

MARKING THE LINES:

Addressing the Parking (Code of Practice) Act 2019
and the Importance of Protecting Private Land

Prepared by the
International Parking Community



Version 1.1: Published 08/2019



The International Parking Community (IPC) is a DVLA Accredited Trade Association (ATA). The organisation was set up in October 2012 to provide greater clarity and improved standards for protecting the interests of landowners, car park operators and motorists alike, and to reduce the incidence of unfair parking practices and unlawful parking charges.

The initial focus of The IPC has been to provide operators of car parks on private land with clear legal guidance, to encourage unprecedented service improvements and to provide easy access to a comprehensive, responsive, efficient and independent appeals process.

Membership of The IPC enables operators to apply for vehicle keeper data from the DVLA when seeking to enforce Parking Charge Notices (PCN) issued on private land. Significantly, membership is dependent on completion of a detailed audit of all signage and standard documentation provided to motorists at every car park for which an operator is responsible. From the outset, this ensures operational legality and compliance with The IPC Code of Practice.

IPC VALUES



Supportive

We are passionate about supporting our members



Inclusive

We support diversity treating all fairly



Communication

We listen to our members' concerns and respond with clarity



Innovation

We continually drive innovation for the benefit of the industry



Integrity

We lead by example

OVERVIEW

Parking on private land pertains to *all* private land and not just private car park facilities. The Parking (Code of Practice) Act 2019 must protect the rights of landowners as well as improving the UK private parking industry.

The Parking Act must raise standards, not erode rights.

The maximum level for a Parking Charge in the UK private parking industry must always remain as a deterrent. The current maximum of £100 achieves this in most cases, but there should be a mechanism to increase the level of the charge in cases where it would otherwise be cheaper to break the rules than to comply with them.

The IPC demands the highest industry standards regarding the accuracy and wording of signage and office documentation. Members of The IPC's Accredited Operator Scheme (AOS) can only administer a Parking Charge after passing a strict pre-audit of their parking sites, signage and office documentation. To date, The IPC has audited over 24,986 sites, 9,072 signs and 1,600 documents and provides the industry standard to which all ATAs should conform.

- ◆ The Independent Appeals Service (IAS) is the only government-accredited Alternative Dispute Resolution (ADR) process serving the UK private parking industry. Accredited by the Chartered Trading Standards Institute (CTSI), the IAS has the strongest possible consumer-protection legislative mandate available under UK and EU law. With only qualified, practicing lawyers acting as adjudicators and being the only private parking appeals service to operate in Scotland, it provides the blueprint for any single appeals service.
- ◆ The Terms and Conditions on a parking sign form the basis of the contractual relationship between a parking operator and a motorist using the land. Provided that essential core contractual provisions are clearly expressed, a parking operator should have total autonomy in how their signage is presented. However, no operator should be able to use signage which is not audited by their ATA.

***“The Parking Act must raise standards,
not erode rights.”***



- ◆ A *Consideration Period* is a non-contractually binding period of time given to a motorist to read the Terms and Conditions on car park signage to make an informed choice about whether to park or not. The exact duration of a *Consideration Period* will vary depending on the context, but it should be reasonable, while avoiding the possibility of abuse by motorists who *fly park*, drop off passengers on airport roads or 'nip to the shops'.
- ◆ A *Grace Period* is a period of time, after the expiry of a parking time limit, for a motorist to exit a car park without incurring a parking charge. This is to cover situations like inadvertent overstays. Currently all motorists parking on private land are afforded 10 minutes after the expiry of their time limit. It is important that this safeguard is maintained.
- ◆ Because no two parking sites are the same, The IPC feels that it is not practical to prescribe parking bay dimensions, just as it is impossible to prescribe the number of tables and chairs that a restaurant must have. The design of new car parks is governed by local authority planning departments further regulation in this area is therefore unnecessary.
- ◆ The IPC is adamant that no motorist should ever be marginalised and that all parking facilities should be inclusive, especially for motorists who are Blue Badge holders. The IPC is proud of its longstanding association with *People's Parking*, a parking organisation founded by noted disability rights campaigner, Helen Dolphin MBE. This close partnership champions the rights of disabled people, promoting the proper use of Blue Badges, fighting for better facilities, reducing marginalisation and increasing inclusivity.
- ◆ The IPC welcomes any technological innovation that improves the parking experience for motorists, promotes customer choice and improves safety. It is important car parks are accessible for all users and where possible public car parks should maintain the ability for motorists to pay with cash.

March 2018 38.4 million vehicles licensed for use on the roads in the UK

Source: Department for Transport Vehicle Licensing Statistics 2019 Quarter (January to March)

WHAT IS PARKING ON PRIVATE LAND?

Parking on private land covers many more situations than just privately-owned car parks. It relates to all privately-owned land which includes;

- ◆ Disabled bays
- ◆ No Parking areas
- ◆ Privately owned roads leading up to airports
- ◆ Residential parking areas
- ◆ Lawn and garden areas
- ◆ Verges
- ◆ Office car parks
- ◆ Electronic charge bays

As well as causing major inconvenience for private landowners, unsolicited parking is a potential hazard for road users and pedestrians, especially on private land adjacent to public amenities and schools.

