

# IT'S NOT FINE.



**Unfair Charges for Parking on Private Land:  
A Report by Citizens Advice Scotland**



**October 2014**



# Contents

Foreword	4
Summary of findings	5
Current private parking laws and practice in Scotland	6
Help given by Citizens Advice Service	7
Average 'penalty' charged by firms	8
Signage issues	10
Mitigating circumstances	12
Disabled driver provision	13
CAS recommendations & references	14

Author:  
Fraser Sutherland,  
Policy Officer, Citizens Advice Scotland  
0131 550 1000  
[fraser.sutherland@cas.org.uk](mailto:fraser.sutherland@cas.org.uk)

# Foreword

Citizens advice bureaux across Scotland have been inundated in the last year with complaints regarding over-zealous parking charges - they are not fines - being handed out by the private parking industry in Scotland.

This has resulted in demand at the Citizens Advice Service in Scotland reaching an unprecedented level – a 50% increase in cases regarding parking this year compared to last. This is an issue that affects everyone, but we are especially worried by cases brought to us by vulnerable Scots including those who are disabled and elderly caught out by poor signage and unfair appeals processes.

We understand the need for business to ensure the parking they provide for their customers is accessible and not taken up by those not using their service. However as we show in this report some of the operators of these car parks are failing to show common sense and fairness in dealings with drivers and not adhering to their own voluntary code of conduct.

There is also no specific legislation or regulations to deal with parking on private land in Scotland. Further, there is no independent form of redress or appeals process for anyone hit by these charges. Therefore whilst this problem remains a murky area, the people affected cannot clearly see what their rights and responsibilities are. This is what CAS seeks to address through our 'It's Not Fine' campaign challenging those who attempt to mislead the public.

From a failure to supply easy to read signs to charging over £500 for a 'fine' for a small infraction of their rules it is clear that some companies are not acting in the spirit we would expect of a modern day business. Some of the real life stories in this report show how some firms are deliberately misleading or confusing drivers into getting hit with charges, masquerading as fines.

Parking on private land is a sector that has shown firms are not capable of dealing with appeals or mitigating circumstances and the time has come for a fair and independent appeals process in Scotland. While in England and Wales, there is already such an appeal body there is no similar system to take up grievances in Scotland. That is just not good enough.

We are aware that while some firms operate legitimately there are those on the edges of the industry that boundary on the realms of legitimacy. We are looking to the Scottish Government to establish a mandatory register, similar to that of letting agents, that will ensure those in the industry are fit and proper and allow a banning mechanism for those that operate unfairly.

We must also see the industry put a stop to the deliberate and misleading use of 'Parking Charge Notice' similar to the police's 'Penalty Charge Notice'. It is clear that this term and the usual yellow and black checked appearance used is to imply that the charge has the same legal standing as a police fine. It does not.

In addition, we must question why supermarkets and stores in retail parks let such practices go on. This is their customers being penalised, and they could take action to end a lot of the bad and unfair practices that are currently being carried out when people use their services.



**Susan McPhee**  
**Head of Policy & Public Affairs**

# Summary of findings



In 2013/2014 the Scottish Citizens Advice Service helped with over 3,653 enquiries regarding parking. This is just short of a 50% increase on the previous year.



Parking on private land is the most viewed webpage on our self-help website [adviceguide.org.uk](http://adviceguide.org.uk) with over 15,000 views per month.



Use of the term 'Parking Charge Notice', often abbreviated to PCN, is widespread. This mimics and confuses drivers with the term used for enforceable fines given by Police and Local Authorities, 'Penalty Charge Notice' also abbreviate to PCN.



30% of charges sent to drivers/owners were above £100 despite BPA and IPC guidance that firms should charge less than this. There is no evidence to suggest that any charges are based on any genuine pre-estimate of loss as is required by law.



Despite firms requiring to be a member of an approved trade body to gain access to the DVLA's keeper records our evidence suggests poor adherence to the trade body code of conduct by some firms.



Signage in car parks is often highlighted as confusing, sparse and on some occasions misleading in nature.



Disabled drivers, and drivers with mitigating circumstances, are not given appropriate consideration when making appeals of charges by some firms.

