Public Consultation:

Requiring all private car parking companies using DVLA vehicle keeper information to be members of an Accredited Trade Association (ATA).

Scope of the consultation

Topic of this consultation:	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 private car parking companies who make manual applications for information.
Scope of this consultation:	This consultation will gather the views of those organisations directly affected by the proposal.
Geographical scope:	UK
Impact Assessment:	A consultation-stage Impact Assessment has been completed and can be found at Annex A.

Basic Information

To:	• The Private Car Parking Companies affected by the proposal • British Parking Association (BPA) • Automobile Association (AA) • Royal Automobile Club (RAC) • Information Commissioner's Office (ICO) Representative groups are asked to provide comments that summarise the views of the people and organisations they represent. It would be helpful if, when responding, representative groups could indicate the people and organisations they represent.
Body/bodies responsible for the consultation:	Data Sharing and Protection, Policy, Policy and External Communications Directorate, DVLA
Duration:	The consultation period began on 16th April 2009 and will run until 29th May 2009. Any responses received after this date will only be taken into consideration in exceptional circumstances.
Enquiries:	If you have any questions about the consultation or require further clarification of any matters relating to this document you may send them to Claire Morgan by post, fax or e-mail as shown below If you know of anyone who you consider would be interested in receiving a consultation document please contact us by post, fax or e-mail to the DVLA address as detailed below or by telephoning 01792 783949. A copy of this document can also be found on the website at www.dvla.gov.uk/consultations
How to respond:	Responses to this consultation should be recorded on the response sheet (Annex C) and returned by any of the following methods; (i) By post to Data Sharing and Protection Policy, Policy and External Communications Directorate, D16, DVLA, Longview Road, Morriston, Swansea SA6 7JL (ii) By fax for the attention of Claire Morgan 01792 384515 (iii) The consultation document is available on our website at www.dvla.gov.uk/consultations And can be downloaded and returned by e-mail to vehpol.DVLA@gtnet.gov.uk
Additional ways to become	This restricted consultation exercise seeks the views of the parking enforcement companies directly effected by the proposal, and other representative organisations

involved:	considered to have a particular interest in the outcome. In the circumstances, the Agency proposes only to make the consultation paper available in a basic written format through its web-site and by sending a hard copy if requested.
After the consultation:	DVLA will seek to acknowledge all electronic responses and other responses where feasible. A summary of responses will be sent to those who have replied following consideration by DVLA/DVA. DVA performs the vehicle registration and licensing functions in Northern Ireland on behalf of the Secretary of State for Transport. The summary of responses, will normally be published before or alongside any further action. It will be available on-line at www.dvla.gov.uk/consultations Paper copies will be available on request. All responses will be considered as part of the consultation process. It is the Agency's intention to explore the possibility of incorporating valid suggestions and comments when developing new or amending existing policy. Freedom of Information Disclaimer: Those who wish to submit comments to DVLA in relation to this issue are asked to note that we may publish all or some of the comments we receive. Please also note that if DVLA receives a request from any third party for sight of such comments, we may be obliged by law (for example, under the Freedom of Information Act 2000) to disclose such information to the applicant. If there are particular reasons why you would not wish your comments to be published or disclosed, please let us know. Although your wishes in this respect may not override any statutory requirement to disclose, they will be taken into account so far as possible. If you reply by e-mail, the above overrides any confidentiality disclaimer generated by your IT system.
Compliance with the Code of Practice on Consultation:	This consultation has been produced in accordance with the principles of the Government's Code of Practice on Consultation. In view of the restricted nature of the consultees list and the limited impact of the proposals, Ministerial Approval has been given for a shortened consultation period of six weeks.

Background

Getting to this stage:	A review of the procedures for the release of information from the vehicle record in 2006 led to the introduction of a series of measures designed to ensure that all appropriate safeguards are in place and that motorists are aware of how their data may be used. A further review has been undertaken to assess the effectiveness of all the new measures introduced and has resulted in the proposal now the subject of this consultation.
Previous engagement:	Engagement with stakeholders to date has included: • Discussions with the Office of Fair trading (OFT) • Meetings the BPA to discuss the merits of the proposal and its likely impact. • Correspondence with The Department for Business Enterprise and Regulatory Reform (BERR) • Consultation with the Finance and Leasing Association (FLA), Association of British Investigators (ABI), British Oil Security Syndicate (BOSS) and the Insurance Fraud Investigators Group (IFIG).

