

2 Introduction

- 2.1 The British Parking Association (BPA) is an independent body which represents, promotes and influences best practice in the parking sector throughout the UK and Europe. The BPA set up the Approved Operator Scheme (AOS) in 2007 specifically to represent those involved in managing and enforcing parking on private, unregulated land. The Code is owned and managed by the BPA on behalf of its AOS members.
- 2.2 In the Code, 'you' means the AOS member – a person or organisation carrying out parking control and enforcement on private land; 'we' means the BPA.
- 2.3 The aim of the AOS Code of Practice ('the Code') is to describe 'best practice' for people and organisations that carry out parking control and enforcement on private land. All members of the AOS have agreed to support and uphold the principles of the Code. To become a member, parking operators must confirm that they have systems and procedures in place to ensure compliance with the Code. Compliance with the Code should be part of the culture of the organisation.
- The Code describes the objectives of these systems and procedures, and the standards of conduct and practice within which AOS members should work.
- 2.4 When there is relevant legislation and related guidance, this will define the overall standard of conduct for all AOS members. All AOS members must be aware of their legal obligations and implement the relevant legislation and guidance when operating their businesses. Examples of relevant law and guidance within this sector are:
- contract law
 - tort of trespass
 - data protection law
 - consumer protection law
 - Protection of Freedoms Act 2012 (POFA), including Schedule 4 (included as Appendix C to the Code)
 - DVLA Guidelines for Accredited Trade Associations
 - equalities law.
- 2.5 The Code explains in principle what we require from you and the sanctions you will incur if you do not meet these requirements. We also provide a consumer's guide to the AOS to give the consumer a summary of the AOS service and principles.
- 2.6 By creating the Code the parking industry has set out the minimum standards by which you will be judged by anyone coming into professional contact with you. Members of the public should be able to expect that you will keep to the law, and act in a professional, reasonable and diligent way.
- 2.7 All AOS members must make sure that the AOS logo is prominently displayed in all their car parks, and make it clear to the public that they are governed by the Code.
- 2.8 The Code comes into force from 1 October 2012 (but see the transitional arrangements set out in Appendix F). It replaces all previous Codes.
- 2.9 The Code and its appendices cover the operation of parking on private, unregulated land. This includes:
- management and enforcement operations
 - designing and using signs
 - using ANPR and associated systems
 - issuing and processing parking charge notices and other notices given to drivers and keepers of vehicles
 - appropriate parking charges.
- 2.10 The Code covers private parking throughout the United Kingdom. However, at present, there is a difference in the law on private parking within the separate areas of the United Kingdom. This means that:
- in general, enforcement by clamping and removal is a criminal offence in England and Wales, except when carried out with lawful authority
 - in general, enforcement by clamping and removal is unlawful in Scotland
 - in Northern Ireland, clamping and removal is still a legally acceptable activity.
- 2.11 A key issue for any organisation or person managing a private parking operation is to make sure any parking charge notices (PCNs) issued are paid. To do this they may need to obtain the details of the registered keeper of the vehicle in question from the DVLA. Private parking operators must be members of an Accredited Trade Association (ATA) that is recognised by the DVLA to request this information. The BPA has ATA status and, as all members of the AOS have to be members of the BPA, AOS membership allows you to request information from DVLA records. The DVLA has been involved in the preparation of the Code.
- 2.12 In England and Wales the Protection of Freedoms Act 2012 has led to four major changes in unregulated parking enforcement on private land:
- the banning of clamping and removal in private car parks, where there is no lawful authority
 - the repeal in England and Wales of the licensing regime for vehicle immobilisers, which was previously run by the Security Industry Authority
 - keeper liability for payment of parking charges. This means that if the driver of the vehicle is not known then the registered keeper may be liable to pay any valid parking charges
 - the setting up of POPLA (Parking on Private Land Appeals), an independent appeals service to review appeals against parking charges issued by AOS members. The BPA is responsible for developing and implementing POPLA, and the start of keeper liability

depends on POPLA's implementation.

2.13 The Code does not cover on-street or off-street car parking control and enforcement led by local authorities and regulated by, for example:

- the Road Traffic Regulation Act 1984
- the Road Traffic Act 1991
- the Traffic Management Act 2004.

These are covered by detailed statutory control and regulation and can include:

- immobilisation
- removal of vehicles
- issuing penalty charge notices and excess charge notices.

2.14 Standards of conduct and practice for AOS members are laid out in the Code, but if there is any conflict the law will prevail.

3 Code administration

3.1 The Code is prepared and maintained in consultation with the AOS membership and a wide range of appropriate advisory bodies.

3.2 The Code will be reviewed at appropriate intervals to make sure that it remains relevant. Changes that the AOS board considers to be minor will be made when appropriate. Changes that the AOS board considers to be major will have a consultation process. This will be carried out when the AOS board considers it is necessary.

3.3 There are a considerable number and range of stakeholders with an interest in the contents of the Code, and who have been involved in its preparation. They include:

- the BPA
- the DVLA
- other government departments
- landowners
- operators
- the general public
- drivers
- keepers
- POPLA
- consumer groups.

