

POPLA  
PO Box 1270  
WARRINGTON  
WA4 9RL

Nov 10 2019

Dear POPLA Assessor,

**RE: Appeal POPLA Code:** \_\_\_\_\_ **Vs ParkingEye PCN Ref:** \_\_\_\_\_

VRN:

Date of Event: 29/09/2019

I am writing to you in order to lodge a formal appeal against a Parking Charge Notice sent to myself as the Registered Keeper of the vehicle in question. I wish to appeal on the following grounds:

1. The signage does not comply with the BPA Code of Practice and does not form a contract between driver and the Operator.
2. The signage does not contain the information required by The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 Regulation 13 and is therefore not binding.
3. The dire weather further prevented the driver from seeing the signs.
4. The driver had visited the car park for the first time and was picking up a genuine shopper.
5. The store owner is supporting the shopper / driver and is upset at the number of their customers being trapped with unfair penalties.
6. There is none-compliance with the Consumer Rights Act 2015 with respect to the 'requirement for transparency'.
7. There is no evidence of valid Landowner Authority to issue and collect charges - the operator is put to strict proof of full compliance with the BPA Code of Practice.
8. The operator is abusing the regulation regarding 'grace period' in breach of the BPA Code of Practice.
9. The ParkingEye Car Park operates incorrectly under the stated address of 6 Beaconsfield Road, Southall.
10. The Car Park does not have planning permission from Ealing Council to erect signs, operate an APNR camera system or to trade 24 hours a day.
11. Some of the ticket machines appear not to be working.
12. The APNR readout does not represent time parked but includes time looking for a parking space, etc – the operator must evidence time parked in a parking bay. As per the APNR reading, the vehicle was only onsite for less than 16 minutes.
13. It is not clear APNR camera are being used to generate PCN's.
14. Unreasonable / Unfair Terms.

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## 1 The signage does not comply with the BPA Code of Practice and does not form a contract between driver and the Operator

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There was no contract nor agreement on the 'parking charge' at all. The driver did not see any signs at the time. The car park is located off a busy road near a traffic light junction, with a narrow entrance to the parking facility. It is submitted that the driver did not have a fair opportunity to read about any terms involving this huge charge, which is out of all proportion.

These circumstances are not the same as the 'ParkingEye Ltd v Beavis' case. In the Beavis case, which turned on specific facts relating only to the signs at that site and the unique interests and intentions of the landowners, the signs were unusually clear and not a typical example for this notorious industry. The Supreme Court were keen to point out the decision related to that car park and those facts only:

In the Beavis case, the £85 charge itself was in the largest font size with a contrasting colour background and the terms were legible, fairly concise and unambiguous. There were 'large lettering' signs at the entrance and all around the car park, according to the Judges.

This case, by comparison, does not demonstrate an example of the 'large lettering' and 'prominent signage' that impressed the Supreme Court Judges and swayed them into deciding that in the specific car park in the Beavis case alone, a contract and 'agreement on the charge' existed.

Here, the signs are sporadically placed, and not placed where the driver was parked, indeed obscured and hidden in some areas. They are unremarkable, not immediately obvious as parking terms and the wording is mostly illegible, being crowded and cluttered with a lack of white space as a background. It is indisputable that placing letters too close together in order to fit more information into a smaller space can drastically reduce the legibility of a sign, especially one which must be read BEFORE the action of parking and leaving the car.

The signs are also not well maintained with **graffiti covering some of the terms & conditions** and still confusing the user with **over 4 years outdated instructions** that the machine no longer accepts the old £1 coin. Note, this theme of highlighting £1 on the sign boards as well as the ticket machines further reinforces the impression that the parking fee is just £1.

**Proof – Machines are not well maintained (see evidence of graffiti and over 4 years outdated old £1 coin signs):**



It is vital to observe, since 'adequate notice of the parking charge' is mandatory under the POFA Schedule 4 and the BPA Code of Practice, these signs do not clearly mention the parking charge which is hidden in small print (and does not feature at all on some of the signs). Areas of this site are unsigned and there are no full terms displayed - i.e. with the sum of the parking charge itself in large lettering - at the entrance either, so it cannot be assumed that a driver drove past and could read a legible sign, nor parked near one.

