

**INDEPENDENT COMPLAINTS ASSESSOR**

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Email: ica.Jonathan-Wigmore@dft.gsi.gov.uk  
My reference: 018 (14/15)

By email to:  
[redacted]

5 September 2014

Dear Mr Griffiths

**COMPLAINT AGAINST THE DRIVER AND VEHICLE LICENSING AGENCY (DVLA)**

Thank you for your assistance during the review and for keeping in touch during the unexpectedly protracted span of this review. I am particularly grateful to you for your email with enclosures dated 21 July 2014 which filled the remaining gaps in the thread of communications I had pieced together from the documents the DVLA had provided.

Having now received copies of the key correspondence, I have been able to complete my review. Before I set out the outcome in this letter I will respond to those queries and points you put to me in your email of 21 July 2014 which are not covered in the review itself:

- Non-disclosure of your initial email dated 9 November: this email was referred to me by the DVLA at the outset but was undated
- Undated email text – I was referring to the above
- 22 June letter: apologies, this was a typo on my part, I was referring to the DVLA's final letter dated 22 April
- Correspondence referred to in email of 13 April: I didn't have the preceding correspondence where you asked the yes/no question so couldn't make sense of the 13 April email where you pressed the Agency for an answer. I have since received it (see on).

I set out my review overleaf.

## Your complaint

1. To recap briefly, you received a parking fine from a private company, Local Parking Security Ltd (LPS), and initially asked under what criteria the DVLA discloses vehicle keeper information to private car parking companies. You complained that LPS was in breach of the British Parking Association (BPA) Approved Operator Scheme (AOS) Code of Practice (the BPA Code) when it ticketed you and was therefore ineligible to receive your data from the DVLA. You also complained about the provision of inconsistent information, poor complaint handling and a failure to reply to correspondence on the part of the DVLA; and a repeated failure to answer a simple yes/no question: *“Is compliance with the BPA Ltd CoP a necessary requirement for the DVLA in determining reasonable cause?”*
2. The review process has been prolonged by uncharacteristic difficulties in getting information to me by the DVLA and I am grateful to you for your assistance and understanding throughout. I will return to this in my conclusion.

## Your correspondence with the DVLA

3. In your initial email of **9 November 2013** you gave details of the parking ticket you had received in a private car park on 3 November 2013 from LPS, a BPA/AOS member, and set out what you felt were irregularities in it, namely that LPS:
  - Was not apparently claiming keeper liability
  - Stated they would obtain (rather than ask for) keeper details from the DVLA
  - Made a formal demand of the vehicle owner (as opposed to the keeper) for the driver’s details
4. You argued that these were irregularities which represented a failure by LPS to comply with schedule 4 of the BPA Code which provides conditions of membership of the BPA or AOS. However, your main point was that, under paragraph 19.7 of the BPA Code, payment within 14 days should bring a minimum of a 40% reduction in costs. You noted that LPS’s reduction from £60 to £40 represented only 33.3%, a breach of the DVLA requirement of full BPA Code compliance. You have argued that full Code compliance is necessary if a private company is to claim *“reasonable cause”* for access to registered keeper data from the DVLA. You argued that the DVLA should not therefore provide keeper details to LPS.
5. On **11 November** the DVLA replied to explain that it could not regulate private companies and it only disclosed keeper information to Accredited

Trade Association (ATA) members who adhered to the ATA's code. It fell to the ATA (in this case, the BPA) to police standards. The DVLA continued:

*“While compliance with an ATA's Code of Practice does not equal reasonable cause, it does promote fair treatment of the motorist and landowner alike, and ensures that there is a clear set of standards for operators that covers, among other things, signage, appeals processes, and methods of contacting drivers. Therefore, unless you can provide evidence that the conditions of parking at this site were not broken, LPS would have reasonable cause to request the keeper details from the DVLA. If you believe the parking ticket was issued unfairly, this should be raised using the appeal route”.*

The DVLA copied in David Metcalf of the BPA who it said would investigate this matter and provide you and it with a response.

