land.*

### 2.5. Blue Badge

the scheme was introduced in 1971 under Section 21 of the Chronically Sick and Disabled Persons Act 1970; it aims to help people with severe mobility problems caused by visible and non-visible disabilities to access goods and services by allowing them to park close to their destination. The Blue Badge (BB) is the badge provided under the scheme.

### 2.6. Camera Vehicle

a vehicle that has camera technology in order to capture evidence of contraventions.

### 2.7. Complaint

a grievance raised about the conduct or process of a parking operator, its services, its employees or its appointed debt resolution agent, which might or might not relate to the issuance of a specific parking charge, but requires consideration and a response beyond the decision on whether to pursue or withdraw the notice.

### 2.8. Not Used

### 2.9. Consideration Period

the time the driver:

- is in the process of parking (or in a no stopping zone while driving), and

- is allowed to read and understand the applicable terms and conditions and decide whether to accept them and remain or reject them and leave.

### **2.10. Controlled Land**

premises on which private companies manage the terms and conditions applying to the parking of vehicles, directly or under contract with the landowner, including relevant land (see 2.31).

### **2.11. Creditor**

person, including a corporate entity, who is entitled to recover unpaid parking charges from the driver, registered keeper or vehicle hirer.

### **2.12. Current Address (driver)**

location (address) at which the driver for the time being resides or at which they can be contacted.

### **2.13. Current Address (vehicle keeper)**

location (address) at which documents relating to civil proceedings could properly be served on the person concerned under Civil Procedure Rules or the keeper's registered address.

### **2.14. Driver(s)**

person(s) controlling a vehicle - including, where more than one person is engaged in the driving of the vehicle, any person so engaged.

### **2.15. Grace Period**

a period of time in addition to a parking period where all terms and conditions have been complied with, when no parking charge can be issued.

### **2.16. Keeper**

the person by whom the vehicle is kept at the time the vehicle was parked, which in the case of a registered vehicle is to be presumed, unless the contrary is proved, to be the registered keeper.

### **2.17. Landowner**

the owner(s) or legal occupier of controlled land or such company or person legally entitled to act on their behalf.

### **2.18. Notice**

document issued to a driver, keeper, hire company or hirer that details the parking charge(s) deemed payable in respect of the parking of a vehicle on controlled land including those issued under provisions of The Protection of Freedoms Act 2012.

*NOTE 1: For a Notice to Keeper - the Protection of Freedoms Act 2012 definition in Schedule 4, paragraphs 8 or 9 (depending upon whether a notice to driver was served first, or not) specifies the basic form and content of the notice issued under the Act.*



*NOTE 2: For a Notice to Hirer - the Protection of Freedoms Act 2012 definition in Schedule 4, paragraphs 13 & 14 specifies the basic form and content of a notice to hirer issued under the Act, to be sent after the hirer's name & address is provided by the keeper in transferring liability before court action begins.*

## **2.19. Parking/Parked**

### **a. Parking**

a vehicle entering and remaining on controlled land.

### **b. Parked**

a vehicle being stationary other than in the course of driving.

*NOTE: A vehicle may be deemed to be parked whether or not the driver has left the vehicle and/or turned off the ignition or where the consideration period has expired.*

## **2.20. Parking Attendant**

a person employed by a parking operator to undertake duties on site on controlled land to manage compliance with the terms and conditions applying to parking at that location.

## **2.21. Parking Bay**

space defined by markings and/or materials that indicate where a vehicle is permitted to be parked.

## **2.22. Parking Charge**

- (a) in the case of a relevant obligation arising under the terms of a relevant contract, means a sum in the nature of a fee or charge, and
- (b) in the case of a relevant obligation arising as a result of a trespass or other tort, means a sum in the nature of damages, however the sum in question is described.

*NOTE: A parking charge includes a parking tariff.*

## **2.23. Parking Operator**

a person, including a corporate body, who is for the time being entitled to recover unpaid parking charges from the driver of the vehicle, the creditor, on controlled land.

## **2.24. Parking Period**

the length of time that a vehicle remains on controlled land, which includes the consideration period.

*NOTE: A parking charge must not be enforced where the consideration period has not expired.*

## **2.25. Parking Tariff**

- (a) the schedule of parking fees and time periods to which they relate, applied where parking on controlled land is permitted subject to the payment of defined sums, or specific sum payable for parking where applicable; or

(b) a sum payable as a fee applicable for parking on controlled land.

### **2.26. Photographic Evidence**

images captured by ANPR, Closed Circuit Television (CCTV), infra-red cameras or other systems including hand-held or body-worn devices or other camera systems capable of securely processing and storing images.

### **2.27. Registered Address**

address of vehicle keeper as it appears on the DVLA vehicle keeper register (or, if that person has ceased to be, the registered keeper as it last appeared on the register).

*NOTE: The details requested and released will be confined to those held for the vehicle at the date of the parking event.*

### **2.28. Registered Keeper**

in relation to a registered vehicle, the registered keeper is the person in whose name the vehicle is registered.

### **2.29. Registered Vehicle**

the vehicle which is for the time being registered under the Vehicle Excise and Registration Act 1994.

### **2.30. Relevant Contract**

contract (including a contract arising only when the vehicle is parked on the controlled land) between the driver and a person who is:

- (a) the owner or occupier of the land; or
- (b) authorised, under or by virtue of arrangements made by the owner or occupier of the land, to enter into a contract with the driver requiring the payment of a parking charge in respect of the parking of the vehicle on the land.

### **2.31. Relevant Land**

any land (including land above or below ground level) other than:

- (a) a highway maintainable at the public expense (within the meaning of section 329(1) of the Highways Act 1980);
- (b) a parking place which is provided or controlled by a traffic authority;
- (c) any land (not falling within paragraph (a) or (b)) on which the parking of a vehicle is subject to statutory control.

*NOTE: Relevant land may include land where parking is offered subject to terms and conditions, land where parking is limited to certain categories of driver and/or vehicle, or land where parking is discouraged.*

### **2.32. Relevant Obligation**

an obligation applying to a vehicle on controlled land.

**2.33. Self-ticketing**

the process by which a person not employed by the parking operator (self-ticketer) issues a parking charge or records the evidence to support the issue of a parking charge by the parking operator.

**2.34. Sign**

an informative display notice comprising symbols and/or text that is displayed other than on the surface of parking premises.

*NOTE 1: For example, signs might be free-standing or affixed to the structure of the premises.*

*NOTE 2: Signs might contain static information or display a rolling cycle of messages (variable message signs).*

**2.35. Stopped**

an instance of a vehicle being caused by the driver to be stationary whilst in the course of driving.

*NOTE 1: A vehicle may be deemed to have stopped whether or not the driver has turned off the ignition.*

*NOTE 2: Stopping at a zebra crossing to allow a pedestrian to cross the road is stopping in the course of driving. However, stopping at a zebra crossing to allow a passenger to enter or exit a vehicle would not be stopping in the course of driving.*

**2.36. Surface Marking**

the lines, symbols and/or text applied to the surface of controlled land or created through the use of surfacing materials.

**2.37. Vehicle**

a mechanically propelled vehicle or vehicle designed or adapted for towing by a mechanically propelled vehicle.

# Signs and surface markings

03

## Signs and surface markings

### COMMENTARY ON CLAUSE 3

*Signs and surface markings are used to provide information to drivers to indicate that they are entering controlled land, to display such terms and conditions as apply to direct traffic movements and to delineate parking bays. Signs and surface markings must be designed, applied and maintained in such a way as to be visible, legible and unambiguous to drivers. Operators should take note of relevant best practice guidance and legislation.*

### 3.1. Signs

**3.1.1.** An entrance sign must be displayed and maintained at the entrance to controlled land to inform drivers as appropriate whether parking is permitted subject to terms and conditions, including payment, or is prohibited, unless:

- a) the nature of the premises makes this unnecessary such that drivers would not reasonably assume parking was permissible; or

*NOTE 1: For example, a small shop forecourt or a private driveway fronting a residential property.*

- b) where not practicable e.g. where local planning restrictions prohibit such signs.

*NOTE 2: For example, for heritage reasons.*

**3.1.2.** The entrance sign must display:

- a) the fact that terms and conditions apply to accessing/parking on the site;
  - b) whether payment is required, or whether free parking is only available for a limited period;
  - c) the name of the parking operator;
  - d) the logo of the ATA to which the parking operator belongs; and
  - e) where payment is required, whether on-site cash payment is available.
- f) Private land

The entrance sign must not imply an invitation to park where public parking is not permitted.

The size and positioning of the sign must take into account the expected speed and direction of travel of vehicles approaching the entrance and must be visible (i.e. not be obscured e.g. by foliage or other objects). The design of entrance signs must comply with the requirements detailed at Annex A.

*NOTE 1: Entrance signs should be designed to avoid clutter and display only the key information drivers need to know before entering controlled land i.e. whether or not public parking is invited and if so whether a parking tariff is payable; more detail can be provided on signs within the controlled land. In some circumstances, key information may include the maximum level of the parking charge that can be applied. Where parking is invited in the hours of darkness entrance signs must be visible to approaching drivers and hence may require lighting unless sited where there is sufficient ambient lighting in the vicinity.*

*NOTE 2: Where cameras are installed operators, are reminded of their obligations to inform motorists that personal data is being obtained and/or retained.*

**3.1.3.** Signs within controlled land displaying the specific terms and conditions applying must:

- a) be placed within the controlled land, such that drivers have the chance to read them at the time of parking or leaving their vehicle;

*NOTE 1: In larger areas of controlled land or premises, interim repeater signs may be used to display key information and direct drivers to where more comprehensive information can be found.*

- b) be sufficiently large to be visible from a distance and legible on approach;
- c) display information to identify the parking operator and their contact details;
- d) display the logo of the ATA which is responsible for maintaining the membership of the parking operator;
- e) be professionally made (not handwritten) using a sans serif (i.e. highly legible) font;
- f) use a sentence-case font size appropriate for the location of the sign so as to be clearly readable by a driver, having regard to the likely position of the driver in relation to the sign;
- g) use colours such that the contrast between the background and the text makes the wording on the sign clearly legible;
- h) display the parking tariff of sums payable, or indicate where the tariff is displayed if separate, or the duration of permitted free parking as appropriate;
- i) be clear, unambiguous and not use the words “penalty” or “fine”, unless there is a statutory requirement to do so;
- j) display the parking charge that the parking operator may apply for breaches of such terms and conditions as may apply in a large font;
- k) where the parking operator is operating controlled land subject to byelaws, indicate the requirements those byelaws impose in respect of parking and the consequences that apply, where applicable; and
- l) indicate clearly in shared-use land whether and where different terms and conditions apply.

