Residential. Also use where an invited guest is ticketed by amending to suit and add in this case as persuasive: *Millennium Door And Event Security v Mr X. 09/06/2017. C7GF0Y0M. Swansea. DJ Scannel*
Details can be found on here.

I refer to PCN ******* Insert all of the numbers

Letter before action, re PCN ****

The above Notice to Keeper has been served on me as the registered keeper of vehicle Reg. ******

Your PCN draws to my attention that you are using my allocated car parking areas for your own business purposes. My lease allows unfettered occupational rights to the parking areas, which means you are operating a predatory business on land which you have no overriding rights in. As this parking space is one directly allocated to me on the lease, you have not sought approval for the use of it from the actual landholder, ie myself. You have trespassed on my leased land. --- (Remove this if the car parking space is a communal one)

Your involvement on this land will have supposedly been to prevent parking by uninvited persons, for the benefit of the actual leaseholders and their invited guests. Instead you carry out a predatory operation on those very people whose interests you are purportedly there to uphold.

In any case, my lease in respect of the common areas of the grounds and my designated parking area places no restrictions on the parking facilities such as those you have tried to imply, let alone a penalty regime for an alleged contractual offer to use my own allocated parking area I already have such rights or to place restrictions on visiting guests. You cannot offer me something I already have, and I am not obliged to accept an offer in such circumstances.

My lease remains the same as when it was originally agreed as part of my residential rights. There are no restrictions on parking within it and I believe you are acting unlawfully by attempting to take legal action when I have an absolute right of peaceful enjoyment on the land including allowing my guests free use of it.

If you feel that you have been misled by the Managing Agents insofar as they have contracted with you to operate here, then that is something you must take up with them directly. It is of little interest to me as I have unequivocal unfettered right of peaceful enjoyment on the land.

I draw you attention to the case of Jopson v Homeguard , case 2906J in Oxford County Court where the appeal heard by his honour Judge Harris QC. This was an appeal against a previous hearing which was awarded in favour of Homeguard, in similar circumstances as those addressed in my dispute with you. The Judge allowed the appeal in favour of Mrs Jopson.

I also draw your attention to PACE v Mr (N Redacted), case C6GF14F0 in Croydon county court where the case was heard by District Judge Coonan. In summing up he stated " I have before me a tenancy agreement which gives Mr [N. redacted] the right to park on the estate and it does not say “on condition that you display a permit”. It does not say that, so he has that right. What Pace Recovery is seeking to do is, unilaterally outside the contract, restrict that right to only when a permit is displayed. Pace Recovery cannot do that."

As you have seen fit to attempt to charge me the sum of £*** as a legitimate amount for the use of my own leaseholder rights to the areas of the property, I hereby claim an amount of £**** for damages for the tort of trespass and tortious interference of my leaseholder rights, occasioned by the attempt to restrict my rightful use of the designated area.

Additional matters

You have obtained my details from the DVLA when you have no right to do so.

I am of the opinion that you don't care if you have rights and perhaps rely on your victims believing that some contract with the Managing Agent of the premises or even the landowner, allows you to apply parking terms on the car parking spaces at the premises. This is a mistaken assumption, as you will know anyway.

I am a resident at the premises to which the parking is attached as a lease and which allows unfettered rights to the use of the communal areas and parking facilities.

You have a duty of care to comply with the necessary Code of Practice of your Accredited Trade Association, the International Parking Community. The requirements laid out in the Code of practice make it clear that you must only operate on land where you have the landholder's permission. You have failed in that duty.
Your involvement in your supposed parking management arrangements place on you an obligation to ensure that proper consideration is given to all the facts. Lax contractual assessment is not an excuse for a derogation of your duty. A breach of the Data Protect Act is a matter of fact. You have either breached it or you haven't. Whatever excuse you present for the breach does not excuse it in any way as you are under the requirement to show due diligence and a duty of care to ensure that personal details are obtained lawfully and then used lawfully from then on.

You will know that as this is a residential location the residents will have some sort of property rights, either by way of a lease or as a freehold resident with attached easements. It is incumbent upon you to consider the resident's rights in respect of the use of parking spaces. If you contracted with the managing agents to "control" the parking facilities they have misdirected you, although it is common knowledge that they often get a kick-back in commission for allowing predatory parking companies to take control of land. They have no other real interest otherwise.

If it was the landowner who contracted with you then the same applies. A landowner cannot restrict a privilege within an agreed covenant and it is your responsibility to ask the right questions and ensure that the operation of parking control is lawful.

I draw your attention to the case of Saeed v Plustrade Ltd [2001] EWCA Civ 2011 (20th December, 2001) heard at the Royal Courts of Justice by **LORD JUSTICE AULD, LORD JUSTICE ROBERT WALKER and SIR CHRISTOPHER SLADE** where they found that a landlord cannot take away something given within a lease, specifically a derogation of parking rights already afforded within a lease.

However you look at this, as I have an absolute right to use of the parking facilities without any intervention from you or anyone else, a breach of the Data Protection Act HAS occurred as you had no reasonable cause to apply for and use my personal details from the DVLA.
I am therefore submitting a complaint to both the DVLA and the Information Commissioner's Office about your misuse of personal data.

I draw your attention to the case of Lireza Ittihadieh v 5-11 Ceyne Gardens RTM Company Ltd & others at http://www.bailii.org/ew/cases/EWCA/Civ/2017/121.html which makes it clear that once data has been accessed for personal use then you become the Data Controller, something which the DVLA KADOE Contract also makes clear.