A car in the UK is parked for 96% of the time

Source: Spaced out: Respective on Parking Policy July 2012

THE IPC'S COMPREHENSIVE AUDIT PROCESS

The IPC demands the very highest standards regarding the accuracy and wording of signage and office documentation. Members of the IPC's Accredited Operator Scheme (AOS) must adhere to the most stringent standards in the UK parking industry, although The IPC is the only ATA in the UK to make this requirement.

Parking signage is fundamental for motorists to understand their obligations. Terms and Conditions must always be consistent and clear and in all locations. For this reason, The IPC places heavy emphasis on auditing parking signs and documentation.

The IPC maintains the following positions:

- ◆ No car park operator should be allowed to issue a parking charge until it has passed an initial audit by their ATA.
- ◆ Ongoing audits should take place to ensure continuing compliance.
- ◆ The IPC is the only ATA in the UK to insist on this provision.
- ◆ *Spot checks or Mystery shopper* visits should bolster audits and not form the basis of them. It is too late to undertake a first check after allowing parking operators to issue parking charge, as unacceptable OR unlawful parking charges will already have been made.

Auditing must be a proactive and on going process. It must also be effective, capitalise on technology and flexible enough to allow revisits to specific parking sites to address any issues not flagged by initial auditing procedures. If issues are raised by members of the public or MPs then further audits can be undertaken on an *ad hoc* basis.



SINGLE CODE OF PRACTICE

A single pan-industry code of practice is long overdue, and we are pleased that the Parking (Code of Practice) Act 2019 has now been passed into law. The Parking Act 2019 is primary legislation which will facilitate the creation of a single code of practice covering the whole private parking industry in the UK.

From its inception, The IPC has strongly advocated for a single set of standards for all those managing private land.

A single code of practice has the potential to be hugely beneficial to all private parking industry stakeholders as it will provide certainty, clarity and consistency. However, such a code must provide a fair and effective balance between the needs and rights of the motorist and the rights of the landowner.

The IPC is deeply concerned that the rights of landowners would appear to have been given little focus through the parliamentary processes to date – or, at the very least, the topic has been placed well behind those of the motorist. This is a serious omission as landowners' rights run the risk of being eroded.

“A Code must provide a fair and effective balance between the needs and rights of the motorist and person’s land upon which they are parked.”

WHY IS THE MAXIMUM LEVEL OF THE PARKING CHARGE £100?

It is The IPC's firm contention that the maximum level of a parking charge must not drop below £100.00 to reflect the fundamentally different commercial conditions of the private and local authority parking sectors.

The Supreme Court decision in *ParkingEye Limited v Beavis* affirms that the fundamental purpose of a parking charge is to deter a motorist from doing something they are not permitted to do. To retain such a deterrent, the level of the charge must be sufficient to be effective. This requires the level to be set higher than the actual cost of a day's parking.

Since 2012, research shows that London has suffered at the hands of repeat offenders who either pay the parking charge immediately on receipt or continually ignore them. In either instance the objective of the deterrent has not been achieved and a landowner has had vehicles parked on their land where it is not permitted. This is a particular issue in London where the cost of parking a vehicle is often much higher than in other parts of the country and where the deterrent effect is thereby reduced.

As private parking companies are fundamentally different to local authorities, the law and the process of enforcement is also fundamentally different. The costs associated with recovering charges are poles apart from one another. As such, not only do charges have to be a deterrent, but they must also be commercially recoverable, otherwise the landowner will lose his only effective means of controlling their own land.

For these reasons, The IPC opposes any measure to reduce private parking charges to match those charged by local authorities. Local authorities also benefit from a whole range of commercial advantages including borrowing money at nominal interest rates compared with the private sector. Further advantages include:

- ◆ Local authorities share civic offices and resources. They have public budgets not just from parking revenue and often operate parking enforcement at a financial loss.
- ◆ Local authorities are often advantaged geographically with multiple car parks in close proximity. Private operators may have single car parks, or car parks sparsely spread across the nation.
- ◆ Local authorities are provided with parking infrastructure like streets, car parks and parking income streams that private enterprises are not.



- ◆ Local authority on-street parking incomes are exempt from VAT. This provides enormous economies of scale and a serious competitive advantage.
- ◆ Because of specific legislation and byelaws, local authorities have greater powers to deal with repeat offenders, meaning that local authorities can still clamp and tow offending vehicles away. Private operators would have to consider costly litigation and even injunctions to get even a near similar effect.
- ◆ Local authorities can deputise duties from the DVLA to deal with untaxed vehicles etc. Private operators have no such powers.
- ◆ Local authorities' collections processes for unpaid notices are far more cost efficient, they don't pay £2.50 to the DVLA per enquiry, they do not have to file County Court claims and they can use commercial bailiffs who significantly increase the value of an unpaid penalty charge.
- ◆ Unlike the independent appeals services that serve the UK private parking sector like The IAS or POPLA, the Traffic Penalty Tribunal (TPT) and London Tribunals are binding on all parties. Decisions handed down by the IAS are binding on the operator but not on the motorist so there may be further costs if the motorist takes the appeal to court.