*NOTE 2: Where land is governed by byelaws the management regime must not be prohibited by those byelaws. It is important that parking operators do not confuse the enforcement of byelaws with the contractual application of parking charges.*

*NOTE 3: In meeting obligations to display signs informing drivers of the use of camera surveillance equipment and associated information about their data privacy rights under the GDPR, operators should avoid overcomplicating signs with text that crowds out space for display of the key terms and conditions for staying, e.g. payment of tariff and display of permit.*

*NOTE 4: Where the terms and conditions require the driver to do something off site, such as input their vehicle registration mark inside a pub or restaurant, the sign should make clear how this is to be done.*

**3.1.4.** Signs informing drivers that a parking charge may be applicable and of the level of that charge must do so in a font of comparable size and boldness to the main body text on the sign, and where included on signs also displaying the parking tariff a font no smaller than the tariff text/numbers.

**3.1.5.** It is not necessary for the parking tariff to be displayed in full on the same sign as the terms and conditions, however, where they are displayed separately, the terms and conditions must make clear that a tariff applies, and the signs displaying the tariff must also make clear where information on payment options can be found.

*NOTE: Depending on the nature of the controlled land, it might be appropriate to display the tariff, where applicable, and instructions for making payment and the payment options available separately, e.g. the latter might be shown on or near on-site payment machines.*

**3.1.6.** Signs must be designed and installed so as to be conspicuous and legible in all lighting conditions during which the controlled land may legitimately be accessed, at a height that takes account of whether the signs are intended to be viewed from the vehicle (including by headlight in the hours of darkness) or having left the vehicle by a driver on foot or in a wheelchair.

*NOTE 1: For example, in car park premises open to the public in the hours of darkness, lighting of the premises and/or the signs might be necessary depending on the location of the signs in order to meet the test of prominence in the Consumer Rights Act 2015.*

*NOTE 2: If there is more than one sign, all should be consistent with regards to typeface style, size and weight, colour and layout.*

**3.1.7.** Signs must be designed and maintained to withstand and remain legible, subject to normal exposure to conditions where they are located.

*NOTE: For example, weathering, bleaching by sunlight, accumulation of dirt, or being obscured by growth of foliage.*

## **3.2. Signs and surface markings – adjoining parking premises**

Where different terms and conditions apply to adjoining stretches of controlled land where there is no physical segregation, signs and/or surface markings must be used by the parking operator within the controlled land for which they are responsible to delineate clearly between these premises and alert drivers to the terms and conditions applying.

*NOTE: For example, there might be adjoining premises on business/industrial estates or multi-occupant premises with parking provision specifically earmarked for specific businesses and their clients. Parking operators should also have regard to confusion that might arise where a site is adjacent to a public highway with signs that could be taken to apply to the site.*

### 3.3. Surface markings – delineated parking bays

Where relevant obligations require drivers to park within delineated parking bays, surface markings must be applied and maintained in such a manner as to be clearly visible to drivers in all lighting and weather conditions as might apply.

*NOTE: The delineation needs to be clear in any photographic evidence used to show that a breach of terms and conditions has occurred. Depending on the surface material, it is good practice to use surface markings to display symbols indicating restricted uses, for example, parking bays reserved for parent and child parking, Blue Badge parking, parking for motorcycles or for recharging electric vehicles. As well as considering the materials used for surface marking operators should also consider the nature of lighting to be used – good practice guidance is available including the Society of Light and Lighting Code for Lighting published by the Chartered Institute of Building Services.*

### 3.4. Material changes – notices

Where there is any material change to any pre-existing terms and conditions that would not be immediately apparent to a driver entering controlled land that is or has been open for public parking, the parking operator must place additional (temporary) notices at the site entrance for a period of not less than 4 months from the date of the change making it clear that new terms and conditions/charges apply, such that regular visitors who might be familiar with the old terms do not inadvertently incur parking charges.

*NOTE: Examples of material changes can include introduction of parking enforcement where none has previously applied, introduction of time-limited free parking, or reductions in the time limit within which free parking is available. Given the need to avoid confusion and clutter at entrances the test is whether the fact that a change has been made is clearly signalled to drivers on entering the land and the nature of the change is clearly displayed thereafter – it may also be necessary to install repeater notices depending on the scale of the premises.*

## Accessible parking

04

### Accessible parking

#### COMMENTARY ON CLAUSE 4

*Where parking is being provided as a service, parking operators need to have regard to the obligations placed upon them by the Equality Act 2010 and the EHRC statutory code, in particular to make reasonable adaptations to accommodate disabled people. Reference should also be given to the car park accessibility section in Inclusive Mobility, guidance published on GOV.UK by the Department for Transport on the creation and maintenance of an accessible and inclusive built environment and public realm, an essential document for those seeking to produce an inclusive environment and meet the requirements of the*



*Act, including the public sector Equality Duty, and other legislation. Many parking operators and landowners choose to recognise the Blue Badge scheme and provide designated provision with specific bays which allow more space for opening vehicle doors, getting in and out of the vehicle, accessing a wheelchair etc. This might be appropriate for recognising the needs of people with limited physical mobility, but adaptations are not purely physical - people with other disabilities might reasonably need longer consideration period and grace periods, more time to access payment machinery, and other ways to pay where payment is required. Recognition of these obligations is important in the consideration of appeals.*

- 4.1.** The parking operator must ensure that at least one sign containing the terms and conditions for parking can be viewed without the driver needing to leave the vehicle, in order for drivers with a disability to be able to make an informed decision on whether to park at the premises.

*NOTE: More signs might be appropriate in larger premises.*

- 4.2.** Where the Blue Badge scheme is recognised and display of a Blue Badge is sought, signs displaying the relevant obligations must make this clear, including where the badge is to be displayed within the vehicle, such extra parking time as is being made available, and what, if any, actions the driver needs to take to claim this time. It is particularly important that parking operators make clear to drivers where the rights available to Blue Badge holders on public roads do not apply e.g. rights to stop on yellow lines, and in doing so must ensure there are separate, prominent, readily visible (i.e. low-placed) signs (including repeater signs) indicating clearly that within this land Blue Badge holders are not permitted to stop or park on yellow lines.

*NOTE: For example, telephone, text or email registrations might be required to inform the parking operator that someone is exercising their Blue Badge eligibility.*

- 4.3.** Where designated bays are provided, the operator must take such steps as are reasonably practicable to prevent them being used inappropriately by those ineligible to use them, or from being blocked by others.

*NOTE: This might require physical patrols or dedicated camera surveillance.*

- 4.4.** In designing accessible bays for Blue Badge holders parking operators must have regard to their duties under the Equality Act 2010 and should make the landowner aware of the best practice guidance that exists.



# Duration of parking period

05

## Duration of parking period

### COMMENTARY ON CLAUSE 5

*As a matter of contract law, drivers need to be given an appropriate opportunity to understand and decide whether to accept the terms and conditions that apply should they choose to park a vehicle on controlled land. The amount of time needed varies according to the nature and size of the premises, and in car parks open to the public includes the time needed to find and access a vacant parking bay, or to leave the premises should the driver decide not to park, hence the need for a consideration period before the contract between the driver and the parking operator is made. It is also a requirement to allow a grace period in addition to the parking period where parking is permitted, and all terms and conditions have been complied with.*

#### 5.1. Consideration period

Where a parking operator assumes a vehicle is parked based on time alone they must allow a consideration period of appropriate duration, subject to the requirements set out at Annex B. The following factors should be taken into account:

- a) the time required for a driver to identify and access a parking bay appropriate to their needs;

*NOTE 1: For example, a driver seeking a Blue Badge parking bay or a parent and child parking bay, waiting for another vehicle to vacate a bay, returning to the vehicle to check the VRM, queuing at a payment machine, etc.*

- b) the time required for a driver to identify and read signs that display the parking terms and conditions, or the consequences of choosing to park where public parking is not invited;
- c) the time required for a driver to identify and comply with requirements for payment;
- d) the time required for a driver to leave the controlled land if they decide not to accept the terms and conditions;
- e) the impact of the layout of the controlled land on 5.1a) to 5.1d);
- f) the impact of the number of vehicles accessing the car park on 5.1a) to 5.1d); and
- g) the impact of the volume of traffic within the controlled land on 5.1a) to 5.1d).

*NOTE 2: The consideration period may end earlier than the times prescribed in Annex B where there is evidence that the driver has, accepted the terms and conditions applying (whether or not they have chosen to read them) which may for example be evidenced by the driver parking the vehicle and leaving the premises, paying the applicable parking tariff, or remaining on the controlled land for more than 5 minutes. See Annex B Table B.1*

## 5.2. Grace period

A grace period as set out at Annex B to this Code must be allowed by the parking operator in addition to the parking period. A parking charge must not be issued during a Grace Period.

*NOTE 1: The grace period does not apply other than where the driver has parked in compliance with the applicable terms and conditions – it does not apply in isolation so as to allow free parking up to the sum of the consideration and grace periods.*

*NOTE 2: The grace period does not apply to short stay areas – controlled land where the parking of a vehicle is permissible for a limited period not greater than 30 minutes, for example at airport and railway station drop off and pick up zones.*

*NOTE 3: A grace period is relevant where there is a time limit on the permitted period of parking for example 2 hours free parking or parking is paid for 1 hour etc. It is not relevant when there is no limit on the period of parking.*

## 5.3. Prohibition on stopping

The provisions of Schedule 4 of the Protection of Freedoms Act 2012 relate specifically to the parking of vehicles on relevant land and the recovery of parking charges – they arose from the need to respect landowners' interests given the introduction of the prohibition on wheelclamping, and so largely envisage circumstances where a wheel-clamp may otherwise have been applied i.e. to a stationary, generally unoccupied, vehicle. However, this Code also applies to instances where the prohibition on stopping arises from a clear security concern e.g. within airports. Parking operators must only pursue parking charges in instances that could be interpreted as stopping if they have explicit consent to do so on evidenced security or safety grounds from their ATA, following audit of the adequacy of the signs and surface markings in place to inform drivers of the terms and conditions in place.