3.4 You can download copies of the Code from the BPA website.

3.5 If you have any questions, comments or complaints about the Code and its application please see the contact details in Appendix D. This contact point is not for communications about a specific parking charge or issue, but only for ones about the content or application of the Code.

4 Conditions

4.1 Any organisation or person applying for BPA or AOS membership must:

- sign a declaration agreeing to keep to the Code and its principles
- agree to keep appropriate records to show full and effective compliance with the Code requirements and to allow a full review of these records by the BPA if we make a reasonable request
- pay the appropriate fees set by the BPA Council
- agree to follow the decisions of POPLA, the independent appeals service.

If you do not sign your declaration and pay your fees, you will not be a member of the BPA.

4.2 To stay a member of the BPA you must keep to the conditions of the Code. If you do not keep to the conditions of the Code we may take disciplinary action against you.

4.3 Under the Code you must keep to all the requirements laid down by law. The Code reflects our understanding of the law at the date of publication. However, you are responsible for familiarising yourself with the law on any activities covered by the Code.

4.4 It is also a condition of the Code that, if you receive and process vehicle or registered keeper data, you must:

- be registered with the Information Commissioner
- keep to the Data Protection Act
- adhere strictly to any DVLA requirements relating to the data.

5 Warranty and disclaimers

5.1 We have, and will do our best to keep, Accredited Trade Association status with the DVLA.

5.2 You must tell us if you apply to the DVLA for an electronic facility to request data from the DVLA Vehicle Record, and use your membership of the BPA and compliance with the Code as evidence of your intention to keep to DVLA procedures.

5.3 You must also indemnify us against all claims that might arise from your obtaining data falsely or illegally, or misusing data.

5.4 We will not be liable for any direct or consequential losses that you, or any third party, incur as a result of:

- complying with the Code
- not complying with the Code
- being denied the facility to request vehicle information from the DVLA.

6 Monitoring compliance with the Code

- 6.1 You must confirm to us that you have systems and procedures in place to make sure that substantial compliance with the Code is embedded within the culture of your organisation.
- 6.2 Before you are allowed to claim that you are keeping to the Code, you must send us an Evidence of Compliance Statement. If you are a company, this must be signed by a director. When new members apply to join the AOS we will tell them what the contents of the evidence statement should be. We will do this through our normal communications channels, including our web site and by using email.
- 6.3 We will audit you at least once a year. The audit will be done by our compliance team or our appointed auditors to check that you are keeping to the terms of the Code. If we find any non-compliance issues you must put them right within an agreed time. We will also record any complaints we receive about our members.
- 6.4 We will investigate any complaints about alleged non-compliance with the Code. However, we are not set up to deal with disputes from the general public about parking or control. Nor are we a regulatory body. Therefore, the Code does not provide a way for drivers to challenge how a landowner or operator has applied parking control and enforcement on private land. Any challenge or appeal is a matter for the landowner's or operator's procedure, with the option of taking it to POPLA, and/or the courts. We will not get involved in the arbitration of a dispute between an operator and an individual.
- 6.5 Non-compliance with the Code will be dealt with and monitored through a scheme of sanctions. We will issue sanction points depending on the severity of the non-compliance. If you reach twelve points on your 'membership licence' in any twelve month period, we may refer you to the BPA Council for disciplinary action. The referral may result in your membership with the AOS and the BPA being suspended or terminated.
- 6.6 If we find there has been a failure to comply with the Code, either during a complaint investigation or a compliance audit, you must make appropriate changes to your business operation to bring it into compliance. We will write to you asking for the changes to be made. This will be a formal request and we will give you a timescale for you to make the changes and send us evidence that you have done this.
- 6.7 If you do not make the changes by the date given in the formal written request we will issue an appropriate sanction against your membership licence. If your licence reaches 12 points, we may suspend your membership of the AOS, and of the BPA.

- 6.8 If you do not comply with the Code you may be suspended or expelled immediately from the BPA. We would then start the disciplinary procedures set out in the BPA Code of Professional Conduct. This may happen when, in the opinion of the BPA Council, your failure to comply with the Code brings the BPA and its membership into disrepute.
- 6.9 We will inform the DVLA immediately if you are suspended or expelled from membership, or if your non-compliance with the Code is sufficiently serious.

7 Written authorisation of the landowner

- 7.1 If you do not own the land on which you are carrying out parking management, you must have the written authorisation of the landowner (or their appointed agent) before you can start operating on the land in question. The authorisation must give you the authority to carry out all the aspects of the management and enforcement of the site that you are responsible for. In particular, it must say that the landowner requires you to keep to the Code of Practice, and that you have the authority to pursue outstanding parking charges, through the courts if necessary.
- 7.2 The written authorisation must also set out:
- the definition of the land on which you may operate, so that the boundaries of the land can be clearly defined
 - any conditions or restrictions on parking control and enforcement operations, including any restrictions on hours of operation
 - any conditions or restrictions on the types of vehicles that may, or may not, be subject to parking control and enforcement
 - who has the responsibility for putting up and maintaining signs
 - the definition of the services provided by each party to the agreement
 - whether or not the landowner authorises you to take legal action to recover charges due from drivers charged for unauthorised parking.
- 7.3 Our compliance team are responsible for making sure that you follow the Code. If the team give you reasonable notice, you must allow our appointed manager to inspect the landowner's written authorisation.

