

BRITISH PARKING ASSOCIATION

DRIVING ISSUES, RAISING STANDARDS



CHELSEA HOUSE, 8-14 THE BROADWAY
HAYWARDS HEATH, WEST SUSSEX, RH16 3AP
TELEPHONE +44 (0) 1444 447300 FAX: +44 (0) 1444 454105
www.britishparking.co.uk info@britishparking.co.uk

Mr Murdo Fraser MSP
M2.07
Scottish Parliament
Edinburgh
EH99 1SP

Emailed to: Murdo.Fraser.msp@parliament.scot

1st March 2018

Dear Mr Fraser,

Response to Proposed Regulation of Privately-Operated Car Parks (Scotland) Bill

About the British Parking Association

We welcome your consultation to the '**Proposed Regulation of Privately-Operated Car Parks (Scotland) Bill**'. We are the largest, most established and trusted professional association representing parking and traffic management professionals in Europe, and the recognised authority within the parking profession. We represent the best interests of our members and the parking community and provide an extensive range of membership services to support parking professionals & organisations in their day-to-day work. Our diverse membership community of around 700 organisations includes technology developers & suppliers, equipment manufacturers, learning providers, consultants, structural & refurbishment experts, local authorities and parking on private land operators including retail parks, healthcare facilities, universities, airports and railways stations.

For more information regarding the BPA and our Blueprint please click [here](#).

Consultation Response

Section 1 – About You

1. Are you responding as:

- an individual – in which case go to Q2A
- on behalf of an organisation? – in which case go to Q2B

2A. Which of the following best describes you? (If you are a professional or academic whose experience or expertise is not relevant to the proposal, please choose "Member of the public")

Politician (MSP/MP/Peer/MEP/Councillor) Professional with experience in a relevant subject Academic with expertise in a relevant subject Member of the public

2B. Please select the category which best describes your organisation:

Public sector body (Scottish/UK Government/Government agency, local authority, NDPB)
 Commercial organisation (company, business) Representative organisation (trade union, professional association) Third sector (charitable, campaigning, social enterprise, voluntary, non-profit) Other (e.g. club, local group, group of individuals, etc.)

3. Please choose one of the following; if you choose the first option, please provide your name or the name of your organisation as you wish it to be published.

I am content for this response to be attributed to me or my organisation I would like this response to be anonymous I would like this response to be confidential

Name/organisation: British Parking Association (BPA)

4. Please provide details of a way in which we can contact you if there are queries regarding your response. (Email is preferred but you can also provide a postal address or phone number. We will not publish these details.)

Contact details: Glenn Dives, Public Affairs & Research Coordinator, 01444 447300
consultations@britishparking.co.uk

Your Views on the Proposal

Aim and approach

1. Do you think legislation is needed to govern the operation of privately operated car parks in Scotland?

Strongly agree Partially agree Neither agree nor disagree Partially disagree
 Strongly disagree Unsure

Please explain the reasons for your response.

The BPA has long called for statutory regulation to create great consistency across the parking sector. The BPA currently operates our own vigorously tested Code of Practice as part of our Approved Operator Scheme (AOS). There is another ATA in the sector, which has its own code of practice which presents the opportunity for confusion for motorists. We believe that this Bill offers the prospect of greater consistency in standards, which will help to eradicate confusion created by the existence of multiple Codes of Practice and appeals systems, and ultimately be fairer for consumers. Additionally, the prospects of bringing in Keeper Liability in Scotland, is perhaps the most welcome development in the Bill as it would help eliminate the difference in legal practices, that currently exist between Scotland and England.

Detail of the proposal

2. Which of the following best expresses your view of providing for a maximum charge (or charges) for breaching the rules of parking in a privately-operated car park?

Fully supportive Partially supportive Neutral Partially opposed Fully opposed
 Unsure

Please explain the reasons for your response.

The BPA's existing code of practice, which all members of our AOS must sign up to, has advised on maximum charges for some time. We and our members support a maximum charge as it provides consistency and is fair to the motorist. In our current code we specify that the 'charge must be proportionate and commercially justifiable. 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.' With this position in mind we would recommend that any maximum charge reflects the commercial requirements of operators.

3. Which of the following best expresses your view on introducing uniform signage tailored for privately-operated car parks?

- Fully supportive Partially supportive Neutral Partially opposed Fully opposed
 Unsure

Please explain the reasons for your response.

Members of our AOS must have clear signage at all their parking sites. That signage must clearly specify the parking-terms and conditions at the site, including any parking charges, that may result from breaking the terms and conditions. The only reservation that we have on this point is, that any requirement on signage must be proportionate and reasonable. Legislation which produces signage that is difficult to read or contains confusing language, is of no use to anyone.

4. Which of the following best expresses your view of regulating the appearance of parking charge notices (in particular, to differentiate them from penalty charge notices issued by local authorities)?

- Fully supportive Partially supportive Neutral Partially opposed Fully opposed
 Unsure

Please explain the reasons for your response.

