

Summary: Intervention & Options

Department /Agency: Data Sharing and Protection Group DVI A	Title: Impact Assessment of the proposal to require ALL car parking companies to be a member of an Accredited Trade Association.	
Stage: Final Proposal	Version: V1.0	Date: 28 July 2009
Related Publications:		

Available to view or download at:

<http://www.>

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What is the problem under consideration? Why is government intervention necessary?

Despite the checks already in place to safeguard data held, there is considerable concern amongst motorists regarding the methods employed by companies who enforce parking restrictions on private property. DVLA will consider any previous evidence of misuse of data by a company when considering subsequent applications but measures to guard against abuse once data has been supplied need reinforcing. To address this, the Agency proposes to extend the current requirement for companies receiving information via an electronic link to be members of an Accredited Trade Association, to those companies who make manual applications.

What are the policy objectives and the intended effects?

Requiring all car parking enforcement companies to become members of an ATA will also require them to adhere to an enforceable code of practice. Failure to comply could result in suspension and expulsion from the ATA, and this would mean that they could no longer apply for information from the DVLA vehicle record. This will ensure that data is only disclosed to organisations who use it appropriately and fairly.

Compliance with the code of practice should improve standards of enforcement by the companies and reduce the number of complaints received by DVLA.

What policy options have been considered? Please justify any preferred option.

There is only one option actively under consideration. Only extending the requirement for ATA membership to all companies taking DVLA data for car parking enforcement will give better assurance that data is only disclosed to organisations who will use it appropriately and fairly.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? It is proposed that this will be reviewed in 3 years.

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

..... Date:

Summary: Analysis & Evidence

Policy Option:	Description:
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COSTS	ANNUAL COSTS	Description and scale of key monetised costs by 'main affected groups' DVLA costs relating to additional checks of the ATA register. Enforcement company costs in converting signage and letter heads and parking charge notices, and paying annual registration fees.		
	One-off (Transition) Yrs			
	£ 348,625			
	Average Annual Cost (excluding one-off)			
	£ 261,341	Total Cost (PV)	£ 2,598,170	
Other key non-monetised costs by 'main affected groups' Potential for reduced income for enforcement companies from lower penalty charges.				

BENEFITS	ANNUAL BENEFITS	Description and scale of key monetised benefits by 'main affected groups' Savings for companies, the Information Commissioner and DVLA in having to deal with fewer complaints.		
	One-off Yrs			
	£ 0			
	Average Annual Benefit (excluding one-off)			
	£ 13,208 3	Total Benefit (PV)	£ 113,687	
Other key non-monetised benefits by 'main affected groups' This will give better assurance that data is only disclosed to organisations who use it appropriately and fairly, and will increase public confidence that their data is safeguarded from misuse.				

Key Assumptions/Sensitivities/Risks

Price Base Year 2005	Time Period Years 10	Net Benefit Range (NPV) £ -2,484,483	NET BENEFIT (NPV Best estimate) £ -2,484,483
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What is the geographic coverage of the policy/option?	UK			
On what date will the policy be implemented?	23 November 2009			
Which organisation(s) will enforce the policy?	DVLA/ATA			
What is the total annual cost of enforcement for these organisations?	£ 400			
Does enforcement comply with Hampton principles?	Yes			
Will implementation go beyond minimum EU requirements?	N/A			
What is the value of the proposed offsetting measure per year?	£ N/A			
What is the value of changes in greenhouse gas emissions?	£ N/A			
Will the proposal have a significant impact on competition?	No			
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small £3,158	Medium £3,158	Large
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)				(Increase - Decrease)
Increase	£ 145,811	Decrease	£	Net £ 145,811

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Evidence Base (for summary sheets)

INTRODUCTION

In order to reinforce the safeguards in place to protect personal data held by DVLA and DVA, it is proposed that all private car parking enforcement companies requesting information from the vehicle record be required to become members of an Accredited Trade Association (ATA). The requirement currently only applies to those requesting information via the electronic route, but would be extended to those requesting information manually, via paper based applications.

The British Parking Association (BPA) are currently the only ATA for the car parking industry but DVLA and DVA would accept membership of any ATA that was approved in the future as offering adequate safeguards to the public. ATA members are required to adhere to an enforceable Code of Practice and compliance with the Code is expected to be strictly monitored by the ATA. This, in addition to stringent checks DVLA and DVA currently perform, will further improve the safeguards in place to protect personal data and reassure members of the public that their data will only be disclosed to organisations that will use that data appropriately.