8 Keeping and disclosing information

- 8.1 So that we can carry out our duties to operate the Code effectively, and to make sure that you keep to the Code, you must keep accurate records of all your operational sites. If our appointed manager asks, you must show them details of any particular site. We would normally ask to see the information only if there was a complaint or disciplinary action against an operator for not keeping to

the Code, or for audit purposes. An operator who does not provide the information within 14 days will be treated as being non-compliant with the Code.

8.2 Unless paragraph 8.3 applies, we will keep confidential all information which is provided in confidence to us by you. Only BPA staff involved in compliance monitoring will have access to the confidential information, and then only with the approval of a BPA Director.

8.3 Information will not be treated as confidential if:

- it was already in the public domain before it was provided to us
- it entered the public domain after this but not through any action of ours.

The information may be disclosed:

- if we are required to by a court order; or
- if, in the opinion of the Chief Executive of the BPA, not doing so might jeopardise the BPA's status as an Accredited Trade Association.

9 Professionalism

9.1 The Code is based on the understanding that operators and drivers should deal with each other in a respectful way.

This means that as a member of the AOS you must maintain a professional standard of behaviour in carrying out your operational duties. This includes making sure that:

- vehicles engaged in parking enforcement, such as ANPR vehicles, are marked clearly with appropriate livery or your business name, so that members of the public can see that you are the operator. Vehicles used only to transport parking enforcement staff do not need to be liveried.
- your front-line operational staff wear a uniform and carry a photo-identity card that is visible and available for inspection by drivers
- you deal with drivers and other members of the public in a professional way, avoiding using aggressive or threatening language.

9.2 Within that context, we believe that drivers ought to:

- accept that a landowner has the right to set out the terms on which drivers can enter their land
- accept that an authorised operator has the right to manage the parking on a landowner's behalf
- take reasonable steps to read the signs and any other appropriate information at a site
- drive safely and act responsibly while using a private car park
- act responsibly towards the staff managing a private car park
- give you the opportunity to answer any questions
- use the appeals procedures in an honest and fair way.

9.3 You must respect the needs of the emergency services to carry out their duties without your taking enforcement action against them. This means that you must not issue parking charge notices to:

- liveried vehicles being used for operational fire, police or ambulance purposes
- vehicles being used by a doctor or other health worker (such as a midwife or district nurse) who is on an emergency call at the address under control, and the vehicle is displaying a BMA badge or authorised Health Emergency badge.

10 Learning and development

10.1 You must make sure your staff and agents are competent to do the tasks they carry out.

10.2 You must provide adequate development opportunities to all staff for the general, job-specific and legal (for example, health and safety) elements of their roles.

10.3 You must keep continuous professional development records for your staff and agents, and we may ask to inspect these records.

10.4 Demonstrating individuals' commitment to continuous professional development through active individual membership of the BPA is the preferred approach.

11 Insurance

11.1 Unless you are a public sector organisation, you must have enough public liability insurance (at least £5M) to meet reasonable claims for damage or expenses. You must also carry full employers' liability insurance (at least £10M). You must allow us to inspect your current certificates of insurance, to show that you are meeting this requirement.

11.2 If you are a public sector organisation you must provide an equivalent level of cover as in paragraph 11.1, in case there is a claim. You must be able to show, if we ask, how you are able to provide an equivalent level of cover.

12 Requesting registered keeper details

12.1 Any BPA member involved in managing, controlling and enforcing parking on unregulated private land must be a member of the AOS to request information from the DVLA's vehicle records.

12.2 When you apply to the DVLA you must confirm you are a member of the BPA and the AOS (quoting your BPA membership number). You also have to confirm that you will keep to the Code, the Data Protection Act and any other legislation that applies. Under the Data Protection Act you will have to register as a data controller with the Information Commissioner.

- 12.3 You must use data from the DVLA only to carry out the parking control and enforcement activity for which you requested the data. You must not act as an agent to get data from the DVLA on behalf of a third party (for example a landowner or agent), unless that third party becomes a member of the AOS and meets all the compliance conditions. If you do not keep to the Code requirement this could lead to your membership of the AOS and of the BPA being suspended or terminated.
- 12.4 It is entirely up to the DVLA whether they allow you to request vehicle keeper information. Also, the DVLA apply terms and conditions to that access, and these may change. We will not get involved in disputes concerning the availability of DVLA data or services, except when we are acting in our general role as the recognised authority representing the parking industry as a whole.

13 Grace periods

- 13.1 Your approach to parking management must allow a driver who enters your car park but decides not to park, to leave the car park within a reasonable period without having their vehicle issued with a parking charge notice.
- 13.2 You should allow the driver a reasonable 'grace period' in which to decide if they are going to stay or go. If the driver is on your land without permission you should still allow them a grace period to read your signs and leave before you take enforcement action.
- 13.3 You should be prepared to tell us the specific grace period at a site if our compliance team or our agents ask what it is.
- 13.4 You should allow the driver a reasonable period to leave the private car park after the parking contract has ended, before you take enforcement action.