# Payment of a parking tariff

06

## Payment of a parking tariff

### 6.1. On-site payment

- 6.1.1.** Where on-site payment is required, clear information must be displayed within the controlled land on the payment method(s) available in accordance with Clause 3.
- 6.1.2.** Where payment machines are installed within the controlled land, the following information must be displayed on, or near (i.e. adjacent to), the payment machine:
- a) instructions for making the payment of the tariff;
  - b) contact details of the organisation responsible for responding to:
    - 1) queries about making payment;
    - 2) queries about the use of on-site payment machinery; and
    - 3) reports of malfunctioning pay machine equipment.
  - c) the consequences of a machine being unavailable, i.e. whether alternative payment methods are available, the location of alternative machines and whether inability to pay due to machine failure absolves the driver from making payment or whether inability to pay means the driver is not permitted to park and is required to leave within the appropriate consideration period;
  - d) the level of the parking charge in the largest font used to display the tariff;

*NOTE 1: If the information cannot be displayed on the payment machine, it should be displayed as close to it as is reasonably practicable.*

*NOTE 2: where possible contact details should include telephone number, email or websites and should be available during the hours the controlled land is open to the public.*

*NOTE 3: large parking premises requiring the use of on-site payment machines may provide multiple machines, e.g. on several floors of a multi-storey facility, and indicate on each where the next nearest machine is located.*

*NOTE 4: where a parking tariff is payable the operator should provide at least one alternative means of payment, e.g. cash or credit card, cash or pay-by-phone etc.*

- e) where ANPR or CCTV is used to manage parking, the information displayed must include the name and contact details for the parking operator where different from the contacts listed for the issues described in 6.1.2b); and
- f) parking operators must ensure that payment machines accepting cash must have signs on or nearby indicating:
  - 1) Whether change will be given; and, if so
  - 2) Contact details in the event of the correct change not being delivered.

## 6.2. Pay-and-display

Where relevant obligations require the parking tariff receipt to be displayed in the parked vehicle, in addition to the information given in 6.1.2, the parking operator must ensure the information provided includes clear instructions on where the receipt is to be displayed. A thorough check through the windscreen and side windows of a parked vehicle must be conducted before a parking charge is issued by a parking attendant for non-display of a receipt. Evidence should be obtained and retained to support this. Evidence should be time-stamped.

In the case of motorcycles and other vehicles, where display on a window or dashboard is not practicable, images must be taken of all locations where a receipt might be displayed. A copy of all the images must be retained by the parking operator along with a record of how they have guaranteed the accuracy of the time stamp.

The evidence which is captured should be provided to the motorist either on notices or made available in some way for example on a secure website. Where evidence is requested, it should be provided to the motorist.

*NOTE 1: operators should require that the parking tariff receipt be displayed on the dashboard of the vehicle, such that it should be clearly visible for inspection through the vehicle's windscreen, and for receipts issued on site to be made from appropriate materials so as not to be easily dislodged, e.g. by the closing of the vehicle doors (some systems require the driver to print the receipt e.g. when making payment online). In instructing drivers on where a receipt should be displayed it is advisable to suggest that the driver checks that the receipt is visible as required after closing all doors and securing the vehicle, and that they retain the receipt as proof of payment.*

*NOTE 2: a "payment failed" slip should be designed so that it is not liable to be mistaken for a parking tariff receipt.*

## 6.3. Keying errors

Where the terms and conditions require the driver to supply their vehicle registration mark at an on-site machine, by telephone or online, the parking operator must have and follow a documented policy and procedure to avoid issuing or enforcing a parking charge in respect of accidental keying errors. This should include the adoption of technologies that reduce keying errors.

*NOTE 1: Some common keying errors can be accommodated within the registration system, for example confusing the letter "o" with the numeric symbol "0"; More information is found in Annex F.*

# Camera images

07

## Camera images – e.g. ANPR

### General

Parking operators may use camera technology to remotely manage parking on controlled land as long as they do so overtly, and in a reasonable, consistent and transparent manner. In particular parking operators must make sure the data they are collecting is accurate, securely held and cannot be tampered with.

#### 7.1. Use of photographic evidence technology

Parking operators must ensure that the equipment and systems used to capture photographic evidence in respect of controlled land are fit for purpose, maintained to a good standard in accordance with the manufacturers' operating requirements and those of the ATA to which the operator belongs, and are synchronised so that they record accurately photographic evidence of whether a parking charge is due.

*NOTE: Information about the design, security and maintenance of equipment and systems should be recorded and maintained for inspection by authorised bodies.*

#### 7.2. Camera vehicles

Camera vehicles used to monitor, and enforce compliance with relevant obligations must be clearly identifiable as such and must clearly and prominently display the name of the parking operator. Camera vehicles must also bear the logo and may bear the livery of the parking operator. They must not be used for covert surveillance or carry misleading branding e.g. 'Road Safety Unit' or 'Security'.

*NOTE: Care must be taken to ensure that photographic evidence from camera vehicles is not used to issue a parking charge where a consideration period has not ended.*

#### 7.3. Use of photographic evidence

Photographic evidence must not be used by a parking operator as the basis for issuing a parking charge unless:

- a) at least one of the images captured includes a clear record of the vehicle's VRM to which the parking charge is deemed to apply;
- b) the images bear an accurate time and date stamp;
- c) the image(s) show, where appropriate, the pay and display tariff receipt as displayed or not being visible; and
- d) images generated by ANPR or CCTV have been subject to a manual quality control check, including the accuracy of the timestamp and the risk of keying errors.

*NOTE 1: The manual quality control check for remote ANPR and CCTV systems is particularly important for detecting issues such as “double dipping”, where image camera systems might have failed to accurately record each instance when a vehicle enters and leaves controlled land, and for checking images that might have been taken other than by a trained parking attendant (see Clause 15). The manual check might also reveal where “tailgating” – vehicles passing a camera close together – is a problem, suggesting relocation of the camera might be necessary.*

*NOTE 2: Where parking operators are accepting as evidence for issue of a parking charge images forwarded, copied, uploaded by or stored on an individual’s personal mobile phone or other personal device then, as data controller, the operator must ensure that such images are only kept by the individual capturing the images for the minimal time taken to upload them via an app, webpage or similar secure portal or address supplied by the parking operator, must be satisfied that the image is a true and fair representation e.g. including the accuracy of time stamp, and relates only to the controlled land subject to the relevant conditions.*

#### **7.4. Alteration of photographic evidence**

Parking operators must not digitally or by other means alter images used as photographic evidence other than:

- a) to blur faces or the VRMs of other vehicles in the image in accordance with their GDPR obligations; or
- b) to enhance the image of the VRM for clarity, but not to alter the letters and numbers displayed.

# Parking charge

08

## Parking charge

### COMMENTARY ON CLAUSE 8

*Paragraphs 6-9 of Schedule 4 of the Protection of Freedoms Act 2012 specify the information to be included when pursuing parking charges with the intention of transferring liability to the keeper. It is important that the individual who is suspected of contravening relevant obligations is informed as soon as possible that a parking charge is due and of how they should pay or appeal.*

#### 8.1. Design and language

**8.1.1.** The parking operator must not serve a notice or include material on its website which in its design and/or language:

- a) implies or would cause the recipient to infer statutory authority where none exists;
- b) deliberately resembles a public authority civil enforcement penalty charge notice;
- c) uses prohibited terminology as set out in Annex E; or
- d) state the keeper is liable under the Protection of Freedoms Act 2012 where they cannot be held liable.

**8.1.2.** The parking operator must ensure that a notice informs the recipient:

- a) of the contact details of the parking operator (e.g. telephone number, email address, website) and of those to which appeals should be made (where different);
- b) the parking charge was incurred on private land;
- c) of the process by which the recipient may appeal against the parking charge;
- d) that in the event of the recipient appealing the parking charge and that appeal being rejected, they have a further right of appeal to the Appeals Service but that the discounted rate no longer applies should they appeal to an Appeals service;
- e) that if the recipient appeals within 28 days of receiving the parking charge, the right to pay at the rate applicable when the appeal was made must stand for a further 14 days from the date (subject to 8.1.2d) they receive notification that their appeal has been rejected;



*NOTE 1: Where the 14 days to pay was at the reduced rate a further 14 days should be offered to make payment at the full rate.*

*NOTE 2: A notice sent by post is to be presumed, unless the contrary is proved, to have been delivered on the second working day after the day on which it is posted; and for this purpose, "working day" means any day other than a Saturday, Sunday or a public holiday in England and Wales. Therefore, parking operators must retain a record of the date of posting of a notice, not simply of that notice having been generated (e.g. the date that any third-party Mail Consolidator actually put it in the postal system.)*

- f) of the operator's complaints procedure in accordance with Clause 11; and
- g) if payment is made, they cannot appeal.

*NOTE: Details of organisations that offer free debt counselling and/or legal advice services may be provided in correspondence to drivers, keepers or hirers, though the parking operator is under no obligation to endorse or recommend any particular service.*

- 8.1.3.** The parking operator must ensure that the notice does not invite or require the recipient to provide a stamped addressed envelope as a prerequisite for their appeal.

*NOTE: Whilst the provisions of Schedule 4 of the Protection of Freedoms Act 2012 allow parking operators to issue a parking charge to a vehicle keeper or vehicle-hire firm, operators must not when issuing a parking charge presume that the keeper of a vehicle was the driver at the time without offering them the opportunity to identify the driver. Where the keeper fails or refuses to identify the driver it may be used as evidence they were the driver unless the keeper is able to evidence they were not.*

## **8.2. Parking charge levels**

- 8.2.1.** Parking charges must not exceed £100.

- 8.2.2.** A reduction of a minimum of 40% must be offered where payment is made within 14 days of the issue of the Notice to Driver where a notice is issued at the time of the parking event, or of the issue of the Notice to Keeper and/or Notice to Hirer where the first notice is sent through the post.

- 8.2.3.** Where the parking tariff exceeds the discounted amount of the charge for breaching the terms of parking, the full payment of the tariff may be pursued and up to an additional £60 may be added to the unpaid tariff. Where a parking charge is issued in accordance with this clause 8.2.2 is not applicable.