I now make a claim against you for punitive damages to the extent of **£***** for the wrongful application for, and subsequent misuse of my information from the DVLA. This is a serious matter and one which is both stressful and degrading. It impinges on my rights as a freehold resident, has caused some considerable anxiety and distress and to top it all off, you are now warning me of a claim being likely in a country court for the sum of money you deem you are entitled to. This is an atrocious situation without any merit at all, and I believe may also be a fraudulent action under the auspices of the Fraud Act 2006 for Fraud by false representation which is a criminal offence that carries a sentence of up to 12 months imprisonment on summary conviction.

BE AWARE that this matter is now in your knowledge. An excuse of not knowing a criminal act had occurred due to the ill-constructed contract you have to "manage" the parking, now has no merit. I will ensure that anyone else within the residential complex whoo is being targeted by you from now on will be made full aware of your illegal activity and I will also be considering legal action against you for fraud myself anyway. I will first see how you handle this claim before I make a complaint to the police.

I now claim the amount of £* for your trespass against my covenanted rights.**

An additional amount of £* for the damages is also claimed for wrongful application of, and misuse of the data from the DVLA. This is already adjudicated on as being reasonable as evidenced by the case of *Halliday v Creation Consumer Finance Ltd [2013] All ER (D) 199***

The total amount claimed is therefore **£*****
To prevent this matter being taken to court I require payment within 14 working days from 2 days of the date of this letter. Failure of this will result in a court claim being instigated and consequential separate costs being added for the added expense.

I have made it known already that I will also considering a police complaint for the fraud dependant on the response to this claim.
Yours sincerely

This next template is where you just want to warn MIL about misuse of personal data. If you want to make a breach of the DPA claim you need the next template letter.

Sir,
Ref ******

You are using my personal data in a manner that has not been authorised.
The information you are using was obtained from the DVLA by ********* from whom you have purchased the disputed debt.

******** obtained my details under the KADOE agreement from the DVLA which strictly forbids the third party use of the information, except in certain circumstances, none of which apply to yourselves.

As a consequence you are in breach of the Data Protection Act and must now desist from further use of my information and to cease any action you are taking as a result of the unlawful acquisition of it.

The continuation of the county court claim referenced above will only serve to compound the breach of the DPA and will give rise to a counter-claim for that breach. Be aware that an addition of a counter-claim will result in the case being heard even if you withdraw your own action.

This is not a situation that you should overlook lightly as there is ample evidence of the lack of compliance to the DPA and you will be taken to task for any continuance.

MIL, claim for a breach of the DPA

Sir,
Ref ******

You are using my personal data in a manner that has not been authorised.
The information you are using was obtained from the DVLA by ********* from whom you have purchased the disputed debt.

******** obtained my details under the KADOE agreement from the DVLA which strictly forbids the third party use of the information, except in certain circumstances, none of which apply to yourselves.

As a consequence you are in breach of the Data Protection Act and must now desist from further use of my information and to cease any action you are taking as a result of the unlawful acquisition of it.

The continuation of the county court claim referenced above will only serve to compound the breach of the DPA and will give rise to claim for that breach.

As there is evidence of the breach of the Data Protection Act I am now claiming an amount of £******. Any further continuance in the use of my personal details will result in a further claim being added.

Payment is required within 14 days of this letter, deemed served two days after dated and with a proof of posting certificate to ensure it is delivered in accordance with the Interpretations Act

Failure to pay in time will result in a small claims court application without further notification and will necessarily add costs onto the overall amount.

John Lennon Liverpool Airport, Also applicable to numerous other airport operators who try to demand money for stopping on roadways and use the byelaws as an excuse.

Ref PCN *******
You are well versed on the situation regarding the alleged contractual application of your perverse rules which seek to overrule the actual lawful airport byelaws.

I point you to your situation as it appears from my own perspective.

1. The airport is under bye-law control so taking action outwith the conditions imposed on airport matters is at the very least extremely questionable and more than likely completely unlawful, as in your company has no legal standing to impose quite separate sanctions on people. The Notice to Keeper supports that bye-laws are in operation by your use of the word "contravention".

2. Stopping on an airport road is not part of the bye-law conditions.

3. The scale of penalties under the byelaws is no way similar to those you seek to impose.

4. Your use of the words "Parking Charges" is extremely underhand and deliberately incorrect. Stopping is most definitely not parking as even an occasion where a driver has to stop to read the very signs you say impose contractual obligations on him to "not stop" would be a contravention, as would be stopping to allow a pedestrian to cross in front of him.

5. There is no reasonable assumption that a driver is also the registered keeper or vice versa so continued pursuit of the keeper without evidence to back up that assertion is wrongly founded. This is not saved by your example of Elliott v Loake where the police in a criminal case had an admission that the keeper was the driver. See case reference C8DP67P5 Bradford County Court, 14/10/2016

6. The signs you employ at the site have not been authorised by Liverpool City Council and indeed they have confirmed they do not meet a standard required for compliance to the Traffic Signs Regulations and General Directive so the continued use of them is an actually provable criminal offence.

7. It is clear that you are attempting to make a gain whilst carrying out an activity of a criminal nature so the law is able to prevent that under the terms of Ex_turpi_causa_non_oritur_actio, ie: The court will not assist a claimant to recover a benefit from his own wrongdoing.