We are cautious on this point, firstly we are not wholly convinced that there is a huge problem with private parking operators seeking to mimic tickets issued by local authorities, this may have been the case several years ago, but not now. Related to this, as we have worked at improving the professionalism of the sector we have strived to make all correspondence that operators share with motorists more professional and that includes tickets. More professional may equate to more official.

While the Protection of Freedoms Act (POFA), does not apply in Scotland it does set out a very sensible set of contents that must be included in a POFA compliant Notice - Clauses 7-9 refer. In establishing a template Notice for Scotland, we would suggest using that as a starting point. In the last couple of years, we have introduced a suite of recommended template documents which have been well received and taken up by many of the smaller operators. We believe that there is a strong case for mandating what a Notice must contain but are less supportive of a mandatory design.

5. Which of the following best expresses your view of establishing an independent appeals system for parking charge notices issued in privately operated car parks?

- Fully supportive Partially supportive Neutral Partially opposed Fully opposed
Unsure

Please explain the reasons for your response.

The BPA fully supports the setting up of an independent appeals system for parking charge notices. We set up our own independent appeals service POPLA, for our AOS scheme in 2012. POPLA is free to the motorist and run independently of the Association and is paid for

my members of the association, it deals with Parking Charge Notices (PCN) issued on private land in England and Wales. An independent service provides the motorists with reassurance and helps maintain high standards across the sector. We have long argued for something similar in Scotland, to provide a similar standard for Scottish Motorists.

6. Which of the following best expresses your view of introducing keeper liability in Scotland?

- Fully supportive Partially supportive Neutral Partially opposed Fully opposed
 Unsure

Please explain the reasons for your response.

The introduction of Keeper Liability is an important step in harmonising the legislative framework between Scotland and England and Wales. The current provision of keeper liability in the latter and driver liability in the former, has created an uneven playing field. Which is exploited by the unscrupulous to avoid paying charges. By aligning the legislation, it will significantly improve the opportunity for unpaid parking charges to be paid or recovered.

But the provision of Keeper Liability also provides benefits to the consumer as the operator must abide by strict criteria in order to obtain keeper details. By being forced to abide to these standards it has the effect of driving up standards across the sector, benefitting everyone.

Financial impact

7. Taking account of both costs and potential savings, what financial impact would you expect the proposed Bill to have on:

(a) Private parking operators

- Significant increase in cost Some increase in cost Broadly cost-neutral Some reduction in cost Significant reduction in cost Unsure

(b) Private parking customers

- Significant increase in cost Some increase in cost Broadly cost-neutral Some reduction in cost Significant reduction in cost Unsure

(c) Government and public sector

- Significant increase in cost Some increase in cost Broadly cost-neutral Some reduction in cost Significant reduction in cost Unsure

Please explain the reasons for your responses.

This is a difficult question to answer, in that there are several factors which may influence the costs for these three groups. Depending on the nature of the provisions of the Bill, it likely that most members of the BPA's AOS scheme are likely to see little or no additional costs, as they are already operating to a high standard. If the proposed Bill reflects those standards then they may see no additional costs for operators. Customers should see little additional active costs to them using a car park so long as they abide by the terms and conditions of the sight. For Government and the public sector there is likely to be no effect, depending of course as to whether the independent appeals service is set up as a regulator body responsible to government.

Equalities

8. What overall impact is the proposed Bill likely to have for the following protected groups (under the Equality Act): race, disability, sex, gender reassignment, age, religion and belief, sexual orientation, marriage and civil partnership, pregnancy and maternity)?

- Positive Slightly positive Neutral (neither positive nor negative) Slightly negative
 Negative Unsure

Please explain the reasons for your response.

The enacting of this Bill, may have some benefits in improving access to disabled parking spaces, by discouraging some unscrupulous motorists from parking in those spaces but as that is an unusual event we cannot say that it will have to much effect. Overall it is likely to no noticeable benefits or negatives.

9. In what ways could any negative impact of the Bill on equality be minimised or avoided?
N/A

Sustainability

10. Do you believe that the proposed bill can be delivered sustainably, i.e. without having likely future disproportionate economic, social and/or environmental impacts?

- Yes No Unsure

Please explain the reasons for your response.

It is unlikely to have any significant impact on sustainability.

General

11. Do you have any other comments or suggestions on the proposal?

In Summary

We are always very willing to work with both yourself and the Scottish Government to develop parking policy. We are at your and their disposal to assist with any further information, advice or support in relation to this very important area of public policy. We hope you find these comments of interest. We are ready to work with all interested parties to achieve our mutual aims on this Bill and look forward to discussing with you how we can assist in taking these issues forward

Please do not hesitate to contact my colleague **Glenn Dives** by emailing consultations@britishparking.co.uk or calling **01444 447 300** if you require any further information.

Yours faithfully



Kelvin Reynolds
Director of Corporate and Public Affairs