This case is more similar to the signage in POPLA decision 5960956830 on 2.6.16, where the Assessor Rochelle Merritt found as fact that signs in a similar size font in a busy car park where other unrelated signs were far larger, was inadequate:

"the signage is not of a good enough size to afford motorists the chance to read and understand the terms and conditions before deciding to remain in the car park. [...] In addition the operator's signs would not be clearly visible from a parking space [...] The appellant has raised other grounds for appeal but I have not dealt with these as I have allowed the appeal."

From the evidence I have seen so far, the terms appear to be displayed inadequately, in letters no more than about half an inch high, approximately. I put the operator to

strict proof as to the size of the wording on their signs and the size of lettering for the most onerous term, the parking charge itself.

The letters seem to be no larger than .40 font size going by this guide:

As further evidence that this is inadequate notice, Letter Height Visibility is discussed here:

"When designing your sign, consider how you will be using it, as well as how far away the readers you want to impact will be. For example, if you are placing a sales advertisement inside your retail store, your text only needs to be visible to the people in the store. 1-2" letters (or smaller) would work just fine. However, if you are hanging banners and want drivers on a nearby highway to be able to see them, design your letters at 3" or even larger."

...and the same chart is reproduced here:

"When designing an outdoor sign for your business keep in mind the readability of the letters. Letters always look smaller when mounted high onto an outdoor wall".

"...a guideline for selecting sign letters. Multiply the letter height by 10 and that is the best viewing distance in feet. Multiply the best viewing distance by 4 and that is the max viewing distance."

So, a letter height of just half an inch, showing the terms and the 'charge' and placed high on a wall or pole or buried in far too crowded small print, is woefully inadequate in an outdoor car park. Given that letters look smaller when high up on a wall or pole, as the angle renders the words less readable due to the perspective and height, you would have to stand right in front of it and still need a stepladder (and perhaps a torch and/or magnifying glass) to be able to read the terms.

Under Lord Denning's Red Hand Rule, the charge (being 'out of all proportion' with expectations of drivers in this car park and which is the most onerous of terms) should have been effectively: 'in red letters with a red hand pointing to it' - i.e. VERY clear and prominent with the terms in large lettering, as was found to be the case in the car park in 'Beavis'. A reasonable interpretation of the 'red hand rule' and the 'signage visibility distance' tables above and the BPA Code of Practice, taking all information into account, would require a parking charge and the terms to be displayed far more transparently, on a lower sign and in far larger lettering, with fewer words and more 'white space' as background contrast.

**Proof – the signage was not clear:**



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**2 The signage does not contain the information required by The Consumer Contracts Regulations 2013 Regulation and is therefore not binding**

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The signage at this location fails to create any contractual liability due to the failure to comply with the provisions of the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013. The purported contract created by the signage is a 'distance contract' as defined in section 5 of the Regulations, and is therefore subject to the mandatory requirements set out in section 13, relating to the statutory information which must be provided by the trader.

The operator is required to ensure that they:

must give or make available to the consumer the information listed in Schedule 2 in a clear and comprehensible manner, and in a way appropriate to the means of distance communication used.

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**3. The dire weather further prevented the driver from seeing the signs**

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As the weather was very bad with high winds (28 km/h), gusts (35 km/h), immense rain (26 mm) and thick clouds (100%), the driver was not able to leave the car and so did not see any signs, etc due to poor visibility.