8 (a). If any wrongdoing had occurred according to the wording on your signs, which one must stop on the roadside to read anyway, it would be doing something which you strictly cannot enforce under the law of contract so this would be a matter of trespass. You forbid stopping on the roadside and however you care to rephrase that, you cannot contract with a driver to do something you forbid.
(b). Trespass is only actionable by the landowner and as the vehicle was accessing the airport by invitation as part of the normal business of airport activity it cannot be seen clearly where a trespass can have taken place.

9 (a). Wrongful use of personal data. You have obtained the personal details of myself being the registered keeper of the said vehicle under the provisions of the KADOE agreement with the DVLA. There is no contract you allegedly hold with myself as the registered keeper so accessing my personal details was a breach of the Data Protection Act.
(b). If you rely on the alleged breach of the supposed contractual relationship, you have been mistaken in your assessment of the situation as a matter of trespass cannot afford you the same access to my details unless you are the landholder/owner or have some proprietary interest in the land. I assume, more strongly than your own assumptions, that Peel Holding, the airport owners have not given you proprietary interest so you cannot access details under the assumption of tort of trespass.

10. Now my final statement set out below:

Notice of claim before action

Vehicle Control Services have accessed the DVLA database to obtain my personal information when they had no legal right to do so.
This has caused me great deal of anxiety and stress

My details seem to be of no consequence to VCS, nor does the fact that you know, or should know that you have no rights to obtain and use my personal details.

At the commencement and subsequent renewal of any contract with the airport you should have had the situation looked at professionally by a legal expert who would have have told you what I have made clear above. Failure of that does not mean you have any excuse for not complying with the Data Protection Act. You failed in your due diligence of proper consideration of all aspects of the contract.

A breach of the Data Protection Act cannot be saved by lack of due consideration.
I remind you of your recent loss in court for VCS v Phillip, Claim number C9DP2D6C Liverpool 07/12/2016.

The judge found that a breach of the DPA had been occasioned. As is exactly the same as here, the signs placed at the Liverpool Business Park are the same as on the airport. It is quite evident that it would be impossible to form a contract with a motorist where nothing is offered. You cannot offer a driver the permission to stop where stopping is prohibited and there would be insufficient notification of the terms of the signs without stopping to read them in any case.

I now address the matter of damages for the unlawful acquisition and, passage of same to a third party debt collection agency.

I claim an amount of £750 from you payable within 14 days.
Failure to make such payment will result in legal action being commenced without further notification.

Use this where either of Gladstones or BW Legal are doing debt collection on behalf a PPC for a residential parking charge was incurred. This is a threat of adding a counterclaim to an existing court claim, or where one is threatened. Can be edited to suit other debt collection companies.

I refer to your letter before claim ******* dated ******

Your client (add PPC name) has been informed of a breach of the Data Protection Act in respect of this claim.
They are claiming against me for an alleged contravention of parking in MY OWN PARKING SPACE.
Clearly they cannot do this as I have unfettered rights by virtue of my lease.

Your client has been warned of continuation of this claim as it will only serve to aggravate their breach of the DPA.
You should now check with them as to how they wish to proceed. If they do decide to continue the claim I will be adding a counter-claim for damages of £*** plus costs.

You will be aware that once an action has commenced with an attached counter-claim it will be unable to be stopped by you and a court hearing will take place.

I am confident in my position in relation to this matter so if there was ever an intention of using the court system as a means of obtaining payment before the hearing, or of discontinuing the case to save costs nearer to the hearing date, you will be unable to do so.

I have given your client the details of the Data Protection Act breach already and now that you have them, you are also under an obligation to desist from continuation of this absurd claim or face the same consequences for the ongoing use of my unlawfully obtained personal details. At the very least you should now ensure that the details you are using have been obtained lawfully and that would include obtaining evidence from your client that they have obtained the necessary authority to ticket on my space. That would need to have been given by myself.

Please now inform me of your intentions in this matter so that I can start to prepare my counter-claim if needed.

General parking template where the signs at the location are forbidding in their wording. Contractual agreements cannot be formed against the directions NOT TO DO SOMETHING.

Trespass

Sir, I am in receipt of PCN ****** dated ** ** **

I am writing to advise you that you appear to hold me liable for a matter of trespass, conveniently disguised as a Contractual Charge.

The location of the alleged incident is shown to be signed with notices that prohibit parking in some way. That is “Permit Holders Only”, “No Unauthorised Parking” “Parking for customers only”. In fact the signs at the location say" NO STOPPING OR WAITING AT ANY TIME". (Edit as necessary)

For your consideration I attach a photograph of one of the signs that clearly displays the prohibitive nature of the wording although you will know what they say already.

A sign of this sort makes no contractual consideration to a driver. If parking, stopping or waiting is

---

forbidden, you cannot contract with a driver to do exactly what the restriction forbids. A contract must have 3 elements; Offer, then consideration then acceptance. No offer was made at the time of the alleged contravention.

As this cannot be a contractual agreement it is therefore actionable only as a tort of trespass and that has to be progressed by the actual landholder/owner or lessee. I have a reasonable assumption you are neither.

The result of that is that when you applied for my registered keeper details under the KADOE agreement with the DVLA you did so unlawfully. You cannot use them personally as you have no proprietary interest in the land, and you are forbidden to pass them to a third party.

It appears that in your negotiations to contract with the landowner you omitted the duty of care required to ascertain that you had operational integrity. A lax consideration of your contractual limitations is no excuse for failing to observe the strict requirements of the Data Protection Act. A breach is a fact in law.

Continuation of your claim against me having been informed of this breach will only serve to exacerbate that breach.