In a sample of car parks in London up to 34% of vehicles amassed 83% of all parking charges issued

Source: IPC Research

SHOULD THE MAXIMUM LEVEL OF THE PARKING CHARGE BE REVIEWED?

The fundamental purpose of a parking charge is to deter motorists from parking in an undesirable manner. Specific terms and conditions will vary depending on the purpose for which the land is used. However, for the land to be used effectively by those who own or occupy it, the level of the parking charge must always be high enough to be a deterrent.

Many factors can impact on the deterrent effect of a parking charge. However, for a parking charge regime to retain its effectiveness it must always be set at a level which, considering all factors, discourages motorists from breaching terms and conditions on signage. To be effective, the maximum level of a parking charge must always meet the following criteria as a bare minimum:

- ◆ Be high enough to discourage motorists from parking in a manner which is not permitted, and
- ◆ Be set at a level that is commercially recoverable.

If either of these criteria are not met, then parking problems would persist and be exacerbated. To explain, if the level of a parking charge is too low

it will not act as a deterrent – even if it is commercially viable to be enforced by a private parking operator. Equally, if a parking charge is set too low it will be impractical and not commercially viable to recover. In either scenario, the deterrent effect of a parking charge will be rendered toothless and ineffective as a method of protecting private land. Ultimately, if private parking companies are not able to manage land effectively they will inevitably look to find a different use for the land, which in turn would reduce the number of car parking spaces and could have a huge impact on the High Street.

Several factors need to be considered when evaluating whether the first criteria is met.

For example:

- ◆ The location of the land
- ◆ The purpose of the land
- ◆ The cost of paying for parking in the local area

While the second criteria appears more simple, there must be a mechanism to review the level of a parking charge in order to accommodate external economic factors outside the control of the private parking industry.

Examples include:

- ◆ Increases in minimum and national living wage,
- ◆ Increases in regulatory costs etc...

It is important to consider the unintended consequences of setting the maximum level too low. Currently, private parking companies regularly cancel properly issued tickets based on mitigation. While this does not invalidate the parking charge itself, private parking operators do this as a gesture of goodwill and in the interests of good customer relations. This practice should be encouraged and allowed to continue unhindered.

One risk of setting the parking charge too low would be to pressure parking operators to be less accommodating with their cancellation policies. While

the media likes to focus on parking charges issued in certain circumstances to foster feelings of injustice, statistics show that almost 20% of parking charges appealed to the Independent Appeals Service (IAS) are cancelled due to mitigation.

The IPC believes that the Parking Act's Code of Practice must contain a process for reviewing the maximum level of a parking charge. As a minimum, there should be a mechanism for increasing the maximum level of a Parking Charge in line with the Retail Price Index (RPI).

The maximum level of the parking charge should also be reviewed for different classes of vehicles. Currently, there is no difference between the maximum parking charge for a HGV and a small private motor vehicle. This anomaly creates a fiscal incentive for HGV drivers to park in contravention of parking terms and conditions, as receiving a parking charge is a cheaper alternative to paying a HGV parking tariff.

It also fails to consider the increased need for deterring HGV, and other large vehicles, from parking in areas for which they are not designed.

Issues include:

- ◆ Significant cost of repairing damage caused to curbs and landscaped areas
- ◆ Traffic congestion
- ◆ Increased inconvenience caused to landowners

“If private parking companies are not able to manage land effectively they will inevitably look to find a different use for the land, which in turn would reduce the number of car parking spaces and could have a huge impact on the high street.”



BENEFITS OF MULTIPLE INDEPENDENT APPEAL SERVICES

In the minds of some, the concept of a single appeals body is the natural consequence of the Parking (Code of Practice) Act 2019. The IPC does not support this view.

Industry competition has been the most significant factor in improving private parking industry standards in the UK for the benefit of motorists and operators alike. The service improvements brought about by the Independent Appeals Service (IAS) ratify the importance of competition as a catalyst for change to benefit motorists.

It is The IPC's fervent belief that all motorists have a right to appeal a parking ticket. Members of The IPC's Accredited Operator Scheme (AOS) must offer the motorist the opportunity to appeal a parking charge.

The first stage will always be through a parking operator's internal appeals process. Any internal process should be swift, straightforward and allow an honest motorist to appeal a parking charge. In appropriate circumstances, operators are also encouraged to consider mitigation - such as medical emergencies - where legitimate evidence is provided by the motorist. However, accepting mitigation must be appropriate to the type of land being managed. In all cases a decision on whether to accept mitigation is the prerogative of the landowner.

The IPC regards a single appeals service as an unnecessary and retrograde step for the parking industry. The most important innovations in the recent history of the UK private parking industry - for the ultimate benefit of the UK motorist - have resulted from competition.

Since its formation in 2012 and subsequent accreditation, The IPC has consistently led the way in raising industry standards as demonstrated within its *Raising the Bar* conspectus document. The Independent Appeals Service (IAS) is a perfect example of this.

With the strongest possible legislative ADR mandate and CTSI accreditation, the IAS represents the highest level of consumer protection for motorists in the UK. The amalgam of legislation and CTSI accreditation with the IPC's progressive trade association model has driven up industry standards, addressing laissez-faire complacency and illustrates the very clear benefits that could only be derived from competition.

