

Mobility and Access Committee for Scotland (MACS) – response to consultation on Proposed Regulation of Privately-Operated Car Parks (Scotland) Bill

Section 1

1. Are you responding as:

on behalf of an organisation? – in which case go to Q2B

2B. Please select the category which best describes your organisation:

Public sector body (Scottish/UK Government/Government agency, local authority, NDPB)

3. Please choose one of the following; if you choose the first option, please provide your name or the name of your organisation as you wish it to be published.

I am content for this response to be attributed to me or my organisation

Name/organisation: **Mobility and Access Committee for Scotland (MACS)**

4. Please provide details of a way in which we can contact you if there are queries regarding your response. (Email is preferred but you can also provide a postal address or phone number. We will not publish these details.) macs@gov.scot

Section 2

1. Do you think legislation is needed to govern the operation of privately-operated car parks in Scotland?

Agree - MACS believes that privately operated car parks for public use should meet the same standards to those applied to car parks operated by public operators. We believe the evidence presented in the consultation paper and that gathered by numerous organisations (see Citizens Advice Scotland & RAC) supports that serious failings in the operation of such car parks is widespread. MACS is concerned that the current system of self-regulation of the sector and the role of the DVLA in providing keeper details has to date failed to respond adequately to concerns raised by consumer groups.

Additionally MACS is extremely concerned at the impact on disabled people. Evidence collated through the Citizens Advice Scotland survey show that disabled people are more affected than the general population in unfair charges applied to drivers. There is a multitude of reasons for this however lower incomes and a heavier reliance on private transportation due to inaccessible and/or unavailable public transport plays a significant part in this.

MACS also support a fair and reasonable ability for drivers with genuine appeal grounds against a charge should be heard by an independent third party. The current system of self-regulation of appeals has been shown to be ineffective, especially when dealing with blue badge holders appeals where they have wrongly been sent a charge for parking illegally in a disabled bay. Evidence had been presented in the Citizens Advice reports which show appeals of this nature have been rejected despite clear evidence of the appellant having a blue badge.

2. Which of the following best expresses your view of providing for a maximum charge (or charges) for breaching the rules of parking in a privately-operated car park?

Agree - We believe that charges should be in line with those available to local authority run car parks. Currently local authorities in Scotland are limited by legislation whereas private operators

Mobility and Access Committee for Scotland (MACS) – response to consultation on Proposed Regulation of Privately-Operated Car Parks (Scotland) Bill

regularly charge substantially more with the self-regulation system runs by the BPA and IPC suggesting a maximum of £100.

MACS supports aligning any capped charge for private operators to that of local authorities. If these are increased in the future then such private charges should be allowed to increase in line with that of the local authority. We do however support allowing for escalated charges both in the private and public sector for significant persistent offenders. MACS is concerned about long-term consistent abuse of disabled parking bays and blue badges and further action to take action against these individuals would be welcomed.

3. Which of the following best expresses your view on introducing uniform signage tailored for privately-operated car parks?

Agree - MACS supports the introduction of easier to understand signage across all parking facilities both public and private. Any signage should be widely displayed across the car park and be of large print easy to read from inside a vehicle.

Current practice has seen some operators use small fonts, non contrasting colours, single signs for a large car park, signs with unnecessary information making them long to read.

A standard system would be welcome, however if adopted this should also be encouraged for public car parks. Currently local authority car parking signage can also face similar problems and we would encourage the bill to look at ways in which parking signage could be improved for all car parks.

MACS would support ensuring disabled people are involved in the design, from the earliest stages, as well as wider consumer groups of any standard signage to ensure that it will be accessible to all drivers.

4. Which of the following best expresses your view of regulating the appearance of parking charge notices (in particular, to differentiate them from penalty charge notices issued by local authorities)?

Support - MACS support better clarity with regard to how charges are presented to drivers/keepers. We understand that this has improved amongst some operators in recent years however there continues to be some providers who we feel provide documentation that deliberately mimics police markings, local authority penalty charges, court documentation despite the charges being a bill and not a penalty with statutory backing.