# Proof - Weather report for Southall for Sun 29 Sep 2019:

10/16/2019

Southall, Ealing, Greater London, United Kingdom Historical Weather Almanac

[World Weather](#) [United Kingdom](#) [Ealing](#) [Greater London](#) [Southall](#)

## Southall Historical Weather

Weather 1 hr 3 hr Past Avg

Ealing, Greater London, GB

29/09/2019

GET WEATHER

## SUN 29<sup>TH</sup> SEP, 2019

  
**MODERATE OR HEAVY  
 RAIN SHOWER**

**Max:** 18°C  
**Min:** 14°C  
**Rain:** 26.10 mm  
**Sunrise:** 06:58 AM  
**Sunset:** 06:44 PM  
**Moonrise:** 07:30 AM  
**Moonsset:** 07:34 PM

**PREMIUM WEATHER API**  
 TRY FREE FOR 60 DAYS  
 TRUSTED BY 150,000+ API USERS  
 JSON AND XML  
 HOURLY, HISTORICAL AND MARINE  
 WORLD WEATHER ONLINE  
 Developer Portal  
 JOIN NOW

Time	00:00	03:00	06:00	09:00	12:00	15:00	18:00	21:00
Weather								
Temp	15 °c	16 °c	17 °c	18 °c	18 °c	18 °c	16 °c	14 °c
Feels Like	15 °c	16 °c	17 °c	18 °c	18 °c	18 °c	16 °c	12 °c
Wind	29 km/h SSW	31 km/h SSW	26 km/h SW	28 km/h WSW	23 km/h SW	28 km/h W	23 km/h NW	22 km/h WNW
Gust	44 km/h	44 km/h	39 km/h	38 km/h	33 km/h	35 km/h	32 km/h	31 km/h
Cloud	100%	100%	100%	100%	95%	100%	100%	90%
Humidity	87%	84%	83%	75%	81%	74%	79%	76%
Precip	10.4 mm	3.8 mm	5.4 mm	1.3 mm	3.6 mm	0.7 mm	0.8 mm	0.1 mm

<https://www.worldweatheronline.com/southall-weather-history/ealing-greater-london/gb.aspx>

Further, there is no shelter provided at the signs or the payment machines. Had there been, the driver would have had the opportunity to read the signs in the wet and windy conditions and either pay for parking or leave the grounds (see proof of signage and machines shown with other points).

**PROOF - The picture taken by the ParkingEye APNR camera also shows evidence of rain with the puddles:**



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4. The driver had visited the car park for the first Time and was picking up a genuine shopper

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Proof – below is the card payment verification that this oversight is from a genuine shopper / driver and not someone who was abusing the parking facility:



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5. The store owner is supporting the shopper / driver and is upset at  
The number of their customers being trapped with unfair penalties

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Proof – letter from store owner to ParkingEye confirming genuine shopping took place and that many customers are not clear on the car park regulations:

# MOR FOODS

100 South Road, Southall, Middlesex UB1 1RB · 0208571 3661

Parking Eye  
PO Box 117  
Blyth  
NE24 9EJ

October 15<sup>th</sup> 2019

Dear Sir / Madam,

**CAR REG:**

**Date of Parking: 29/09/2019**

I am writing to you on behalf of a genuine new customer who came to shop with us from the other side of London on September 29<sup>th</sup> 2019. As it was the first time, they had driven into this car park, they were unaware of the parking regiment. The driver only came to collect the shopper and as it was cloudy and raining that day, the driver was not able to see the signs regarding the requirement to pay for parking.

It is very upsetting for our genuine customers when they become aware of the unclear terms for parking by receiving a Penalty Charge Notice to pay £60-£100 Penalty.

**Please take into account the fact that the driver was collecting a genuine shopper and was unaware of the charging requirements as the signs are not clear and crucially it was cloudy and raining on that day. Please pardon the Registered Keeper on this occasion.**

Many of our customers are complaining about the signs being unclear and misleading. Further, many of them express that ParkingEye has likely set up traps intentionally to catch genuine shoppers who are unaware of the parking terms. We are very concerned that this is impacting our customer relationship as they are saying that it is safer for them to shop elsewhere than be treated so harsh unfairly.