14 Misrepresentation of authority

- 14.1 You must give clear information to the public about what parking activities are allowed and what is unauthorised. You must not misrepresent to the public that your parking control and enforcement work is carried out under the statutory powers of the police or any other public authority. You will be breaching the Code if you suggest to the public that you are providing parking enforcement under statutory authority.
- 14.2 You must not use terms which imply that parking is being managed, controlled and enforced under statutory authority. This includes using terms such as 'fine', 'penalty' or 'penalty charge notice'.
- 14.3 The abbreviation 'PCN' is also used to mean a 'penalty charge notice' in the regulated environment. Unless you have previously defined a PCN as a 'parking charge notice' on your signs and notices, you must avoid using

the term 'PCN' to avoid confusing drivers about the nature of your parking enforcement.

15 Third party sub-contractors and 'self-ticketing'

- 15.1 You may use sub-contractors to carry out individual tasks to help you in your parking management and enforcement responsibilities. If you do this, you are responsible for making sure the sub-contractor keeps to the Code as if you were carrying out the tasks. If the sub-contractor does not keep to the Code, this failure will be treated as an act of non-compliance by you.
- 15.2 If you provide a service to a customer that allows the customer to issue parking charge notices themselves ('self-ticketing services') and you process the tickets, then you are responsible for making sure the customer keeps to the Code. You must provide your customer with an up-to-date copy of the Code and get their signed confirmation that they have read the Code and agree to keep to it.
- 15.3 You must tell promptly if you intend to provide self-ticketing services. If we or our agent ask you, you must show us the evidence that the customer has agreed to keep to the Code.

16 Disabled motorists

- 16.1 The Equality Act 2010 says that providers of services to the public must make 'reasonable adjustments' to remove barriers which may discriminate against disabled people.
- 16.2 'Reasonable adjustments' to prevent discrimination are likely to include larger 'disabled' parking spaces near to the entrance or amenities for disabled people whose mobility is impaired. It also could include lowered payment machines and other ways to pay if payment is required: for example, paying by phone. You and your staff also need to realise that some disabled people may take a long time to get to the payment machine.
- 16.3 Operators of off-street car parks do not have to recognise the Blue Badge scheme. But many choose to do so to meet their obligations under the Equality Act. Although a Blue Badge is not issued to all disabled people it is issued to those with mobility problems. So it is a good way for parking operators to identify people who need special parking provision.
- 16.4 You are at risk of a claim under the Equality Act if you do not discourage abuse of the 'disabled' spaces. This means that you need to make sure the spaces are regularly checked to be sure they are not being used by people who do not have a disability.
- 16.5 If your landowner provides a concession that allows parking for disabled people, if a vehicle displays a valid Blue Badge you must not issue it with parking charge notices.

B OPERATIONAL REQUIREMENTS IN ENGLAND AND WALES

17 Introduction to the operational requirements

17.1 Sections 18 to 24 below apply to England and Wales only. They take into account the changes to private parking management following the Protection of Freedoms Act 2012 (POFA 2012).

Schedule 4 to POFA 2012 is set out in Appendix C of the Code.

18 Signs

18.1 A driver who uses your private car park with your permission does so under a licence or contract with you. If they park without your permission this will usually be an act of trespass. In all cases, the driver's use of your land will be governed by your terms and conditions, which the driver should be made aware of from the start. You must use signs to make it easy for them to find out what your terms and conditions are.

18.2 **Entrance signs** play an important part in establishing a parking contract and deterring trespassers. Therefore, as well as the signs you must have telling drivers about the terms and conditions for parking, you must also have a standard form of entrance sign at the entrance to the parking area. Entrance signs must tell drivers that the car park is managed and that there are terms and conditions they must be aware of. Entrance signs must follow some minimum general principles and be in a standard format. The size of the sign must take into account the expected speed of vehicles approaching the car park, and it is recommended that you follow Department for Transport guidance on this. See Appendix B for an example of an entrance sign and more information about their use.

18.3 **Specific parking-terms signage** tells drivers what your terms and conditions are, including your parking charges. You must place signs containing the specific parking terms throughout the site, so that drivers are given the chance to read them at the time of parking or leaving their vehicle. Keep a record of where all the signs are. Signs must be conspicuous and legible, and written in intelligible language, so that they are easy to see, read and understand. Signs showing your detailed terms and conditions must be at least 450mm x 450mm.

18.4 If you intend to use the keeper liability provisions in Schedule 4 of POFA 2012, your signs must give 'adequate notice'. This includes:

- specifying the sum payable for unauthorised parking
- adequately bringing the charges to the attention of drivers, and

- following any applicable government signage regulations.

See paragraphs 2(2), 2(3) and 12 of the Schedule.

18.5 If a driver is parking with your permission, they must have the chance to read the terms and conditions before they enter into the contract with you. If, having had that opportunity, they decide not to park but choose to leave the car park, you must provide them with a reasonable grace period to leave, as they will not be bound by your parking contract.

18.6 The wording you include on your specific parking terms signage is your decision. However, you should try to use plain and intelligible language in all your signs and information.

18.7 You must not offer just a premium-rate number. If you do have a premium-rate number, you must also offer a standard-rate number you can be contacted on.

