

The Information Commissioner's response to the Department for Communities and Local Government consultation "Parking reform: tackling unfair practices"

1. The Information Commissioner has responsibility for promoting and enforcing the Data Protection Act 1998 ("DPA"), the Freedom of Information Act 2000 ("FOIA"), the Environmental Information Regulations ("EIR") and the Privacy and Electronic Communications Regulations 2003 ("PECR"). He is independent from government and upholds information rights in the public interest, promoting openness by public bodies and data privacy for individuals. The Commissioner does this by providing guidance to individuals and organisations, solving problems where he can, and taking appropriate action where the law is broken.
2. The Information Commissioner welcomes the opportunity to respond to this consultation "Parking reform: tackling unfair practices".
3. As the questions asked in the consultation do not generally relate to the legislation that we oversee, we have not answered them specifically. Instead, we have made the following comments on aspects of parking enforcement that may have an impact on information rights.
4. Although the Information Commissioner is not directly involved in the regulation of parking enforcement practices, parking enforcement involves the routine collection of personal data including details such as the vehicle registration mark related to the keeper and/or driver of the vehicle and also information about these acquired from the DVLA. Parking enforcement organisations must therefore ensure that this personal data is processed in a manner that is compliant with the DPA and the approach also respects the right to private life that individuals have under Article 8 of the European Convention of Human Rights. Articles 7 & 8 of The Charter of Fundamental Rights of the European Union will also be relevant.
5. As vehicle clamping on private land is now banned in many circumstances, many parking enforcement organisations are turning to technology to help them enforce parking restrictions. In particular, surveillance systems such as CCTV and Automatic Number Plate Recognition ("ANPR") have become more prevalent in the field of parking enforcement. ANPR enabled cameras

automatically capture the registration number of a vehicle, and this information can then be used to identify the registered keeper of the vehicle by cross referencing with the DVLA register of vehicles.

6. Any data from which an individual can be identified is personal data for the purposes of the DPA. This includes images of an individual from which they are recognisable and vehicle registration numbers collected for the purpose of identifying vehicle keepers who contravene parking restrictions. These are personal data at the point they are collected, regardless of whether the organisation actually goes on to identify the owner of vehicle or not.
7. The use of surveillance systems by parking enforcement organisations to view and record details that relate to identifiable individuals, including vehicle registration numbers, must comply with the DPA. This legislation requires that personal data is processed fairly and lawfully, is used for limited specified purposes, is accurate and up to date, is adequate, relevant and not excessive, is not held longer than necessary, and that appropriate measures are taken to ensure its security. The DPA also gives individuals rights, including the right of access to their personal data.
8. The Commissioner recognises the legitimate interests, and the societal benefit, of land owners being able to properly manage parking on private land. However, the use of CCTV and other similar surveillance technology can interfere with the private lives of individuals, most of whom are simply going about their day to day business and engage no concerns about compliance with the conditions under which they are allowed to park their vehicles.
9. For example, an ANPR enabled CCTV system at the entrance and exit of a car park will collect the details of any motorist that enters the car park. In contrast an enforcement officer, patrolling a car park that is operating on a pay and display basis, would only record the details of those who have contravened the car park's conditions. The use of the CCTV system therefore introduces a higher level of privacy intrusion, as it is collecting information relating to a much larger number of individuals, the majority of which will comply with the car park's conditions.