As you have installed ANPR camera's in addition to the ticket machines, it would be clearer and more transparent if you also installed a barrier so customers could obtain a ticket on the way in and pay for their stay duration on the way out. This would indeed be transparent. I am concerned I will be losing customers if there is no positive resolution.

Sincerely,

*M/Cherom Singh*  
MRS PARAMJIT KAUR  
Director (Mor Foods)





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## 6 There is none-compliance with the Consumer Rights Act 2015 with respect to the 'requirement for transparency'

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The amount is an unfair term according to the Consumer Rights Act 2015 regulation 62(4):

(1) A trader must ensure that a written term of a consumer contract, or a consumer notice in writing, is transparent.

(2) A consumer notice is transparent for the purposes of subsection (1) if it is expressed in plain and intelligible language and it is legible.

The Beavis case signs not being similar to the signs in this appeal at all, I submit that the persuasive case law is in fact 'Vine v London Borough of Waltham Forest [2000] EWCA Civ 106' about a driver not seeing the terms and consequently, she was NOT deemed bound by them.

This judgment is binding case law from the Court of Appeal and supports my argument, not the operator's case.

In this case, particular attention is also drawn to the way the way the signage gives the impression that the parking charge is for a fixed price of £1 and not £1 per hour. The sign board indicates **Per Hour** on the left-hand side and **£1** to the right-hand side. It is not clear on first glance as it is not displayed together in the normal spoken form of **£1 per hour**.

**Proof – These signs are misleading and not in plain and intelligible language:**



The above sign does not even conform to the standards of other ParkingEye signs where the boards are at least somewhat bigger and the parking tariff is clearly listed:




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**7. There is no evidence of valid Landowner Authority to Issue and collect charges - the operator is put to strict proof of full compliance with the BPA Code of Practice**

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As this operator does not have proprietary interest in the land then I require that they produce an unredacted copy of the contract with the landowner. The contract and any 'site agreement' or 'User Manual' setting out details including exemptions - such as any 'genuine customer' or 'genuine resident' exemptions or any site occupier's 'right of veto' charge cancellation rights - is key evidence to define what this operator is authorised to do and any circumstances where the landowner/firms on site in fact have a right to cancellation of a charge. It cannot be assumed, just because an agent is contracted to merely put some signs up and issue Parking Charge Notices, that the agent is also authorised to make contracts with all or any category of visiting drivers and/or to enforce the charge in court in their own name (legal action regarding land use disputes generally being a matter for a landowner only).

Witness statements are not sound evidence of the above, often being pre-signed, generic documents not even identifying the case in hand or even the site rules. A witness statement might in some cases be accepted by POPLA but in this case I suggest it is unlikely to sufficiently evidence the definition of the services provided by each party to the agreement.

Nor would it define vital information such as charging days/times, any exemption clauses, grace periods (which I believe may be longer than the bare minimum times set out in the BPA CoP) and basic information such as the land boundary and bays where enforcement applies/does not apply. Not forgetting evidence of the various restrictions which the landowner has authorised can give rise to a charge and of course, how much the landowner authorises this agent to charge (which cannot be assumed to be the sum in small print on a sign because template private parking terms and sums have been known not to match the actual landowner agreement).

Paragraph 7 of the BPA CoP defines the mandatory requirements and I put this operator to strict proof of full compliance:

7.2 If the operator wishes to take legal action on any outstanding parking charges, they must ensure that they have the written authority of the landowner (or their appointed agent) prior to legal action being taken.

7.3 The written authorisation must also set out:

- a) The definition of the land on which you may operate, so that the boundaries of the land can be clearly defined.
- b) Any conditions or restrictions on parking control and enforcement operations, including any restrictions on hours of operation.
- c) Any conditions or restrictions on the types of vehicles that may, or may not, be subject to parking control and enforcement.
- d) Who has the responsibility for putting up and maintaining signs.
- e) The definition of the services provided by each party to the agreement.