6. On **11 November** you replied, pointing the Agency again to the evidence that LPS was acting outside of the BPA Code and arguing that there was an absence of reasonable cause to hand it your data. You could not have been clearer about your expectations as to the DVLA's next steps:

*“1. Not make my data available to [LPS], or  
2. If it chooses to do so then not to do so without issuing to [LPS] a formal written notification that the data may not be used for the purposes of pursuing keeper liability. In failing this condition it would seem from your own admission that such processing would be unfair. The onus is thus upon the DVLA to process in this specified manner to meet the fairness standard.”*

7. On **12 November** the Agency replied, reiterating that reasonable cause does not relate to full BPA Code compliance and asking if you had breached any condition of parking. The information that code breaches were investigated by the ATA was also reiterated and you were informed in rather confusing language:

*“With regards to any subsequent request for information, if LPS obtain the keepers details and use try to utilise the Protection of Freedoms Act 2012 in a situation where it is not permitted, this matter would then be investigated, however at this time, there is no case for the DVLA to contact the company concerned.”*

8. You replied on **13 November**, as follows (your emphases):

*"I take serious issue with your statement, "As previously mentioned, reasonable cause does **not** depend on full compliance with the code of practice"*

This is a complete 'U' turn and an unequivocal contradiction on your previous response in which you stated that;

*"...vehicle keeper information is disclosed **only** to companies that are members of an Accredited Trade Association (ATA) **and adhere to its code of practice**"*

You asked that all correspondence was referred to the line manager and, in addition to your earlier stipulations about release of data to LPS, stated:

*I also expect the Secretary of State, acting reasonably, to exercise his discretion as **required under Reg 27** if and when LPS apply to the DVLA for the registered keeper data."*

9. On **3 December** you chased the DVLA for a response and suggested, once again, that the DVLA had an opportunity not to disclose keeper details to LPS. You asked whether an application for your data had been made and how the DVLA intended to deal with any such application.
10. On **4 December** the DVLA replied to inform you that your case had been referred to the officer's line manager but he was on leave until 9 December.
11. On **20 February 2014**, having returned from abroad to discover correspondence from LPS and a debt recovery firm, you resumed your communications with the DVLA. You pointed out that you had not received the response promised in December or any update. You asked for a response as soon as possible.
12. On **28 February** Ms Symons of the DVLA replied. The Agency was unable to provide me with a copy of that email but you did so on 21 July. In it, the DVLA stated:

*"I must firstly apologise for not responding to this in November 2013, I don't know how it was missed but it appears that it was.*

*I am responding as David's [i.e. the officer who corresponded with you in November and December] **manager on the Data Sharing Team**. You say*

*that since your last email you have received 2 letters from the Parking Company and from a debt collection agency. Were they quoting POFA?<sup>1</sup> I ask, because as David previously advised the Parking Industry doesn't have to be utilising POFA in order to have reasonable cause to request DVLA data.*

*Information from the vehicle record is released under reasonable cause provisions where the reason for the request relates to the vehicle or its use, following incidents where there may be liability on the part of the driver. The Agency would not be able to justify withholding personal information from third parties able to demonstrate reasonable cause without evidence that such disclosure would cause unwarranted and substantial distress or damage.*

*David previously asked BPA to look into the issues you raised and I have asked BPA for a copy of their investigation.”*

13. On **3 March** you replied as follows:

*“I refer to my previous correspondence with the DVLA. Please now deal with the following issues in the order that they are listed.*

*1) The failure of the DVLA to respond to my correspondence in a timely manner should now be added to my complaint against the DVLA*

*2) As the DVLA has failed, at the first two stages, to properly deal with my complaint and the issues raised, this matter should now be a stage 3 complaint, please acknowledge and confirm.*

*3) I would be grateful if a competent DVLA supervisor would either confirm or refute Mr Dunford's claim that reasonable cause (for BPA members) does not require full compliance with the BPA Ltd AOS Code of Practice.*

*You see the reason that I am asking for clarification is because the DVLA have repeatedly given public assurances to members of the public, reporters, MPs and the government, that compliance with an ATA Code of Practice is a requirement of 'reasonable cause'. So you see either David Dunford has deliberately misrepresented the publicly stated DVLA position in his response to me or the DVLA is deliberately misrepresenting a lie as the truth.*

*Full compliance with the Code of Practice either applies to reasonable cause or it doesn't; which is it, I don't want any stock DVLA 'lines' trying to*

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<sup>1</sup> Protection of Freedoms Act which allows proceedings against the registered keeper for unpaid parking charges when the parking operator does not know who the driver was.