- 8.3.** Parking operators must ensure that they only issue Parking Charges in accordance with their advertised terms on any site. Such terms shall not entitle any operator to issue more than one parking charge in the same calendar day for the same parking event.



*NOTE: In the event of a new calendar day, the operator must not issue a further Parking Charge for the same parking event within a 12-hour period from when the previous Parking Charge was issued. Where a vehicle is moved at any point, this constitutes a new parking event.*

#### **8.4. Process for appealing a parking charge**

**8.4.1.** Parking operators must provide a process for motorists to appeal against a Parking Charge (including unpaid parking tariff) in accordance with Annex C, which:

- a) allows that the parking charge may be appealed within 28 days;
- b) requires the parking operator to respond to appeals within 28 days or, where a decision on the appeal is not concluded within 28 days, requires the parking operator to acknowledge the appeal and confirm the timeframe for concluding it, including the supply of additional information;
- c) requires the parking operator to consider appeals received outside of the normal 28-day period allowed for lodging an appeal where the appellant provides evidence of exceptional circumstances for the appeal not being lodged within the normal timeframes.

*NOTE: "Exceptional circumstances" may include the recipient being away or abroad when the notice was delivered, hospitalised as an in-patient or delivered to the wrong address through no fault of the motorist.*

*Exceptional circumstances may include where the registered keeper can evidence that they were not the driver and evidence they were not aware that a parking charge had been issued. This includes the recipient being away or abroad, hospitalised as an inpatient, or delivered to the wrong address through no fault of the motorist.*

*Where the Registered Keeper has changed their address and has failed to inform the DVLA in accordance with Part IV (regulation 18) of the Road Vehicles Registration and Licensing Regulations 2002, this shall not be classed as exceptional on its own.*

*However, organisations must consider the circumstances surrounding the failure to notify the DVLA. For example,*

- *Was the failure made shortly after a house move, which has now been corrected,*
- *Was the failure by a company who sold the vehicle, which has now been corrected*

*The principal aim is to ensure that those who wilfully neglect or intentionally refuse to update records with the DVLA are not given additional opportunities to appeal while ensuring those who have not updated records immediately, or errors have occurred through no fault of their own are not prevented from having an opportunity to appeal.*

**8.4.2.** Where a parking operator accepts payment of a parking charge, they do not need to offer the ability to appeal providing this is clear in the notice.

- 8.4.3.** Parking operators must provide a process for rental and leasing companies to transfer liability.
- 8.4.4.** In considering appeals, parking operators must consider mitigating circumstances in accordance with Annex F.
- 8.4.5.** When an appeal is accepted the parking operator must cancel the parking charge.
- 8.4.6.** Where the parking operator rejects an appeal against a parking charge, they must present the person appealing with the option to:
  - a) pay the parking charge; or
  - b) appeal the decision to the relevant Appeals Service.

*NOTE: Parking operators need to provide clear information to the motorist informing them how to access an independent appeal, the timeframe for paying and/or appealing and the consequences of appealing.*

- 8.4.7.** Where the driver, keeper or hirer lodges an appeal with the relevant Appeals Service, enforcement proceedings and/or debt resolution must either not commence or, where commenced, must be suspended until the Appeals Service determines the appeal.

*NOTE: The parking operator is only required to deal with an appeal from the subject of the parking charge or their appropriately authorised representative, who may be required to show proof of their authorisation to the operator.*

- 8.4.8.** Parking operators must accept determinations made by the relevant Appeals Service.
- 8.4.9.** Parking operators must allow 28 days for payment following a decision from the Appeals Service in their favour.
- 8.4.10.** Parking operators must record information in accordance with clause 17.

## Escalation of costs

09

### Escalation of costs

Where a Parking Charge becomes overdue a sum of up to £70 may be added.

*NOTE: This does not prohibit costs being awarded by the court or additional fees being added through the court and enforcement process, where there are statutory escalation processes.*

# Action to recover unpaid parking charges

10

## Action to recover unpaid parking charges

- 10.1.** If a driver, keeper or hire company does not respond to a notice or subsequent correspondence, or a parking charge has not been paid in full, reasonable endeavours - including contacting credit reference agencies to undertake a 'soft credit check' - must be undertaken by the parking operator and/or its appointed debt resolution agent to establish the correct correspondence details of the driver, keeper or hire company before commencing enforcement action.

*NOTE: Enforcement action is any action undertaken to pursue an overdue parking charge. A parking charge becomes overdue after the expiry of the 28 days where payment is required or, once the appeals process has been completed and the time to pay at the full rate has passed.*

- 10.2.** Where a new address is discovered and the motorist provides evidence that they did not know of the parking charge through no fault of their own, the motorist should be offered the ability to appeal and/or pay at the original rate.
- 10.3.** Debt resolution agencies that are involved in the collection of debt related to parking charges must be full members of an ATA.

*NOTE: Debt resolution agencies include all organisations involved in resolving overdue parking charges pre, during or post court judgment. They must be either a BPA Approved Operator Service Provider or an IPC Accredited Service Provider.*

- 10.4.** Parking operators must ensure that a statement indicating that free debt advice and/or legal advice services are available is included in all pre-action or debt-recovery stage communications with drivers, keepers and hirers concerning parking tariffs or parking charges.

# Complaints handling

11

## Complaints handling

- 11.1.** The parking operator must have and follow a documented policy and procedure to receive, evaluate, make and record its decisions on complaints in a non-discriminatory manner, in accordance with the requirements of the ATA (including escalation where the complainant is dissatisfied) to which it belongs, published on its website, including the action a complainant can take where dissatisfied with the operator's determination of their complaint. Where complaints

will only be considered if received in writing (hard copy or by e-mail), the parking operator must ensure that the address to which complaints are to be sent is readily available e.g. on the operator's website and notices.

- 11.2.** Where a parking operator receives a complaint that it considers to be or include an appeal against the validity of a parking charge, the parking operator must also treat it as an appeal for the purposes of applying the timescales in Clause 8.4, and should inform the complainant as such unless and until it is clear that the complaint is not relevant to an appeal or the complainant informs the parking operator that they do not wish it to be so handled.

*NOTE: It might not be immediately apparent that a complaint served as such relates to one or more specific parking charges, possibly by way of a clarification that reveals that an appeal would be worthwhile, hence parking operators are advised to record and handle complaints as appeals until they are found conclusively not to be so or patently refer to matters not relevant to the validity of a parking charge.*

- 11.3.** A complaint must be acknowledged by the parking operator within 14 days of its receipt unless exceptional circumstances apply, in which case the complainant must be kept informed by the operator.

*NOTE: For a small operator there might from time to time be limited administrative capacity to handle communications, e.g. due to staff sickness.*

- 11.4.** A full response to a complaint must be provided by the parking operator within 28 days of its receipt unless exceptional circumstances apply, in which case the complainant must be kept informed by the operator.
- 11.5.** Private parking operators must record information in accordance with clause 17.

*NOTE: It is best practice for parking operators routinely to review complaints for evidence of patterns or repeated concerns which might require a review of procedures, refreshing, rephrasing and clarification of guidance or retraining of staff.*

# Insurance

12

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## Insurance

The parking operator must obtain and maintain public liability and employers' liability insurance at the levels required by the ATA of which the parking operator is a member.

# Professional standards

**13**

## Professional standards

### COMMENTARY ON CLAUSE 13

*It is the responsibility of the parking operator to ensure that staff, agents and sub-contractors used are competent to carry out the tasks they are employed to do and to ensure they act in compliance with the Code.*

#### **13.1. Training**

**13.1.1.** Parking operators must ensure those performing the following roles are given the appropriate training:

- a) parking attendant
- b) self-ticketer
- c) compliance officer
- d) complaints handler
- e) appeals handler
- f) customer service
- g) data protection officer
- h) camera contravention processing operative

**13.1.2.** All front-line customer-facing staff must undergo disability awareness training, which must be refreshed every two years.

**13.2.** Private parking operators must record training information in accordance with clause 17.

#### **13.3. Identification for parking attendants**

**13.3.1.** Parking attendants must be provided with an ID which includes:

- a) the company name;
- b) the parking attendant's identification number; and
- c) a photograph of the parking attendant.

**13.3.2.** Parking attendants must carry their identification card during working hours and display it on request by a driver.

*NOTE: It is good practice for parking operators to require staff working as parking attendants to wear clothing that clearly identifies them as such, including identification of the parking operator for whom they are acting.*

# Relationship with landowner

14

## Relationship with landowner

- 14.1.** Where controlled land is being managed on behalf of a landowner(s), before a parking charge can be issued written confirmation must be obtained by the parking operator from the landowner(s) covering:
- a) the identity of the landowner(s)
  - b) a boundary map of the land to be managed;
  - c) such byelaws as may apply to the land relating to the management of parking;
  - d) the permission granted to the parking operator by the landowner(s) and the duration of that permission
  - e) the parking terms and conditions that are to be applied by the parking operator, including as appropriate the duration of free parking permitted, parking tariffs, and specific permissions and exemptions, e.g. for staff, residents or those stopping for short periods such as taxi and minicab drivers, delivery drivers and couriers;
  - f) the means by which parking charges will be issued;

*NOTE 1: For example, to the windscreen or through the post.*

- g) responsibility for obtaining relevant consents e.g. planning or advertising consents relating to signs
- h) the obligations under which the parking operator is working, in compliance with this Code and as a member of an ATA;
- i) notification of the documentation that the parking operator may be required to supply on request to authorised bodies detailing the relationship with the landowner; and
- j) the parking operator's approach to the handling of appeals against parking charges.

*NOTE 2: Where byelaws have been made, which prohibit the issuance of a parking charge, unless specific legal provision has been made to suspend them, they take precedence and therefore careful consideration must be given to ensuring that the parking management arrangements are consistent with them.*

*NOTE 3: Particular care is needed to establish appropriate contractual terms, including the application of parking terms and conditions, in respect of controlled land where leaseholders may have rights that cannot be qualified or overruled e.g. by imposing a requirement on the resident of an apartment block to display a permit to park in contravention of their rights under their lease, or to ensure that free parking periods do not breach planning consents.*

# Self-ticketing

15

## Self-ticketing

- 15.1.** Where evidence is gathered by a third-party parking charges must only be issued where:
- 15.1.1.** the third party has:
    - a) registered with the parking operator and the ATA
    - b) read, understood and accepted the practice they should follow in accordance with the Code.
  - 15.1.2.** the parking operator has conducted an audit inspection of the land in question, to check conformity with the Code, in particular that signs have been installed and maintained in accordance with Clause 3.
  - 15.1.3.** the evidence shows a breach of the terms and conditions.
  - 15.1.4.** where issued through the post the parking operator has undertaken a quality assurance check of the image(s).