# Current law and practice in Scotland

Parking rules in Scotland fall into two distinct categories: public land parking enforced by police and local authorities and private land parking enforced generally by specialist parking companies. While parking on public land is covered by legislation and could result in criminal proceedings, matters relating to private car parks, including any penalty charges, are a civil matter.

When parking in a private car park many operators or landowners will display a set of conditions on signs that drivers must agree to in order to use the car park, such as parking within designated spaces, limits on stays or required payments for a given length of stay. These conditions, if breached, could result in a landowner raising an action against a driver in a civil court for breach of contract. They will issue a parking charge which is an offer to settle out of court for a set fee, sometimes called a 'Parking Charge Notice'. This is not to be confused, although often is by consumers, with a 'Penalty Charge Notice' which is an enforceable fine issued by police or local authorities. CAS is concerned that the industry is wilfully misleading drivers/owners by deciding to use a similar term and the same abbreviation as used by Police/Local Authorities.

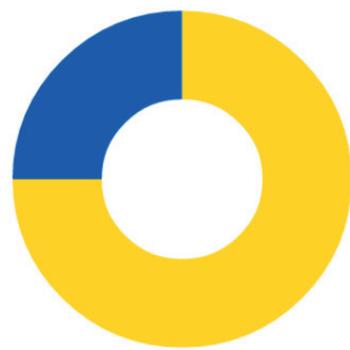
Private parking operators and landowners are not covered by statutory regulation and there is no need to hold a licence or seek permission to issue parking charges or tickets. However, many operators are a member of a Driver and Vehicle Licensing Agency (DVLA) accredited trade association. This membership is required if firms wish to access the DVLA's records on car ownership, which allows them to mail out parking charges to owners. The DVLA have a number of accredited trade associations of which two are particular to the parking industry: the British Parking Association (BPA), the largest with 160 approved operators, and the Independent Parking Committee (IPC) with 22 members. Both the BPA and IPC have codes of conduct that their members are required to keep to in their day to day running of car parks. Both organisations run a points based internal disciplinary system for members which ultimately could mean suspension or expulsion for firms who fail to keep to the code. The BPA have informed us that one member has been expelled for breaching the code in the past year and others have received points in the disciplinary procedure.

IT'S NOT FINE - unfair private parking charges

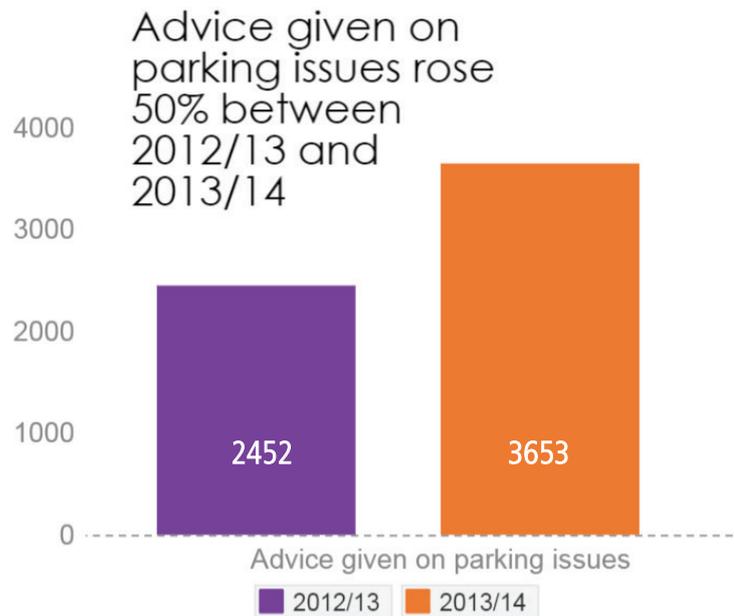
# Help given by Citizens Advice service

Citizens advice bureaux (CAB) across Scotland have heard increasing concerns that some firms operating in the private car park industry are operating unfair practices. These include charging large sums of money for sometimes frivolous breaches of the terms of their car park. On a number of occasions, poor signage has made it impossible for consumers to know if they have broken any 'rules' and in addition, many firms fail to take into account reasonable mitigating circumstances.