BACKGROUND

Regulation 27 of the Road Vehicles (Registration and Licensing) Regulations 2002 provides for the release of information from DVLA and DVA's vehicle record to those who can show 'reasonable cause' for their request. Regulation 27 can be found at Annex 1.

The law recognises that motorists have an obligation to comply with road traffic or other regulations when using a vehicle and allows DVLA and DVA to release data to both private and public sector bodies who can demonstrate 'reasonable cause'. DVLA considers that disclosure of data in circumstances where there is a breach of criminal, civil or contract law is both fair and reasonable. The need to trace people who do not comply with the conditions for parking on private land qualifies, in most circumstances, as reasonable cause. This does not infringe the Data Protection Act and the Information Commissioner is aware of the arrangements for private car parking enforcement companies.

Information released to non-public sector organisations under 'reasonable cause' provisions is on a cost recovery basis. The fee, currently £2.50, ensures that administrative costs are met by those making the requests and not passed onto the taxpayer. DVLA does not 'sell' personal information for profit and does not make a profit from the fees levied.

There are already a number of safeguards against abuse of the enquiry processes, which were introduced after a review and public consultation in 2006. The measures introduced were designed to protect vehicle keeper information, and to provide clear complaint procedures, whilst allowing applicants with reasonable cause to get the data they required. When information is requested manually, a full business résumé must accompany each application to enable DVLA or DVA to confirm that the company is appropriately registered with the Information Commissioner's Office and Companies House. Supporting evidence must also be provided with each application to show that a parking charge scheme is in operation and the enforcement company is acting on behalf of the landowner. Any applications without the required evidence are rejected. All application forms warn applicants that it is a criminal offence under section 55 of the Data Protection Act to falsely obtain personal information. Details of Section 55 of the Data Protection Act can be found at Annex 2.

Organisations that request information via an electronic link are not required to provide supporting evidence with each application. Instead, they must serve a 6-month 'probationary' period using the manual process, where their behaviour in the use of the information will be monitored, and then sign a formal agreement with the Agency. The agreement outlines the circumstances considered to be a reasonable cause and outlines the circumstances when requests can be submitted. The agreement also describes how information must be stored and distributed to meet Data Protection requirements.

ANY ORGANISATION WITH AN ELECTRONIC LINK TO DVLA MUST BE A MEMBER OF AN ACCREDITED TRADE ASSOCIATION (ATA).

Last year, DVLA reviewed the effectiveness of the measures introduced in 2006, and considered how they might be further improved. DVLA consulted a number of key stakeholders, including the British Parking Association [BPA], Finance and Leasing Association [FLA], Association of British Investigators [ABI], British Oil Security Syndicate [BOSS] and Insurance Fraud Investigators Group [IFIG]. The Law Society, the AA, RAC, Department for Business Enterprise and Regulatory Reform (BERR) (now Department for Business Innovation and Skills) and Trading Standards were also invited to participate, but were unable to do so.

Although stakeholders were generally satisfied that the new rules were working effectively, it was considered that there was potential for improving communication and strengthening the audit procedures to allow the industry more responsibility for managing and policing itself.

Clearly, the fact that elements of the parking industry are largely unregulated means that there is a lack of confidence in the present process regarding access by private car parking companies.

PROPOSAL

To this end it is proposed that ALL private car parking companies must be members of an Accredited Trade Association if they wish to obtain DVLA or DVA data. This will require all companies to sign up to and follow an ATA's code of practice, for that code to be enforced and for standards to be maintained across the industry.

COSTS

For the purposes of this assessment, the Agency has estimated that about 80 enforcement companies, currently making manual applications but not current ATA members, will be required to join an Accredited Trade Association.

Extra Administrative Burden

In calculating the administrative burdens on business, this assessment has applied an hourly wage rate of £16.20, which was the rate used by PriceWaterhouseCooper in 2005 in establishing the Admin Burdens baseline estimate for the Government's simplification target.