It is vital that continued competition is retained if the maximum benefit is to be derived from a single code of practice. The success and professional standards of the IAS is a clear and persuasive example of such a competitive environment: *A rising tide lifts all boats.*

In contrast, there is no competition surrounding the existing local authority appeals service. Here, the average cost of an appeal is around £120 which is significantly higher than the £15 or £25 cost per appeal charged by the IAS. Such costs will always have to be passed onto the motorist, directly or indirectly. Consequently, it is vital that minimum standards are set and then competition be allowed to drive it forwards; providing on-going improvements in the most efficient, effective and cost-effective manner.

THE IAS HAS RAISED STANDARDS BY:

- ◆ Ensuring all appeals are considered by legally qualified adjudicators.
- ◆ Securing Alternative Dispute Resolution (ADR) certification, under The Alternative Dispute Resolution for Consumer Disputes (Competent Authorities) Regulations 2015, authorised by the Chartered Trading Standards Institute (CTSI), to provide independent assurance of quality standards – the IAS is the only ADR-certified parking appeals service.
- ◆ Providing a consistent and effective appeals service that has jurisdiction in Scotland and Northern Ireland as well as in England and Wales.
- ◆ Not charging operators who do not contest an appeal which acts as an incentive to cancel parking charges based on mitigation.

The IAS represents the benchmark for any appellate body currently operating in the UK parking industry. Boasting the highest ADR legislative mandate, CTSI accreditation and maximum cost-efficiency (for both the motorist and for parking operators) any single appeals body would essentially replicate what the IAS has attained independently. Furthermore, a single appeals body would be expensive to establish, resulting in increased costs for parking operators which would invariably be passed to motorists for no tangible benefit beyond what the IAS currently has to offer.

The IPC maintains that the minimum standards be set and maintained by all appeals services in the industry should be;

- ◆ Accreditation under The Alternative Dispute Resolution for Consumer Disputes (Competent Authorities) Regulations 2015
- ◆ Allowing motorists from all corners of the UK to appeal parking charges.

25% of cases referred to IAS result in the charge being cancelled

Source: The Independent Appeal services (IAS)
Annual Activity Report 2017 – 2018

REPEAT OFFENDERS

Since the abolition of clamping, our research has shown that a significant proportion of parking charges are issued to people who are persistent or repeat offenders. In some areas – especially in London – such charges are regularly paid. This suggests the level of parking charge is not a sufficient deterrent in areas where the cost of parking is high. In other areas, motorists who continually obtain parking charges choose to simply ignore them.

There is also a strong correlation between repeat offenders and drivers of untaxed vehicles without insurance. In many instances these vehicles are untraceable because they are unregistered, or they are registered to a false address meaning they are untraceable for private parking operators.

Such instances account for an increasing and disproportionate number of the total parking tickets issued on private land.

See case study Repeat Offenders on page 25.

THE UK PRIVATE PARKING INDUSTRY & INCLUSIVITY FOR ALL MOTORISTS

The IPC is adamant that no motorist should ever be marginalised and that all parking facilities should be inclusive, especially for motorists who are Blue Badge holders. The IPC is proud of its longstanding association with *People's Parking*, a parking organisation founded by, noted disability rights campaigner, Helen Dolphin MBE.

See case study Repeat Offenders on page 25.

THE ROLE OF TECHNOLOGY IN THE UK PRIVATE PARKING INDUSTRY

The IPC welcomes any technological innovation that improves the parking experience for motorists, promotes customer choice and improves safety.

The IPC fully supports the use of green technology and renewable energy. We also feel that the parking industry has a contribution to make regarding the use of any technological solution that addresses climate change.

We support parking operators' use of technology to maximise operational and commercial efficiency provided, it is of mutual benefit the motorist. However, it is important to remember that not all car park users enjoy using technology. It is important to ensure that all users of car parks are considered and often this will mean maintaining the ability to pay with cash in addition to the use of modern technology.

ABILITY TO PAY A PARKING CHARGE AT A REDUCED RATE AFTER AN INTERNAL APPEAL HAS BEEN DECIDED

The IPC's position is that where a motorist appeals to the operator within the designated timeframe for a reduced payment, the motorist should still be eligible to pay a PCN at a reduced rate even if their appeal is rejected.

However a motorist who appeals after the designated timeframe, for a reduced payment has expired, has forfeited the opportunity to be able to pay at a reduced rate.

This should be made clear on the PCN or any other documentation to avoid unnecessary ambiguity or confusion for the motorist.

WHY SHOULD A MOTORIST BE REQUIRED TO PAY THE FULL RATE AFTER AN INDEPENDENT APPEAL HAS BEEN DECLINED?

The IPC believes a motorist should pay the full PCN rate after an external/independent appeal has been decided in the operator's favour. This is to ensure that any potential early-payment incentive has the maximum effect and so that prevarication cannot be used vindictively so as to cause additional expense to the operator.

The IPC acknowledges there may be rare occasions when the motorist should be offered the opportunity to pay a parking charge at a reduced rate where there are exceptional circumstances. These instances should be determined on a case by case basis.

“Auditing must be a proactive and ongoing process.”



