

DVLA Consumer Forum on Private Parking Management : Note of Meeting and Actions

Date of Meeting: 17 January 2014

Present:

Hugh Evans (Chair)	Driver and Vehicle Licensing Agency (DVLA)
Robert Toft	DVLA
Kevin Watts (Secretariat)	DVLA
Paul Watters	AA
Jo Abbot	RAC Foundation
Philip Somarakis	ACFO
Sue Edwards	Citizens Advice Bureau (CAB)
Andy Foster	Trading Standards Institute (TSI)
Keith Hughes	Department for Transport (DfT)
Spencer Palmer	Parking on Private Land Appeals (POPLA)
Will Hurley	Independent Parking Committee (IPC)
Martin Cutts	Independent
David Carrod	Independent (in place of Nev Metson)

Apologies:

British Parking Association

Item 1: Welcome and introductions

1. The Chair welcomed representatives to the third meeting of the DVLA Consumer Forum on private parking management. He explained that the BPA had declined to attend on this occasion. The BPA had provided an explanation to the effect that they were not convinced that the independent members represented any constituency and that they had agreed to attend on the condition that only one independent representative would be present. Because two independent representatives had been invited, the BPA had declined to attend and had offered instead to discuss directly with DVLA any issues arising from the forum.
2. The Chair reiterated that he was keen that the forum should continue to include representation for consumers including independent consumers. He felt that the issue of representation needed to be considered in more detail and would write to invite the views of all members. He was also keen for the BPA and IPC to attend forum meetings so that they could help inform the discussion.

ACTION: DVLA to write to all members for views on future membership of the Forum

Items 2 & 3: Note of the Previous Meeting, Matters Arising and Actions Update

3. The note of the previous meeting (27 June 2013) was agreed. The BPA had provided a written update on Action 27/06/2013-14 – summarising the programme of work leading

towards its members' compliance with the requirement to have "model" entrance signage in place within three years of the launch of the new code in 2012:

- 104 operators had confirmed the required signage was in place
- 35 operators had confirmed their schedules of works
- 4 operators were yet to report back
- 1 operator did not use entrance signage as parking was provided on a permit only basis

DVLA would consider the information in more detail and liaise with BPA to help promote compliance as needed. In the meantime the action would remain open to allow for a further update at the next meeting.

4. All other action points would be covered by agenda items.

Item 4: Update from Independent Appeals Services

5. POPLA provided an update on how its independent appeals service was operating. The service was now well established and was run by a lead adjudicator supported by 7 case assessors. POPLA was receiving in the region of 480 appeals per week and had so far received more than 19,000 appeals in total. Of the appeals so far considered, around 5,800 appeals had been allowed and approximately 9,150 refused. The volume of work was significant and POPLA was working to continue to ensure this was properly resourced.
6. IPC reported that its Independent Appeals Service was handling relatively small volumes of cases compared to POPLA and that currently around 33% of appeals were being allowed. IPC expected the proportion of cases where appeals were allowed to decrease as its members' practices improved. Appeals timescales were being met.

Item 5: Operating Practices

Action taken as a result of Appeals - Papers IND 17/1/14 A and B

7. The meeting discussed whether the behaviours and practices of private parking companies were changing following appeal cases, and referenced papers IND 17/1/14 A and B regarding action taken as a result of POPLA findings. There was a proposal for all appeal decisions to be made public in a similar way to the situation with local authority parking appeals, and including a two-line summary on every case. It was queried whether the publication of information in this format would be helpful as a table containing thousands of entries might not provide a basis for meaningful analysis. It was suggested that a summary of appeal result trends showing the parking companies concerned might be more helpful.
8. The point was made that the behaviour and practices of companies could not be accurately assessed solely by reference to appeal outcomes. It was acknowledged that each individual

case turned on its own merits and that different companies took varying approaches when considering appeals. Some would allow more appeals than others as part of their own processes, reducing the number referred onwards for independent consideration. However, the forum felt there was a need for more effective intelligence sharing to help ensure that ATAs and parking companies are seen to be proactively adapting their practices where appropriate in line with trends demonstrated by independent appeal outcomes. This would also help inform DVLA on the operating practices of particular companies and help highlight issues that might impact on the continued provision of vehicle keeper data. The forum felt that where changes to operating practices did need to be made, they should be made within a reasonable timescale.