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**8. The operator is abusing the regulation regarding 'grace period' in breach of the BPA Code of Practice**

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**Proof – whereas the operator had previously notified the main adjoining shop (Mor Foods) that they operate a 20 minutes grace period (which was effective on concerned date), the operator has now indicated that there will be Zero minutes grace period**



## 9. The ParkingEye Car Park operates incorrectly under the stated address of 6 Beaconsfield Road, Southall

**Proof – The Car Park ground is not designated the address of 6 Beaconsfield Road but it is a property (Health Clinic):**



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### Property Map

000012179167 | 6 Beaconsfield Road Southall Middlesex UB1 1DW



**Proof – 6 Beaconsfield Road use is restricted to a Health Clinic (D1 use only):**



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### Planning – Application Summary

162465FUL | Change of use from retail shop (Use Class A1) to health clinic (Use Class D1) with associated access | 6 Beaconsfield Road Southall Middlesex UB1 1DW

Property 000012179167

Track Print

Details Comments (0) Constraints (0) Documents (5) Related Cases (1) Map

Summary Further Information Contacts Important Dates

Reference	162465FUL
Alternative Reference	Not Available
Application Received	Wed 25 May 2016
Application Validated	Wed 15 Jun 2016
Address	6 Beaconsfield Road Southall Middlesex UB1 1DW
Proposal	Change of use from retail shop (Use Class A1) to health clinic (Use Class D1) with associated access
Status	Granted with Conditions
Decision	Grant with Conditions
Decision Issued Date	Wed 10 Aug 2016
Appeal Status	Unknown
Appeal Decision	Not Available

**Proof – The Car Park ground is an area separate to the property of 6 Beaconsfield Road (Health Clinic – Dr Batra’s Homeopathy Clinic):**



**10. The Car Park does not have planning permission from Ealing Council to erect signs, operate an APNR camera system or to trade 24 hours a day**

**Proof – Ealing Council Planning Permission Document:**

[https://pam.ealing.gov.uk/online-applications/files/0333EE743A4D3ADCE267A8C825F0EB46/pdf/PP\\_2013\\_3348-LEGAL AGREEMENT AND DECISION NOTICE dated 22-04-2015.pdf-424799.pdf](https://pam.ealing.gov.uk/online-applications/files/0333EE743A4D3ADCE267A8C825F0EB46/pdf/PP_2013_3348-LEGAL AGREEMENT AND DECISION NOTICE dated 22-04-2015.pdf-424799.pdf)

**Proof – 6 Beaconsfield Road use is restricted to a Health Clinic (D1 use only):**



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162465FUL | Change of use from retail shop (Use Class A1) to health clinic (Use Class D1) with associated access | 6 Beaconsfield Road Southall Middlesex UB1 1DW

Property 000012179167 Track Print

Details Comments (0) Constraints (0) Documents (5) Related Cases (1) Map

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Status	Granted with Conditions
Decision	Grant with Conditions
Decision Issued Date	Wed 10 Aug 2016
Appeal Status	Unknown
Appeal Decision	Not Available

**Proof – 6 Beaconsfield Road has had only one planning permissions since the old Postal Sorting Office was redeveloped (Approved 22/04/15) and that was to change its use to a Health Clinic (D1 use only Approved 10/08/16):**



**Ealing Council**

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Property History [Help with this page](#)

000012179167 | 6 Beaconsfield Road Southall Middlesex UB1 1DW [Print](#)

Address **Property History (15)** Constraints (0) Map

**Planning Applications (15)**

- Change of use from retail shop (Use Class A1) to health clinic (Use Class D1) with associated access  
Ref. No: 162465FUL | Status: Granted with Conditions
- The application is for the change of use from postal sorting office (Sui-generis use class) to a mixed commercial use providing 8 retail units (A1 use) and 2 restaurant/café units (A3 use) at ground floor and 2 business offices (B1a use class) at first floor; construction of single storey extension fronting onto Beaconsfield Road and to the rear of the site; alterations to frontage of the existing building at ground floor to incorporate shopfronts; and provision of refuse and cycle storage and 24 car parking spaces.  
Ref. No: PP/2013/3348 | Status: Conditional Consent

**Proof – Ealing Council Planning permission only authorises car park operation for 12 hours a day and not the 24 hours it operates at present:**

e. The car park shall not operate (except for staff working at the site) outside the hours of 08:00 to 20:00 on any day.