10. CCTV or similar surveillance technologies, and in particular the processing of personal data collected by those systems, should only occur where that processing is proportionate to the problem that it is designed to address. Systems and systems of work supporting the acquisition of this information should be designed to ensure that a legally compliant and proportionate approach is adopted and wider public policy that may result in the use of such systems should reflect these objectives.
11. Car park operators and parking enforcement organisations often have access to the DVLA register of vehicles, which includes the identity of a vehicle's registered keeper. This gives those organisations potential access to personal data pertaining to a significant proportion of the UK adult population, making linked CCTV and ANPR systems a powerful surveillance tool. It is extremely important that car park operators and parking enforcement organisations only request registered keeper details from the DVLA when necessary. They should only use this information for the purposes for which they have been given access and use it in a responsible and proportionate manner.
12. At present, these arrangements for access to DVLA registered keeper information are underpinned by trade association codes of practice. Given the nature, extent and potential value of DVLA data for other purposes there needs to be robust safeguards in place. These must ensure this information is only accessed where strictly necessary for parking enforcement and that there is effective supervision and sanctions in place to ensure that that is the case in practice. Breaching the code should have significant adverse consequences to act as a deterrent. Access to DVLA data is made possible by statutory provisions¹. It seems logical that any code underpinning access should be on a similar statutory footing. A statutory code with effective safeguards, supervision and enforcement mechanism may provide a more appropriate solution and one that inspires greater public confidence.
13. Organisations that do wish to use technology to manage car parks must do so in a proportionate and balanced manner that is compliant with the DPA. This legislation includes a number of legally enforceable requirements. These include clear signage that explains to individuals parking cars what information is being

¹ Regulation 27 of the Road Vehicles (Registration and Licensing) Regulations 2002
<http://www.legislation.gov.uk/ukxi/2002/2742/made>

collected and processed in relation to them, who is processing that information and what purposes that information is being processed for. This should include the circumstances in which the organisation will access the DVLA register of vehicles to identify the keeper of a vehicle

14. Organisations must also have strict retention policies that ensure that data collected about individuals is not kept for longer than is necessary. Once a vehicle has left a car park without contravening the conditions for parking there will not be any justification for continuing to hold the information about that vehicle and they should be deleted immediately. Organisations must ensure that they choose systems that allow them to select an appropriate retention period, and that these systems are properly configured to delete information at the appropriate time.
15. Organisations should have appropriate controls in place to ensure that the information collected for the purpose of enforcing the conditions of the car park is only used for this purpose, and is not used for other unrelated purposes.
16. The Commissioner has produced a code of practice for the use of surveillance cameras. This includes specific guidance on the use of ANPR cameras².
17. The Commissioner is happy to expand upon any of the points made in this response and stands ready to assist the Department as it addresses how information about those who use off street parking can be properly safeguarded.
18. We also strongly encourage organisations considering the use of surveillance technology to enforce off street parking to conduct a Privacy Impact Assessment (PIA) before doing so. A PIA is a consistent process that will help organisations determine whether the use of surveillance systems is the most appropriate way of helping them achieve their objectives, what the impact on privacy of using such systems will be and how the objective can be achieved in the least privacy intrusive way. The Commissioner has produced detailed guidance to assist organisations in conducting PIAs³.

² <https://ico.org.uk/for-organisations/guide-to-data-protection/cctv/>

³ <https://ico.org.uk/for-organisations/guide-to-data-protection/privacy-by-design/>

19. The DPA must also be complied with when any further disclosure of the information takes place (for example, to debt collection agencies). Any disclosure must be for a justifiable purpose and limited to the data that is strictly necessary to achieve that objective. If an organisation regularly needs to share data, it should put in place a data sharing agreement between itself and the recipient organisation detailing the circumstances in which personal data will be shared, what that personal data will be and what the recipient is and is not allowed to do with that personal data. More guidance on data sharing can be found in the Commissioner's data sharing code of practice⁴.
20. The Commissioner works with industry bodies such as the British Parking Association (BPA) and the Independent Parking Committee (IPC) to ensure that data protection and privacy concerns are taken into account by their members and properly balanced against parking companies' interests in enforcing the conditions of the car parks they are responsible for. This helps to ensure consistency and the promotion of good practice across the sector. Compliance with the DPA is a requirement of both the BPA and IPC codes of practice.
21. Both the BPA and IPC are accredited trade associations for the purposes of access to the DVLA vehicle keeper database, and therefore have important roles to play in controlling access to that database. It is therefore important that DCLG's approach supports the work of the BPA, the IPC and the DVLA in ensuring that access to registered keepers' personal data is properly controlled.
22. The Commissioner therefore encourages DCLG to ensure that its approach to the regulation of off street parking reinforces the above principles and ensures that individuals' right to privacy is properly considered. To this end, the Commissioner looks forward to being able to actively work with DCLG where appropriate.

⁴ <https://ico.org.uk/for-organisations/guide-to-data-protection/data-sharing/>