*fudge the answer, I am entitled to a 'yes' or 'no' straight answer from the DVLA to a straight question.*

*4) I note that you Ms Symons have also tried to sidestep and have declined to reply to my original concerns as you were required to do so in accordance with the requirements of s10(3) of the Data Protection Act 1998 - please acknowledge and confirm that the DVLA, acting reasonably, will now respond fully to that specific issue.*

*5) Please provide me with a copy of the V888/3 that was submitted in order to obtain my data in this case or in the alternative, if this was an electronic request, I require you to contact the requestor and obtain full copies of the audit trail or evidence that supports that electronic request.*

*I look forward to a meaningful response from the DVLA by close of business on Thursday 6th March 2014”.*

14. On **14 March** the DVLA replied using the order you had provided. It reiterated its earlier apology for failing to reply to your correspondence and confirmed that you were at step 3 of its complaints procedure. The DVLA reiterated its earlier advice that Code compliance does not equate to reasonable cause and set out the outcome of the BPA's investigation into LPS:

- *“LPS are stating that after 28 days they will obtain (rather than request) keeper details from the DVLA. BPA have spoken to LPS and they will be changing this when they carry out their next signage updates.*
- *LPS are stating that a formal demand (rather than a request for the driver's details) will be sent to the vehicle owner (rather than the keeper). BPA will be speaking to LPS about this wording and asking them to change it.*
- *LPS are only offering a 33.3% reduction on their signage from £60 to £40. BPA will be speaking to LPS to advise them that the COP says a 40% discount should be offered.”*

The evidence provided by LPS in support of its data query was provided (however, I have not been provided with this).

15. On **17 March** you replied, addressing your correspondence to the Agency's CEO. You stated

*“The issue that I require you to address is that of the effect of non-compliance with the BPA Ltd CoP on 'reasonable cause'. You will note that both David Dunford and Liz Symons have sought to duck and dive the issue. In her latest response, for example, Liz Symons has deliberately*

*changed the meaning of my enquiry from (in essence); is compliance with the CoP an essential ingredient of 'reasonable cause' to does compliance with the CoP equal 'reasonable cause' and to which she has then answered in the negative.*

*What Liz Symons has done is deliberately manipulated and misrepresented my enquiry in order to avoid answering it. I know full well that compliance with the BPA Ltd CoP does not equal 'reasonable cause' because there are also other factors taken into account. That wasn't my question.*

*My reasonable enquiry therefore still stands.*

*Is compliance with the BPA Ltd CoP a necessary requirement for the DVLA in determining reasonable cause?*

*Yes or No.*

*I require the DVLA to either confirm or deny whether or not BPA Ltd members can still satisfy reasonable cause even though they are operating in breach of their own CoP.*

*I don't think that is a difficult question. Please therefore reread all the correspondence between DVLA on this matter and then provide me with a definitive straight and honest answer on the DVLA's policy on this matter."*

16. On **28 March** the DVLA's Kevin Watts, the manager of the Agency's Data Sharing Team, replied. The DVLA could not provide me with a copy of the letter but you did so. The letter stated:

*"The disclosure of vehicle keeper data under the reasonable cause provisions is a discretionary power of the Secretary of State, who has adopted a policy that requires all private car parking operators to obtain membership of an appropriate Accredited Trade Association (ATA) in order to request vehicle keeper details. This policy is intended to protect vehicle keepers from misuse of their information. One of the conditions of the membership of an ATA would be to abide by its Code of Practice (COP).*

*The requirement for an operator to comply with an ATA's COP is just one of the measures government has put in place to improve standards in the private parking industry through encouragement of robust self-regulation rather than government regulation at significant public cost.*

*Essentially, the reasonable cause legislation is a legal gateway in which to request data from the DVLA. Compliance with an ATA's COP is just one of the requirements to help inform the DVLA of the legitimacy of the request.*