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INTRODUCTION

1.1 DVLA takes its obligations to protect personal data very seriously. New safeguards were introduced following a review of the release of information from the vehicle record in 2006. These were designed to protect vehicle keepers from misuse of their information, provide clear and robust complaint procedures where misuse is alleged and allow those who do have reasonable cause to get the data they need. However, concerns have continued to be raised about how data provided by DVLA and DVA is being used by private car parking enforcement companies. To ensure only companies that use data appropriately have access to that data, it is proposed that all private car parking companies requesting information from the DVLA or DVA be required to become members of an Accredited Trade Association (ATA). The requirement currently only applies to those companies requesting information via an electronic link.

1.2 ATA members are required to adhere to an enforceable Code of Practice, and compliance is strictly monitored by the accredited body. The only current ATA for the private car parking industry is the British Parking Association (BPA) and its current Code of Practice is available to view at http://www.britishparking.co.uk/info_page.php?id=34&info_id=26. This, supplementing audit activity by DVLA and DVA, will help ensure that data is only disclosed to companies who follow the Code of Practice and will help increase public confidence in the way their data is handled.

1.3 This consultation focuses on measures in place to protect the personal data held by DVLA and DVA, and to ensure that data is only accessed by organisations that use that data appropriately. DVLA has no authority to regulate any aspect of a parking business or its operations and the measure proposed is not intended to introduce formal regulation to the industry. This would be a matter for the Department for Business, Enterprise and Regulatory Reform.

BACKGROUND

1.4 Regulation 27 of the Road Vehicles (Registration and Licensing) Regulations 2002 provides for the release of information from DVLA's vehicle record to those who can show 'reasonable cause' for their request. Full details of Regulation 27 can be found at Annex 1 of the Impact Assessment, which is at Annex A.

1.5 Circumstances that have been judged to meet 'reasonable cause' include safety recalls by manufacturers, minor hit and run incidents not warranting a full police investigation, housing associations dealing with abandoned vehicles and insurance companies dealing with accidents and investigating fraud. Requests from private car park enforcement companies also meet the reasonable cause criteria. Landowners would have great difficulty in enforcing their rights if motorists were able to park with impunity on private property.

1.6 The law recognises that motorists have an obligation to comply with road traffic or other regulations when using a vehicle and allows DVLA to release data to both private and public sector bodies that 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.

1.7 Regulation 27 confers a power to release information to those who can demonstrate 'reasonable cause' for their request, so the Agency has to act responsibly in releasing data and ensure that adequate safeguards are in place to protect the personal data. This provision allows DVLA and DVA the flexibility to react to changes in the requirements of Government and private individuals, without lengthy delays involved in seeking specific legislative provisions to facilitate future data requirements. DVLA/DVA's application of the 'reasonable cause' provision can be subject to judicial review at any point, thus ensuring the power is used responsibly and reasonably.

1.8 There are already a number of safeguards against abuse of the enquiry processes, which were introduced after a review and public consultation. 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.

1.9 When information is requested manually, a full business résumé must be included with the application, to enable DVLA 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 of the Impact Assessment, which is at Annex A.

1.10 Organisations that request information via an electronic link are not required to provide supporting evidence with each application. Instead, they must first serve a six month 'probationary' period using the manual process, in which their behaviour and use of the information is monitored. They are then able to enter into a formal contract with DVLA, to enable the provision of data via an electronic link. The contract outlines the circumstances considered to meet 'reasonable cause'. It also describes how information must be stored and distributed to meet Data Protection requirements. **Any organisation with an electronic link to DVLA must be member of an Accredited Trade Association (ATA).**

1.11 These measures were introduced following a public consultation exercise in 2006, and were all introduced by late 2007. Last year, DVLA undertook a review of the effectiveness of these measures and considered how they might be further improved. The Agency consulted key stakeholders including the British Parking Association (BPA), Finance and Leasing Association (FLA), Association of British Investigators (The ABI), British Oil security Syndicate (BOSS) and Insurance Fraud Investigators Group (IFIG). The Law Society, Association of British Insurers (ABI), AA, RAC, BERR (Department for Business, Enterprise and Regulatory Reform), Retail and Motor Industry Federation (RMIF), Office of Fair Trading (OFT), Chartered Institute of Loss Adjusters and the Head of Trading Standards were also invited to participate, but were unable to do so.