The 2004/05 wage rate of £16.20 has been increased by growth in real value of working time for the period 2005-2019:

2004/05	£16.20 (3.21%)
2005/06	£16.72 (2.96%)
2006/07	£17.21 (2.46%)
2007/08	£17.63 (2.20%)
2008/09	£18.01 (2.20%)
2009/10	£18.40 (2.20%)
2010/11	£18.80 (2.20%)
2011/12	£19.16 (1.94%)
2012/13	£19.53 (1.94%)
2013/14	£19.91 (1.94%)
2014/15	£20.30 (1.94%)
2015/16	£20.69 (1.94%)
2016/17	£21.09 (1.94%)
2017/18	£21.50 (1.94%)
2018/19	£21.92 (1.94%)

One off Costs

Parking enforcement companies will have to meet one-off costs associated with the replacement of stationery and car park signs, which has been estimated as £2,000 per company.
 $£2,000 \times 80 = £160,000$

Each company will incur one-off training costs, estimated on the basis of 6 hours for 25 staff as follows:

150 hours at £18.40 = £2,760.
 $£2,760 \times 80 \text{ companies} = £220,800.$

Annually recurring costs

Assuming that all parking enforcement companies choose to join the trade association in order to access the information, they will pay an annual membership fee of about £1,000 pa.

$£1,000 \times 80 = £80,000 \text{ p.a.}$

The 80 parking enforcement companies will also have to become members of the British Parking Association. Membership is charged on a sliding scale depending on the size and status of the company as follows. These figures were valid at the time of the consultation.

Commercial

Small	£270
Standard	£535
Medium	£1,065
Large	£2,135
National	£5,330

Public Sector

Small	£550
Standard	£750
Medium	£950
Large	£1,500
National	£n/a

Sole Traders

Small	£135
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Overseas

Small	£355
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The BPA applies the following scale;
(all turnover figures based on income in the last financial year from parking enforcement)

Small	- Turnover lower than £250,000
Standard	- Turnover between £250,000 and £1m
Medium	- Turnover between £1m - £5m
Large	- Turnover between £5m- £20m
National	- Turnover greater than £20m

For the purposes of this assessment it has been estimated that the 80 companies that will be required to join the BPA are in the commercial sector and are split equally between the small and standard categories. Therefore 40 companies will be required to pay £270pa and 40 will pay £535pa.

Total Annual Cost = 40 x £270 = £10,800
 40 x £535 = £21,400
 Total = £32,200 p.a.

Each year companies will incur administrative costs dealing with its application for BPA/ ATA membership, training and maintaining compliance. It is assumed that this will take 110 hours per annum, per company and the value of workers time is taken from the above estimates (PWC).

2009/10 110 hrs @ £18.40	-	£2,024 x 80 = £161,920
2010/11 110 hrs @ £18.80	-	£2,068 x 80 = £165,440
2011/12 110 hrs @ £19.16	-	£2,107.60 x 80 = £168,608
2012/13 110 hrs @ £19.53	-	£2,148.30 x 80 = £171,864
2013/14 110 hrs @ £19.91	-	£2,190.10 x 80 = £175,208
2014/15 110 hrs @ £20.30	-	£2,233 x 80 = £178,640
2015/16 110 hrs @ £20.69	-	£2,275.90 x 80 = £182,072
2016/17 110 hrs @ £21.09	-	£2,319.90 x 80 = £185,592
2017/18 110 hrs @ £21.50	-	£2,365 x 80 = £189,200
2018/19 110 hrs @ £21.92	-	£2,411.20 x 80 = £192,896

DVLA/DVA processes require a check that an applicant company has ATA membership. These simple checks will cost about £400 p.a. to complete.

There is also a potential for revenue loss for the companies who have no existing ATA membership as the fees they are allowed to charge for parking contraventions will be capped for members in line with the Code of Practice, and these could be less than those currently charged. This assessment has not attempted to quantify this potential cost to some companies. It is not expected to be significant and would, in any event, be counterbalanced by a corresponding benefit for penalty charge recipients.

The monetised costs set out in the Summary and Analysis are as follows:

One-off costs

Stationery	£160,000
Training	£220,800

Total: **£380,800**

Average Annual costs

ATA Fees	£80,000
BPA membership	£32,200
Admin	£177,144 (average)
DVLA	£400

Total: **£289,744**

Present Value Costs

£2,598,170

The consultation was sent to 365 car parking companies likely to be affected by the proposal and the British Parking Association. Of these, two car parking companies claimed their costs would be significantly higher than our estimate, however, two further companies claimed our estimate was realistic.

BENEFITS

There would be a number of non-monetised benefit by introducing the requirement that ALL private car parking companies must be members of an Accredited Trade Association if they wish to obtain DVLA or

DVA data, either via the paper or electronic route. The introduction of this requirement should improve standards of enforcement by the car parking companies and reduce the number of complaints received by DVLA.