As I am now being pursued for a wrongful contractual charge you are unlawfully using my details against me. I therefore give you notification as below.

Letter Before Action.
I claim an amount of £*** for the breach of the Data Protection Act resulting in obtaining my details when you had no reasonable cause, and to use them against me in pursuing a debt which has no merit. You will find the case of Halliday v Creation Consumer Finance Ltd [2013] All ER (D) 199 has shown that a sum of £750 to be reasonable in these sort of circumstances.

If I do not receive payment of that amount within 14 days I will raise a claim in the county court without further notification and will include the court costs onto the claimed sum.

Simple breach of DPA No evidence of driver. Court action commenced. Pre PoFA case.
For a case where the action is not being pursued under the Keeper Liability clause of PoFA replace the purple text with the green

Sir,
I refer to PCN **** and the resultant Court claim *******

You are mounting a county court claim against me as the registered keeper of the vehicle concerned. The details obtained from the DVLA is only evidence of the registered keepers identity who may or may not have been the driver at the time of the incident.

As this event took place before the Protection of Freedoms Act 2012 you have no authority to pursue as the keeper where no evidence exists to substantiate it. In fact it is very possible it may have been another person, or persons who will remain undisclosed for reasons of confidentiality.

I am the keeper of the vehicle however I have not been identified as the driver. No admission has been made to support that, and without any such evidence available to you, you cannot use keeper liability. You had an opportunity to invoke keeper liability at the outset but chose not to do so.

It is my guess that you hope to use the grossly exaggerated and flawed assumption of myself being the driver by using the case of Elliott v Loake. This has been laughed out of court on so many occasions when a judge is assessing it for its merit. You will know that Elliott v Loake was based on an admission by the keeper that only he was allowed to drive. You cannot rely on any such evidence. Nor can you rely on rebutting the recorded comments of Henry Greenslade, the POPLA Lead Adjudicator who made it very clear that PPC's cannot use that argument as it is without merit.

As the situation has come to a court hearing I will now add another aspect you may well wish to consider before proceeding further.

I make this statement as a Letter Before Action

You are using my details obtained from the DVLA in a manner that breaches the Data Protection Act. Although the initial DVLA disclosure may well have had some merit, the holding and use of them where there exists no evidence to the effect that I was the driver at the time is unlawful. You have no reasonable cause to hold on to them for this length of time, without any evidence to support any action you may take.
The use of my details to actually mount a court claim is one of annoyance, and has created an inordinate amount of anxiety and depression. The potential of having a court finding against me and a CCJ resulting for a non payment is very worrying and is a matter of considerable concern.

Since I deem you to be in breach of the DPA I now add a claim for an amount of damages of the sum of £750 payable within 14 days from the date of this letter. Failure to make the payment described WILL result in my adding a counterclaim for the damages of £*** onto the existing claim by yourselves.

BE AWARE, that once a counterclaim is added, then even if you withdraw you own own action the counterclaim will still proceed. There will be nothing you can do to prevent it.

Letter to Managing Agents registered with ARMA (Association of Residential Managing Agents)

Sir, I have become victim to a parking charge notice from (insert) for an alleged contravention of some parking conditions. I am at a loss at to where these conditions have appeared from since there are no conditions on my lease that can explain them.

I understand that the parking contractor was employed by yourselves and that the contract was between yourself and them.

I have never been approached about this matter. I have never accepted a derogation of my leasehold rights, nor am I likely to in future.

I wish to raise this matter as a formal complaint. Please explain how this situation has arisen. I need to know if the landlord has handed you the authority to make this change of leasehold rights, and to show me such documentation you have to support that.
If no authorisation was passed down to you, I need to know why you have unilaterally sought to interfere with my leasehold rights, and especially what lawful grounds you had to do so.

If you wish to inform me that your own client agreement with the landowner passes such authority I need to see a copy of that contract to validate your answer.

I also need to see a copy of the contract you have taken with the parking company so I can see how it impacts on my leaseholder rights.

Furthermore I believe that the introduction of a scheme which impacts on the residents is subject to a formal tender basis for the contractor. Please advise on the tender application process you have followed.

Lack of a suitable response will be put to ARMA to resolve.

This is a matter of great concern to myself, and other residents from discussing it with them, and needs to be addressed quickly.

I have some knowledge of the legal situation on this matter and am aware that I have an option for taking legal action if my rights have been interfered with and will consider them in due course.

Then if appropriate at this time do the Tortious Interference letter below.
If they don't respond suitably progress it to the next level of complaint, right up to ARMA

A letter to the managing agents, or landholder where they allow a PPC to operate and "interfere" with your leaseholder rights.

Tortious Interference

Sir,
I am the recipient of a parking charge notice/court claim from (insert) for an alleged contravention of parking conditions on my allocated parking area. I am extremely annoyed that where my lease gives me unfettered rights to parking that someone has sought to override my landholder rights in this manner.

I have reasonable assumption that (insert PPC name) was contracted to operate a parking management scheme on the land and that yourselves, as managing agent/landholder, would have contracted with them to do so.

As my lease has primacy over any subsequent terms placed on the use of the land, then the action of placing parking conditions where none are shown in my lease, is unlawful. In fact this even has a name. It carries the grand description of Tortious Interference. You may care to Google it to see why I am now applying an action against you for the neglect and deliberate interference you have shown towards my rights as a leaseholder.