1.12 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 to police 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, and there is no means by which DVLA, DVA or the public are able to benchmark the organisations requesting access to vehicle data. Currently, for example, companies who lose access to electronic data as a result of being suspended from or losing ATA membership, possibly as a result of customer complaints, could still

be able to obtain data by manual means. It is therefore proposed that **all** private car parking companies musts be a member of an ATA if they wish to obtain DVLA data.

CURRENT ARRANGEMENTS

2.1 If the status quo were to be maintained then the DVLA will continue to release information in the same way. The processes currently in place for the manual and electronic routes are as follows:

Manual Route

2.2 Private companies that request information are required to complete the appropriate form. All applications include a business résumé outlining details of the companies operations. They must also provide details of why they want the information and how it will be used. All companies must provide evidence to corroborate their request. Car parking enforcement companies also have to provide evidence that a parking charge scheme is in operation and that they are acting on behalf of the landowner. All forms contain a note that warns applicants that it is a criminal offence under Section 55 of the Data Protection Act to falsely obtain personal information.

Electronic Route

2.3 Some companies request and receive data via a secure electronic link. These links are operated in the context of clear terms of agreement, which detail when information may be requested, how it can be used and how it should be stored. Companies have to first serve a 6-month probationary period making manual requests before an electronic link is established. Their behaviour in the use of the information will be monitored during this probationary period and this will be used to decide whether an electronic link should be established. Since the 1 October 2007 all organisations using an electronic link that do not have a statutory regulator are required to be a member of a DVLA Accredited Trade Association (ATA), with a code of practice which all members must adhere to.

OPTION UNDER CONSIDERATION

3.1 Subject to representations made in response to this consultation exercise, there is only one option under consideration, which is to extend the requirement for ATA membership to manual enquirers.

3.2 This will enable DVLA and DVA to judge whether a particular company requesting access to data should be granted access to that data. It will also provide a benchmark for landowners wishing to employ a particular company to assess that company's methods before entering into any agreement, and for members of the public who use private car parks to judge the practices of a company. It will avoid the situation too where a company expelled from an ATA for poor practices might still be able to access data via the manual route. If no changes are made to the current procedures, public confidence in the use of data and the private car parking industry will remain low.

3.3 It is not proposed to extend the new requirement to *all* industries that request access to vehicle data. The new rule is limited to private car parking companies given the disproportionate number of complaints about the activity of elements of the private car parking industry, and the concerns raised that the industry is inadequately controlled. Extending the requirement for ATA membership to all parking enforcement companies will create consistency in the rules applied to private car parking companies enquiring via the electronic and manual routes.

3.4 Like existing ATA members, the new members would be required to adhere to an enforceable Code of Practice by the BPA. Failure to do so would result in expulsion from the ATA, and mean that they would be unable to request information from the vehicle record. There would be no alternative means of accessing the records, as is the case at present – where companies expelled from the ATA can still submit manual requests. Only companies who can pass the rigorous compliance criteria of the ATA will be granted membership.

3.5 Introducing the new requirement would enhance the existing robust safeguards in place for the release of information from the vehicle record and motorists would have more confidence that their personal data is being used appropriately. All parties would have a benchmark of what is considered to be acceptable and professional behaviour in relation to private parking enforcement. DVLA and DVA will have clearer criteria on which to decide a company's suitability to have access to keeper details, and could see a decrease in the amount of complaints received. This could lead to cost savings, for DVLA and DVA, for parking enforcement companies, and for the public, in addition to increasing public confidence in the use of their data.

3.6 DVLA acknowledges that the proposal will impose a financial and resource burden on companies, the majority of which are relatively small-scale organisations. These costs will relate mainly to the cost of joining the ATA, the cost of achieving compliance with the ATA's code of practice (eg changing signage and stationery) and the administrative burden of applying for membership and maintaining compliant record keeping.

3.7 DVLA has consulted the BPA, which is currently the only ATA for the parking industry. The fee for membership for those only seeking manual access will remain at £1,000 pa +VAT. However, very small companies may be provided with a flexible payment option to spread the cost of membership. In addition to the cost of obtaining AOS membership, car parking companies will be required to obtain basic BPA membership. This is essential, as AOS membership is an extension of the basic membership. The fee structure for basic BPA membership is detailed on the BPA web-site at http://www.britishparking.co.uk/page.php?id=21 These costs are further explained in the Impact Assessment.

