



BRITISH PARKING ASSOCIATION

*Driving Issues, Raising Standards*



## AOS Code of Practice

### Contraventions & Sanctions

The credibility of any scheme which is designed to raise standards is linked to the confidence that those who sign up to it will comply with it and that they understand the likely consequences if they do not do so. This is the case with the AOS.

The BPA is committed to raising standards in the management, control and enforcement of parking on private land. Set out below are the principles and standards expected of BPA members who have signed up to the AOS Code of Practice and the likely consequences where contraventions occur.

The scheme provides for contraventions set at five levels, with Level 1 being the least serious and Level 5 being the most serious. Where an operator is found to be in contravention and fails to take appropriate action to remedy the situation sanction points will be added to their 'AOS License'. Accumulating 12 points in any rolling 12 month period will result in suspension from the scheme and fast track to the BPA Professional Conduct Panel (PCP), which can lead to expulsion from the BPA.

**Level 1:** These contraventions are likely to occur when the operator's actions result in them not complying with the terms and conditions of membership to the AOS: these are mainly administrative in nature. It will result in the imposition of 1 Sanction Point, and rectification is required within 2 weeks.

**Level 2:** These contraventions are likely to occur when the operator's actions have disregarded an element of the Code, but where they are of little consequence to the parking event. It will result in the imposition of 2 Sanction Points, and rectification is required within 2 weeks.

**Level 3:** These contraventions are likely to occur when the operator's actions have disregarded some important part of the Code, but which have a less serious impact on the parking event than a Level 4 contravention. A Level 3 contravention will result in the imposition of 3 Sanction Points, and rectification is required within 2 weeks.

**Level 4:** These contraventions are likely to occur when the operator's actions have disregarded some fundamental part of the Code, and have a serious impact on the parking event. A Level 4 contravention will result in the imposition of 5 Sanction Points. DVLA will be notified of the application of a Level 4 contravention, and a plan for immediate rectification is required.

**Level 5:** These contraventions occur where the operator's actions are extremely serious. A Level 5 contravention will result in the imposition of 10 Sanction Points, and DVLA will be notified of a Level 5 contravention. An operator may also be suspended pending further investigation, and a plan for immediate rectification is required.

**Level 6:** These contraventions occur where the operator has been convicted of criminal law in respect of his operation or where the operator has seriously abused or misused DVLA Data. Level 6 contraventions will result in the imposition of 12 Sanction Points, DVLA will be notified of level 6 contraventions and a report to the Professional Conduct Panel submitted. The Operator will be suspended while the PCP report is being considered.

This document uses the terms 'Major and Minor'. 'Major' is defined as materially affecting the parking contract and 'Minor' is defined as not materially affecting the parking contract.

## **The AOS Scheme of Sanctions**

### **LEVEL 1**

- 1.1 Failure to maintain up to date compliant documents for Evidence of Compliance Report.
- 1.2 Failure to allow the BPA or their agents to discharge their duties as auditors
- 1.3 Failure to comply with the requests or Investigation Requests of the BPA or their agents within the specified timescale
- 1.4 Failure to comply with Section 10 of the Code relating to Learning & Development
- 1.5 Minor failure to abide by the terms of the BPA Code of Professional Conduct.
- 1.6 Failure to provide compliant information on Operative ID cards.
- 1.7 Minor failure to check records are correct before commencing legal proceedings.

### **LEVEL 2**

- 2.1 Failure to ensure all vehicles are liveried while engaged on enforcement duties.
- 2.2 Minor Failure in Communication with customers.
- 2.3 Minor contravention on signs (including Entrance Signs) and/or notices
- 2.4 Minor failure to maintain a fair and professional operation
- 2.5 Minor contravention on written authorisation with landowner
- 2.6 Failure of staff to carry correct identification – operator ID cards
- 2.7 Failure to provide correct information on any notices in relation to payments.
- 2.8 Minor failure to manage a sub-contractor and contraventions committed by a sub-contractor. Including self ticketing. (e.g. failure to produce evidence of identification on

request of motorist)

- 2.9 Failure to respond to Investigation Requests within specified timeframe.
- 2.10 Minor failure to abide by the processes and requirements of POPLA including failing to show a valid POPLA appeal in a prominent position within the appeal rejection letter.
- 2.11 Failure, without good reason, to provide a fully compliant receipt on request.
- 2.12 Failure to notify the motorist of the arrangements for POPLA on the notice to driver and/or the notice to keeper when you are relying on Schedule 4 of the Protection of Freedoms Act.
- 2.13 Failure to Respond to correspondence from an MP
- 2.14 Failure to freeze the charge whilst under appeal at POPLA.