STANDARDISATION OF PARKING DOCUMENTATION

Rather than prescribing standardised documents, The IPC takes the view there should be a standard set of information placed prominently on the documentation. This gives a parking business the opportunity to promote their individual business brand while complying with the standards required from the industry.

Operators should have commercial freedom to produce documents as they see fit. However, documents must still conform to clear requirements of form and content as prescribed by legislation or code of practice. Standard documentation should be audited by an operator's ATA before it is used.

Illustrated below is some sample wording that we suggest parking operators should use on the top of all correspondence with motorists:

ADVICE NOTE

This is a parking charge issued on private land.

Payment of this charge may be pursued by the operator through legal means, including the courts, which may result in you incurring additional costs if the charge is unpaid.

You can appeal against the charge by writing to the car-park operator. If you are not satisfied with the outcome, you can make a further appeal to the Independent Appeals Service (IAS). Details are given elsewhere on the notice.

The car-park operator has agreed to adhere to an ATA Code of Practice.

Free and independent advice is available from your local Citizens Advice Bureau or by calling the Citizens Advice Consumer Advice helpline on 08454 04 05 06.

The IPC has audited over 1,600 documents since 2012

STANDARDISATION OF PARKING SIGNS

Provided that essential information like core contractual provisions are clearly expressed in the Terms and Conditions, parking operators should have autonomy regarding the form of their parking signage - just as in the case of notices and documentation.

However, no sign should be used unless it has first been audited by an Accredited Trade Association (ATA) to ensure that it is not misleading. In addition, parking companies should not be able to operate on sites that have not first been audited by the ATA to ensure they have sufficient and appropriate signage. Rather than requiring a physical audit, evidence should be provided to show where signage is located, and that the landowner has permitted the operator to manage their land. Additional considerations include informing the motorist about their rights under data protection legislation like the GDPR and branding specific to the respective parking operator.

Given the infinite variety of private car parks and types of private land use, it is impossible to make sweeping generalisations about how parking signage should look. However, all signage should be audited by an ATA before it is used and should conform to a core set of standards to ensure that the motorist is given clear, intelligible instructions as to their responsibilities when on the land.

The IPC has audited over 9,072 individual signs since 2012

CONSIDERATION PERIODS – SHOULD EVERYONE BE ALLOWED TO PARK FOR 5 MINUTES?

A Consideration Period is a non-contractually binding period of time given to a motorist to read Terms and Conditions on car park signage. A motorist must be given adequate time to acquaint themselves with the Terms and Conditions of a car park so they can make an informed choice about whether they wish to park their car there.

This needs to apply to all private land. However, what constitutes a reasonable Consideration Period will vary depending on the situation and the nature of the land.. What constitutes a fair and effective Consideration Period will also depend on the situation. For example, the approach to a No Stopping zone will be different to a private car park where parking is invited.

However, a balance needs to be achieved to avoid potential for abuse. A Consideration Period should never be mistaken for a period of complimentary or free parking by a fly parker. It must be made clear to the motorist that a Consideration Period is to read parking signage in order to make an informed choice and not to 'nip into a shop', for instance.

Fly parking is a major issue for small shops who have their parking facilities abused by motorists who use their parking space to go to other shops thereby preventing genuine customers from parking.



GRACE PERIODS

A Grace Period is a period of time, after the expiry of a parking time limit, for a motorist to exit a car park without incurring a parking charge.

The IPC Code of Practice stipulates that a parking operator must allow a motorist 10 minutes after the expiry of a permitted period of parking, to leave a car park without incurring a parking charge.

Grace Periods are only required where there is a permitted period of parking and where there is compliance with all other Terms and Conditions.

NO STOPPING ZONES

The case of *Vehicle Control Services Ltd v Ward* is the leading authority on No Stopping zones. In this recent case, the principles expounded in the Supreme Court case of *ParkingEye v Beavis* were extended to include No Stopping zones, and not just car park overstays.

The case emphasises that clear signage that can be read by a motorist in a moving vehicle is essential, especially at the start of a No Stopping zone. Repeat signage must also be used throughout the No Stopping zone to remind the motorist of the contractual obligation to which they have consented by driving into the zone.

Effective management of No Stopping zones is particularly important to prevent stationary vehicles from disrupting efficient traffic flow on key access routes – such as airport roads and private roads servicing business and retail parks.

FEE FOR RECOVERY OF UNPAID PARKING CHARGES

It is not unreasonable to impose an additional fee when a parking charge is not paid within the required timeframe. An increase in the amount payable is an important deterrent for motorists who try and ignore a parking charge. The IPC has a £60.00 limit on additional charges.

Getting the right balance is essential. The IPC was the first Accredited Trade Association (ATA) to place a £60.00 ceiling on additional charges – excluding costs added by a County Court. The BPA has followed The IPC's example, but has set a slightly higher limit of £70.00.

The IPC has undertaken over 24,986 site audits since 2012

TACKLING ROGUE PARKING OPERATORS

With all the discourse surrounding the Parking (Code of Practice) Act, little time has been devoted to how to effectively address the problem of parking operators who are unaffiliated and don't belong to a DVLA Accredited Trade Association (ATA). Unaffiliated parking operators are free to indulge in any unscrupulous business or enforcement behaviour without the restraints that are compelled by belonging to an ATA and complying with the ATA's Code of Practice.