I draw your attention to the case of Saeed v Plustrade Ltd [2001] EWCA Civ 2011 (20th December, 2001) heard at the Royal Courts of Justice by **LORD JUSTICE AULD, LORD JUSTICE ROBERT WALKER and SIR CHRISTOPHER SLADE** where they found that a landlord cannot take away something given within a lease, specifically a derogation of parking rights already afforded within a lease.

The terms of my lease are being interfered with. Simple.
I have not signed, nor even been consulted on any changes to my lease and you have allowed an outside company to start their operations on land to which I have a right of peaceful enjoyment without any restrictions or penalties placed on parking in the manner claimed by (the PPC)

I now claim an amount of damages from you for the Tortious Interference of my lease in the sum of £***. Failure to make payment within the period of 14 days from the date of posting this letter, which will be confirmed by a Proof of Posting Certificate, will result in an action being made in court without further notification.

I also now demand that you tell (the PPC) to desist from placing any parking tickets on my car, regardless of whether or not I use a permit. I do not care of the consequences to you for an early cancellation of the parking contract. That is something you will have to sort out yourselves, having been discourteous to contract with them in the 1st place.

Complaint to the DVLA against MIL or any other company who has bought a debt, or had it "assigned" to them. Doesn't include debt collectors who are representing a PPC.

DVLA letter where a breach of DPA has occurred by passing details to MIL or others.

Sir I wish to draw to your attention a serious breach of the Data Protection Act which impacts on you KADOE Agreement with parking companies.

My personal details were accessed by (insert PPC name) on or about (insert date). As far as I can ascertain this was within the reasonable cause criteria and I make no complaint about that.

My concern is that the company who accessed my details has sold them to a third party as an assignment of debt. That company is (insert, ie MIL Collections or any other) and I am of the opinion that there was no permission granted to (insert PPC name) to pass those details over to a 3rd party.

This is a serious breach of the Data Protection Act and a breach of the KADOE Agreement by the parking company. I will be making an official complaint to the Information Commissioner so that action can be taken as necessary for the breach and in the meantime I ask that you apply sanctions against both of the companies involved in this instance.

The wrongful use of my details and a confirmed disregard of the KADOE Agreement places the DVLA in a poor light. It puts doubt on the operational effectiveness of having to make agreements with dodgy parking companies who have little regard to protocol or lawful behaviour and deserves them being prevented from using the services of the DVLA on future occasions.

Then make an official complaint to the ICO:

Sir,
On the (insert date) (insert company name, ie the 1st data access company) obtained my personal details from the DVLA under their KADOE Agreement for an alleged parking contravention. This appears to have been obtained lawfully under the provision of "reasonable cause".

It has now come to my attention that they have sold my personal details to a third party which was likely to have been without permission being granted to them. The KADOE Agreement places strict conditions on

the use of personal data and the passing of the details to a third party is prohibited unless prior permission has been granted by the DVLA. I have no reason to suspect that the DVLA would allow the passage of data in this instance so a breach of the KADOE Agreement has occurred along with a breach of the Data Protection Act.

The third party (name them, ie MIL Collections) has purchased my details from the original company by way of an assignment of debt. They operate as a separate company and are not under instructions to act on behalf of the originator. They would, or should know that the use of personal data in these circumstances is unlawful.

My complaint is one of many similar that appear to be commonplace at present where an abuse of the KADOE Agreement is throwing the DVLA into disrepute.

I have no reason to suspect that the DVLA is party to the wrongful application of the details once they have been released, and am satisfied that they will have been unaware of the selling of my personal data. However, it is a matter of considerable concern as to the effectiveness of having the DVLA rely on the integrity of a parking company where integrity is absent from their dictionary.

I would like to make a formal complaint against both of the parties involved in this matter, ie (name the PPC and purchaser) and ask that you make some demands from the DVLA as to why they should be allowed to continue the KADOE Agreement when it has failed to protect the general public from such foreseeable breaches. After all, the parking industry is composed of many ex clamping companies who have little regard for lawful activity.

Whatever you decide should be in the public interest based on current law and I see no reason to allow this situation to be continued without some significant changes. Complaints of this nature may be miniscule in comparison with the many other data breaches you handle but this business is being carried out on an industrial scale so is worthy of a critical analysis by the ICO.
Sincerely

DVLA complaints where a PPC is ticketing on residential premises against a leaseholders rights.

Breach of the Data Protection Act and failure to comply with the KADOE Agreement.
Name Address
Registration number
Date

Sir,
I wish to lay a complaint against Care Parking, part of the Anchor Group, about unlawfully obtaining my personal details from the DVLA.

I am the recipient of (multiple) Parking Charge Notice(s) from (add PPC name) as the registered keeper of vehicle registration number ********

(PPC name) have sent me the PCN(s) for parking in allocated parking bay without displaying a permit to do so.

The allocated parking bay is part of a lease in the name of my girlfriends mother but with my own car registered for its use. The lease places no obligation to display a permit and has unfettered use by the lease-holder and invited guests.

Under other circumstances where a lease places an obligation to display a permit, or places other restrictions on the use of the allocated parking bay, there may be some reasonable cause to ask for registered keeper details. However in this case there are no such restrictions and my own car is registered for use of the bay. Care Parking have no proprietary right to the bay. They are therefore trespassing on the allocated bay and using it for an unauthorised business.

Your KADOE Agreement places an obligation for companies using the service to operate in compliance to the Code of Practice of their respective ATA. At B2.1 you place an obligation to comply with the ATA Code of Practice and at B2.3 you oblige a “customer” to gather evidence to demonstrate that it has reasonable cause to request the data. Neither of these requirements have been fulfilled.