Last year (2013/14) the Citizens Advice Service in Scotland advised on 3,653 new issues relating to parking in Scotland. That's just short of a 50% increase on the previous year. In addition the information on parking tickets on private land is the most viewed page on our self-help website adviceguide.org.uk with 15,252 views in one month alone (July-August 2014) and is specific to the Scottish section of the site. Although figures from the Citizens Advice consumer helpline service reveal help was given in relation to 106 different firms, 75% of these related to only 15 firms. While this may indicate issues with particular firms it may also reflect their relative market share.

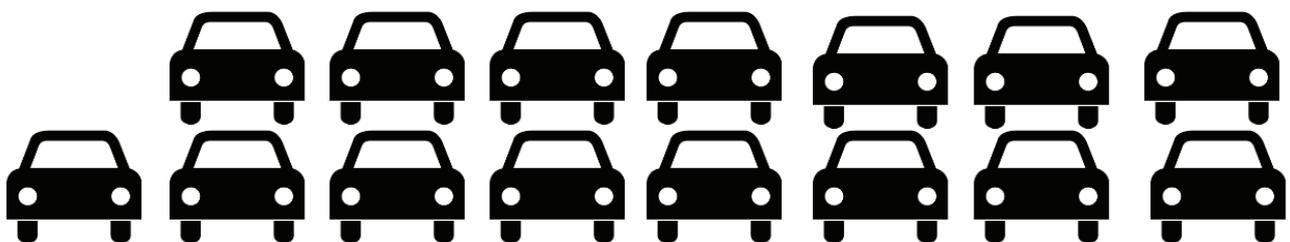


75% of issues raised related to just 15 firms



IT'S NOT FINE - unfair private parking charges

Over 15,000 people a month read the advice on our website regarding private parking



# Average 'penalty' charged by firms

Parking charges, either in the form of a ticket left on the windshield or more often sent in the post to a vehicle's owner, are given when an operating company believes a driver has broken the conditions set on their car park.

For the 13 Scottish Local Authorities who carry out decriminalised on-street parking enforcement (that is council wardens who issue penalty charges rather than the Police), the level they can charge in penalty notices are fixed by regulations. The amount charged by these councils is a £60 penalty reduced to £30 if paid in a set time window.

However, CAS research which used a sample of 269 calls to our consumer helpline found that private parking charges range from £40 to £200, with a large number around the £100 mark. We also found that 30% of these calls reported clients being charged over £100. It is interesting to note that over 70% of these charges are more than the amounts allowed to be charged by local authorities under current regulations. We would support bringing the charges down to an amount that is in line with the amount charged by local authorities. The spread of the charges reported is displayed in Figure 1.