In addition, there would be regulation of the car parking companies, as they are required to become a member of an Accredited Trade Association (ATA) and adhere to an enforceable Code of Practice in relation to their operations and behaviour. This is not currently the case, for the manual paper route, as car parking companies do not have to adhere to any Code of Practice and can operate without guidelines and can obtain data via the manual paper route from DVLA without being registered with an ATA.

Another non-monetised benefit of introducing the requirement would be that companies who fail to comply with the ATA Code of Practice could face suspension and expulsion; this would mean they would be unable to obtain keeper details from DVLA, even through the manual paper route. This would lead to a significant non-monetised benefit that car users would be more confident that their information is being managed securely and being protected from misuse.

DVLA, DVA, the enforcement companies, and members of the public will benefit from a modest reduction in the number of complaints about the conduct of parking enforcement cases. Data on the current level, or the complexity, of complaints is not available, but for indicative purposes, this assessment has been based on an assumption of a reduction of 160 cases p.a. (2 per company going onto the AOS register). Each complaint is assumed to take 2 hours of the following stakeholders' time: members of the public, the enforcement companies and the Department for Transport.

A flat rate of £5.50 per hour has been assumed for the value of the public's time – based on DfT's non-working value of time savings.

On the basis of these figures, savings in the period 2009/10 - 2018/19 will be as follows:

2009/10

Public 320 hrs x £5.50 = £1,760;
Enforcement companies 320 x £18.40 = £5,888;
DfT 320 x £18.40 = £5,888.
Total = £13,536.

2010/11

Public 320 x £5.50 = £1,760;
Enforcement companies 320 x £18.80 = £6,016;
DfT 320 x £18.80 = £6,016
Total = £13,792.

2011/12

Public 320 x £5.50 = £1,760;
Enforcement companies 320 x £19.16 = £6,131.20;
DfT 320 x £19.16 = £6,131.20
Total = £14,022.40

2012/13

Public 320 x £5.50 = £1,760;
Enforcement companies 320 x £19.53 = £6,249.60;
DfT 320 x £19.53 = £6,249.60
Total = £14,259.20

2013/14

Public 320 x £5.50 = £1,760;
Enforcement companies 320 x £19.91 = £6,371.20;
DfT 320 x £19.91 = £6,371.20

Total = £14,502.40

2014/15

Public 320 x £5.50 = £1,760;

Enforcement companies 320 x £20.30 = £6,496;

DfT 320 x £20.30 = £6,496

Total = £14,752

2015/16

Public 320 x £5.50 = £1,760;

Enforcement companies 320 x £20.69 = £6,620.80;

DfT 320 x £20.69 = £6,620.80

Total = £15,001.60

2016/17

Public 320 x £5.50 = £1,760;

Enforcement companies 320 x £21.09 = £6,748.80;

DfT 320 x £21.09 = £6,748.80

Total = £15,257.60

2017/18

Public 320 x £5.50 = £1,760;

Enforcement companies 320 x £21.50 = £6,880;

DfT 320 x £21.50 = £6,880

Total = £15,520

2018/19

Public 320 x £5.50 = £1,760;

Enforcement companies 320 x £21.92 = £7,014.40;

DfT 320 x £21.92 = £7,014.40

Total = £15,788.80

Present Value Monetised Benefits

£113,687

Impact on Administrative Burden Baseline

The proposal will result in an annual increase of £145,811 (at 2005 prices) in the administrative burden on business.

This has been calculated on the basis of the net average administrative costs (£177,144) and benefits (£14,643), discounted to 2005 prices. The following 'deflation' rates were applied:

2005/06	2.15%
2006/07	2.72%
2007/08	2.91%
2008/09	2.91%

For the purposes of this assessment we have assumed an equal split between the size of the affected companies – 50% small / 50% medium. Total costs have been apportioned on that basis.

SPECIFIC IMPACT TESTS

Competition Assessment

It is acknowledged that there is a potential competition impact, as there is only currently one ATA to which companies may affiliate. However, DVLA will accept the bona fides of any alternative body that might be established and implements an appropriate code of practice.

Small Firms Impact Test

The Agency acknowledges that there will be an impact on small firms, which form a significant proportion of the car parking enforcement industry. However, the financial impact should not mean that these companies are unable to continue to operate profitably.