MACS would support standard wording or format in keeping with the proposals for signage. All correspondence should also clearly identify:

- the name of the operator
- information where people can get independent assistance (eg Citizens Advice)
- details of the charge in question i.e. date/time/location/vehicle details/ evidence of breach

5. Which of the following best expresses your view of establishing an independent appeals system for parking charge notices issued in privately-operated car parks?

Fully support - drivers/keepers should be able to rectify any incorrect charges. In addition there should be an allowance for serious extenuating circumstances to be considered by an appeals'

Mobility and Access Committee for Scotland (MACS) – response to consultation on Proposed Regulation of Privately-Operated Car Parks (Scotland) Bill

panel. Citizens Advice Scotland has published evidence that extenuating circumstances are not considered at all. We believe that for some groups, particularly disabled people, this is unfair as on occasions there will be genuine unavoidable circumstances which could lead to delays returning to a vehicle such as ill health. In any new regulated system this should be allowed to be considered especially where genuine medical evidence can be produced to support such appeals.

In keeping with best practice in consumer arbitration models this new system must be free to access by the driver/keeper to ensure that no unnecessary barrier is placed

6. Which of the following best expresses your view of introducing keeper liability in Scotland?

Neutral - While MACS understands the benefits to operators to having access to keeper liability in order to enforce genuine abuse of parking facilities we are also aware of the high volume of small claim court procedures that this has resulted in in England where Keeper Liability already exists. We do not believe more parking cases ending up being considered in sheriff courts would be in anyone's interest. Therefore if keeper liability is to be introduced into Scotland an independent arbitrator system as detailed previously must be adopted.

We are also concerned about the current gatekeeping and standard setting by the DVLA. There appears to be significant problems with the current model whereby operators who have persistent complaints upheld against them are still accessing keeper details through the DVLA with no apparent action by the authority. We would welcome more robust policing either from the DVLA themselves or a third party regulator working in conjunction with the DVLA. Given that applications for keeper details attract a fee payable to the DVLA it would appear appropriate that said funds help to police the operators.

7. Taking account of both costs and potential savings, what financial impact would you expect the proposed Bill to have on:

(a) Private parking operators

Private operators are likely to have an increase in costs initially as they embed new regulations and reporting procedures. In addition standard signage requirements would have a cost implication, however if this was allowed to be a gradual roll out the impact of this could be minimised.

(b) Private parking customers

We do not believe there would be a significant change however some operators may pass the cost of compliance onto consumers and in some cases this may mean currently free car parks becoming chargeable.

(c) Government and public sector

There may be costs associated with setting up a new regulation system however MACS believes this should be based on a polluter-pays model whereby firms who are not compliant with regulations face financial penalties which are recycled back into running the regulation system. This type of approach is successful in other regulated consumer markets such as finance and energy markets and to a certain extent public transport.

8. What overall impact is the proposed Bill likely to have for the following protected groups (under the Equality Act): race, disability, sex, gender reassignment, age, religion and belief, sexual orientation, marriage and civil partnership, pregnancy and maternity)?

Mobility and Access Committee for Scotland (MACS) – response to consultation on Proposed Regulation of Privately-Operated Car Parks (Scotland) Bill

MACS believes that given disabled people are unfairly impacted currently by the operation of said car parks that such legislation could have a positive impact on these people. If a new system brings into force allowing mitigating circumstances as a right of appeal then this could significantly improve matters for people with disabilities.

However we are mindful of additional costs being passed onto disabled bay users. Therefore we would support free parking provision being provided to blue badge holders in all car parks to mitigate against this. For many disabled drivers/passengers a private car can be the only available accessible mode of transport and parking charges levied on these individuals can be a significant barrier to daily living.

Currently public car parks do allow free to park for blue badge holder but not all private car parks do likewise. We would welcome this additional requirement to be placed within the member's bill proposal.