IT'S NOT FINE - unfair private parking charges

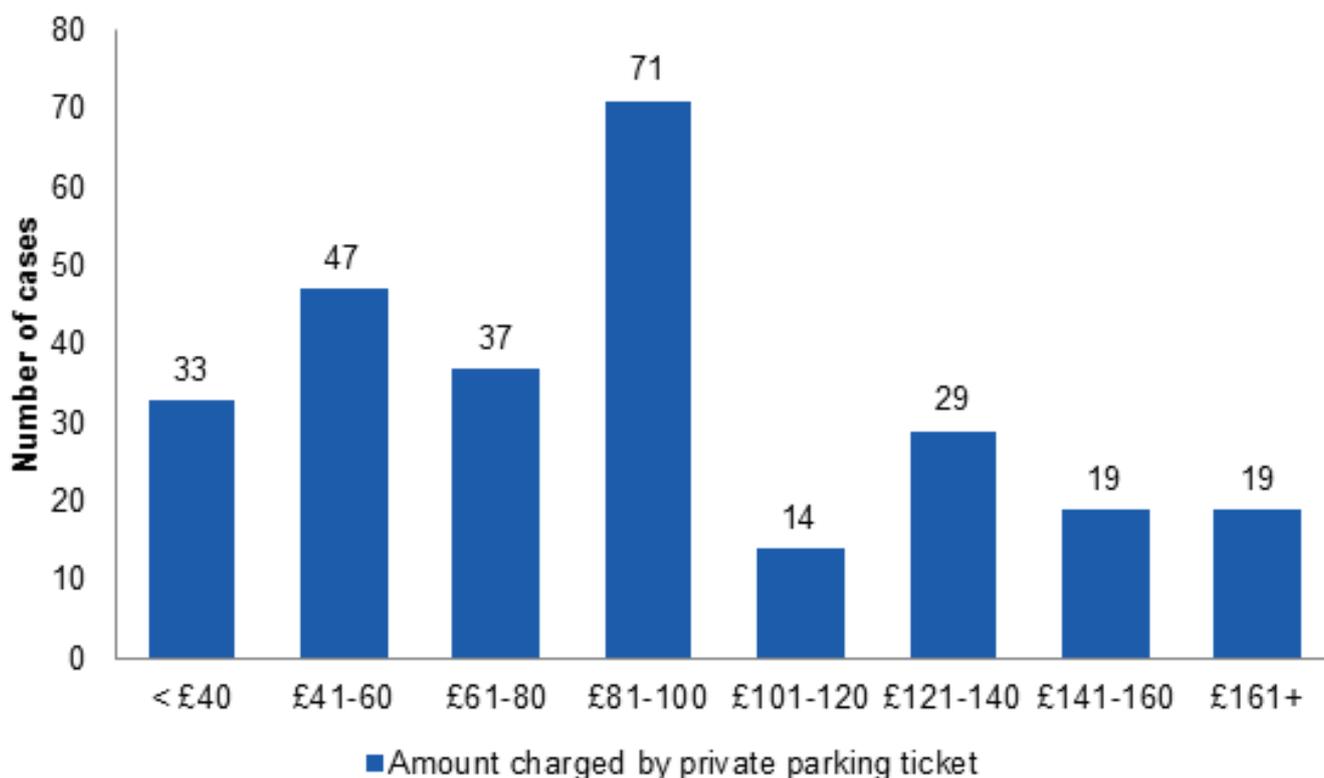


Figure 1: Charges sent to Scottish car owners by private parking firms

The BPA in their code of conduct state that<sup>1</sup>:

*The amount must be a genuine pre-estimate of loss... We would not expect this amount to be more than £100*

In addition, the IPC's code of code of conduct states<sup>2</sup>:

*it is suggested that the maximum parking charge should be £100*

Despite this, just under a third of contacts in our sample of consumer service contacts report demands for a figure above £100. Charges of such high sums for what can often be a very short time of overstay could be considered excessive. Many CAB clients seek advice due to the disproportionately high amounts being demanded by private parking firms.



An East of Scotland CAB reports of a client who had parked his car near to his house but later found out that he had parked on private land although he reports it was not clear that this was the case. He has received a demand from a debt collection company for £675 after ignoring the original request as a friend had told him it was unenforceable. The client is now not sure this is correct but feels that £675 is completely unreasonable for a legitimate mistake.



An East of Scotland CAB reports of a client who has received a parking charge through the post which states she stayed 28 minutes over the allowed free time of the car park. The client was not aware that the car park had restrictions as she has parked there before for even longer with no issue. The parking charge demand is for £120 and she has been receiving threatening letters from solicitors who state if she does not pay she faces County Court Judgments (not applicable in Scotland).



A West of Scotland CAB reports of a client who has received three letters in the course of one week from a debt collection agency stating she owes them a total of £149 for parking charges. The client has not received any parking notice. However, on contacting them they are adamant she did. She has asked for proof but has been referred back to the parking company who say they cannot deal with it as it has been passed to debt collectors. The client is refusing to pay on the basis that she has not received any notice of the charge in the first place.



A consumer in the West of Scotland reported that he had received a parking charge for parking in a taxi bay at a supermarket. The client says there were no signposts or marking to show that where he was parked was a taxi bay and disputes this fact. After contacting the firm they claim to have photographic evidence although when he asked to see it they refused. The firm are requesting him to pay £140 in parking charges.

# Signage

All firms operating private car parks in Scotland have to ensure that signage is adequate for people parking to be able to read the conditions of that car park. Trading Standards Officers have advised us that signage must be prominent, clear and not have misleading omissions. Failure to ensure that this is the case and sending drivers charges could mean parking operators are in breach of the Consumer Protection from Unfair Trading Regulations 2008 and committing a criminal offence. In 2010-11 a project was carried out by trading standards across the North of Scotland<sup>3</sup>. They vetted 24 privately operating car parks for the quality of the signage and in 40% of these they found inadequate information in place. One in four featured misleading actions and omissions and one in eight of the car parks inspected had serious issues highlighted such as aggressive practices.