Like no other factor, rogue operators have the capacity to undermine the best intentions of the Parking Act. The paradox is that by raising industry standards through a single code of practice, rogue operators will have more to gain by remaining outside ATA membership.

In one present example, an operator who functions outside ATA membership is responsible for issuing charges of £300.00 - even without the ability to obtain keeper details from the DVLA! The IPC considers that it is essential to outlaw this type of practice by making membership of an ATA a compulsory obligation to be a parking operator in the UK parking industry.

This situation must change. At present the Parking Act does nothing to address these issues. It is wrong to think that the legislation will force parking operators issuing parking charges to be a member of an ATA, as they will simply rely on uninformed motorists paying the parking charge that has been placed on the windscreen.

PRIVATE PARKING NOTICE (PPN) V PARKING CHARGE NOTICE (PCN)

The IPC opposes any initiative that changes the term Parking Charge. This is widely acknowledged and understood legal terminology and is commonly used term in the parking industry and widely understood by motorists since it was ratified in the Protection of Freedoms Act 2012 (PoFA). Any initiative to alter this wording is likely to result in unnecessary confusion for the motoring public.

The IPC agrees that wording on a parking ticket should leave no doubt in the motorist's mind as to who has administered the parking charge and specify clearly the differences between local authorities and private parking operators. We believe all notices should contain a standard wording prominently at the top and front of the notice.

SPECIFIC SIZE MARKED BAYS

Local authority planning departments are currently responsible for setting the standards and regulations currently in place. Many sites are pre-existing and most operators do not have control of the layout or design.

All parking sites are different, and the location will be determined by their proximity to transport hubs, public amenities, shopping facilities and places of work. It is not always possible to have a certain size bay at a particular location. Indeed, the landowner may wish to dissuade or prevent large vehicles from parking on their land.

As a result, the IPC feels that it is incorrect to make a blanket regulation about the size of car parking bays – just as restaurants should not be regulated about the number of chairs and tables that they must have.

Parking bay size strikes at the heart of the commercial viability of a parking facility. Operators should be free to make a business decision to base their operational model on smaller bays if that is what is required to maintain commercial viability in a competitive business environment.

Parking bay size could also have insurance ramifications. Having specific or prescriptive parking bay dimensions may disqualify some parking operators from being able to obtain insurance coverage. Insurers may not be flexible enough to offer coverage when what constitutes a parking bay can cover a variety of real-world contexts and situations. A parking bay could include anything from: special event areas, fields, flood plains, development sites, roadside verges and semi-pavement parking is extremely common in major cities like London.

SOFT TICKETING

The IPC supports the Parking Advisory Notice (PAN), or *Soft Ticketing*, as a parking enforcement measure that helps to deescalate friction and antagonism that sometimes accompanies parking enforcement.

A PAN is a simple note that is placed on a windscreen of a vehicle to inform the motorist they have parked in breach of the Terms and Conditions of a car park and that they may receive a Parking Charge in the post.

A PAN ensures the motorist is aware and prevents them unintentionally parking in the same way the next day. It also allows them to obtain evidence (such as taking a photograph of missing or vandalised signage) and to retain their ticket, which may help their case if they receive a parking charge and wish to make an appeal. At the same time, it allows the operator to put measures in place to ensure that a ticket is only issued where the evidence is clear that a motorist has parked in breach of the terms.

It also allows the motorist to immediately contact the operator and resolve the issue before a formal notice is sent in the post. Our research shows that where this process is used there are 22% less DVLA requests compared to a process where only a postal PCN is sent.

A PAN or *Soft Ticket* is especially valuable for parking facilities in tourist resorts where motorists are often unfamiliar with the area. A PAN can function as a reminder or warning that a motorist has breached parking terms and conditions at the time of their first contravention, so they do not make the same mistake again.

STAFF COMPLIANCE & PROFESSIONALISM

Those employed or working in the private parking industry should be appropriately trained to maintain professional standards. There are a variety of roles for which suitable training should be mandated;

- ◆ Parking attendants
- ◆ Appeals handlers
- ◆ Senior management of parking companies
- ◆ Data Protection Officers have become essential since the introduction of the General Data Protection Regulation (GDPR)
- ◆ The IPC requires that parking operators appoint a Compliance Officer as part of the IPC's new Code of Practice

The IPC also facilitates training courses through the Training and Development Academy (TDA) to help raise standards of professionalism throughout the parking industry.

BLUE BADGE FRAUD & MISUSE

The IPC has enjoyed a longstanding relationship with People's Parking – a respected accreditation scheme for car parks developed by Helen Dolphin MBE to improve car parking facilities for customers and enable motorists to find a car park which meets their precise needs.

The view of People's Parking on all issues related to Blue Badge fraud and misuse perfectly reflects the views of The IPC. Blue Badge fraud is a serious and growing issue that needs more effective and consistent policing.

The IPC shares the concerns of People's Parking regarding the expansion of the Blue Badge Scheme to include non-physical disabilities – opening the Blue Badge Scheme to even more potential for abuse. The ramifications of Blue Badge abuse are compounded by the difficulty in being able to effectively police Blue Badge abuse. The most common forms of Blue Badge abuse are carried out by relatives or caregivers of genuine Blue Badge holders.