### **LEVEL 3**

- 3.1 Major failure in communications to customers
- 3.2 Major contravention on signs (including Entrance Signs) and/or notices
- 3.3 Starting court proceedings outside the specified timescale of issuing the parking ticket – unless the motorist requests this.
- 3.4 Major contravention on written authorisation with landowner
- 3.5 Major failure to abide by the terms of the BPA Code of Professional Conduct
- 3.6 Sustained failure to respond to Investigation Requests within a specified timescale.
- 3.7 Minor failure to apply appropriate processes when clamping or removing vehicles in Northern Ireland or where land is managed under byelaws.

### **LEVEL 4**

- 4.1 Failure to ensure frontline staff are easily identified
- 4.2 Significant failure in communications to customers
- 4.3 Major failure to manage a subcontractor and contraventions committed by a subcontractor, including self ticketing.
- 4.4 Significant contravention on Signs and/or Notices
- 4.5 Failure to offer payment by payment card, cash or cheque without good reason.
- 4.6 Demanding payment of Parking Charge Notice with an appeal.

- 4.7 Demanding a stamped addressed envelope to be sent with an appeal.
- 4.8 Failure to follow the grace period policy as outlined in the Code of Practice..
- 4.9 Failure to display a sign for disabled motorists that contains terms & conditions in close proximity to any parking bays set aside for disabled motorists.
- 4.10 Failure to offer the required discount payment.
- 4.11 Failure to carry out the agreed quality checks on ANPR systems. (This will be for the auditor to check that records of maintenance contracts are in place and quality control checks are documented.
- 4.12 Use of DVLA information outside of the specified timescale.
- 4.13 Major failure to notify the motorist of the arrangement for POPLA on rejection of appeal.
- 4.14 Persistent and consistent late payment of AOS membership fees or other subscriptions. As per the terms of payment arrangements.
- 4.15 Persistent failure to abide by the processes and requirements of POPLA including non-provision of a valid POPLA Code.
- 4.16 Stating on signage that the keeper or anybody else, other than the driver is liable for the parking charge.
- 4.17 Stating on the notice to driver that the keeper or anybody else, other than the driver is liable for the parking charge.
- 4.18 A conviction under the Consumer Protection from Unfair Trading Regulations Act 2008 and other consumer protection Law
- 4.19 A conviction under the Equalities Legislation
- 4.20 Major failure to maintain a fair and professional operation.
- 4.21 Major Failure to Respond to correspondence from an MP
- 4.22 Failure to gain BPA approval for charging over £70 for recovering debt recovery charges.
- 4.23 Failure to enforce the parking charge notice under the correct legislation.

## **LEVEL 5**

- 5.1 Failure to comply with the requirements of the Data Protection Act (s)
- 5.2 Failure to register with the Information Commissioner
- 5.3 Deliberate misrepresentation of authority
- 5.4 Imposition of a Penalty Charge where the law does not allow this.
- 5.5 Charging for an escalating enforcement action within the specified timescale. Eg applying a clamp within 2 hours of issuing a parking ticket and charging for both actions, or

removing a vehicle within 3 hours of applying a clamp and charging for both actions.

- 5.6** Deliberate unauthorised enforcement of a vehicle.
- 5.7** Repeated and frequent contraventions of the Code of Practice within a specified timeframe (e.g. repeated breach of same Level 1 Sanction, will result in the application of this Sanction)
- 5.8** Enforcement action on a site with no signage.
- 5.9** Significant failure to abide by the terms of the BPA Code of Conduct
- 5.10** Operating where no authorisation from the landowner is in place
- 5.11** Deliberate failure to pursue the correct liable party, e.g. keeper when you have relevant driver details or hirer, when hire agreement has been disclosed.
- 5.12** Exceeding the recommendation for parking charges, without prior approval of the BPA.
- 5.13** Significant failure to abide by the processes and requirements of POPLA.
- 5.14** Abuse and /or misuse of DVLA data.
- 5.15** Evidenced use of predatory tactics to lure drivers into incurring parking charges.
- 5.16** Major failure to apply appropriate processes when clamping or removing a vehicle in Northern Ireland or on land managed under byelaws.

## **LEVEL 6**

- 6.1** Non payment of AOS membership fees or other subscriptions, that are required per the terms of payment arrangements.
- 6.2** Sustained and or intentional abuse / or misuse of DVLA Data
- 6.3** A conviction under the Protections of Freedom Act Legislation.
- 6.4** Clamping and/or removal without lawful authority
- 6.5** A conviction for fraud initiated or perpetrated by officials of the business.