# Incentive Schemes

16

## Incentive Schemes

- 16.1.** Parking operators may implement incentive scheme(s) to motivate staff or third parties and improve their productivity and quality of their work. Schemes that incentivise the issue of a greater number of parking charges alone (as opposed to the accuracy and efficiency with which they are issued) are not permitted.

# Recording and Reporting

17

## Recording and Reporting

- 17.1.** Where records are required to be kept in accordance with this code they shall be kept for 36 months unless there is a legal obligation to the contrary.
- 17.2. Parking Charges**
- 17.2.1.** All parking charges which are issued including:
    - a) Unique identifier (Parking Charge Number)



- b) Date of contravention
- c) Time of contravention
- d) Date of issue of first notice
- e) Location including outward postcode
- f) Reason for issue (contravention)
- g) Status
  - Paid at the appeals charter reduced rate, paid at the reduced rate, paid full rate, cancelled, unpaid, paid at escalation stage.

### **17.3. Internal Appeals and Independent Appeals**

- 17.3.1.** Unique identifier for parking charge (i.e. Parking Charge Number)
- 17.3.2.** Date of appeal
- 17.3.3.** Date appeal concluded
- 17.3.4.** Outcome of appeal i.e. accepted, rejected, reduced in line with appeals charter, goodwill gesture, withdrawn
- 17.3.5.** Where an appeal has been accepted:
  - a) any remedial action that may be required and has been taken by the parking operator to avoid a repeat of the circumstances leading to the issue of the parking charge
  - b) Reason for acceptance i.e. based on mitigation, incorrectly issued, landowner request, exempt vehicle, in accordance with appeals charter, goodwill gesture, other
- 17.3.6.** Location including outward postcode

### **17.4. Complaints**

- 17.4.1.** When a complaint is received, the parking operator must record:
- 17.4.2.** The date of complaint
- 17.4.3.** A copy of the complaint
- 17.4.4.** A copy of all correspondence
- 17.4.5.** The outcome;
- 17.4.6.** The details of any corrective action that may be required and undertaken to ensure the situation does not recur (where the complaint has merit), including such advice as may have been given to the complainant

### **17.5. Training Record**

- 17.5.1.** Training for individuals performing the following functions must be recorded:
  - a) Parking attendant
  - b) Self-ticketer
  - c) Compliance officer
  - d) Complaints handler
  - e) Appeals handler
  - f) Customer service
  - g) Data protection officer
  - h) Camera contravention processing operative
- 17.5.2.** Training records must include:
  - a) Date of training
  - b) Content of training



# Monitoring Compliance with the Code

18

## Monitoring Compliance with the Code

- 18.1.** Compliance with the Code will be monitored by the ATAs by:
  - 18.1.1.** Auditing of operators,
  - 18.1.2.** Complaint investigations,
  - 18.1.3.** Proactive investigations where potential non-compliance is identified,
  - 18.1.4.** Self-reporting of non-compliance by operators, and
  - 18.1.5.** Registration of all locations where parking charges are issued.
- 18.2.** Additional information on monitoring of compliance can be found in Annex D.
- 18.3.** All operators must have a designated Compliance Officer who is responsible for ensuring compliance with the Code. This person must be registered with their ATA and provide information upon request.
  - 18.3.1.** Operators must have an internal process for reporting breaches of the Code to the Compliance Officer.
  - 18.3.2.** All operators must report all Material Breaches of the Code to their ATA within 3 working days of becoming aware of the breach.
  - 18.3.3.** A Material Breach means a breach (including an anticipatory breach) which is not minimal or trivial in its consequences. In deciding whether any breach is material no regard shall be had to whether it occurs by some accident, mishap, mistake or misunderstanding.
  - 18.3.4.** Where the Compliance Officer decides not to report a breach because they decide it is not a Material Breach, they must document the reason for the decision.
- 18.4.** Operators must comply with any request from their ATA.
- 18.5.** Operators will be audited by their ATA at least once a year.
- 18.6.** ATAs will only consider complaints where:
  - 18.6.1.** the motorist has previously complained to the operator, and
  - 18.6.2.** the operator has concluded its investigation of the complaint and responded to the complainant, or
  - 18.6.3.** the operator is not investigating the complaint.
- 18.7.** ATAs will record complaints received about their members
- 18.8.** ATAs may proactively investigate situations where non-compliance may be identified.
- 18.9.** ATAs must record events of non-conformance.
- 18.10.** When a non-conformance is identified, the ATA must determine whether it meets the thresholds of the Sanction Scheme at Annex H.
- 18.11.** The ATAs will inform the DVLA and the other ATA immediately if an operator is suspended, expelled from membership or receives sanction points.

# Warranties and Disclaimers

19

## Warranties and Disclaimers

- 19.1.** The Code is designed to complement the laws which apply to the parking industry. Outside of this Code, it is members' responsibility to ensure they adhere to all relevant legal provisions and the ATA assumes no responsibility for unlawful or illegal acts of its members and they agree to indemnify each ATA as to the same.
- 19.2.** By being an ATA member, operators agree to indemnify their ATA against all claims arising from obtaining keeper data falsely, illegally or by mistake, and against any misuse of any such keeper data.
- 19.3.** Parking operators must inform their ATA if they apply to the DVLA for an electronic facility to request keeper data from the DVLA and use their membership of the ATA and compliance with the Code as evidence of their intention to keep to DVLA procedures.
- 19.4.** Each ATA will use its best endeavours to maintain its ATA status with DVLA. ATA status is granted to each ATA by the DVLA and therefore it is within their power to withdraw such status. The ATAs will not be responsible for any loss caused to its members in the event ATA status is withdrawn for any reason.
- 19.5.** ATAs will not be liable for any direct or consequential losses that the operator or any third party incur as a result of:
- 19.5.1.** Complying with the Code
  - 19.5.2.** Not complying with the Code
  - 19.5.3.** Being denied the facility to request keeper data from the DVLA

# Annex A

## A

### Entrance signs

#### A.1 General

**A.1.1** Signs at the entrance to a parking area must clearly show the type of parking available and if, when and how any payment is required to be made. If public parking is not welcomed, that must be made clear. If public parking is welcomed, but subject to a tariff, then the existence of the tariff must be made clear.

A.1.2 If one of the standard wordings in Table A.1 applies, then the standard wording should be used.

*NOTE: If none of the standard wording applies, alternative wording may be used. Words in square brackets may be omitted.*

A.1.3 There should be at least one item from Group 1 in Table A.1 on the sign. However, no more than three items from Group 1 should appear before, and more prominently than, text from Group 2. The sign must state that terms and conditions apply and state where drivers can find more details (usually on other notices within the land).

A.1.4 If there are different payment terms for Blue Badge holders, such terms must also be displayed. The words “Blue Badge holders” should generally be replaced or accompanied by display of the Blue Badge symbol (as shown in the Traffic Signs Manual).

**Table A.1 – Entrance sign wording**

| Group 1   | Group 2  |
|---|--|
| Pay and display [except/free for Blue Badge holders]                  | Charges apply [after this] [after x minutes/hours] |
| [x minutes'/hours'] free parking [for {business name} customers only] | Private land                                       |
| Pay on exit   | Terms and conditions apply                         |
| Pay [on foot/at machine] when leaving                                 | See the notice[s] [in the car park] for details    |
| Parking for [business name] customers only                            |  |
| Permit holders only   |  |

**A.2 Text size**

**A.2.1** The capital height for Group 1 text in Table A.2 depends on the approach speed of traffic. Group 2 text must be at least 50% of the size of Group 1 text. All other text must be smaller than 50% of the Group 1 text size.

*NOTE: The name of the car park or parking area, or a brief welcome message (if included), may be larger.*

**Table A.2 – Entrance sign text size**

| Situation  | Typical approach speed (mph) | Minimum capital height for Group 1 text (mm) |
|--|------------------------------|--|
| Barrier control  | under 10                     | 50   |
| Parking area entered immediately by turning off a 30 mph road            | 15                           | 60   |
| Car park entered from higher-speed road or using a length of access road | 25                           | 90   |
| Service areas on motorways and dual carriageways                         | 40                           | 120  |

**A.2.2** The sign should be placed so that it is readable by drivers without their needing to look away from the road ahead.

*NOTE: Any text on the sign not intended to be read from a moving vehicle can be of a smaller size.*

**A.3 Contrast and illumination**

**A.3.1** There must be colour contrast between the text and its background.

The best way to achieve this is to have dark, preferably black, text on a white background, recognising that the use of corporate colours, whilst permissible, could cause problems e.g. for drivers who are colour blind.

**A.3.2** Signs must always be readable and understandable, including during the hours of darkness or at dusk if and when parking enforcement activity takes place at those times.

*NOTE 1: This can be achieved in a variety of ways such as by direct lighting or by using the lighting for the parking area.*

*NOTE 2: If the sign itself is not directly or indirectly lit, it should be made of a reflective material similar to that used on public roads and described in the Traffic Signs Manual. Dark-coloured areas do not need to be reflective.*

# Annex B

## B

### Consideration and grace periods

#### COMMENTARY ON ANNEX B

The purpose of this Annex is to set the mandatory minima for the consideration and grace periods that parking operators are required to apply in accordance with 5.1 and 5.2.

Factors to be taken into account are detailed in the relevant clauses. It is important to note that where there is evidence the consideration period has expired the minimum period of time for the consideration is not relevant however, the operator should retain evidence to show how the consideration period had ended.

The significance of whether the consideration has expired is fundamental as it is the point the driver has accepted the terms and conditions attached to the controlled land in question. A consideration period is not a free period of parking.

B.1 The minimum consideration and grace periods listed in Table B.1 must be applied by parking operators.