18.8 You should display the BPA and AOS logos on all sites. This will help the public to see that you are a legitimate operator, and show that the site is run properly.

18.9 Important: you may have to give other information on signs and notices under companies and consumer protection law and other legislation.

18.10 So that disabled motorists can decide whether they want to use the site, there should be at least one sign containing the terms and conditions for parking that can be viewed without needing to leave the vehicle. Ideally this sign should be close to any parking bays set aside for disabled motorists.

19 Charges, and terms and conditions

19.1 When you issue a parking charge notice the charges you make have to be reasonable. This section explains what reasonable charges are.

19.2 In the Code 'parking charges' means charges arising from enforcement under three different circumstances:

- when a motorist breaks the terms and conditions of a parking contract
- when a motorist trespasses by parking without permission
- agreed charges that are advertised in the contract; for example, for an overstay.

It does not mean the normal tariff fees for parking.

These are a matter for the landowner and operator and are outside the scope of the Code. Your terms and conditions will include your normal tariffs for parking, plus any parking charges if the driver breaks the contract or commits a trespass.

- 19.3 If the driver breaks the contract, for example by not paying the tariff fee or by staying longer than the time paid for, or if they trespass on your land, they may be liable for parking charges. These charges must be shown clearly and fully to the driver on the signs which contain your terms and conditions.
- 19.4 If you want to enforce a parking charge notice under the keeper liability provisions of POFA 2012 you will need to show how you brought the requirement to pay parking charges to the attention of drivers. See paragraphs 2 (2) and (3) of Schedule 4.
- 19.5 If the parking charge that the driver is being asked to pay is for a breach of contract or act of trespass, this charge must be based on the genuine pre-estimate of loss that you suffer. We would not expect this amount to be more than £100. If the charge is more than this, operators must be able to justify the amount in advance.
- 19.6 If your parking charge is based upon a contractually agreed sum, that charge cannot be punitive or unreasonable. If it is more than the recommended amount in 19.5 and is not justified in advance, it could lead to an investigation by The Office of Fair Trading.
- 19.7 If prompt payment is made (defined as 14 days from the issue of the parking charge notice) you must offer a reduced payment to reflect your reduced costs in collecting the charge. This reduction in cost should be by at least 40% of the full charge.
- 19.8 If you are asked, you must be able to justify the level of parking charges to the AOS Board, a member of our compliance team or to their specified agent.
- 19.9 You should warn drivers that if they delay payment beyond a payment period of 28 days, and you need to take court action or use debt-recovery methods to recover a debt, there may be extra 'recovery' charges for debt-recovery action. However, you do not need to say how much these recovery charges are in advance, on your signs or notices.

20 Parking charge notices

- 20.1 When a vehicle is parked in a private car park, the normal rule is that the driver is responsible for paying the tariff fee (if any) for parking, for following the terms and conditions which apply, and for paying any parking charges.

Because of the difficulties of identifying who drivers are

and where they live, the law in England and Wales now allows car park owners and operators to recover unpaid parking charges from registered vehicle keepers, or, where relevant, from vehicle hirers.

- 20.2 Schedule 4 of POFA 2012 creates the new legal basis to claim unpaid parking charges from vehicle keepers and hirers. As long as the strict conditions of Schedule 4 are met, you may claim payment from the keeper or the hirer of the vehicle rather than from the driver. To do this you need to follow the procedures set out in the Schedule. You can do this whether the parking originally took place under the terms of a contract or was an act of trespass.
- 20.3 You can find more information on the procedures in Schedule 4 of POFA, which is set out in full in Appendix C of the Code.
- 20.4 The parking charge notice is the document you:
- give to drivers, or attach to their vehicle windscreen, to tell them they have broken your terms and conditions and are now liable for parking charges, or
 - send to vehicle keepers asking them to pay the parking charges, if you do not have the driver's details, or
 - send to vehicle hirers, asking them to pay the parking charges, if you discover that the vehicle was rented.

POFA 2012 refers to the 'Notice to Driver', the 'Notice to Keeper' and the 'Notice to Hirer'. All are types of parking charge notice.

- 20.5 When issuing a parking charge notice you may use photographs as evidence that a vehicle was parked in an unauthorised way. The photographs must refer to and confirm the incident which you claim was unauthorised. A date and time stamp should be included on the photograph. All photographs used for evidence should be clear and legible and must not be retouched or digitally altered.
- 20.6 **Notices to Drivers**

To be an effective 'Notice to Driver' under POFA 2012, your parking charge notice must meet the requirements of Schedule 4. In particular:

- paragraph 7 (2) lists the contents you must include in the Notice to Driver
- paragraph 7(4) sets out how and when the Notice to Driver is to be delivered, including the requirement that the notice must be given before the vehicle has been removed from the car park and while it is stationary
- paragraph 7(5) defines what information must be provided about arrangements to resolve disputes and complaints, including arrangements about an independent appeal.

20.7 As well as meeting the POFA 2012 statutory requirements to be a Notice to Driver, your parking charge notice must tell drivers that you may be requesting information from the DVLA as to the registered keeper of the vehicle, and the 'reasonable cause' you have for making that request.