It is not possible to exempt small firms from this proposal, as it is largely these businesses at which the proposal is aimed.

Legal Aid

The introduction of this will have no direct effect on Legal Aid.

Sustainable Development

The introduction of this requirement will have no direct effect on Sustainable Development.

Carbon Assessment

The introduction of this will have no direct effect on carbon outputs.

Other Environment

The introduction of this requirement will have no direct effect on the environment.

Health Impact Assessment

The introduction of this will have no direct effect on health.

Race Equality/ Disability Equality/Gender Equality

DVLA do not consider the option being put forward will have any race, gender or disability equality impact.

Human Rights

The introduction of the requirement will have no direct effect on human rights.

Rural Proofing

The introduction of the requirement will have no effect on rural proofing.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	Yes	No
Sustainable Development	Yes	No
Carbon Assessment	Yes	No
Other Environment	Yes	No
Health Impact Assessment	Yes	No
Race Equality	Yes	No
Disability Equality	Yes	No
Gender Equality	Yes	No
Human Rights	Yes	No
Rural Proofing	Yes	No

Annexes

ANNEX 1 REGULATION 27

PART V Disclosure of Information

27 Disclosure of registration and licensing particulars

(1) The Secretary of State may make any particulars contained in the register available for use--

- (a)(i) by a local authority for any purpose connected with the investigation of an offence,
- (ii) by a local authority in Scotland, for any purpose connected with the investigation of a decriminalised parking contravention, or
- (iii) by a local authority in England and Wales, for any purpose connected with its activities as an enforcement authority within the meaning of Part 6 of the Traffic Management Act 2004;
- (b) by a chief officer of police;
- (c) by a member of the Police Service of Northern Ireland;
- (d) by an officer of Customs and Excise . . . ; or
- (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.

(2) Particulars may be provided to such a person as is mentioned in paragraph (1)(e) on payment of such fee, if any, of such amount as appears to the Secretary of State reasonable in the circumstances of the case.

(3) In this regulation--

(a) "a decriminalised parking contravention" means any act or omission which would have been an offence but for any of the following provisions of the Road Traffic Act 1991, that is to say--

- (i) .[deleted]
- (ii) [deleted]
- (iii) paragraph 1(4) of Schedule 3 (contravention of certain orders relating to parking places outside London not to be a criminal offence); and
- (iv) paragraph 2(4) of Schedule 3 (provisions creating certain stationary vehicle offences to cease to apply in special parking areas outside London); and

(b) "an officer of Customs and Excise" means an officer as defined in section 1(1) of the Customs and Excise Management Act 1979 and includes any person engaged as mentioned in section 8(2) of that Act.

ANNEX 2 SECTION 55 OF THE DATA PROTECTION ACT

Unlawful obtaining etc of personal data

55 Unlawful obtaining etc of personal data

- (1) A person must not knowingly or recklessly, without the consent of the data controller-
 - (a) obtain or disclose personal data or the information contained in personal data, or
 - (b) procure the disclosure to another person of the information contained in personal data.

- (2) Subsection (1) does not apply to a person who shows--
 - (a) that the obtaining, disclosing or procuring--
 - (i) was necessary for the purpose of preventing or detecting crime, or
 - (ii) was required or authorised by or under any enactment, by any rule of law or by the order of a court,

 - (b) that he acted in the reasonable belief that he had in law the right to obtain or disclose the data or information or, as the case may be, to procure the disclosure of the information to the other person,

 - (c) that he acted in the reasonable belief that he would have had the consent of the data controller if the data controller had known of the obtaining, disclosing or procuring and the circumstances of it,

 - (d) that in the particular circumstances the obtaining, disclosing or procuring was justified as being in the public interest.

- (3) A person who contravenes subsection (1) is guilty of an offence.
- (4) A person who sells personal data is guilty of an offence if he has obtained the data in contravention of subsection (1).
- (5) A person who offers to sell personal data is guilty of an offence if--
 - (a) he has obtained the data in contravention of subsection (1), or
 - (b) he subsequently obtains the data in contravention of that subsection.

- (6) For the purposes of subsection (5), an advertisement indicating that personal data are or may be for sale is an offer to sell the data.
- (7) Section 1(2) does not apply for the purposes of this section; and for the purposes of subsections (4) to (6), "personal data" includes information extracted from personal data.
- (8) References in this section to personal data do not include references to personal data which by virtue of section 28 or 33A are exempt from this section.