ACTION: DVLA to write to the ATAs and appeals services to establish the intelligence available and how that could be used to better effect.

Genuine Pre-estimate of Loss – Papers IND 17/1/14 B and DVL 17/1/14-1

9. Paper IND 17/1/14 B was discussed. It was accepted that the recommended maximum charge in the current BPA Code of Practice was a significant reduction in the charges applied previously by many companies and that the figure of £100 had been arrived at as a way of ensuring a reasonable maximum level in the absence of formal regulation. A number of members expressed the view that this charge level was still too high and was significantly higher than charges applied by many Local Authorities. There was evidence that POPLA had allowed many appeals because of concerns over the calculation of charges in relation to the pre estimate of loss. It was clarified that the charges in the cases featured had been deemed to be unjustifiable in respect of those individual operators and cases.
10. There was a discussion about whether pre-estimate of loss was actually relevant. A view was expressed that parking management schemes based on contract law should turn on an acceptance of conditions for overstaying rather than a breach of contract, in which case loss is not an issue. The forum was interested in developing greater clarity over the different variations of car park conditions and methods used by companies with particular emphasis on signage, terms and conditions and whether they are affected by the need to demonstrate that charges constitute a genuine pre-estimate of loss.
11. Paper DVL 17/1/14-1 was introduced, proposing the need for more formal guidelines to be developed for use in the calculation of parking charges. TSI gave a brief overview of a process to provide guidance through the Consumer Protection Partnership - a panel led by the Department for Business Innovation and Skills (BIS) that reports to ministers. The proposal was to carry out a review of current processes, gathering evidence from a variety of sources, and issue a consultation with a view to publishing agreed guidance. Although such guidelines held no statutory authority it was referred to and regarded by the courts when deciding cases. The guidelines would provide advice on the factors that could

legitimately be taken into account when calculating charges, rather than specifying charge levels.

ACTION: To issue a further paper to forum members to set out the proposals for the work on operating models, pre-estimate of loss and independent accreditation in more detail, by 10th April

Item 6: (brought forward) Accreditation of ATAs and IAS Providers - Paper DVL 17/1/14-2

12. TSI explained that a scheme to accredit codes of practice had been running for a number of years under the Office of Fair Trading. It was now managed under the Community Interest Partnership and was viewed in government as a model solution for promoting high standards amongst those operating in a self-regulating environment. TSI would assess in two phases – firstly on site and with the Trade Association in question and then again, after a period of trading, to see if the ATA's code of practice was proving effective. A generic process was already in place across a range of sectors allowing it to be adapted for use in most appropriate sectors.
13. TSI would need to agree core criteria with the appropriate authority, carry out the necessary audit, monitoring and assessment activities and then make a recommendation as to whether the ATA's practices were acceptable. Assessment would continue on an ongoing basis and the cost of TSI activity would need to be funded in some way.
14. Some concerns were raised that, should costs be incurred by ATAs, they would probably be recovered through membership fees and were likely to be passed on to consumers as part of parking charges imposed. However, this was regarded as something that would be of benefit in ensuring consistent standards. It was acknowledged that the process would also need to be applied to the current parking ATAs to provide assurance of consistency of standards amongst them. The proposal in the paper, suggesting that the accreditation process should extend to consideration of the independent appeals services used by ATA members was also supported.

ACTION: DVLA to work with TSI on proposals for an accreditation scheme for ATAs and their associated independent appeals services, and to circulate to forum members.

Agenda Item 5 - Operating practices: Volume of parking charges - Paper IND 17/1/14 C

15. Paper IND 17/1/14 C argued that the number of parking charges issued was too high. The enforcement model for parking had changed with the phasing out of wheel clamping and the reduction in use of traditional methods (e.g. barriers). Although there was a growing volume of traffic and an increasing need to cater for parking, it was suggested that the first priority should be to manage those sites effectively rather than for companies to seek to issue parking charges almost as a default position.