Reason: To enable the local planning authority to maintain strict control over the nature of the use and to protect the living conditions of occupiers in the locality in accordance with policy 1.1 j, of the the Ealing Core Strategy (2012), policy 7A of the Ealing Development Management Development Plan Document (2013), policy 7.15 of the London Plan (2011), and the National Planning Policy Framework (2012).

(Planning Permission Document, Pages 18, Point 9e)

**Proof – ParkEye are violating below clause as they have not obtained written Planning Permission to operate the Car Park as a separate business entity:**

11. The car parking area hereby approved shall only be used to serve the needs of the development hereby approved and for no other purpose, unless agreed in writing by the Local Planning Authority through the submission of a planning application.

Reason: To enable the local planning authority to maintain strict control over the nature of the use and to protect the living conditions of occupiers in the locality in accordance with policy 1.1 j, of the the Ealing Core Strategy (2012), policy 7A of the Ealing Development Management Development Plan Document (2013), policy 7.15 of the London Plan (2011), and the National Planning Policy Framework (2012).

(Planning Permission Document, Pages 19, Point 11)

**Proof – ParkingEye does not have written approval that their Car Park lighting is in compliance with Ealing Council Planning Permission:**

14. Details of external lighting for the car park and access shall be submitted to and approved in writing by the Local Planning Authority prior to the first use of the development. The submitted details shall comply with the Institution of Lighting Engineers Guidance Notes for the Reduction of Light Pollution particularly with regards to:

(i) reducing glare by

- Correctly aiming the luminaires to avoid impacts on neighbouring properties
- Using luminaires designed so that the glazing is kept at or near parallel to the surface being lit
- Ensuring that the main beam angle of all lights, directed towards a potential observer is kept below 70 degrees.

(ii) controlling vertical illuminance with the lights operating as required by BS5489 with a uniformity rating that does not fall below 0.25U<sub>o</sub> and the colour rendering qualities of the lamps used must achieve a minimum of 60Ra (60%) on the colour rendering index.

The details as approved shall be implemented prior to the first use of the development, and permanently retained thereafter, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect the living conditions of occupiers in the locality in accordance with policy 1.1 j, of the the Ealing Core Strategy (2012), policy 7A of the Ealing Development Management Development Plan Document (2013), policy 7.15 of the London Plan (2011), and the National Planning Policy Framework (2012).

(Planning Permission Document, Pages 19-20, Point 14)

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**11. Some of the ticket machines appear not to be working**

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The site, signs and machines are not well maintained.

**Proof – a ticket machine appears not to be working:**



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**12. The APNR readout does not represent time parked but includes time looking for parking, etc – the operator must evidence time parked in a parking bay (the vehicle was onsite for less than 16 minutes)**

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In the case 3JD08399 ParkingEye v Ms X. (Altrincham 17/03/2014). Fistril Beach. The defendant spent 31 minutes waiting for a car park space during the crowded holiday season. The ANPR evidence was not relevant as it showed the time in the car park, not the time parked. The judge ruled this was not against the terms and conditions of the signage. The judge also stated that in any case £100 was not likely to be a true estimate of loss. The signage only required payment for times parked, and therefore there was no contravention of the terms and conditions

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**13. It is not clear that APNR cameras are being used to generate PCN's**

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There is non-compliance with the regulations required for use of APNR technology:

21.1 You may use ANPR camera technology to manage, control and enforce parking in private car parks, as long as you do this in a reasonable, consistent and transparent manner. Your signs at the car park must tell drivers that you are using this technology and what you will use the data captured by ANPR cameras for.