Blue Badge abuse deprives genuine Blue Badge holders use of designated parking bays which are designed to make the lives of genuine users much easier.

Importantly, the private parking sector does not control the Blue Badge application process. This is administered by local authorities.

“Blue Badge abuse deprives genuine Blue Badge holders use of designated parking bays which are designed to make lives of genuine users much easier.”



'KNOW YOUR RIGHTS' & 'GET YOUR REG RIGHT' CONSUMER CAMPAIGNS

The IPC remains firmly committed to helping inform and assist the UK motoring public in knowing about their rights and obligations as consumers in the UK parking industry.

In view of the proliferation of bad and negligent advice on the internet propagated by so-called experts, the IPC is seeking to remedy this situation by launching a *KNOW YOUR RIGHTS* campaign website. The abundance of poor legal advice has resulted in motorists incurring far higher parking charges unnecessarily, being escalated to debt recovery or CCJs quite unnecessarily.

KNOW YOUR RIGHTS will be a definitive guide for UK motorists wanting to know precisely what their rights and obligations are when parking either in a privately owned and operated car park or in a local authority car park.

The *KNOW YOUR RIGHTS* campaign will also address parking on private land generally – not just in designated car parks. Uninvited parking on private land is a violation of landowners' rights and raises safety concerns on private land adjacent to public amenities, schools and nurseries – not to mention obstructing roads and other byways.

The *GET YOUR REG RIGHT* campaign aims to raise motorists' awareness of the ramifications of making minor typographical errors when inputting their car registration numbers at parking kiosks.

The IPC's *GET YOUR REG RIGHT* campaign will also be directed towards parking operators to encourage more tolerance of motorists making the *right mistake* or other minor typographical errors. Examples include when a motorist mistakenly inputs a '0' instead of an 'O' etc. In a similar way, the campaign aims to raise awareness among equipment manufacturers and encourage more user-friendly parking payment machines to minimise such typographical issues.



MARKING THE LINES CASE STUDIES

1 – Residential Parking

2 – Tailgating

3 – Repeat Offenders

Case Study – Residential Parking

Background

Illustrated below is a large complex of residential flats adjacent to one of the busiest beaches in Cornwall. The occupants of the flats are a mixture of permanent residents and holiday makers staying in dedicated holiday flats.

During the height of summer, all the nearby pay and display car parks are fully occupied by about 10 am. Instead of waiting for a space to become available in one of the car parks where parking is solicited, visitors will instead seek out any available parking space - with little consideration for local residents.

In the present example, residents would often arrive home from work and find that their allocated parking space was occupied by an unauthorised vehicle - typically a family that had parked and gone to the beach for the day.

Unsolicited parking caused a massive inconvenience for the occupants of the flats as they could not park in their allocated parking bay that they paid for and were legally entitled to use. This problem was compounded by the fact that all other parking options were exhausted due to holiday congestion leaving residents with very limited parking options. Residents were routinely forced to park on double yellow lines, with the associated risk of being issued with a Penalty Charge Notice (PCN) by a local authority enforcement officer.



Case Study – Residential Parking continued

Solution

Residents were left with no option but to enlist the services of a private parking



management company just to have the ability to assert their own legal rights and to be able to use the parking facilities they had already paid for.

Signage was installed, a permit scheme was put in place and enforcement patrols were carried out. Any vehicle not displaying a valid permit was issued with a Parking Charge Notice (PCN).

The enforcement protocols applied by the private parking management company quickly resolved the issue of unsolicited parking. It was quite apparent that a parking charge of £100 was a sufficient deterrent for all but the most obdurate reoffenders. However, residents were able to park their cars free from the nuisance of illicit parking.

Update

Given the popularity of the beach resort in Cornwall, there is still a massive issue with illicit parking. However, fly parkers now choose to park on roadsides, grass verges and pretty much anywhere a vehicle can fit.

It is abundantly clear that a Penalty Charge Notice (PCN) administered by a local authority is not enough to deter unsolicited fly parking. Some motorists clearly feel that the level of a Penalty Charge Notice is a small price to pay for parking at one of the most popular resorts in Cornwall.

As the contrasting private management and local authority parking enforcement scenarios illustrate, the £100 Parking Charge Notice (PCN) enforced by a private parking operator is clearly enough to deter unsolicited and illicit parking.

The lower level of a Penalty Charge Notice (PCN) administered by local authorities is clearly viewed as little more than a parking tariff by holiday makers and has no meaningful deterrent effect. The net result is that the lives of residents are still being made a misery by the illicit parking practices of holiday makers and other visitors to Cornwall's beaches.

Case Study – Tailgating

Some motorists go to great lengths to avoid paying for parking. Tailgating is a common method used by some motorists to avoid paying a parking tariff at a car park exit where a barrier arm is in place.

As the photo sequence below illustrates, tailgating works with two cars working in unison. The first car approaches the exit barrier, stops and pays for their parking. On receiving payment, the exit barrier arm will raise allowing the first car to exit. On receiving payment, the exit barrier arm will raise allowing the first car to exit.