*Strict contract terms detail when information may be requested and how it can be used. No organisation has direct access to DVLA vehicle keeper data. If you feel that any of the practices used by the company do not comply with the BPA's code of practice, you may wish to contact the BPA at Stuart House, 41- 43 Perrymount Road, Haywards Heath, RH16 3BN.*

*I hope this makes the DVLA's position clear."*

17. On **7 April** you pressed the CEO for a personal response, arguing that your central question had not yet been answered. You referred the CEO to page 4 of DVLA's *Release of Information from DVLA registers* document<sup>2</sup> which states:

*"In order to help ensure motorists are treated fairly when any parking charge is pursued, DVLA will only provide vehicle keeper details where the car parking management company is a member of a DVLA Accredited Trade Association (ATA) and adhere to an enforceable code of practice."*

18. On **11 April** Kevin Watts replied, explaining that the relevant subject matter experts respond for the CEO. He stated that the position had been made clear in previous correspondence to which the DVLA had nothing to add, concluding:

*"I must now draw matters to a close. Should you choose to send us any further correspondence in relation to this matter, and where no new issues have been raised, then we will only acknowledge receipt of your correspondence."*

19. On **13 April** you replied as follows:

*"I now wish to lodge a complaint that I have asked for what amounts to nothing more than a simple "yes" or "no" answer to a question and the DVLA has refused to provide one.*

1. *Can you now please confirm that the DVLA has not provided a "yes" or "no" answer, and*
2. *Please provide a "yes" or "no" answer.*

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[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/197528/Release\\_of\\_information\\_from\\_DVLA.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/197528/Release_of_information_from_DVLA.pdf)

*In the event that you are unable to answer this complaint, then can you please refer this complaint to the ICA.”*

20. On **22 April** the DVLA confirmed that your case would be referred to the ICA and that you would be informed when the referral had been made. From the documents I have been sent it appears that the referral form was completed on **24 April**. The Agency emailed me on **14 May** to ask if I had received your referral (which it thought it had sent on 25 April) and on **16 May** I replied that I had not. On **20 May**, after we had looked into how the referral (with one other) had gone astray<sup>3</sup>, the DVLA sent me some documents relevant to your case and a referral form.
21. On **29 May** I asked the DVLA to send me all the documents in line with its usual process and on **6 June** the Agency told me I had been sent all the documents it had. On **9 June** I wrote back contrasting the inventory of correspondence on the referral form with the partial disclosure made to me and asking a series of questions. Further documents were provided on **17 June** but gaps still existed leading me to approach you on **19 June**, copied to the Agency. This prompted a further disclosure that day from the Agency but documents remained outstanding, as I outlined to you in my email of **20 June**. We agreed that your case would be deferred pending your return from abroad but I felt I had enough to produce an initial draft which I referred to the Agency on **17 July**. On **18 July** you told me you would provide the missing documents so I asked the Agency to disregard my draft. After my holiday, on **6 August**, I referred a new draft to the DVLA.

## **CONCLUSION**

### **Should the DVLA have allowed LPS to access your data?**

22. I will start by addressing the yes/no question you reiterated to the DVLA in your 2014 communications (3 March, 17 March, 7 April and 13 April). In your words, the question is:

*“Is compliance with the BPA Ltd CoP a necessary requirement for the DVLA in determining reasonable cause?”*

23. We agree, I think, that *reasonable cause* and code compliance are, in effect, located in separate tiers of the DVLA’s process for the disclosure of vehicle keeper data. As you know, reasonable cause is a legal concept provided in *The Road Vehicles (Registration and Licensing) Regulations 2002* (see Annex). In essence, it is a pre-requisite for the DVLA to release

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<sup>3</sup> We did not get to the bottom of this unfortunately.

data it holds to an applicant, usually about driver or keeper liability for a motoring incident. Clearly an alleged violation of parking requirements on private land represents such an incident and provides the DVLA with *reasonable cause*.

24. So, the short answer to your question is “*No, compliance with the code is not a necessary requirement in determining reasonable cause*”. In cases like yours, reports of alleged code breaches are handled separately from the disclosure process. They are supposed to be referred to the ATA (the BPA in this case) for investigation and if necessary enforcement while *reasonable cause* is judged on its own merits based on the reason for the requested disclosure.