21.2 Quality checks: before you issue a parking charge notice you must carry out a manual quality check of the ANPR images to reduce errors and make sure that it is appropriate to take action. Full details of the items you should check are listed in the Operators' Handbook.

**Proof – the signs do not make clear that APNR cameras will be used to determine the parking duration and generate PCN's for unsuspecting shoppers:**





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## **14. Unreasonable/Unfair Terms**

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The charge that was levied is an unfair term (and therefore not binding) pursuant to the Unfair Terms in Consumer Contracts Regulations 1999. The OFT on UTCCR 1999, in regard to Group 18(a): unfair financial burdens, states:

'18.1.3 Objections are less likely...if a term is specific and transparent as to what must be paid and in what circumstances.

An unlit sign of terms placed to high to read, is far from 'transparent'. The driver in question and many others would fail to see the sign which are hidden as mentioned earlier.

Schedule 2 of those Regulations gives an indicative (and non-exhaustive) list of terms which may be regarded as unfair and includes at Schedule 2(1)(e) "Terms which have the object or effect of requiring any consumer who fails to fulfil his obligation to pay a disproportionately high sum in compensation." Furthermore, Regulation 5(1) states that: "A contractual term which has not been individually negotiated shall be regarded as unfair if, contrary to the requirement of good faith, it causes a significant imbalance in the parties' rights and obligations arising under the contract, to the detriment of the consumer".

The charge that was levied is an unreasonable indemnity clause pursuant to section 4(1) of the Unfair Contract Terms Act 1977 which provides that: "A person cannot by reference to any contract term be made to indemnify another person (whether a party to the contract or not) in respect of liability that may be incurred by the other for negligence or breach of contract, except in so far as the contract term satisfies the requirement of reasonableness.

## Conclusion

I am perplexed why PrivateEye is operating so ruthlessly in the first place. Given that this was a case of a genuine shopper have transited through the car park for less than 16 minutes and not seeing the signage as it was not prominent and because there was extremely bad weather that day. Then there is the abuse of the grace period where the shop owners had been told that a 20 minute grace period was in effect and since this incident that has been reduced to 0 minutes. These points were furnished to the operator with proof and supporting letter from the main shop that this parking facility serves but ParkingEye rejected the appeal.

I was left with no alternative but to further investigate and highlight the many scrupulous way in which ParkingEye is operating. Whereas ParkingEye does not take into account first time oversights with genuine shoppers not realising the terms & conditions, I hope they will be equally methodical with providing fully documented evidence of operating in compliance with all the terms, conditions and regulations under which they are authorised to operate.

ParkingEye will now need to satisfy POPLA, BPA, the council and all the concerned bodies that they have not inadvertently had an oversight with any required compliance, guidelines or regulations. The very PCN they have issued is invalidated based on countless points. The very ground they are operating on is not 6 Beaconsfield Road. They do not have planning permission from Ealing Council to operate as a business charging for parking, the car park can not operate for more than 12 hours any day (they operate 24 hours). Again, they do not have planning permission for erecting signs, lighting and ANPR cameras.

I put ParkingEye to strict proof of full compliance with all the areas of concern that I have highlighted in my appeal and given the circumstances described, to justify the imposition of this parking penalty to a genuine shopper who did not see the signs, was unaware of the ANPR cameras and who was on-sight for less than 16 minutes.

I therefore respectfully request that all the points I have highlighted be reviewed and investigated, that my appeal is accordingly upheld and the charge be duly dismissed.

Thank you for your consideration

(Registered Keeper)

Parking Eye  
Car Park Solutions  
PO Box 117  
Blyth  
NE24 9EJ

Oct 15 2019

Dear Sir / Madam,

**RE: APPEAL FOR PCN REF:**

VRN:

Date of Event: 29/09/2019

I am appealing against the PCN issued me as the registered keeper on the following grounds:

The driver of car registration [redacted] lives 16 miles away in Tolworth and visited your car park for the first time on 29/09/19 to pick up a shopper from Mor Foods (see banking statement proof attached). The driver was unaware of any terms for parking and in any case did not intend to park but only to collect the shopper and was only onsite for a mere 16 minutes during which much of the driver's time was spent waiting for some space.