The BPA Code of Practice Section 7, requires written authorisation from the landowner of their agent to operate on the land. In this instance, and more than likely in most other cases of residential parking, the actual proprietary interest is one owned by the lease-holder. The lease sets the prime contractual arrangements and unless any subsequent arrangements are made by the actual landowner of the lessee there can be no authorisation for placing separate parking conditions. That becomes a failure of the Code of Practice in ensuring they have written landowner-holder authority, and the failure to gather evidence to show they have reasonable cause is occasioned as a result of having no authority to operate on the land in a lawful manner.

It is evident that (PPC) have made insufficient enquiry as the status of the land before completion of its contract with the managing agent or landowner. They have a duty of care to ensure there is no conflict of interest before agreeing to a parking management contract. Failure to properly assess the overall rights is nothing they can rely upon, and in any case is no excuse where a breach of the Data Protection Act is occasioned.

I have a reasonable assumption that the Managing Agent is equally to blame in situations such as this. They presume they have the right to contract with a parking management company and do so without any consideration of existing lease-holder rights, and more than likely do so with some sort of agreed commission. That also is no excuse but is out-with your own area of consideration, but is no excuse for a parking company unless it has absolute proof of their right to operate there in the first place.

(PPC) will know, or should expect, that in a residential area there will be residential leases which may have an impact on the assessment of any parking contract.

My complaint is based on there being no proprietary interest or overriding authority to my lease which would make it reasonable for (PPC) to obtain my details from the DVLA. Despite there being a contract arranged between them and the Managing Agent they have no overriding right to operate on the allocated parking space and to fetter the rights of a legal lease.

I intend to write to the Information Commissioner and make the same complaint, but have no interest in asking the BPA/IPC as they are a mere benign ATA's with little interest in preventing their members from making money.

ICO complaint for residential cases

Sir,
On (insert date(s) (PPC) obtained my personal details from the DVLA under their KADOE Agreement for an alleged parking contravention. This appears to have been done unlawfully as a failure of the DVLA requirement of the provision of “reasonable cause”.

The access for my data was unlawful for the simple reason that (PPC have no proprietary right to the allocated parking bay, as it is part of a lease which has unfettered rights accorded to it, and my own car registration details registered for use of the bay. My own lease allows unfettered use of the car parking and communal areas so (PPC) has no authority to interfere with these rights.

I have a reasonable assumption that the car parking contract in the residential area concerned was made between the managing agents and (PPC). They had no rights to do that since the parking bay is part of my lease and has no conditions placed on it for parking arrangements or for use by another entity, such as a parking management company. The lease is the primary contract and without any signed acceptance of any endorsement the rights of the lease are paramount.

(PPC) would have, or should have known that a residential area would have leaseholder rights that would entitle residents to certain facilities and a failure to properly consider this is a derogation of their duty in drawing up a parking contract.

A breach of the Data Protection Act cannot be excused by a lax contractual assessment in such instances. They have duty of care not only to the lessees but to their own company.

I would like to make a formal complaint against (PPC) and ask that you make some demands from the DVLA as to why they should be allowed to continue the KADOE Agreement when it has failed to protect the general public from such foreseeable breaches. After all, the parking industry is composed of many ex clamping companies who have little regard for lawful activity.

Whatever you decide should be in the public interest based on current law and I see no reason to allow this situation to be continued without some significant changes. Complaints of this nature may be miniscule in comparison with the many other data breaches you handle but this business is being carried out on an industrial scale so is worthy of a critical analysis by the ICO.

I close by supplying the details of (PPC) (add their name and address) (add the PCN number) so you may correspond directly to them.

Sincerely

Standard Bog-Off letter.

Useful where a PPC has sent a Notice to Keeper which doesn't invoke keeper liability. The idea of this is to put them on notice that continuing with the claim when you have told them, and provided whatever evidence you can, that you were not the driver. It opens them up for a claim of up to £750.

Ref PCN No. xxxxx
I am in receipt of the NTK above, as the registered keeper.
I take heed that you implore me to hand the ticket to the driver concerned and to advise you of their identity. I have duly passed your letter across but I am not obliged to pass on any personal identity so decline to do so.
You had an opportunity to invoke keeper liability under the provisions of the Protection of Freedoms Act, clause 12 which was enacted specifically to aid you in these circumstances but that you have chosen not to use the route to keeper liability. I was not the driver so there is no reason to suggest or infer otherwise.

As a consequence you fall short of imposing any liability to myself as the registered keeper.

So that you are fully informed I attach a (Whatever you can, ie a witness statement from someone that shows you were elsewhere, a work shift record showing you at work, or anything else that lends support to show you couldn't have been the driver) which evidences that I was not the driver at the time of the contravention.

Whether or not the driver contacts you directly having been advised of your ticket, is of no concern to me. My part in this matter is now concluded and I require you to remove my personal details from your system as they are no longer relevant to you.

WARNING

As I have no liability in this matter, and the ticket details have been passed to the driver, I now place you on warning that you have no reasonable cause to continue using my personal data. If you continue your claim against me, or correspond further via any third party debt collection company you will be subject to a claim of damages for a breach of the Data Protection Act. The claim amount will be determined by the amount of aggravation I am subject to prior to its issue in a County Court claim.

Railway Parking Charge Notices from various PPC's. Not to be used where a TOC is making a direct claim for a bye-law breach.

I refer to PCN ********
I have considered the offer to make payment for a PCN laid against myself as the registered keeper of the vehicle concerned. I have considered this offer and decline to accept it for the following reasons.