20.8 Notices to Keepers

If you have issued a parking charge notice to a driver in your car park but had no response, you may wish to take the next step to recover the charge.

20.9 Or, if you were unable to issue a parking charge notice while the driver was present, perhaps because you use ANPR or camera equipment to monitor the car park, you may want to issue a parking charge notice by post.

20.10 In either case, you will need to try to identify who was driving the vehicle and make contact with them. You do this by first seeking the keeper details from the DVLA. Having received the keeper details from the DVLA you will need to issue a 'Notice to Keeper'.

20.11 The Notice to Keeper serves three purposes:

- it invites the keeper to pay the unpaid parking charge
- if the keeper was not the driver it invites the keeper to tell you who the driver was, and
- it starts the 28-day time period after which the keeper may become liable to pay the unpaid parking charge.

20.12 An effective 'Notice to Keeper' within the meaning of POFA 2012, must meet the requirements of Schedule 4 of the Act. In particular:

- paragraphs 6 (1) (a) and 8 (2), if you have already given an effective Notice to Driver at the time of the parking event
- paragraphs 6 (1) (b) and 9, if you have not given an effective Notice to Driver.

20.13 You should see the relevant part of Schedule 4 of POFA 2012 to make sure you know:

- what contents you need to include in the Notice to Keeper (paragraph 8(2) or 9(2))
- the methods of serving the Notice to Keeper (paragraph 8(4) or 9(4))
- the deadlines by which the Notice to Keeper must be served, which differ depending on whether or not a Notice to Driver was issued first (paragraphs 8(5) or 9(5))
- the evidence (if any) you must include with the Notice to Keeper (paragraph 10).

20.14 When you serve a Notice to Keeper, you must also include information telling the keeper the 'reasonable cause' you had for asking the DVLA for their details.

20.15 If the keeper replies to your Notice to Keeper within 28

days and gives enough details about the driver, you must then pursue the driver for the unpaid parking charge.

20.16 If the keeper does not reply within 28 days, or refuses to give enough details about the driver, under Schedule 4 of POFA 2012 you are able to pursue the keeper for the unpaid parking charge.

20.17 Notices to Hirers

Following the issue of a Notice to Keeper, you may find that the vehicle was hired at the time of the parking contravention for which you are seeking a parking charge. Instead of recovering payment from the keeper, you will need to try to recover it from the hirer, by issuing a Notice to Hirer.

20.18 Schedule 4, paragraphs 13 and 14, of POFA 2012 sets out the strict terms under which the hirer may become liable instead of the keeper. These include that:

- you are given a signed statement from the vehicle-hire firm within 28 days of the Notice to Keeper, along with a copy of the hire agreement and a copy of a statement of liability signed by the hirer; and
- these statements contain the details set out in paragraph 13 of Schedule 4.

20.19 Your Notice to Hirer must satisfy the detailed requirements of paragraph 14, including:

- the contents you need to include in the Notice to Hirer – paragraph 14(5)
- the documents you must send with it – paragraphs 13(2) and 14(2)
- the methods of serving the Notice to Hirer – paragraph 14(6)
- the deadlines by which the Notice to Hirer must be served – paragraphs 14(2) and 14(3).

20.20 Local Authorities and unregulated parking

We believe that where possible parking enforcement should take place within the legal framework provided by such legislation as the Traffic Management Act or other road traffic regulations. If you are enforcing as a local authority, you should try to enforce in this way.

20.21 If this is not possible for whatever reason, you may use the rules of the Code to manage your unregulated parking enforcement in the following way:

- You may **not** use this section of the Code, PoFA 2012 or POPLA to manage your unregulated car parks if you are enforcing using the principles of the law of contract.
- You may use the Code for Scotland and Northern Ireland if you are enforcing using the principles of the law of contract in any part of the UK.
- You may use this section of the Code, PoFA 2012 and

POPLA if you are able to use the principles of the Tort of Trespass.

- 20.22 In order to request information from the DVLA's vehicle keeper records for unregulated parking events, you must use an entirely separate system to that which you use for requests under regulated authority. You must also be aware of the charge that will be made by DVLA for these requests.
- 20.23 When you join the AOS, you must tell us which regime you intend to enforce under.

21 Automatic number plate recognition (ANPR)

- 21.1 You may use ANPR camera technology to manage, control and enforce parking in private car parks, as long as you do this in a reasonable, consistent and transparent manner. Your signs at the car park must tell drivers that you are using this technology and what you will use the data captured by ANPR cameras for.
- 21.2 Quality checks: before you issue a parking charge notice you must carry out a manual quality check of the ANPR images to reduce errors and make sure that it is appropriate to take action.
- 21.3 You must keep any ANPR equipment you use in your car parks in good working order. You need to make sure the data you are collecting is accurate, securely held and cannot be tampered with. The processes that you use to manage your ANPR system may be audited by our compliance team or our agents.
- 21.4 It is also a condition of the Code that, if you receive and process vehicle or registered keeper data, you must:
- be registered with the Information Commissioner
 - keep to the Data Protection Act
 - follow the DVLA requirements concerning the data
 - follow the guidelines from the Information Commissioner's Office on the use of CCTV and ANPR cameras, and on keeping and sharing personal data such as vehicle registration marks.
- 21.5 If you want to make use of the Keeper Liability provisions in Schedule 4 of POFA 2012 and you have not issued and delivered a parking charge notice to the driver in the car park where the parking event took place, your Notice to Keeper must meet the strict requirements and timetable set out in the Schedule (in particular paragraph 9).