25. However, the Agency assures the public that it does not automatically hand over data when an individual or organisation claims *reasonable cause*. The preceding tiers of the disclosure process are detailed in the Annex to this review and include:

- a six month probationary period for applicants before they are granted electronic access
- data may only be used for the requested purpose and the applicant must protect its confidentiality
- the applicant must be a member of a DVLA Accredited Trade Association (ATA) and adheres to an enforceable code of practice.

26. Although you pushed the Agency to state if code breaches were a component of determining reasonable cause, you expressed the essence of your case in the attachment of your letter to me of 21 July 2014:

*“The DVLA were put on notice in my case that the parking charge ticket that was placed on my vehicle did not comply with the BPA Ltd CoP and therefore, by the DVLA's own publicly stated policy of regulation of data release they should not have provided my personal data when the parking company subsequently requested it. It really is that simple.”*

27. You have argued that because LPS was not compliant with the Code at the time it took action against you, a disclosure condition was not met and the DVLA should not therefore have given it your details. I have some sympathy with your position. It appears from the DVLA's letter of 14 March that the DVLA and BPA felt LPS's code compliance required further investigation and action. However, very little if anything had been done by the BPA over the preceding three months to bring LPS into compliance with the Code. Indeed, it appears that although a few words had been or would be had, LPS was allowed to remain accredited despite being non-compliant in the Code areas you had identified in November 2013. No

information about LPS being subject to penalty points or suspension was referred to you, one must assume because no action was taken against it.

28. The DVLA claims that it has *“tough safeguards”* to protect keeper data, underpinned by a requirement that ATAs:
- *“Undertake to expel or suspend any member that fails to comply with the code of practice and notify us within 24 hours of the expulsion or suspension;*
  - *Investigate at our request any complaints about an alleged breach of the code of practice or misuse of DVLA information and report the outcome back to us”.*
29. It should also be remembered that the BPA’s undertakings which the Agency relayed to you on 14 March, such as they were, were the first you had heard about enforcement action against LPS since the DVLA’s 11 November 2013 request that the BPA respond to the DVLA and you. (And you had needed to chase the DVLA after an 11 week lapse in communications.) The Agency’s slack handling of the correspondence with you and the BPS resembled anything but a *“tough safeguard”*.
30. In fairness to the DVLA, your report of alleged breaches by LPS did not itself amount to proven breaches: it was for the BPA to investigate, take any necessary action in relation to LPS’s accreditation and then inform the Agency of the outcome. In that circumstance LPS might fail to meet a key criterion to receive DVLA data; future applications by LPS, and access to the DVLA database, could then be refused or suspended. However, although the DVLA says it has tough expectations of the ATA, for some reason enforcement action was not taken by the BPA in the period in which LPS was given your data or, apparently, since.
31. Turning to the essence of your complaint, I am not at all reassured that the DVLA gave you sufficient evidence of its concern that the BPA should fulfil its obligations. It states that its delegation to the ATA *“promote[s] greater self regulation and further reinforce[s] protection of motorists’ privacy”* but little or nothing seems to have happened after it referred your genuine compliance concerns to the BPA. In the absence of a clear statement from the BPA, based on a robust investigation, that LPS was in full Code compliance, my view is that LPS’s status as a data recipient remained open to question.
32. On balance, I cannot see that the DVLA’s handling is congruent with its aim of instilling confidence in the disclosure process and ensuring fair treatment and clear standards. I contrast the BPA’s limp response referred to you by the DVLA (paragraph 14) with the DVLA rhetoric reproduced in

paragraph 28. I do not think that the Agency's handling here was consistent with the oversight of "tough safeguards" which is suggested in its literature.

33. DVLA policy is to disclose keeper data to selected agencies unless it has a ground to think that reasonable cause does not apply. That policy was followed in your case and I am unable to find against the Agency where it has followed its policy. **I therefore cannot uphold your complaint** that the DVLA should not have disclosed your data. However, I have expressed concern at the robustness of the DVLA's oversight in this case.

