



Levelling Up, Housing and Communities Committee

House of Commons, London SW1A 0AA

Tel 020 7219 5364 Email luhccom@parliament.uk Website www.parliament.uk

Neil O'Brien MP
Parliamentary Under Secretary of State
Department for Levelling Up, Housing and Communities
Fry Building
2 Marsham Street
London
SW1P 4DF

2 December 2021

Dear Neil,

Last month, the Levelling Up, Housing and Communities Committee held an evidence session on the proposed Private Parking Code of Practice Enforcement Framework set out by your Department in its [August 2020 consultation](#) and the further [technical consultation](#), published in July 2021. A copy of the transcript from this session can be found on the [Committee's webpage](#). The Committee heard evidence from stakeholders within the private parking sector, including a debt recovery agency, and motorist organisations. These organisations and the Committee welcome the general thrust of the proposals, which go some way to deal with the "widespread concerns about poor practice and behaviour of some parking operators" that you noted in both of your consultation documents. We also heard about issues with the existing proposals, and we would like to draw your attention to some of these herein.

Regulating different types of parking arrangements

In their evidence, the parking operators and motorist organisations both made clear the difference between land on which parking is invited (e.g. supermarket car parks), where a parking charge notice is issued when the terms of the contract are breached, and land on which parking is not invited at all (e.g. private resident car parks). As Will Hurley, Chief Executive of the International Parking Community, told the Committee:

The reality is that the vast majority of land that is managed by our members is not a car park open to members of the public. It is either a private car park or a no-stopping or no-parking area, and we have to be able to protect those pieces of land. [Q3]

The need to differentiate between different types of land was recognised by your department in its July 2021 technical consultation, which moved away from aligning charges closely with those applicable to local authority parking arrangements and proposed a new "hybrid" model of parking charges that specifically covers residents' permit-only car parks and land on which parking is not permitted.

Parking operators told us that the currently proposed model, which suggests differential fees depending on whether a transgression occurs within or outside of London (in alignment with the local authority system) does not adequately protect residents and other groups whose ability to park may be hindered by commuters abusing resident-only car parks in commuter locations on the outskirts of London or in areas surrounding regional airports across the country. The abuse of such parking arrangements can cause significant frustration and inconvenience for residents in those areas, and the Department is right to respond to those concerns. However, we recognise the point made by Steve Gooding, Director of the RAC Foundation, who pointed out the issues inherent in trying to regulate two very different parking arrangements within one charging system:

The risk—I have raised this with the Department—is that they are moving towards something that is akin to the local authority model but are in danger of coming up with something that is just a bit too complicated for its own good. Looking at the consultation document again [...] there is quite a long table of what all these different charges might be in different circumstances, and there is a case for simplicity as well. [Q36]

We therefore ask that the Department consider whether land on which the general public is not invited to park ought to be subject to a separate system of parking charges that may possibly require a different level of cap and discount rates. This would help to ensure that there is sufficient protection for residents and other groups in locations where parking pressures are particularly acute. It would also allow the current list of parking charges to be aligned almost entirely with local authority charges, which would provide the clarity and certainty that motorists require when utilising parking facilities. As Jack Cousens, Head of Roads Policy at the AA told the Committee:

...when a driver turns up to park somewhere, for the vast majority of the time they do not know and, to a certain extent, do not really care who owns that car park and who is managing it. They simply want to go into the car park, comply with the rules, do their business and go away. [Q34]

The Committee agrees with the overall aim of making the system more straightforward by bringing charges in line with the local authority system. However, parking industry stakeholders made clear to us that there is a significant difference in the rates of recovery between local authorities and private operators. These issues are largely driven, we were told, by differences in enforcement powers – local authorities are able to use their civil enforcement powers, whereas private operators have to rely on action for breach of contract. We recommend that the Department undertakes work, as part of any impact assessment, to understand how it might support private parking operators to improve their collection rates. This may be assisted, in part, by the educational measures suggested below.

Furthermore, a key issue raised by parking operators on the alignment with local authority rates is that those rates have not kept pace with the changing nature of parking enforcement and its associated costs. Recent research from the [British Parking Association](#) found that 91% of local authorities surveyed felt that the current charges outside of London do not represent a sufficient deterrent. We note the recent work undertaken by [Transport Scotland](#) to review the level of charges

that can be levied by Scottish local authorities, and ask that the Department consider whether similar changes are required to the system that applies to local authorities in England in order to maintain charges at a rate that represents a sufficient, fair and appropriate deterrent.

Scrutiny and oversight board

All of the Committee's witnesses welcomed the proposed Scrutiny and Oversight Board in principle. We note that the further technical consultation suggests that this Board will be appointed in Winter 2021, and in agreement with our witnesses we recommend that the Department looks to convene this Board as soon as possible to ensure that the new regulatory framework is designed with the insight of all stakeholders in the sector.