The BPA's code of practice states a number of very clear and unambiguous rules regarding the quality of signage expected of their members. They stipulate such matters as the size of the signs on display in the car park and the font legibility used (figure 2 shows a template sign recommended by the BPA). The IPC's code has very similar rules and indeed gives more detail regarding the information that should be provided on the signs to ensure that the parking terms are 'unambiguous'.

IT'S NOT FINE - unfair private parking charges

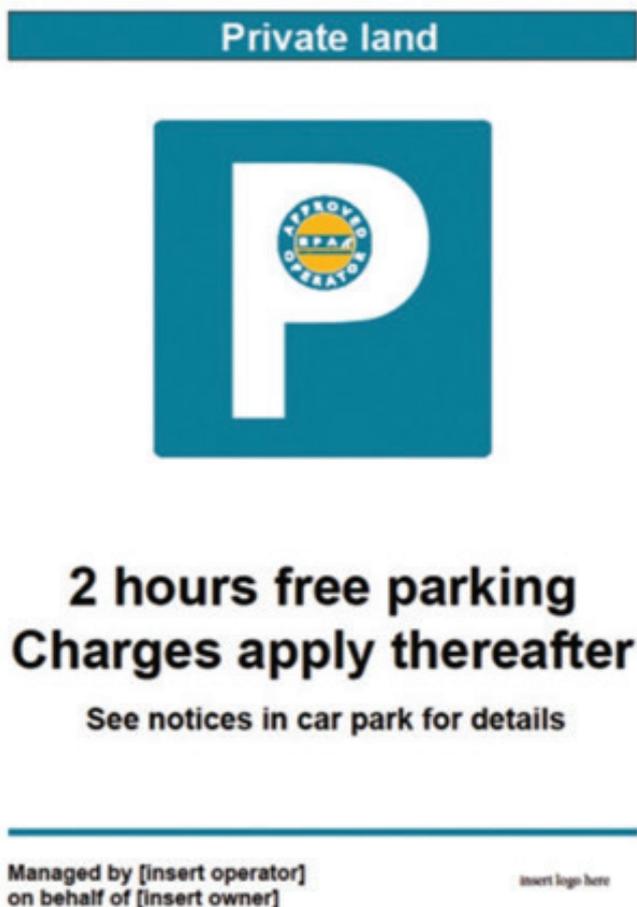


Figure 2: A template easy to read sign recommended by the BPA (left); a sign on display in a retail park car park with small and cramped writing (right)

Despite these self-policing rules applying to parking operators, a number of complaints received by the Citizens Advice Service in Scotland are regarding the confusing nature of signage or simply the complete lack of signage.



A North of Scotland CAB reports of a client who received a parking ticket in the post saying he had not kept to the restrictions of a local supermarket car park. The client says there was no signage in the car park and after getting the charge went back to check. He has found there is one small sign next to the disabled bays but not at the entrance and says the wording of the sign is unclear as to whether it just applies to the disabled bays or to the whole car park. The client is really annoyed as he says he spends a lot in the supermarket and has never parked there other than to do shopping in the store.



A West of Scotland CAB reports of a client who had parked in a car park which was advertised as 'FREE PARKING'. When she came back to her car she found a ticket on the windscreen demanding a £100 payment. It turns out that although the car park is free it is on condition that you take a ticket from the machine after putting your number plate details into it. The client only realised this after reading the notice on the machine in the car park as the signs just advertised free parking for four hours (which she had complied with). The client had appealed the charge but the company ignored her appeal letter and she has been sent a new demand for £160 threatening court action and bailiffs (who do not operate in the Scottish legal system). The client is now very worried that people will turn up at her door demanding large sums of money.



A North of Scotland CAB reports of a client who has been issued with a parking charge of £40 after parking in a supermarket car park for 'more than the allowed time'. The client states that the ticket was issued *before* the signs about restrictions went up, as she remembers them being installed at a later date when she was in shopping. Furthermore, the ticket states the time as 10am however the client remembers she went to the supermarket before 7am and her work. The charge also gives details of how to appeal to POPLA (an English appeals system) even though it does not apply in Scotland.