3.8 DVLA will be prepared to consider any application from any alternative organisation to the BPA, which is seeking accreditation as an ATA if it is satisfied that the public will be thereby provided with appropriate safeguards.

3.9 If the proposal is taken forward, it is intended that car parking companies would be given a 3 month 'grace period', from the announcement of the new requirement, in which to gain membership of an ATA. There will be a further three-month period in which they will be required to achieve full compliance with the ATA Code of Practice, to enable them to change signage, stationery and parking charge notices as required.

QUESTIONS

A form for consultation responses is attached. This suggests some key questions that you may wish to consider, but it remains open to you to comment on any aspect of the proposal that you consider is relevant. The questions are as follows:

1 Do you consider that the proposed arrangement will provide greater safeguards for the protection of personal data held by DVLA and DVA, and increase public confidence in the way that their data can be used by private car parking companies?

2 Do you have any other suggestions which would improve the confidence in the parking industry retaining access to DVLA data?

3 Do you consider that the Agency's analysis of costs and benefits in the Impact Assessment is reasonable? In this respect, we are particularly interested in information that you can provide to refine this analysis. If you are a private car parking enforcement company, how many complaints do you have to deal with? How much resource do you have to devote to complaints? Have we made an accurate assessment of the one-off costs likely to be incurred?

4 What are your views on the impact the costs will have in the current economic climate?

5 If you are one of the companies affected by this proposal, do you consider that the proposal raises any unforeseen consequences as to your organisation's ability to maintain the service it currently provides for its clients? If so, please explain what these might be.

Annex A: Impact Assessment

Summary: Intervention & Options

Department /Agency:	Title:	
Data Sharing and Protection Group **DVLA**	**Impact Assessment of the proposal to require ALL car parking companies to be a member of an Accredited Trade Association.**	
Stage: Consultation	**Version: 0.1**	**Date: 24th February 2009**
Related Publications:		

Available to view or download at:

http://www.

Contact for enquiries: Claire Morgan **Telephone:** 01792 786728

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 is unable to predict how data will be used in advance. 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, and 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 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 Consultation 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: 1	Description: Require ALL car parking companies to be a member of ATA

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**	
£ 379,840		
Average Annual Cost (excluding one-off)		
£ 277,805	3	**Total Cost** (PV) **£ 1,079,138**

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)		
13,775	3	**Total Benefit** (PV) **£ 37,046 – 57,698**

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 3	**Net Benefit Range** (NPV) **£ -1,042,092 - -1,021,440**	**NET BENEFIT** (NPV Best estimate) **£ -1,031,766**

What is the geographic coverage of the policy/option?			UK	
On what date will the policy be implemented?			*** 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 £135,877 Decrease £ **Net** **£ 135,877**

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

Evidence Base (for summary sheets)

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

INTRODUCTION

In order to ensure adequate safeguards are 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 contract 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) 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 is 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 2.5% for the period 2005-2011, and by 2.25% for 2012:

2004/05	£16.20
2005/06	£16.60
2006/07	£17.02
2007/08	£17.44
2008/09	£17.88
2009/10	£18.32
2010/11	£18.79
2011/12	£19.21

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 x 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 £18.32 = £2,748.
£2,748 x 80 companies = £219,840.

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 x 80 = £80,000 p.a.

The new members of the ATA 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:

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

Overseas

Small	£355

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 + 40 x £535 = £21,400 p.a.

Each year companies will incur administrative costs dealing with its application for BPA and 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 @ £18.32	-	£2,015.20 x 80 = £161,216
2010/11 110 hrs @ £18.79	-	£2,066.90 x 80 = £165,352
2011/12 110 hrs @ £19.21	-	£2,113.10 x 80 = £169,048

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

Training	£219,840
Stationery	£160,000
Total:	**£379,840**

Average Annual costs

ATA Fees	£80,000
BPA membership	£32,200
Admin	£165,205 (average)
DVLA	£400
Total:	**£277,805**

Present Value Costs
£1,079,138

BENEFITS

There would be a non-monetised benefit to introducing this requirement as car users would be more confident that their information is being managed securely.