16. The meeting discussed the need for better statistical information to help inform the forum's consideration. The Chair asked whether there was any information available to help establish the proportion of charges issued in the context of increasing numbers of cars, motorists, parking spaces available, changes in enforcement practices, appeals, etc to feed into the development of a robust evidence base to better understand the issues. It was recognised that there were likely to be gaps in the information available but DVLA would work with forum members to collate and structure the information available.

ACTION: DVLA to seek information on volumetrics and report back to the forum.

Interpretation of Sch 4 of POFA - Paper IND 17/1/14 D

17. DVLA would raise the issues detailed in the paper with the ATA and the parking company concerned and report back to the author.

Operating Models

18. This item had been covered by earlier discussions.

Item 7 : Intelligence sharing

19. Further to the earlier discussion about use of intelligence from the independent appeals services, DVLA and CAB gave a brief overview of the work in hand to share intelligence. CAB reported that they already provided trading standards departments with information including statistical data to identify trends, client profiles and anonymised case notes. DVLA was working with CAB to put in place a pilot to share information received from individuals complaining about private parking issues. The intention was for the intelligence to be anonymised but for the parking company to be identified. DVLA and CAB were in the process of agreeing a protocol for the collation and sharing of this information.

20. DVLA also informed the forum of the recent meeting it facilitated between the two current ATAs for the private parking sector. Both had underlined their commitment to work constructively together to ensure continuous improvement in private parking standards. They had also agreed the key points of an information sharing concordat, applicable particularly where a company moves from one ATA to another to ensure that the receiving ATA is made aware of any relevant issues, e.g. "live" sanction points.

Item 8 : Information for Consumers

Wording of 'health warning' on notices Paper DVL 17/1/14-3

21. DVLA referred to Paper DVL 17/1/14-3 and set out the results of the survey conducted on the proposed wording for the 'health warning' to appear on parking charge notices. The Agency had used an on-line public panel to help review and refine the wording. The forum

felt the results were helpful and emphasised that there was a need for communications to the public to be as clear as possible. DVLA would build in suggested amendments and circulate to forum members for comments. The wording would concentrate on the situation in England and Wales initially.

22. It was mentioned that any changes to signage or other communications must be well thought-out and be able to be implemented in one phase to avoid the imposition of high costs to operators which were likely to be passed on to motorists.

ACTION: DVLA to revise wording and circulate to forum members, by end March.

Direct e-mail facility

23. DVLA updated the forum on work to introduce a dedicated facility for consumers to email DVLA to raise private parking matters. To achieve maximum benefit, DVLA was pursuing the provision of key facts to enable motorists to understand the issues around the disclosure of their data before deciding whether they needed to continue with their enquiry.

ACTION: DVLA to keep the forum up to date with progress

Item 9 : Any other business

24. ACFO were to hold a seminar on parking and invited volunteers from the forum to speak on parking matters. To contact ACFO direct if interested.

Item 10 : Date of future meetings

25. Future meetings would again be held at DfT headquarters on Thursday 17 July 2014 and Thursday 15 January 2015.

Item 11 : Close

26. The Chair offered his thanks to forum members for their engagement in what had been a very constructive meeting.

**DVLA
March 2014**

Reference: (Date & Para)	Subject	Action Required	Owner/s	Progress	Status/Timing
17/01/2014-2	Consumer Forum Membership	The issue of representation needed to be considered. DVLA to write to members for view on future membership of the Forum.	Hugh Evans	To write by end March 2014.	New
17/01/2014-8	Operating Practices	DVLA to write to the ATAs and appeal services to establish the intelligence available and how that could be used to better effect.	Hugh Evans	Ongoing.	New
17/01/2014-11	Pre-estimate of loss	To issue a further paper to forum members to set out the proposals for the work on operating models, pre-estimate of loss and independent accreditation in more detail	Rob Toft	DVLA working with TSI. To report on progress and plans by 10 th April 2014.	New
17/01/2014-14	Accreditation of Codes of Practice	DVLA to work with TSI on proposals for an accreditation scheme for ATAs and their associated independent appeals services, and to circulate to forum members.	Rob Toft	DVLA working with TSI. Will consult and update members as appropriate and in any event will report to next Consumer forum.	New
17/01/2014-16	Parking Enforcement Methods	DVLA to seek information on volumetrics and report back to the forum.	Rob Toft	Work ongoing, will report back when volumetrics and conclusions are known.	New
17/01/2014-22	Parking charge notice wording	DVLA to revise wording and circulate to forum members	Rob Toft	Ongoing. DVLA to issue wording by end March 2014.	New
10/12/2012-15 Updated 17/01/2014-24	Online Complaints	DVLA working towards a dedicated email facility specific to parking. This would include key facts on the release of information. DVLA to keep members updated with progress.	Hugh Evans	Continuation of Action	Open Update at next meeting
27/06/2013-14	Signage	BPA provided a written update on programme of work.	Kelvin Reynolds	Action to remain open to allow a further update.	Open