A bye-law contravention cannot be laid against the registered keeper of a vehicle, and the issue of a PCN under the Protection of Freedoms Act 2012 also fails to invoke keeper liability for an event taking place on non relevant land, ie an area covered by bye-laws. Bye-laws are applicable to the actual driver of the vehicle and as I was not the driver I have no part to play in this matter so your offer is meaningless to myself.

Further to the above only the Train Operating Company who has the land covered under byelaws can take action against the driver for a breach of the byelaws. I refer you to an answer from a Freedom of Information Request about exactly that situation and copy the question and the response here:
Freedom of Information Act Request - F0013227 :
Thank you for your further email of 10th February 2016 regarding your Freedom of Information (FOI) Act Request - F0013227.

Our original reply confirmed that the Department does not hold the information that you requested but provided some other relevant information which we hoped you would find useful.

In your follow-up email you stated that we had not answered your question and repeated it as follows:

"Please would you tell me if any Secretary of State for Transport since the coming into force of the Railway Act 1993 has ever confirmed or made any laws (including byelaws and regulations) which empower any person or body other than the Courts to impose a penalty for breach of Byelaws 14(1), 14(2) or 14(3) of the Railway Byelaws 2005."

I have carefully reconsidered your original question and can provide the following response:
I have interpreted your question as wanting to know if the Department holds recorded information on whether or not the Secretary of State for Transport has ever confirmed or made any laws, since the Railways Act 1993 came into force, which empower any person or body other than the courts to impose a penalty for breach of Byelaws 14(1), (2) or (3) of the Railway Byelaws 2005.
Having carried out a thorough re-examination of our paper and electronic records I can confirm that the Secretary of State has not confirmed or made any such laws and that no other person or body other than the Court is able to impose a penalty for breach of the Byelaws [including Byelaw14 (1-3)] made under Section 219 of the Transport Act 2000
(as amended) and made operational on 7 July 2005.

There is no authority for you to take action for a breach of byelaws, or to progress this matter as a criminal case in a magistrates court. The land is also outside the definition of "relevant land" according to PoFA so no claim can be laid against the registered keeper.

As I have declined the offer to make payment to avoid a bye-law case being sent to a magistrates court I invite you now to close this matter, or to take action against the actual driver of the vehicle at that time, should the identity be known to you.
You now have no further use of my personal details so I demand that you remove my details from your records under S.10 of the Data Protection Act, and inform me of that within 14 days from the date of this letter.

Further use will be deemed to be a breach of the DPA and action an for damages may taken accordingly.

To **** Council
Sir, I write with regards to a breach of planning regulations in respect of **** Co. (PPC Name) at (site).
The signs (and ANPR if any) appear to have been installed without the appropriate consent.

The company responsible for these signs (and ANPR cameras) is a large parking management company which is well aware of the need for planning permission. They chose to ignore this though as it would been an inconvenience to them to obtain consent, and of course would incur a cost. They should not be allowed to treat the council with the disrespect and contempt they are showing. They know their responsibilities so if any inconvenience is visited upon them from having to now make a proper application they should not benefit from the situation in the meantime.

As you will know, signs must have consent BEFORE they are erected. The relevant legislative document is The Town and Country Planning (Control of Advertisements) (England) Regulations 2007). It's a criminal act to erect a sign without prior permission.

I appreciate that a council should take a breach of this nature and apply a stance of meditation/co-operation to resolve the situation. That would more than likely be to allow a Planning Application for the erection of signs, and of course for the erection of signs once permission has been obtained. It cannot reasonably include the continued use of the signs during that process as this would be a direct involvement by the council in permitting, by default, a criminal offence being perpetrated.

If planning consent has not been granted then the status quo should be sought where the council demands the removal of the signs or covering them up, even if you choose not to take direct legal action. That would show a reasonable stance by the council and fulfils an obligation to resolve the issue in a non combative way. It would be entirely unreasonable however if the signs were allowed to stay on display in the meantime and will potentially make the council complicit in perpetrating a criminal offence.

The lack of planning permission for the ANPR is a breach of Town and Country Planning Act 1990 which is different to the aforementioned Act.
There is provision within this act for a retrospective application however such an application be prejudged as being consented to. The continued use of the ANPR camera system should be halted until such time as consent has been confirmed.

While it may be over the top to take legal action in the first instance, the use of the cameras should be prevented until such time as an application has been submitted and approved, even if the actual cameras are allowed to remain in the meantime without recording any details.

As a matter of concern I reiterate that the continued use of non approved signs is an ongoing criminal offence. I do not expect the council to allow this to continue.

I put it to you that you should now assess the site concerned and if you agree that consent for the signs and ANPR is required you contact (the PPC) whose address will be on the sign, and until such time as they apply for and have been granted consent they are put to task to either remove or cover the signs in the meantime.

I look forward to a response as soon as possible.

Double dip cases

Ref PCN*********
I refer to the above PCN served on me as the registered keeper of car registration number **********

The PCN refers to an overstay in the car park, specifically for an overstay time of (insert minutes overstay).
This is an incorrect assertion and indeed no overstay was made. I believe that this incident was as a matter of a double dip for which the use of ANPR cameras are well known. That is, a double visit to the car park with the time of first entry being used with the time of last exit to give the erroneous indication of the alleged overstay.

In this instance I have evidence to show that my car was not at the location for the length of time you assume (add in. Some real evidence such as an appointment elsewhere, car in for service in the period etc, or even a receipt you got from another location).