As the weather was very bad with high winds (28 km/h), gusts (35 km/h), immense rain (26 mm) and thick clouds (100%), (see attached weather report for Southall) the driver was not able to leave his car and so did not see any signs, etc due to poor visibility (Weather report for Southall attached).

The picture taken by your APNR camera also shows evidence of rain with the puddles (proof attached).

The driver was onsite for a mere 16 minutes. As per Mor Foods, you had allowed 20 minutes grace period and at least 10 minutes is as per BPA Regulations. The purpose of the penalties is to ensure that parking space is available to genuine shoppers and not to abuse genuine shoppers. Mor Foods have also provided a written plea on behalf of the shopper / driver (see attached).

Further, following the issuing of this PCN, I have again visited the store and car park and further assessed that even if the weather was good, your signs are unclear and misleading. For example:

1. There is no clear signage as you enter the car park from a busy road that the parking facility is private and not part of Mor Foods as assumed by the driver (proof attached).
2. It is again not clear that APNR camera's are being used to generate PCN's (proof attached).
3. The signage gives the impression that the parking charge is for a fixed price of £1 and not £1 per hour. The board indicate Per Hour on the left-hand side and £1 to the right-hand side. It is not clear on first glance as it is not displayed together in the spoken form of £1 per hour (proof attached).
4. Some of the Ticket machines also appear not to be working (proof attached).
5. Most of the terms are written in small font and some are further distorted with graffiti (proof attached).
6. While there is an industry agreed standard 10 minute grace period in such private car parks, Mor Foods has now put up notices instore to advise that this leniency has been withdrawn following ParkingEye's recent revised instructions (proof attached in breach of the BPA Code of Practice 13.1, 13.2 & 13.4).
7. When you issue PCN's, you do not taking into account the time the driver takes to find parking while you have this data.
8. Your Penalty Charging formula appears to be based on when a car first drives into your car park and when it last leaves so if someone came twice on one day, you would deceptively apply penalties.
9. As you have invested in ticket machines and APNR camera's, you should operate a barrier-based parking facility like reputable places.

**Considering the circumstances, the weather, poor visibility, the grace period, the genuine shopping, the few minutes overstay beyond grace period, I would be most grateful if you can review the PCN and overlook the genuine oversight on this occasion.**

Should you fail to uphold my appeal then I will also appeal to POPLA on the following grounds. You will be expected to provide a full breakdown of your alleged loss, and your full unredacted contract with the landowner.

- 1) The amount being claimed is not a genuine pre-estimate of loss to your company.
- 2) The amount is an unfair term according to the Consumer Rights Act 2015 regulation 62(4).
- 3) Your signage does not comply with the BPA Code of Practice and does not form a contract between motorist and yourself.
- 4) The signage does not contain the information required by The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 Regulation 13(a) and is therefore not binding.
- 5) You have no authority from the landowner to issue and collect charges.

If you do reject the challenge and insist on taking the matter further, I must inform you that I may claim my expenses from you. The expenses I may claim are not exhaustive

but may include the cost of stamps, envelopes, travel expenses, legal fees, etc. By continuing to pursue me you agree to pay these costs when I prevail.

Any communication that does not either confirm cancellation or include a POPLA verification code will be reported to the BPA as a breach of their Code of Practice. Such communication may also be deemed harassment and pursued accordingly.

I thank you for your understanding with this matter and look forward to your positive response to my genuine appeal.

Kind Regards,  
A H Chaudhry  
(Registered Keeper)

Enclosed Proofs of:

1. Shopping
2. Mor Foods letter of support
3. Poor weather
4. Unclear and misleading signs
5. Proof of ParkingEye breaching BPA Code of Practice 13