A consumer in the East of Scotland reports that he received a parking ticket after parking for two hours at a retail park. The signage says '3 hour free parking' in large writing but on closer inspection in small writing at the bottom it states 'on match days 1 ½ hours max'. The client has no idea if it was a 'match day' or not and feels this is completely unfair to have rules that people would not know if they applied or not.

# Mitigating circumstances

In Scotland there is no system of appeal or any third party system in place to hear appeals. This is not the case in England and Wales where the law requires private parking companies to have access to an independent appeal system. The latest figures from the Parking on Private Land Appeals<sup>4</sup> show that of the 23,500 valid appeals made, 45% found in favour of the driver/owner and 55% in favour of the car park operator.

The consequence of no similar independent adjudication procedure in Scotland is that any appeal made by a driver is only judged by the parking firm that issued the ticket in the first place. The cases that are highlighted below, and elsewhere in this report, identify that the appeals service run by some firms takes little account of mitigating circumstance or other good reasons.



A West of Scotland CAB reports of an elderly client that has received a parking charge for overstaying in a supermarket car park. The client states that she was in the supermarket the whole time shopping and visited the café there too. She brought along her receipts and bank statement to prove this fact. She has appealed to the parking firm but feels that they did not read her letter as they have sent a very standard reply rejecting her appeal. She has now received letters threatening bailiff action (a course of action not applicable to Scotland) if she does not pay in the next fourteen days. The CAB has assisted with a new letter of appeal to be sent with her proof of purchase in the store.



A consumer based in the East of Scotland regularly uses a pay and display car park but one day the machine for paying was out of order. She took a photograph as proof of this. The consumer has since received a letter from a parking firm demanding payment of £100 for not displaying a ticket. She had appealed sending the evidence the machine was not working but the firm will not accept her appeal, stating she should have phoned them at the time. The client is particularly aggrieved as she uses this car park regularly and feels like the firm have no respect for repeat customers.



A West of Scotland CAB reports of a client whose wife is a patient at a local specialist cancer hospital. Appointments regularly run late and this has resulted in him receiving a parking ticket from a private firm for overstaying parking within hospital grounds. Despite informing the parking company of this they stated he had to pay the penalty charge.

# Disabled driver provision

Most car parks in Scotland provide spaces that have extra space for disabled drivers. These are often clearly marked with easily recognisable logos and chequered yellow sides. Some clients have highlighted to the Scottish Citizens Advice Service that companies are fining disabled drivers for seemingly small infractions or even failing to display a blue badge when in reality they have.



A West of Scotland CAB reports of a client who received a parking charge for parking in a disabled bay in a supermarket. However the parking is advertised as free to blue badge holders and the client says she was and always does display her blue badge. She wrote to the company stating this and they have responded saying they have reduced the fine from the original £50 to £15 as 'a gesture of goodwill' and would donate 10% of this charge to a disability charity. The client is offended by this offer and feels the firm are being discriminatory.



An East of Scotland CAB reports of a client who parked in a disabled space in a private car park with her blue badge on display. The signs in the car park have printed "disabled parking also available" and took this as meaning the parking was free to blue badge holders within the time limit stated. When she returned, however, she found a charge notice for £75 had been left on the car. When she queried it with the parking company they confirmed that disabled parkers also needed to pay at the machine and parking is not free. The client felt this was not clear from the signage but is worried about them taking action if she does not pay the charge.

The BPA code of practice states that firms should make reasonable adjustments to allow disabled drivers to use their members' car parks. They also have a rule which states:

***If your landowner provides a concession that allows parking for disabled people, if a vehicle displays a valid blue badge, you must not issue it with parking charge notices.***

While the IPC makes it clear that operators must make provisions for disabled motorists under the Equality Act 2010 it does not make a specific notice of not fining those with Blue Badges.

# CAS recommendations

**Based on our evidence, we recommend that:**

## **The Parking Industry**

The British Parking Authority and Independent Parking Committee ban the use of any term that is seen to replicate or infer some similarity to the statutory 'Penalty Charge Notice'. We suggest the adoption of 'Invoice of Parking Fee' or similar, thus ending the confusion between two different types of PCN for consumers.