However you apply the ANPR readings to show a refuted overstay is entirely down to yourselves, however I will draw your attention to the matter of a breach of the Data Protection Act as a consequence of your ineptitude and the failings of the ANPR.

A breach of the DPA has occurred by you obtaining and using my personal details where the failings of the ANPR has given you an assumption that a parking overstay had occurred. The DPA places a strict requirement for the use of personal details and failings of a ANPR system are not a mitigating factor. The breach has occurred and no excuse can be offered to mitigate that.

I have explained the reasoning behind my assertion, provide evidence to support my car being elsewhere during the alleged overstay period and now look to a swift acceptance of the mistake.

I now serve a S10 notice of the Data Protection Act to cease using my personal details and inform me of that being done.

Continued use of the details afterwards may give rise to an action for damages for the breach of the DPA.

Response to LBA for residential cases

All LBA responses for a residential case should include the words:

Please take notice that this is a residential ticketing case where I am allowed unfettered use of, or have an assigned parking bay by virtue of my lease.
Nothing can override the primacy of contract that the lease has.
I will not only strongly defend my position in respect of this absurd and vexatious claim but will add a

counterclaim for damages for a breach of the Data Protection Act or Tortious Interference of my rights. Continuation is ill advised and is placing your client at an unnecessary and expensive risk. You have a duty to your client that takes precedence to your own business profitability.

I invite you to instigate a court case on this basis and will take some great satisfaction from taking an amount of damages from your client and soiling your seedy reputation even further.

Letter to PPC when you get a Letter Before Action where there is no evidence on who the driver is and not relying on PoFA

Sir,
Ref PCN *******
I have received a letter before action in relation to the above case and I have a strong belief that you are about to use the presumption of keeper liability based entirely upon Elliott v Loake and CPS v AJH Films. Unless you have evidence of who the driver was, and you don't in this case, then no such presumption can be made based on those cases.

Many attempts to use the cases in court have found little favour with judges and have resulted in numerous charges being thrown out as a result.

What this means to the Parking Management Company is that costs are racked up as a result of having to pay for legal representation and the winning defendant's costs for the day.

Not only is this an expensive way to do "business" it also makes future cases of a similar nature likely to fail without much consideration in court as judges are becoming used to the incoherent charges laid before them and quickly dismissing them. You are sullying your name and may well find the judiciary instigate some sort of action to have such cases strictly controlled in future. You have made you own nest.....

The debt management company, whoever it is you employ, should be advising you of the foolishness of taking action where they have failed so many times in the past. They do not seem to care about your own expenses and look to gain a useful income from their incompetence as they win every time regardless of the outcome to you. The Debt management Companies have a duty to their clients and are failing them by pursuing obvious failures in court. Doing the same thing again and again to try and obtain a different result seems not to be paying dividends for you.

Onto my specific case.
I did say that I believe you are going to use a presumption of the keeper being the driver using the cases mentioned, without any evidence of who the driver was at the time. You are advised that this is an almost guaranteed losing basis upon which you rely. You had every right to invoke PoFA and properly lay liability at the door of the registered keeper but chose to use a circuitous route using mere non confirmed assumption without anything to back it up.

Unless you have evidence of my being the driver and continue your case on that basis then you should immediately desist from further interest in this PCN and clear my personal data from your records.

Continuation in these circumstances will be presented to the court as being vexatious in nature and a higher costs amount will be presented to the court. I may even add a counterclaim for the unreasonable use of my personal details if, and when the claim goes ahead from your collections company.

This letter will be shown to the court to support that higher cost claim.

Snippets for placement as needed.

''You have attempted to impose upon me unreasonable and onerous new obligations towards a third party, by engaging xxxxx to manage parking on the Estate, by which you have authorised them to demand that I display a permit and that I pay a charge for any failure to do so. Neither you nor xxxxx are entitled to impose such obligations on me...''

and

''Whilst you are entitled by clause xxx of the Lease to introduce Regulations, these must be reasonable and must relate to the use and enjoyment of the Property and other properties on the Estate. The intention and meaning of the clause is not so that you can restrict my use and enjoyment of the Property

and impose unreasonable obligations upon me. The right to introduce new Regulations does not include the right to impose a contractual relationship between me and a third party in relation to the Property, nor the right to impose a specific charge, payable to a third party for any breach of those regulations, nor does it permit you to impose onerous obligations..."

End of snippet

Next snippet

Application of rules to secondary contracts

(1)This section applies if a term of a contract ("the secondary contract") reduces the rights or remedies or increases the obligations of a person under another contract ("the main contract***").***

End of snippet

Next snippet

In Saeed v Plustrade Ltd [2001] EWCA Civ 2011 it was found the managing agent could not reduce the amount of parking spaces available to residents. In Jopson v Homeguard [2016] B9GF0A9E, on appeal it was found that the parking company could not override the tenant's right to temporarily stop near the building entrance for loading/unloading.

In Pace v Mr N [2016] C6GF14F0 [2016] it was found that the parking company could not override the tenant's right to park by requiring a permit to park.

In Link Parking v Ms P C7GF50J7 [2016] it was also found that the parking company could not override the tenant's right to park by requiring a permit to park.

End of snippet

Suing for breach of the Data Protection Act

This website on Parking Cowboys gives an outline of the things to do for claiming damages for a breach of the Data Protection Act .

A breach is a result of a PPC obtaining registered keepers details from the DVLA without due cause, or for using them without due cause such as when they persist in pursuing the RK without evidence of him being the driver when they aren't using PoFA.