22 Complaints, challenges and appeals

General principles

- 22.1 Under the Code you must have procedures for dealing fairly, efficiently and promptly with complaints, challenges

or appeals. The procedures must give drivers and keepers the chance to challenge a parking charge notice.

- 22.2 Whenever you issue a parking charge notice you must tell drivers about the arrangements for resolving complaints, challenges or appeals. These include:

- your procedures for dealing informally with challenges by the driver about the parking charge notice or any matter in it
- the arrangements for independent appeal to POPLA

Drivers should first use your procedures for resolving complaints, challenges or appeals, before being able to refer them to an independent appeal. You should tell drivers at what stage an independent appeal to POPLA becomes available.

- 22.3 If the driver asks for them, you should give them copies of any photographic evidence you have. Ordinarily you should not charge for this unless Data Protection legislation specifically allows you to.

Operator procedures

- 22.4 If a driver or keeper challenges a parking charge you must review the case and decide whether to:
- uphold the parking charge and explain why it was issued and should therefore be paid, or
 - reduce or cancel the charge and take no further management action other than informing the driver.
- 22.5 If the driver is due a refund of any fees, you must include that payment – or written confirmation that you have made the payment – with your reply.
- 22.6 When you receive a challenge about the issue of a parking charge, you must stop work on processing the charge immediately. You must not increase the charge until you have replied to the challenge.
- 22.7 We consider it a reasonable timescale to allow 28 days from the issue of the parking charge notice (in whatever format you send it) to allow the driver, keeper or hirer to challenge the enforcement action.
- 22.8 You must acknowledge or reply to the challenge within 14 days of receiving it. If at first you only acknowledge the challenge, or your reply does not fully resolve it, normally we would expect you to seek the additional information you require from the motorist and accept or reject the challenge in writing not more than 35 days after the information required to resolve it has been received from the motorist. It is acknowledged that in exceptional circumstances, an investigation into a challenge may take longer than 35 days after such information has been received and in these instances the motorist must be advised accordingly and given a date by which they can expect a resolution. If this date cannot be achieved then the motorist must be written to again and

APPENDIX B

ENTRANCE SIGNS

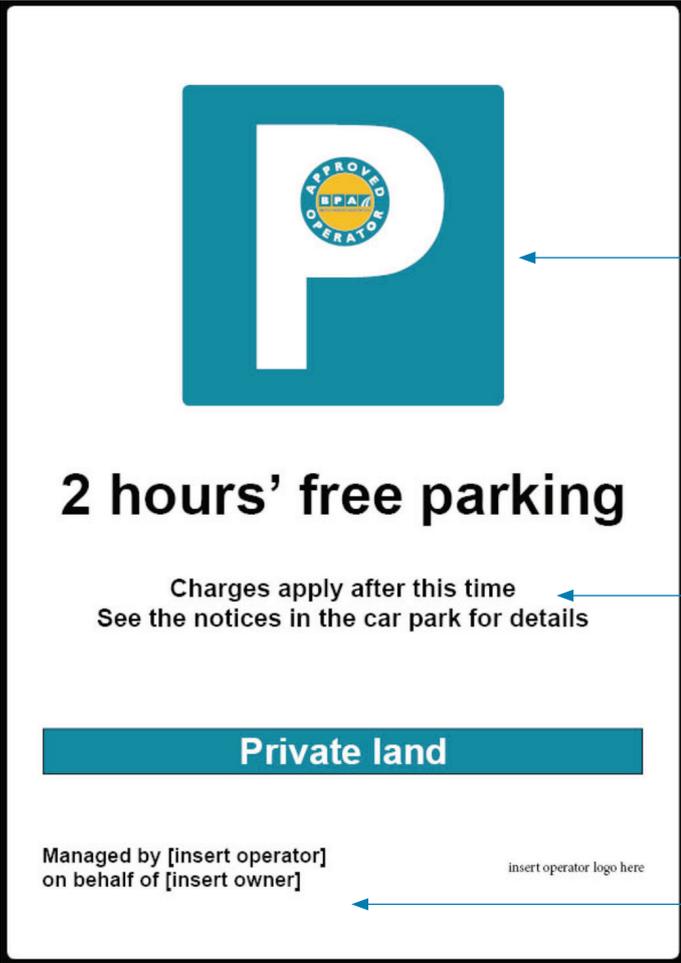
A standard form of entrance sign must be placed at the entrance to the parking area.

There may be reasons why this is impractical:

- when there is no clearly defined car park entrance
- when the car park is very small
- at forecourts in front of shops and petrol filling stations
- at parking areas where general parking is not permitted.

If you think there are other circumstances where it is impractical or undesirable to have an entrance sign, you must tell us in advance and get our approval to amend the sign or not have one.