With the exit barrier raised, the first car can leave. At this point the second car, following very closely behind the first, also exits the car park before the barrier arm drops back down. Hence, the second car has exited the car park without paying the tariff.

This practice is extremely pervasive and has the potential to be financially ruinous for any private parking operator.



Case study – Repeat Offenders

Research shows that there is a strong correlation between repeat parking offenders and many other varieties of parking or traffic law violations. As the examples below illustrate, repeat parking charge evasion is sometimes indicative of other types of criminal behaviour.

Example 1:

This car has 184 unpaid Parking Charge Notices (PCNs). The vehicle is not registered with the DVLA and regularly parks in disabled bays without displaying a Blue Badge.



Case Study – Repeat Offenders continued

Example 2:

This car has 173 unpaid Parking Charge Notices (PCNs). The driver refuses to pay despite debt recovery and court action. The driver/registered keeper regularly parks in disabled bays without a Blue Badge.

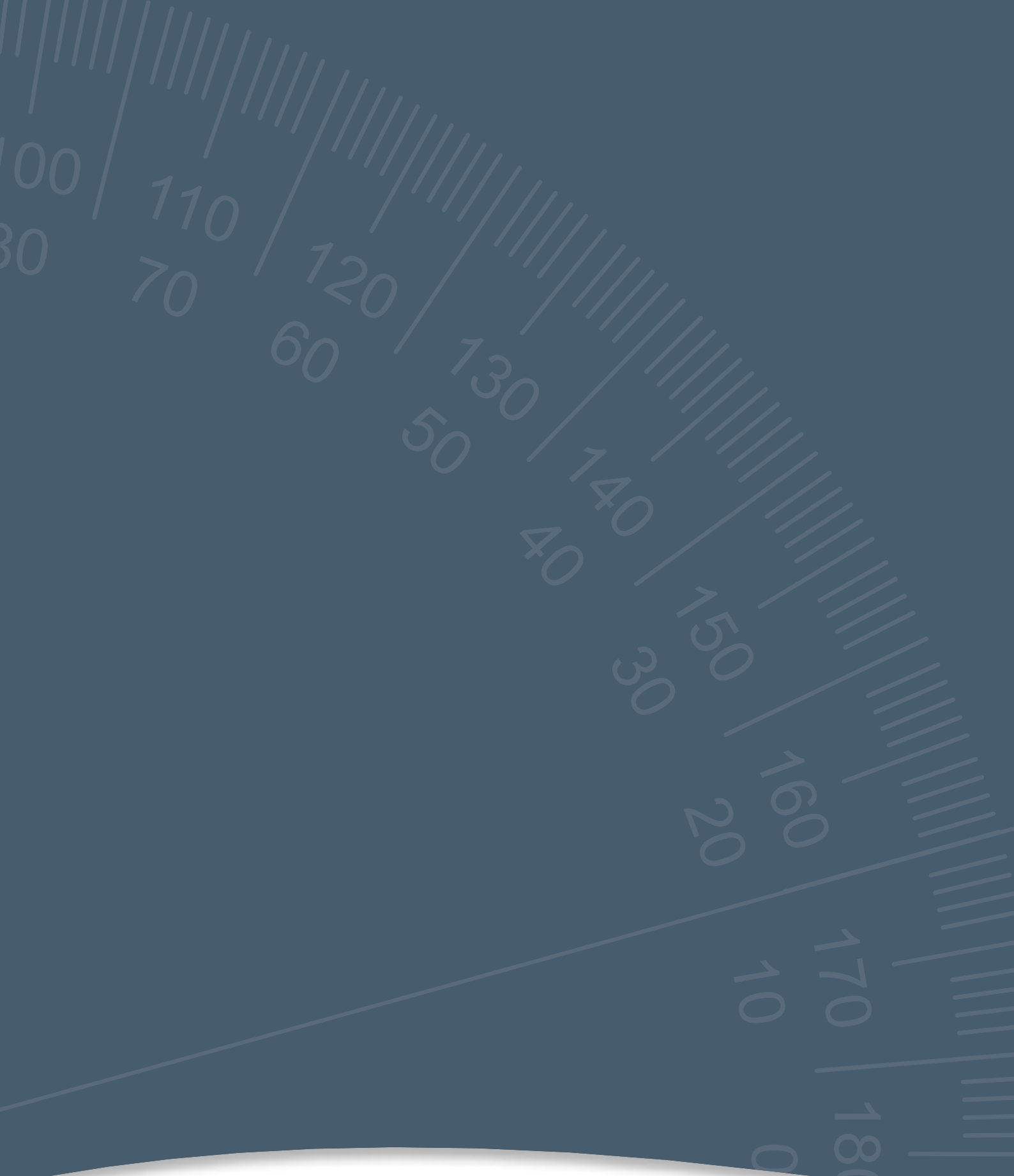


Case Study – Repeat Offenders continued

Example 3:

This car has 64 unpaid Parking Charge Notices (PCNs). The driver/registered keeper refuses to pay despite debt recovery and court action. This vehicle has committed further antisocial acts by parking on footpaths and disabled ramps.





International Parking Community

Version 1.1: Published 08/2019



Independent Appeals Service



Uniti