34. In response to my criticisms the DVLA told me:

*"I would firstly like to comment on the action taken by the DVLA to ensure we release information appropriately to ATA (Accredited Trade Association) members.*

*1. DVLA audits recipients of DVLA data to ensure they comply with the data sharing contract we have with them.*

*2. These audits are both physical, involving DVLA Audit Rangers visiting parking companies and remote. The remote audits are conducted by our Data Sharing Team using requests made and tracking the audit trail for them.*

*3. We are embarking on targeted auditing based on intelligence received from a variety of sources, including complaints, both to DVLA and to the ATAs (BPA (British Parking Association) and IPC (Independent Parking Committee), Citizens Advice Bureau, POPLA (Parking On Private Land Appeals), and information from HMCTS (Her Majesty's Courts and Tribunal Service). This will enable us to better target those parking companies who appear not to be adhering to our standards and those of the Codes of Practice.*

*4. For this particular case, we have been in contact with the BPA again to find out exactly what actions they have taken, when the requirements of LPS (Local Parking Security Ltd) are to be implemented and what action the BPA will take should LPS fail to comply with those requirements".*

35. I welcome these developments, in particular the commitment of the Agency to ensure that complaints and other sources of intelligence will inform its oversight of compliance with the disclosure conditions it has applied. I am sure that this will tighten up code compliance on the part of companies like LPS.

## **Complaint handling: local resolution stage**

36. The applicable DVLA standards are:

- To answer an email within 3 working days
- To acknowledge a complaint within 1 working day
- To send a substantive response within 10 working days
- To acknowledge correspondence within 1 working day

37. The applicable PHSO standards include:

*“Public bodies should do what they say they are going to do. If they make a commitment to do something, they should keep to it, or explain why they cannot. They should meet their published service standards, or let customers know if they cannot.”*

38. Looking first at the DVLA’s responses to your correspondence, it is clear that having been very responsive to your initial concerns in November 2013, your case dropped off the Agency’s radar as soon as you stopped corresponding. If the Agency pushed the BPA to look into your concerns after its 11 November 2013 referral, nothing was communicated to you until you pushed. Almost three months would pass with nothing happening at all (apart from LPS being allowed to access your data) despite an undertaking that a manager would review your case.

39. Once the DVLA picked up the ball in spring 2014, from the documents I have seen, a reasonable effort was made to chase up the BPA referral and update you (even though the update itself contained the flimsiest of assurances). The matter was escalated, as you had requested, although not to CEO level. And while I think that the Agency could have been clearer at times about the distinction between reasonable cause and code compliance, I do not agree with you that it was inconsistent.

40. You have argued that the investigation promised in the DVLA’s letter of 14 March was not forthcoming. However, my reading of that letter was that the officer who wrote it felt that she had covered in her letter all of the points you had raised and was concluding your case with a stage 3 response. In considering if this was appropriate I note that:

- The issue of delay was addressed with a repeated apology but not explained
- Code compliance was stated again to be separate from reasonable cause
- BPA feedback on the code issues was relayed
- The evidence provided with the request for your data was provided

While I have been critical of the Agency's apparent acceptance of the BPA's approach to enforcing its Code, I feel that a reasonable effort was made here to cover the points you had put to the DVLA.

41. In the latter stages of the correspondence you pressed the DVLA for a yes/no answer to the straightforward question I dealt with in the previous section. For some reason, the Agency did not feel able to answer this question even though to do so would have required fewer words than the statement that it had answered the question already. That said, I think the underlying point in your case had little to do with reasonable cause - incontestable in your case – and everything to do with the basis of the Agency's assurance that LPS was code compliant and suitable to provide data to.
42. Unfortunately the Agency's handling of your correspondence stalled before and after you had requested ICA review. The Agency was then unable to provide me with key documents. This necessitated further communications with you (see paragraph 21).
43. As I have stated, the erratic and piecemeal disclosure of information in your case is completely uncharacteristic of the DVLA. I acknowledge your view that this is part and parcel of a deliberate approach designed to thwart your complaint. However, I also note that some of the documents I have struggled to obtain, for example the DVLA's letter of 28 March, represented clear and timely statements of the Agency's position. The Agency also knew from an early stage that I was approaching you direct so my view is that no advantage could come from resisting disclosure deliberately. On balance I find that the Agency's undoubted poor administration fell short of maladministration.
44. Taking all of the above into account, I have no doubt that the DVLA mishandled the correspondence with you and me. I remind it of the Ombudsman Principle "*Public bodies should create and maintain reliable and usable records ... [and] should manage records ... to ensure that they can be retrieved and that they are kept for as long as there is a ... business need*". I **uphold** this part of your complaint. I **recommend** that the CEO of the DVLA apologises to you for the lapses I have identified and offers you a payment of £75 in recognition of the Agency's poor administration which, as well as stalling at the local stage, occasioned a delay of at least three months in my review and further time and effort on your part in preparing a document set for me.
45. In your email to me dated 21 July you stated:

*“With regard to page 2 of your email of the 19th June 2014, you list documents which you have not received from the Agency. I will assist you in this matter but have you asked the DVLA where are those documents as they are pertinent to my complaints with them which is apart from the complaint referred to you. I would be obliged if you ask the Agency for those documents if only to judge their response in that do they have them or have they swept them under the table as I believe is the case. **I believe that the DVLA has no intention of pursuing my complaint.**”* (Your emphasis.)

I **recommend** that, in its response to this review, the DVLA provides you with an inventory of all the documents it holds in relation to your case together with an explanation of why it has struggled to provide them to me.

46. Concluding, the issue of real concern to me here is the lack of evidence of vigilance in the DVLA’s dealings with the BPA in this case and the lack of credibility of the assurances it relayed to you on 14 March. The existence of a well-oiled process in the Agency for dealing with complaints about code compliance by private parking operators accessing vehicle keeper data has not been evident to me in your case. However, it seems to me that such a process should underpin the Agency's assurance to the public about its disclosures of keeper details to private companies. I would expect such a process to include:

- A clear arrangement with the ATA for complaints which engage code policing and compliance to be investigated and responded to within a set timescale
- A statement of how the DVLA is assured that the tough safeguards delegated to the ATA are working effectively
- An explanation of how evidence of code breaches is handled by the DVLA.

47. Finally therefore, with the above in mind, I **recommend** that in his response to this review, the CEO of the DVLA sets out how the Agency has responded to complaints from you and other people about its oversight of ATAs’ response to complaints about private parking companies.

I have sent a copy of this review to the Agency.

My report and its conclusion do not in any way affect your right to ask an MP to refer your complaint to the Ombudsman. Her advice line is 0345 015 4033 and her address is:

Parliamentary and Health Service Ombudsman  
Millbank Tower  
Millbank  
London  
SW1P 4QP

Yours sincerely

A handwritten signature in black ink, appearing to read 'Jonathan Wigmore'. The signature is stylized with a prominent initial 'J' and a long, sweeping underline.

Jonathan Wigmore  
Independent Complaints Assessor

Encl: Annex with definitions of "Reasonable cause"

## Annex: “Reasonable Cause”

- a. The concept of reasonable cause is provided in the *Road Vehicles (Registration and Licensing) Regulations 2002*:

**“Disclosure of registration and licensing particulars**

**27.—(1)** *The Secretary of State may make any particulars contained in the register available for use—*

*[...]*

*(e) by any person who can show to the satisfaction of the Secretary of State that he has reasonable cause for wanting the particulars to be made available to him”*

- b. In its document “*Release of information from DVLA’s registers*” the DVLA<sup>4</sup> - to whom the Secretary of State has delegated his section 27 authority - covers reasonable cause as follows:

**“Reasonable cause for data release.**

*As a general rule, reasonable cause for the release of data from the DVLA vehicle register relates to motoring incidents with driver or keeper liability. These can include matters of road safety, events occurring as a consequence of vehicle use, the enforcement of road traffic legislation and the collection of taxes. In all matters regarding data release, we act responsibly and in accordance with legislation.*

*Where reasonable cause has been demonstrated, information is disclosed on the condition that it will only be used for the requested purpose and that the recipient will protect its confidentiality. It is an offence under Section 55 of the Data Protection Act to obtain information under false pretence or to use it for a purpose other than that originally stated.*

*The Regulations also allow for a fee to be charged to cover the cost of processing requests under the reasonable cause provisions, so the cost is borne by the requestor and not passed on to the taxpayer”.*

And:

*“In DVLA’s view, reasonable cause relates to incidents with liability. These can include matters of road safety, or events occurring as a direct consequence of the use of a vehicle.*

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[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/197528/Release\\_of\\_information\\_from\\_DVLA.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/197528/Release_of_information_from_DVLA.pdf)

*Circumstances that have been judged to meet the reasonable cause criteria include safety recalls by manufacturers, minor hit and run incidents not warranting a full police investigation, housing associations dealing with abandoned vehicles, the enforcement of parking restrictions on private property and insurance companies dealing with accidents and investigating fraud.”*

c. In the same document the DVLA states:

*“Organisations and companies that request data via a secure electronic link must first serve a six-month probationary period making manual requests only. During this time their behaviour is monitored and on completion of a satisfactory probation an electronic link will be set up. The company is then bound by strict terms of agreement that detail when information may be requested and how it can be used. When we do release data it is always for a specified purpose.*

[...]

*“In order to help ensure motorists are treated fairly when any parking charge is pursued, DVLA will only provide vehicle keeper details where the car parking management company is a member of a DVLA Accredited Trade Association (ATA) and adhere to an enforceable code of practice.”*

*When reasonable cause has been demonstrated, information is disclosed on the condition that it will only be used for the requested purpose and the recipient will protect its confidentiality. It is an offence under Section 55 of the Data Protection Act to obtain information under false pretences or to use it for any purpose other than that originally stated.*

[...]

*“We conduct audits of organisations to ensure that their information requests are appropriate and we also investigate allegations of data misuse. Any evidence of abuse is referred to the Information Commissioner for further investigation and possible prosecution.*

### ***DVLA Accredited Trade Associations (ATAs)***

*At DVLA we have tough safeguards in place to protect the privacy of information held within the vehicle register. One of those safeguards is that all unregulated organisations requesting information from us via a secure electronic link must be a member of a DVLA Accredited Trade Association (ATA).*

*All ATAs must have an enforceable code of practice governing the conduct and operations of their members. The code of practice has to be published on the ATA's website along with contact details for enquiries and complaints.*

*We require that ATAs:*

- *Maintain records of all complaints and their resolutions;*
- *Monitor members to ensure compliance with the code of practice;*
- *Undertake to expel or suspend any member that fails to comply with the code of practice and notify us within 24 hours of the expulsion or suspension;*
- *Investigate at our request any complaints about an alleged breach of the code of practice or misuse of DVLA information and report the outcome back to us.*

*Those ATAs that fail to enforce their code of practice could lose their DVLA accreditation which, in turn, would mean their members will no longer be able to request DVLA information.*

*Existing ATAs*

*We have approved the following ATAs:*

*The British Parking Association (BPA)*

*Information about the BPA's Approved Operators Scheme can be found on their website at [www.britishparking.co.uk](http://www.britishparking.co.uk)*

*[...]*

#### ***"Promoting self regulation***

*Our policy of requiring companies requesting DVLA information to be members of an ATA is a positive and measured move. We believe it will promote greater self regulation and further reinforce protection of motorists' privacy.*

#### ***Additional measures for car parking companies***

*Membership of an ATA has been a pre-requisite for all unregulated organisations who have an electronic link since October 2007. In response to a consultation exercise, the requirement for ATA membership was extended, in November 2009, to include car parking management companies who request information via the paper based route. It ensures that all car parking management operate to same recognised standards.*

*Membership of an ATA ensures that those who get access to data are legitimate companies that operate within a code of practice. The code of practice promotes fair treatment of the motorist and ensures that there is a*

*clear set of standards for operators covering, among other things, signage, appeals processes, and methods of contacting drivers.*

*DVLA has procedures in place to enable those dealing with requests to check whether a company is a member of an ATA. To date, the only ATA for the parking industry is the British Parking Association (BPA). Information on their code of practice can be found on their website.*

*The private parking section has established an independent appeals service, which came into force on 1 October 2012, to coincide with the introduction of the Protection of Freedoms Act. It covers all tickets issued on private land by members of the BPA and is entirely funded by the parking sector. This service is known as Parking on Private Land Appeals (POPLA). The company that issued the parking charge must supply details of how to refer an appeal to POPLA.”*