You should try to keep to the following design principles:



This blue rectangle with the 'P' symbol can be left out if public parking is not invited and it is trespass you are managing. However, the AOS roundel must **always** be shown on the sign.

If you do not have the 'P' symbol, you may move the AOS roundel to the bottom of the sign alongside the operator's name.

You must always mention that terms and conditions apply and say where to find more details about them.

"Managed by" is **required**
"On behalf of" is **optional**

The sign may be portrait or landscape in layout, depending on where it is placed.

As well as the AOS logo, signs at the entrance to the parking area should clearly show the type of parking; and if, when and how any payment should be made.

We consider it to be good practice that the landowner’s name is on the sign, but we understand that in some cases the owner may not want to be mentioned. You may also place your ‘private parking’ banner above your company details and below your terms and conditions.

If one of the following standard wordings applies to your parking area you should use it. If not, you may alter the wording to fit the situation. Words in square brackets may be left out.

There must be at least one item from Group 1. But no more than three items from Group 1 should appear before, and more prominently than, text from Group 2. You must always mention that terms and conditions apply and say where drivers can find more details – this will usually be on the other notices in the parking area.

If there are different payment terms for blue badge holders, you should also show these. The words ‘blue badge holders’ should generally be replaced by the blue badge symbol (exactly as shown in the Traffic Signs Regulations Guidance Document, not a local version).

Group 1

- Pay and display [except/free for blue badge holders] [x minutes/hour’s/hours] free parking [for [business name] customers only]
- Pay on exit
- Pay [on foot/at machine] when leaving
- Parking for [business name] customers only
- Permit holders only

Group 2

- Charges apply [after this][after x minutes/hours]
- Private land
- Terms and conditions apply
- See the notice[s] [in the car park] for details

Text size

The capital height for Group 1 text will depend on the approach speed of traffic. Group 2 text should be at least 50% of this size. All other text should be smaller than 50% of the Group 1 text size. However, the name of the car park or parking area, or a brief welcome message (if included), may be larger.

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

The sign should be placed so that it is readable by drivers without their needing to look away from the road ahead. Any text on the sign not intended to be read from a moving vehicle can be of a much smaller size.

Contrast and illumination

There must be enough colour contrast between the text and its background, each of which should be a single solid colour. The best way to achieve this is to have black text on a white background, or white text on a black background. Combinations such as blue on yellow are not easy to read and may cause problems for drivers with impaired colour vision.

Signs should be readable and understandable at all times, including during the hours of darkness or at dusk if and when parking enforcement activity takes place at those times. This can be achieved in a variety of ways such as by direct lighting or by using the lighting for the parking area. If the sign itself is not directly or indirectly lit, we suggest that it should be made of a retro-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.

APPENDIX F

TRANSITION ARRANGEMENTS

Entrance signs: (UK)

We have introduced the concept of two-part signage to establish a contract or an act of trespass in a more practical way.

Entrance signs

In essence, entrance signs are designed to tell the motorist that they are entering managed land and that terms and conditions of use will apply. The details of these terms and conditions are not put on entrance signs: they are contained on notices displayed elsewhere within and about the land.

We recommend that you introduce this new arrangement to any newly managed sites immediately and other (existing) sites when re-signing takes place. In any event, entrance signs should meet the new requirements by **1 October 2015**.

We expect to receive a programme of works from you to show how you will achieve this. You should send us this by **1 April 2013**.

Main 'terms and conditions' signs: (UK)

The signs that contain the detailed terms and conditions for parking should be changed under the following timescales:

- 1 Where immobilisation does not take place and your parking charge is **not** more than £100, immediate change is not required. Changes such as the addition of the BPA and AOS logos should be introduced immediately to new sites and at other sites when re-signing takes place, and should be complete by **1 October 2015**.
- 2 Where **immobilisation** only takes place as enforcement and there is no lawful authority, signs should be changed by **1 October 2012**.
- 3 Where immobilisation is used and there is no lawful authority, but other types of enforcement are in use already (for example ticketing, ANPR) signs must be changed by **1 April 2013**.
- 4 Where your sign advertises a parking charge that is **higher** than the charge recommended in the Code 2012, you should reduce your charges and amend the sign by **1 July 2013** unless you can justify the higher charge as specified in the Code.

We expect to receive a programme of works from you to show how you will achieve this. You should send us this by **1 September 2012**.

Parking charge notice (Notice to Driver or Notice to Keeper): (England and Wales)

Because the parking charge notice must contain a reference to POPLA, it must be updated and available for use on **1 October 2012**.

If you have a stock of parking charge notices, you may continue to use them as long as you enclose the necessary information about POPLA with the notice.

If your parking charge is more than £100 you should reduce your charges and **not** use any existing notices unless the higher charge can be justified.

Parking charge notice: (Scotland and Northern Ireland)

There will be no requirement to mention POPLA for any sites you manage in Scotland or Northern Ireland. But if your parking charge is more than £100 you should reduce your charges and not use any existing tickets unless the higher charge can be justified.

Reminder letters and appeals letters: (England and Wales)

Because your reminder letters and appeals letters must contain a reference to POPLA, they must be updated and available for use on **1 October 2012**.