*NOTE: The consideration period may end earlier than the times prescribed in Annex B where there is evidence that the driver has accepted the terms and conditions applying (whether or not they have chosen to read them), which may for example be evidenced by the driver parking the vehicle and leaving the premises, paying the applicable parking tariff, or remaining stationary for more than 5 minutes.*

B.2 Parking operators must register with the ATA to which they belong the consideration periods they intend to apply to individual sites before issuing a parking charge.

**Table B.1 Controlled land**

| Type of Controlled Land   | Scale of premises         | Minimum Consideration Period (mins) <sup>1</sup> | Grace Period (mins) | Entrance Sign to display |
|---|---------------------------|--|---------------------|--------------------------|
| <b>Open to the public</b><br>Free for a period of 1 hour or more                            | < 500 spaces              | 5  | 10                  | Duration of free parking |
| Free for a period of 1 hour or more   | > 500 spaces <sup>2</sup> | 10   | 10                  | Duration of free parking |
| Tariff for parking – pay up front for specified period (e.g. pay-and-display)               | n/a                       | 5  | 10                  | Parking tariff applies   |
| Tariff for parking – pay on departure (e.g. before returning to vehicle or at exit barrier) | n/a                       | 5  | 10 <sup>3</sup>     | Parking tariff applies   |
| Tariff for parking – booked in advance <sup>4</sup> (e.g. on-line)                          | n/a                       | n/a  | 10                  | Parking tariff applies   |
| <b>Restricted</b>   |                           |  |                     |                          |
| Tied to an event <sup>5</sup>   | n/a                       | 5  | n/a                 | Specify permitted use    |
| Tied to custom <sup>6</sup>   | n/a                       | 5  | n/a                 | Specify permitted use    |
| Short stay  | n/a                       | 1 <sup>7</sup>                                   | 0                   | Specify permitted use    |
| Pre-booked users <sup>8</sup>   | n/a                       | n/a  | n/a                 | Specify permitted use    |
| Permit areas  | n/a                       | 5  | 10                  | Specify permitted use    |
| No Stopping   | n/a                       | While driving                                    | n/a                 | No Stopping              |

<sup>1</sup> This is not relevant where there is evidence that a consideration period has ended other than entry and exit onto land. The minimum consideration period occurs when a parking operator assumes after a set period of time that the consideration period has ended.

<sup>2</sup> in exceptional circumstances the design of the controlled land may be such that a shorter – less than 10 minutes – or a longer – more than 10 minutes period may be appropriate. In such cases the ATA must give written approval to the period, record the rationale for that decision

<sup>3</sup> needs to recognise how long it could reasonably take to travel from the payment machine to the vehicle and thereafter to the exit.

<sup>4</sup> In the event that parking is pre-booked, e.g. on-line, there need be no consideration period where the terms and conditions of parking have been made available at the time the booking was made.

<sup>5</sup> dependent on the terms applied – the grace period is only relevant where the permission to park, whether free, subject to a tariff, or linked to the purchase of a ticket to an event, is time limited.

<sup>6</sup> where the provision of parking on controlled land is tied to patronage of particular premises e.g. to a retail outlet, salon etc...

<sup>7</sup> Short stay locations often require free flow of traffic and can be for areas of high demand. They are very site specific, and it will be important to ensure that clear signage is in place, which can quickly be read, possibly while vehicles are being driven into the area. Location of cameras will be significant when setting the consideration period applicable in such areas.

<sup>8</sup> permitted users where parking is pre-booked.

*NOTE 1: It is important to stress that the consideration period is the amount of time a driver has to decide whether or not to park, including the time needed to find an available parking space. Should the driver decide to do so within the consideration period, e.g. by purchasing a pay-and-display tariff ticket in less than 5 minutes, or if there is evidence that the driver has left the location e.g. by observation by an attendant, the consideration period is deemed to have expired, other than for pay-on-exit premises.*

*NOTE 2: Some parking facilities are only opened to the public – generally ticket holders - when specific events are running e.g. music festivals or sports events where parking is on land not generally open to public parking. A consideration period could still be relevant to the driver understanding such terms and conditions as may apply where they had not been made available in advance e.g. when tickets to attend had been booked, or where pre-booking of tickets for the event was not obligatory.*

# Annex C

c

## Appeals and Liability

This annex sets out the scenarios showing who might be liable for a parking charge at each particular stage of the process. It also sets out who is able to appeal a parking charge.

*NOTE: The annex relates to parking charges issued under contract law or the law of trespass. Charges issued under a byelaw may be different.*

The following types of notice are referred to in this annex:

**Notice to Driver (NTD)** This refers to the notice issued at the time of the parking, event either to the windscreen of the vehicle or the person in control of the vehicle.

**Notice to Keeper (NTK)** This refers to the notice issued to the registered keeper of the vehicle, either following an NTD or as the very first notification where no NTD is issued at the time of the parking event.

**Notice to Hirer (NTH)** This refers to the notice issued to the entity paying for the use of the vehicle through lease or hire. It will follow the NTK regardless of whether or not a NTD was issued at the time of the parking event.

### **Liability**

It is the driver that is liable for the parking charge.

*NOTE: The driver is often the same person as the keeper and/or the hirer. Where a keeper or hirer fails or refuses to provide the name and serviceable address of the driver when requested to, it may be assumed they are the driver, based on that failure or refusal.*

Schedule 4 of The Protection of Freedoms Act 2012 (POFA) provides a mechanism in England and Wales for recovering an unpaid parking charge where the driver's details are not known and the conditions within the Act are met. If the conditions of the Act have been met, liability for the unpaid parking charge may be applied as noted in Table C below.



**Table C**

| Where the NTD is issued     | Driver | Keeper | Hirer |
|-----------------------------|--------|--------|-------|
| NTD                         | ✓      | x      | x     |
| NTK                         | ✓      | ✓*     | x     |
| NTH                         | ✓      | x      | ✓     |
| Where the NTD is NOT issued |        |        |       |
| NTK                         | ✓      | ✓      | x     |
| NTH                         | ✓      | x      | ✓     |

**x** = not liable

✓ = liable

✓\* = Where the keeper fails to identify the driver (name and serviceable address) they will become liable after 28 days of the NTK. Unless the vehicle was stolen.

**Who can identify the driver to avoid liability.**

Anyone receiving a parking charge can avoid liability if they are not the driver. To do this they need to provide the name and serviceable address of the driver to the parking operator.

NOTE: Where an NTH is provided in accordance with POFA identifying the driver may not avoid liability.

**Appeals**

The driver may appeal the parking charge in accordance with clause 8.4. However, where a NTK or NTH has been issued in accordance with POFA, the Keeper or Hirer may appeal the parking charge if the driver has not previously been given the opportunity to appeal. Where no appeal is made within 28 days of the first notice then the right to appeal is lost, subject to 8.4.1(c).

*NOTE: Where the Keeper receives an NTK (following an NTD), is not the driver and is unable to identify the driver, they may be able to appeal in accordance with clause 8.4.1(c).*

Each parking charge is only permitted one opportunity to appeal to the relevant Appeals service.

# Annex D

## D

### Auditing

All parking operators and organisations involved in debt resolution must comply with the auditing requirements of their ATA. Each ATA will audit member's processes in accordance with the Code, and particularly this annex. The aim being to ensure members have systems and procedures in place to make sure compliance with the Code is embedded within the culture of the organisation.

#### **New Members**

As a minimum new members will have the following assessed prior to membership being granted:

- General processes to include:
  - o Complaints Policy
  - o Appeals Policy
  - o Training policy
  - o Privacy Policy
- Insurance cover for Employers' and Public Liability
- Template notices issued to those receiving a parking charge
- Website
- Compliance Officer
- ICO registration

#### **On-going surveillance**

All members will be subject to continuous ongoing surveillance which will include:

- Consideration of complaints which have not be successfully resolved by the member
- Obligations to self-report breaches of the Code

Members issuing parking charges will be subject to additional on-going surveillance which will include:

- Mandatory registration of all sites prior to issuing of parking charges
- Audit of all sites where charges are issued for vehicles stopping in a no-stopping area prior to issuing of charges
- Audit of all sites where unpaid tariffs will be pursued prior to issuing of parking charges
- Mandatory registration of all self-ticketers

- Audit of all sites where self-ticketers will be obtaining evidence to support the issue of a parking charge prior to issuing of parking charges
- Random in person site inspections
- Ad hoc audits based on intelligence
- Audits of Notices
- Registration of Compliance Officer

### **Annual Audit**

An annual audit will be conducted every 12 months of membership. This will be undertaken either remotely or in person. It will consist of assessment and review of the following:

- General processes to include:
  - o Complaints Policy,
  - o Appeals Policy
  - o Training policy
  - o Privacy Policy
- Insurance cover for Employers and Public Liability
- Template notices issued to those receiving a parking charge
- Signage templates
- Website
- Compliance Officer
- ICO registration
- Parking charges issued. This will include random assessment of parking charges and subsequent communications with the motorist, which may include appeal responses and any other communications
- Complaints Register and handling of complaints
- Register of remedial actions taken where appeals have been accepted and action was necessary to prevent repeat issues

# Annex E

## E

### Terminology in parking operator/debt resolution agent communication

#### E.1 General

The terminology used in all communications relating to the pursuit of a parking charge must be clear, concise and conveying to the recipient what they are being asked to pay, why, how to pay, the consequences of not paying, and how to appeal against the charge. They must not misrepresent to the recipient that the parking charge arises from the exercise of the statutory powers of the police or any other public authority. Therefore, the notice must not use terms which imply that parking is being managed, controlled and enforced under statutory authority, where it is not, nor unduly pressurise the recipient such that they do not consider all their options or make a decision that they might not otherwise have made.

Where byelaws apply in respect of parking on controlled land the parking operator must make clear whether they are enforcing the byelaw, through the appropriate legal procedure for their enforcement, or pursuing a complementary contractual obligation.

#### E.2 Wording used in operator notices

Operators must not inappropriately use the following terms:

- offence, offender, offending vehicle
- order for recovery
- Notice of Intended Prosecution
- illegal parking
- crime
- violation
- fixed charge
- fine or penalty
- bailiff
- Penalty Charge Notice

#### E.3 Wording used by debt resolution agents (DRAs)

The principle of engaging a DRA where the creditor and their customer are unable to achieve a satisfactory conclusion, especially when standard appeals/arbitration protocols have been exhausted, is established, but must be on the basis that the DRA's role is to strive to come to an arrangement (debt resolution) not simply enforcement (debt recovery). While a minority of cases might still need to be settled at Court it is important that in

making the customer (driver/keeper) aware of the implications of non-payment including, should the Court find against them, the risk to their credit rating.