Driver and Vehicle Licensing Agency

10/12/2012-13	Pre-estimate of loss	Trading Standards to consider position regarding level of parking charges	Andy Foster Rob Toft	New actions at 17/1/2014-8 and 17/01/2014-15 Chair to issue paper to forum members on pre-estimate of loss	Closed
27/06/2013-06	DVLA Remit	Concerns about the scope of the Terms of Reference. Delegate to write as needed.	Nick Lester	No correspondence received	Closed
10/12/2012-13	Pre estimate of loss	Trading Standards Institute to consider position regarding level of parking charges	Andy Foster Rob Toft	Joint work continuing between TSI and DVLA to develop more formal advice to the sector	Succeeded by subsequent action. Closed.
27/06/2013-15	Parking Enforcement Methods	DVLA to explore what action might be possible to promote less "predatory" business models.	Rob Toft	Update provided at meeting on 17/01/2014	Complete
27/06/2013-16	DVLA and Trading Standards	DVLA, TSI and CAB to work together to develop stronger working links and progress consideration of a range of parking related matters.	Rob Toft Andy Foster	Meetings held in September and October. Agreement reached to progress intelligence sharing pilot, improved information and education to TS and CAB personnel and development of more formal guidance on genuine pre-estimate of loss.	Work ongoing. This action closed.
27/06/2013-16	Code of Practice	DVLA and TSI to work together to ensure there is consistency between DVLA's criteria for ATA accreditation and TSI Code of Practice approval	Rob Toft Andy Foster	TSI confirmed that there was a scheme in place which accredits COP	Succeeded by subsequent action. Closed.
27/06/2013-24	Protection of Freedoms Act (PoFA)	DVLA reported an increase in complaints over compliance with Schedule 4 of POFA. DVLA to work	Hugh Evans	DVLA met with BPA – action taken to remind AOS members of rules on keeper liability and	Complete

	timescales	with the BPA to address concerns.		POFA timescales and of the consequences	
27/06/2013-08	New ATA	Further details to be provided on the accreditation of a further ATA.	Hugh Evans	Chairman wrote to forum members on 8 August.	Complete
10/12/2012-04	POPLA	POPLA to be invited to attend next meeting and provide overview	Hugh Evans	POPLA to attend meeting of 27/6/13	Complete
10/12/2012-05	POPLA	DVLA to ask POPLA to report on the outcome of appeals	Hugh Evans	Report received. Copy of first annual report published	Complete
10/12/2012-06	POPLA	Forum to offer its services as appropriate with independent trust to oversee POPLA	Hugh Evans		Complete
10/12/2012-07	Signage Lead times	To ask BPA if timescales could be reduced and standards be made mandatory within one year	Hugh Evans	Reasons for 3 year time scale provided by BPA.	Complete
10/12/2012-11	Code of Practice	DVLA/DfT to consider joint DVLA/BPA ownership of BPA's CoP	Hugh Evans	Joint ownership would be inconsistent with policy of self-regulation.	Complete
10/12/2012-12	Parking charge notice wording	Mr Cutts to suggest wording of a "health warning" for consideration.	Mr Cutts	Wording provided and circulated for comment.	Complete
10/12/2012-14	Notification of enquiries	It was suggested that data subjects be notified when their data is disclosed.	Hugh Evans	Cost and complexity would outweigh benefit. Discussed at meeting	Complete
10/12/2012-17	Parking enforcement methods	DVLA to seek industry views over alternative methods of private parking enforcement	Hugh Evans	DVLA sought BPA views.	Complete