The industry must establish an independent third party appeals service to review private parking charges in Scotland. This should be based on a polluter pays model which will help improve standards in the industry. The industry already have such a mechanism in England and Wales, and there is no reason why this is not extended to Scotland or used as a model for a Scottish system. We believe that this appeals service would also help inform the Scottish Government of breaches of the code of the licence system.

The BPA and IPC must become more transparent and publish details of disciplinary action taken against members. This would be part of their annual report detailing the firms which had been expelled alongside reasons for doing so and details of penalty points awarded and to which firms. This would drive better compliance and competition on fairness in the industry as firms would wish to keep a clean record for their reputation.

## **The Scottish Government**

Whilst there is no legislation or regulations to deal with parking on private land, the parking industry are able to get away with unfair and bad practices to the detriment of Scotland. Equally, the people affected have no right of appeal or redress and their rights and responsibilities are unclear. This must be addressed and we recommend the Scottish Government legislates to regulate the operations of the private parking industry.

This could include the establishment of a licensing scheme with a register of private parking firms who must abide to a set code of practice. We would encourage this licensing regime to include a fit and proper person test for a firm's appointed person. We would envisage any breaches of the code would result in fines or expulsion from the register as would failing the fit and proper person test. The legislation would require membership of this licensing register to operate and those firms who operated a private parking company without a license would be committing an offence and be blocked from accessing DVLA registration database.

As part of a regulation scheme, the Scottish Government should also set a cap on charges. Currently, for decriminalised on-street parking enforcement Scottish Local Authorities have been set prescribed amounts of a charge through regulations. This currently sits at £60 reduced to £30 if paid in a certain period. We would encourage the same maximum limit being placed on private parking charges.

IT'S NOT FINE - unfair private parking charges

## Retailers

All retailers which provide customer parking that rely on private parking companies must take more notice of the practices that are carried out. This is where they are responsible for appointing such a parking operator or rely on an external agency to do so – for example, that of a retail park where they are situated. It is in the interests of retailers to make sure there are fair and transparent practises within their parking areas – including signage, charges, and appeals. If customers are fined, even if it is from the parking company, they assume that company is doing it on behalf of the retailer. This is detrimental to the reputation of the retailer who may not be paying enough attention to their customer’s experiences. We would also encourage all retailers who employ parking operators in their own car parks to do the same. This is their customers being penalised, and they could take action to end a lot of the bad and unfair practices that are currently being carried out.

# Footnotes

<sup>1</sup> British Parking Association (2014) Approved operator scheme code of practice (version 4)

<sup>2</sup> The Independent Parking Committee (2013) Accredited operator code of practice

<sup>3</sup> Society of Chief Officers of Trading Standards in Scotland (2011) North of Scotland Fair Trading Group: Private car parking project 2010-2011

<sup>4</sup> Parking on Private Land Appeals (2014), Report of the Lead Adjudicator

# IT'S NOT FINE.

Charges for parking on private land are not fines.

For more information, or help with challenging these charges, visit your local CAB or see [www.cas.org.uk/itsnotfine](http://www.cas.org.uk/itsnotfine)



Citizens Advice Scotland (CAS), our 61 member bureaux and the Citizen Advice Consumer helpline form Scotland's largest independent advice network.

Advice provided by the Scottish CAB Service is free, independent, confidential, impartial and available to everyone. We are champions for both citizens and consumers and In 2012/13 we helped over 314,000 people deal with over a million issues. Our financial gain for clients in this year was £120,705,471.

Our bureaux deliver frontline advice services through more than 200 service points across the country, from the city centres of Glasgow and Edinburgh to the Highlands, Islands and rural Borders communities. This network of dedicated staff and volunteers is ideal to represent and assist the consumers in Scotland in all transactions and services they operate in.

Our vision is paramount to all our goals in the consumer landscape as well as being simple but robust:

*"A fairer Scotland where people  
as citizens and consumers are  
empowered and their rights  
respected."*

Citizens Advice Scotland  
Spectrum House  
2 Powderhall Road  
Edinburgh  
EH7 4GB  
Tel: 0131 550 1000  
enquiries@cas.org.uk  
www.cas.org.uk



Get advice online: [www.adviceguide.org.uk/scotland](http://www.adviceguide.org.uk/scotland)

The Scottish Association of Citizens Advice Bureaux - Citizens Advice Scotland (Scottish charity SC016637)