DRA's must not use terms which would mislead the average consumer or make them reach a decision that they might not otherwise have made – such terms may include the list in E.2 and the following:

- summons
- justice
- prosecution
- excessive use of “County Court Judgment” (CCJ)
- calling round
- earnings attachment or
- bankruptcy

Nor should DRAs use terms that:

- imply that they are writing from a legal or litigation department or team
- imply that they have a formal role in adjudication
- refer to pre-action protocol at a point when they are not yet using it
- threaten an in-person visit
- misrepresent whether the timing for appeal has expired

*NOTE: This is not an exhaustive list.*

#### **E.4 Websites**

Parking operators must ensure that their websites comply with the guidance and restrictions in accordance with E.1 to E.3.

# Annex F

## F

### Appeals Charter - Exempt vehicle cases, no-stopping zones, and appeals

#### Introduction

The Appeals Charter is a statement of the way certain grounds of appeal based on an error or mitigating circumstances will be handled by the parking operator. There are 2 scenarios considered within the Appeals Charter:

1. Where the parking charge should be cancelled.
2. Where the parking charge should be reduced to £20 for a period of 14 days.

Parking operators should consider the spirit of the Appeals Charter when deciding appeals. For example, where there is clear evidence of illness or emergency this should be taken into account when deciding whether to uphold the appeal, offer a reduced settlement or cancel the parking charge.

The Appeals Charter is relevant for all motorists who appeal within the timeframes set at clause 8.4 who provide evidence to support their position.

In all cases the Appeals Charter would require the motorist to provide the evidence. Where the operator is not satisfied with the evidence, they should request further evidence from a motorist when it becomes clear they are claiming to meet the criteria. Where a motorist engages and provides acceptable evidence, they will be dealt with in accordance with the Appeals Charter.

There is no obligation for an operator to engage the Appeals Charter where:

- the motorist does not appeal within the time limits set unless there are exceptional circumstances for the appeal being late.
- evidence is not provided within a reasonable time limit to corroborate the motorist's position
- evidence is unacceptable
- there is a history of non-compliance from the motorist appealing

#### F.1 Exempt circumstances

Parking operators should take all reasonable steps to avoid issuing a notice to exempt classes of vehicle (listed below) by scrutinising images and weighing the balance of doubt. It is recognised that it may not always be possible for a parking operator's system to pick up that these circumstances have arisen, and hence issue a notice that should then be withdrawn on appeal, providing that acceptable evidence is shared within the time limits set.

Parking charges must not be pursued in relation to vehicles where evidence is provided that they are identified as:

- a) ambulance, fire brigade, police, or coastguard vehicles where their access to the controlled land is necessary to the exercise of their operational duties, e.g. in response to an emergency call;
- b) vehicles being used by a doctor or other health worker (e.g. midwife or district nurse) who is on an emergency call at the address under control, and the vehicle is displaying a British Medical Association (BMA) badge or authorised Health Emergency badge;
- c) a breakdown assistance or recovery vehicle in use for recovery of a vehicle on the premises that has broken down and cannot safely be driven out without repair;
- d) a vehicle that has been driven onto controlled land due to an instruction to the driver by a member of the emergency services, or an invitation or instruction from the landholder(s) or parking operator;
- e) a vehicle that has been driven onto controlled land due to an emergency which could not be avoided due to the exceptional nature of an incident outside of the control of the driver, e.g. serious illness;

*NOTE: An emergency is a serious, unexpected, and dangerous situation requiring immediate action.*

- f) a hearse and/or other vehicle in use at the time as part of a funeral cortege;
- g) a vehicle paused on a private road network simply because the driver needs to check directions e.g. on an industrial estate where the driver has a legitimate need to access premises within that estate.

*NOTE: The pause must only be momentarily and for no longer than is necessary. The pause must not be to let passengers in/out of the vehicle or in a clearly signed short stay area.*

- h) where the driver has paid the tariff but made a minor keying error when registering their vehicle (for example, 0 instead of o; l instead of L; 1 instead of I); or
- i) where the parking operator has breached an obligation in this Code relating to the issue of a notice, or such that the driver was unable to adhere to the relevant obligations.

## F.2 “No-stopping” zones

### F.2.1 Appeals where the charge should be cancelled in “No-stopping” zones

The exemptions listed in F.1 a) b) c) and d) also apply within “no stopping zones”. All other exemptions are not applicable in no stopping zones (i.e. private roads clearly marked with lines and clear, obvious, and repeated traffic-facing “no stopping” signs and barriers to deter trespass).

Parking Charges issued in a no stopping zone should be cancelled where there is evidence it occurred in the following circumstances:

- a) to avoid an accident;
- b) to allow a person to get or give help in respect of an accident or emergency;
- c) to give way to an emergency vehicle;
- d) at a closed gate or barrier e.g. at a level crossing;

*NOTE: This does not include where the vehicle is stopped at a gate, barrier or level crossing to allow a passenger to enter or exit the vehicle.*

- e) in recognition of the use of a zebra crossing by pedestrians; or

*NOTE: This does not include where the vehicle is stopped at the zebra crossing to allow a passenger to enter or exit the vehicle.*

- f) due to stationary or slow-queuing traffic preventing the vehicle from moving.

### F2.3 Examples of required evidence in “No-stopping” zones

Motorists shall, if available, provide footage to evidence their appeal. The evidence is likely to be unique to the scenario. Where a vehicle is stopped to allow a person to get or give help in respect of an accident or emergency the evidence will need to prove that there was an emergency, and it was appropriate for the driver to stop and assist. Where the emergency relates to the individuals within the vehicle, it will need to show that it was necessary for the vehicle to stop.

Examples where it is not likely to be necessary to stop the vehicle are (non exhaustive list):

- for normal childcare issues
- to check an amber vehicle maintenance light



If the appellant is unable to provide evidence, then it is up to the operator to prove to the contrary of the appeal, e.g. via CCTV footage.

*NOTE: Common sense must be applied to the circumstances and evidence available. However, a charge should not be cancelled where a driver stops their vehicle for some other reason which could have been delayed. For example, where a driver stops at a pedestrian crossing to allow a someone to enter/exit the vehicle.*

### **F.3 Appeals where the charge should be reduced to £20 for a period of 14 days**

In considering appeals parking operators must recognise the below case types as mitigating circumstances warranting a reduction in the amount of the parking charge to £20 for 14 days, subject to appropriate evidence being provided. This reduction applies only for the first parking charge issued to the vehicle for the specific contravention, where payment is made within 14 days and where no independent appeal is lodged.

*Note: When considering appeals, operators should look at evidence provided in the appeals process and where evidence is lacking it may be appropriate to ask the motorist to provide additional evidence to support their account before finalising their decision.*

a) where the driver has paid the tariff but made a major keying error when registering their vehicle for example, letters wrong or missing; characters swapped; motorist entered the wrong car registration (e.g. their previous car or another vehicle from their household);

b) where the driver or a passenger in the vehicle suffers the onset of illness, is delayed by an overrunning medical appointment, or as a result of delay resulting from childcare arrangements;

*Note: The evidence is likely to be unique to the scenario. This may not be applicable where the vehicle was not parking in accordance with terms and conditions. It is more appropriate where the terms and conditions were initially complied with but there was an overstay.*

c) where the vehicle has broken down;

*Note: This may not be applicable where the vehicle was not parking in accordance with terms and conditions. It is more appropriate where the terms and conditions were initially complied with but there was an overstay.*

d) where a permit to park has not been displayed but the driver subsequently supplies a copy of the permit, they hold that would have been valid at the time identified in the notice;

e) where a Blue Badge has not been displayed but the holder of the Blue Badge supplies a copy of the Blue Badge they hold, that would have been valid at the time and in the circumstances identified in the notice i.e. that the holder was in the vehicle whether or not as the driver; (This does not include where a motorist has not paid the tariff for parking if required.)

f) where one or more payment machines were out of operation, no alternative payment options were available (e.g. by phone) and the driver could not reasonably be expected to have accessed machines on the controlled land that were still in operation; or

g) where the vehicle would have been permitted to park at the location, but the driver failed to enter their registration into a terminal/device as specified in the terms & conditions.

# Annex G

## G

### Sample landowner/operator notice

This example does not cover the management of land governed by byelaws, where specific provision would need to be made to cover their extent and the legal remedies available for their enforcement.

#### G.1 Purpose

Where a parking operator is to manage parking on privately owned land, it is important that the parking operator and the landowner are both clear about the approach the parking operator intends to take, the terms and conditions they will apply, the regulatory constraints within which they are working, and the respective responsibilities of the landowner and the operator in respect of the management of the land.

Hence, the purpose of this document is:

- to confirm that the landowner has appointed the operator to manage the land;
- to confirm that the landowner has been informed and has properly considered the

issues relating to management of the land when appointing the operator including all terms and conditions (e.g. restrictions, parking tariffs and parking charges, and exemptions) to be applied by the operator to third parties in managing the land;

- to confirm the identity of the landowner;
- to confirm that the landowner has been provided with a copy of the Code and is aware of the obligations of all parties under the Code; and
- to confirm that all provisions relating to the terms and conditions (including restrictions, parking tariffs and parking charges, and exemptions) to be applied by the operator to third parties in managing the land are complete and accurately and consistently cover the operator's duties under the contract under which the operator is to manage the land.

This document is not intended to create any new legal relationship between the landowner and the operator outside the contract under which the operator is to manage the land.

This document may be disclosed on request (e.g. from those appealing against a parking charge) and will form part of the checks undertaken by the ATA when accrediting the operator. [NB – Landowners may wish to reserve the right to approve release].

## G.2 Definitions

### “Land” means

Full Site Address:

Contact details:

Email: Telephone:

Site Map (clearly defining boundaries):

### “Landowner” means

Name of landowner:

The landowner is deemed so if they are the legal occupier of the land.

### “Operator” means

Name of operator:

Address:

Contact details:

Email:

Telephone:

### “The Accredited Trade Association” means

[insert the operator’s ATA].