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 - 2011/12 will be as follows:

2009/10
Public 320 hrs x £5.50 = £1,760;
Enforcement companies 320 x £18.32 = £5,862.4;
DfT 320 x £18.32 = £5,862.4. - £13,484.80.

2010/11
Public £1760;

Enforcement companies £6.012.80;
DfT £6,012.80 - £13,785.60.

2011/12
Public £1760;
Enforcment companies £6,147.20;
DfT £6,147.20 - £14,054.40

Present Value Monetised Benefits
Range = £37,046 – 57,698
Central estimate = £47,372

Impact on Administrative Burden Baseline

The proposal will result in an annual increase of £135,877 (at 2005 prices) in the administrative burden on business.

This has been calculated on the basis of the net average administrative costs (£165,205) and benefits (£13,775), 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	***Results in Evidence Base?***	***Results annexed?***
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

Disclosure of registration and licensing particulars
27. - (1) The Secretary of State may make any particulars contained in the register available for use -

(a) by a local authority for any purpose connected with the investigation of an offence or of a decriminalised parking contravention;

(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) section 65 (contravention of certain orders relating to parking places in London not to be a criminal offence);

(ii) section 76(3) (provisions creating certain stationary vehicle offences to cease to apply in special parking areas in London);

(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[16] 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, or
(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 are exempt from this section.

ANNEX B CODE OF PRACTICE ON CONSULTATION

The code of practice applies to all UK public consultations by government departments and agencies, including consultations on EU directives.

Though the code does not have legal force, and cannot prevail over statutory or other mandatory external requirements (e.g. under European Community Law), it should otherwise generally be regarded as binding unless Ministers conclude that exceptional circumstances require a departure.

The following seven criteria must be reproduced within all consultation documents. There should be an explanation of any departure from the criteria and confirmation that they have otherwise been followed.

Consultation Criteria

1. Formal consultation should take place at a stage when there is scope to influence the policy outcome.
2. Consultations should normally last for 12 weeks with consideration given to longer timescales where feasible and sensible.
3. Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposal.
4. Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.
5. Keeping the burden of consultation to a minimum is essential if consultation are to be effective and if consultees' buy –in to the process is to be obtained.
6. Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.
7. Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

A full version of the Code of Practice is available on the Department for Business Enterprise & Regulatory Reform web-site at http://bre.berr.gov.uk/regulation/consultation/code/index.asp

If you consider that this consultation does not comply with the code or you have comments about the consultation process please contact

Tim Ford
Consultation Co-ordinator
Policy & External Communications Directorate
DVLA
Swansea
SA6 7JL

ANNEX C

CONSULTATION RESPONSE FORM
EXTENSION OF REQUIREMENT FOR ATA MEMBERSHIP

Below is a list of questions about the proposal to require all private car parking companies who apply for information from DVLA or Driver and Vehicle Agency (DVA) in Northern Ireland vehicle records to be a member of an Accredited Trade Association before any data will be disclosed.

Personal Details

Your name:
The organisation that you represent (if any):
Your address:*
Your telephone number:*
Your fax number:*
Your e-mail address:*

*Optional

Q1

Do you consider that the proposed arrangement will provide greater safeguards for the protection of personal data held by the DVLA and DVA, and increase public confidence in the way that their data can be used by private car parking companies?

Q2

Do you have any other suggestions which would improve the confidence in the parking industry retaining access to DVLA data?

Q3

Do you consider that the Agency's analysis of costs and benefits in the Impact Assessment is reasonable? In this respect, we are particularly interested in information that you can provide to refine this analysis. If you are a private car parking enforcement company, how many complaints do you have to deal with? How much resource do you have to devote to complaints? Have we made an accurate assessment of the one-off costs likely to be incurred?

Q4

What are your views on the impact the costs will have in the current economic climate?

Q5

If you are one of the companies affected by the proposals do you consider that the proposal raises any unforeseen consequences as to your organisation's ability to maintain the service it currently provides for its clients? If so, please explain what these might be.

Please return responses by one of the following methods:

- By post to Data Sharing and Protection group, Policy, D16, DVLA, Longview Road, Morriston, Swansea SA6 7JL
- By fax for the attention of Claire Morgan 01792 384515
- By e-mail to vehpol.DVLA@gtnet.gov.uk

THE CLOSING DATE FOR RESPONSES IS 29 MAY 2009