The Committee recognises the point raised by the parking operators that there is a need to review charges imposed at regular intervals to ensure that they remain proportionate, but also to ensure that they reflect a fair apportionment of the costs incurred by land owners in pursuing charges. As the true cost of the new Code of Practice and Enforcement Framework will only be known by land owners and parking operators once the system is actually in place, we believe that an initial re-assessment of the level of charges should be undertaken at the end of the first year, with a biennial cycle of review being undertaken by the Board after that point.

Furthermore, the Board must be properly equipped and empowered to ensure that standards are strengthened and maintained across the sector. This will inevitably require the Board to closely examine data relating to charges issued and requests made to the DVLA for registered keeper information, as your Department identified in its initial August 2020 consultation, to identify issues with particular operators or particular sites. This information, as well as the minutes of the Board, should be published to ensure transparency and enable scrutiny of the oversight arrangements.

Strengthening the Appeals Charter

The Committee's witnesses also raised issues surrounding the lack of detail currently available on the content of any forthcoming Appeals Charter. In particular, we recognise the need for this Charter to include safeguards on turnaround times, staffing and standards of service so that motorists have a clear understanding of how their appeal will be dealt with and when they can expect a response.

Any Appeals Charter must also ensure fairness and proportionality within the charging system. This issue was recognised by the Department in its original consultation and the further technical consultation. However, the Committee also recognises the need to consider issues of digital exclusion and the complicated nature of some methods of payment for parking fees. The Committee therefore recommends that the Appeals Charter should not only include situations where the payment machine was out of operation, but also situations where it was practically impossible for the motorist to pay the relevant parking fee despite their best efforts to do so.

Debt recovery fees

The Committee heard evidence on the important distinction between debt resolution and debt collection. We welcome the moves within the proposed Enforcement Framework to regulate debt collection activity and to place a cap on fees that can be charged by recovery agencies. Whilst parking operators and the debt recovery agency that the Committee heard evidence from were generally satisfied with the proposals as they stand, Steve Gooding from the RAC Foundation suggested that capping charges at £70 may mean that charges levied are disproportionate to the action taken and do not reflect "an accurate representation of the admin costs involved," for instance where a debt collection agency has only generated an automated letter without having to conduct an extensive search for the registered keeper, and where the charge is paid following an initial demand.

The Committee recognises the need for proportionality of recovery fees and the issues caused by imposing additional fees for debt collection on motorists who are struggling to pay charges. The Committee therefore recommends that the Department considers requiring fees charged to be proportionate to the level of enforcement action taken by operators and their debt recovery agencies in the particular case, subject to an overall cap that is also proportionate to the action taken, so that motorists are protected both from unscrupulous recovery behaviour and from disproportionate costs.

Education of motorists

A point raised by both the parking operators and motorist organisations that the Committee heard from was that motorists often do not understand the nature of enforcement arrangements on different car parks and their legal consequences. Common misconceptions include the notion that parking charges on private land can simply be ignored, and many of our witnesses recognised the need to improve both the reputation of the industry and awareness of its role and regulation amongst the general public. The proposed private parking Code of Practice and Enforcement Framework offer an opportunity to reset the public understanding and perception of the private parking industry, and we would encourage the Department to ensure that appropriate resources are dedicated to the important task of educating motorists about the proposed changes.

Impact assessment

In evidence, the Committee was referred to various impact assessments made by parking operators and their trade bodies in relation to the proposed measures. The witnesses told the Committee that these impact assessments were necessary as the Department did not initially conduct an impact assessment on the proposals brought forward. This is particularly concerning given that Philip Boynes, Chief Executive of Parkingeye, told the committee that as it currently stands the proposed framework "will remove 62% of the most professional operators" from the sector, potentially leaving landowners in the hands of less scrupulous operators.

Concerns were also raised around the impact that poor parking management could have on the vitality of our high streets, local businesses and the environment. Stewart Clure, Managing Director of Debt Recovery Plus, told the Committee that the proposals also risk rendering free parking arrangements unviable, as land owners will not be able to finance the management required. The Committee therefore recommends that the Department publishes any impact assessment

conducted to date and that any further assessments take account of the issues raised by our witnesses.

The Committee's evidence session on the Code of Practice Enforcement Framework highlighted the importance of fair, well-regulated and cost-effective parking enforcement. The Committee believes that there now exists a window of opportunity to restore confidence in the sector and deal with issues of poor practice, and this letter has made recommendations that the Committee believes are necessary to strengthen the existing measures proposed by the Department.

A member of the Transport Select Committee, Karl McCartney MP, joined the Committee as a guest at its evidence session, and so I copy this letter to the Chair of the Transport Select Committee, Huw Merriman MP.

I would be grateful if you could take the issues raised in this letter into account in your forthcoming technical consultation response, and write to the Committee following the publication of your response setting out how you have done so.

A handwritten signature in black ink, appearing to read 'Clive Betts', with a stylized flourish above the name.

Clive Betts MP
Chair, Levelling Up, Housing and Communities Committee