### “The Code” means

The Private Parking Code of Practice created jointly by the British Parking Association (BPA) and the International Parking Community (IPC)

### “The conditions of parking” means

The parking restrictions set out for the land as indicated by the signs located throughout the car park.

**G.3 Appointment of the operator**

The landowner confirms they appoint the operator to manage the land in accordance with the conditions of parking.

The landowner attests that they have been provided with a copy of the Code and understand the most recent version can be viewed online.

The landowner confirms they understand the operator is required to act in accordance with the Code when managing the land.

The landowner understands the operator is the creditor for all parking charges issued and has discretion about how they are enforced, including proceeding cases through the County Court.

In consideration of the above, the landowner has directed the operator to manage the land.

The landowner confirms that they have considered with the operator:

- The needs of the users of the land
- The hours/days on which the land may be occupied
- The obligation of the operator to apply consideration and grace periods in accordance with the Code
- Arrangements and exemptions for loading/unloading and deliveries
- Any reputational issues that may arise for the landowner
- The Equality Act 2010, including arrangements for drivers with disabilities and whether any concessions apply, including extended dwell times
- The requirements of the ATA to which the operator belongs
- The statutory obligations applying to the operator
- The landowner’s expected involvement and responsibilities e.g. for building maintenance, lighting information signs, seeking planning consent for signs, and the size and spacing of parking bays
- Site-specific appeals criteria to be applied by the operator

[Insert operator name] is appointed to manage the land from [insert date contract begins].

Signed: .....

On behalf of landowner

Print name .....

Relationship to the landowner .....

# Annex H

## Sanction Scheme

It is important that the Sanction Scheme is used primarily as a mechanism to encourage compliance and correct non-conformances, and only be punitive where the parking operator fails to correct substantiated non-conformance or where the non-conformance was so serious that sanctions are appropriate.

When a non-conformity is identified, the ATA must consider the appropriate action, which may include one or more of the following:

a) No action required;

*Note: where the non-conformance has already been corrected and was not a major non-conformance it may be appropriate not to take any action.*

b) Continuation of membership under conditions specified by the ATA, such as:

- a. corrective actions within specified periods to address non-conformance
- b. enhanced surveillance
- c. Suspension of non-conforming site pending remedial action
- d. Any other action deemed appropriate by the ATA

c) Impose Sanction Points;

d) Suspension of the membership pending remedial action; or

e) Expulsion from the membership of the ATA.

The Sanction Scheme consists of an upper threshold of 12 sanction points. When determining the number of sanction points to be imposed for non-conformance, the ATA will consider the level of seriousness of any issue, the culpability of the organisation, and the harm that has been caused.

The Code has four non-conformance levels with Level 1 being the least serious and Level 4 being the most serious. Table H provides the Levels of non-conformance and the associated starting Sanction Point amount and its range.

**Table H**

| Non-Conformance Level | Starting Point | Points Range              |
|-----------------------|----------------|---------------------------|
| Level 1               | 2              | 1-3                       |
| Level 2               | 5              | 2-8                       |
| Level 3               | 9              | 6-12                      |
| Level 4               | Suspension     | Suspension -<br>Expulsion |

**Level 1:** These non-conformances may be administrative in nature. They may occur when the operator's actions have disregarded an element of the Code but where they are of little consequence or are of less serious impact. A Level 1 non-conformance will result in the starting point consideration of the imposition of 2 Sanction Points.

Examples of Level 1 non-conformances include:

- Failing to comply with ATA request
- Does not self-report instances of noncompliance to the ATA
- Sending of a notice implying that they are pursuing the keeper using the Schedule 4 of the Protection of Freedoms Act when they are outside of the timescales
- Does not respond to motorist's complaints or appeals within the timeframes specified in the Code
- Does not allow appropriate grace or consideration periods
- Notices do not adhere to the requirements of the Code
- Entrance or T&Cs sign(s) do not adhere to the requirements of the Code
- Does not consider appeal(s) outside the 28 days window where the appellant provides evidence of exceptional circumstances for the appeal not being lodged within the permitted timeframe or mitigating circumstances set out the Code
- Does not perform trace or use old address when trace provides a new address
- Use debt recovery agencies that are not full members of the ATAs
- Parking operator issues a notice on the basis of photographic evidence supplied by a third party without evidence to show that notification could not reasonably have been given to the driver or affixed to the vehicle at the time of the contravention

**Level 2:** These non-conformances are likely to occur when the operator's actions have disregarded some fundamental part of the Code and have a serious impact on the parking event or consumer. A Level 2 non-conformance will result in the starting point consideration of the imposition of 5 Sanction Points.

Examples of Level 2 non-conformances include:

- Where evidence of repeated breaches set out in level 1 examples above
- Repeatedly sending parking charge notices implying that they are pursuing the keeper using Schedule 4 of the Protection of Freedoms Act when they are outside of the timescales
- Repeatedly making requests for registered keeper details when there is no reasonable cause
- Failing to make multiple requests for registered keeper data when there are multiple contraventions for the same vehicle
- Requesting registered keeper data for periods of time when they are not permitted to make such requests
- Adding additional values to the amount of the outstanding parking charge when not permitted
- Repeatedly or consistently
  - Does not allow appropriate grace or consideration periods
  - Entrance or T&Cs sign(s) do not adhere to the requirements of the Code
  - Does not consider appeal(s) outside the 28 days window where the appellant provides evidence of exceptional circumstances for the appeal not being lodged within the permitted timeframe or mitigating circumstances set out the Code
  - Does not perform trace or use old address when trace provides a new address
  - Use debt recovery agencies that are not full members of an ATA

- Issues a notice on the basis of photographic evidence supplied by a third party without evidence to show that notification could not reasonably have been given to the driver or affixed to the vehicle at the time of the contravention

**Level 3:** These non-conformances occur where the operator's actions are extremely serious. These non-conformances occur when the operator's actions have disregarded some fundamental parts of the Code which has impacted multiple parking events or locations. A Level 3 non-conformance will result in the starting point consideration of the imposition of 9 Sanction Points.

Examples of Level 3 non-conformance include:

- Where evidence of repeated breaches set out in level 2 examples above
  - Using prohibited or misleading terminology on correspondence and communication sent to motorists
  - Using Incentive Schemes that incentivise staff to issue a greater number of notices of parking charge
  - Misuse of Keeper Data
  - Failure to register with the Information Commissioner
  - Enforcement action on a site with no signage

**Level 4:** These non-conformances are so serious that the starting point would be suspension from membership. They are the most serious cases of non-conformance often where the actions of the operator are dishonest.

Examples of Level 4 non-conformances include:

- Using predatory tactics to entrap motorists in to receiving a parking charge
- Sustained and or intentional abuse / or misuse of DVLA Data
- A conviction under the Protections of Freedoms Act Legislation
- Clamping and/or removal without lawful authority
- A conviction for fraud initiated or perpetrated by officials of the business
- Deliberate misrepresentation of authority

### **Culpability and Harm**

Once the non-conformance level and starting point for any sanction points has been decided, the ATA shall consider the culpability of the parking operator and the harm that has been caused. The ATA shall also consider any aggravating or mitigating factors that may make the situation more serious or which may reduce the seriousness. Common aggravating and mitigating factors include: (the list is not exhaustive, and each case should be looked at on its own merits).

#### **Factors indicating lower culpability:**

- Unintentional action
- Brief indiscretion
- Trivial or technical breach
- Breach remedied promptly upon discovery
- No previous issues of non-conformity

#### **Factors indicating higher culpability:**



- Intentional action
- Predatory or misleading tactics used.
- Breach over a long period of time or continued breach after notification of the same
- Previous issues of non-conformity

**Factors indicating a lower degree of harm:**

- Personal Keeper Data not compromised
- Little or no loss to consumer or gain to operator

**Factors indicating a higher degree of harm:**

- Personal Keeper's Data compromised
- Breach affects several people

Lower culpability might see a reduction of one or two points whilst higher culpability might merit one or two additional points. In the same way lower harm might see a reduction of one or two points whilst higher harm might merit one or two additional points.

Irrespective of sanction points imposed, all instances of non-conformance must be corrected or mitigated within the period specified by the ATA. If the operator does not correct the non-conformity within the specified period, the ATA may impose additional Level 3 sanction points.

If an operator receives 12 points on one occasion or accumulates 12 within a rolling 12-month period they should be suspended as detailed below.

**Membership Suspension, Withdrawal or Expiry**

Incurring 12 or more sanction points means a minimum period of suspension must be considered. The minimum period is:

- a) 14 days if no previous suspension is to be taken into account;
- b) 28 days if one previous suspension is to be taken into account;
- c) Automatic withdrawal of the certificate of confirmatory if 28 days suspension has been previously imposed within the same certification cycle.

When considering a suspension, the ATA may not need to impose a minimum period where:

- There is evidence all non-conformances have been rectified
- There is evidence that a suspension would be unfair
- It is explained to the operator that if further sanction points are imposed within a defined period they will automatically receive the minimum suspension

A previous suspension must be taken into account if it is imposed within a 12-month rolling period, immediately preceding the date on which the current or most recent of the current non-conformance occurred.

Suspension should only be lifted where the operator has addressed all instances of non-conformance.

If membership is suspended, the ATA shall write to the organisation confirming the reasons for the change in status of their membership and how long their membership has been suspended for, as well as the actions needed to end suspension.

Organisations that have had their membership removed will need to re-apply for membership and begin the application process from the start. In such cases, the ATA will advise the organisation how long they will need to wait before they can reapply for membership to any ATA.

ATAs must maintain a record of all non-conformities, sanction points issued, and where membership has been suspended or removed.

When a membership is suspended or terminated, the ATA must inform the DVLA, and the other ATA to prevent the parking operator obtaining alternative membership earlier than that specified by the ATA who withdrew the original membership.

Each ATA must have a clear and documented process for dealing with serious non-conformance which may result in suspension and/or expiry of ATA membership. Several guiding principles will apply.

### **Appeals by operators against actions undertaken by ATAs.**

Each ATA must have a clear and documented process which allows operators to appeal against any disciplinary action undertaken by that ATA, including sanction points issued, suspension and/or removal of membership.

When disciplinary action is taken and the operator is written to, the correspondence will outline the process for appeal and the relevant timelines.

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CONTACT

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