Private parking and public bodies

I am a volunteer at Milton Keynes University Hospital (MKUH). My friend, Mr Leaper, volunteered there for nineteen years. We know how hard most Hospital staff work, often in difficult circumstances.

However, when it comes to parking enforcement, we have experienced a management culture at the Hospital which hides and denies evidence of dishonest behaviour - by both UK Parking Control (UKPC), their former contractor, and surprisingly, their own staff.

The problem lies in a self-regulated private parking industry that has minimal oversight. MKUH were just one link in the chain of organisations who denied responsibility, and refused to act even after we obtained a civil court judgement against UKPC.

We cannot fix the system alone. We simply hope that, by sharing our experience, other consumers will be encouraged to challenge their own dishonest parking charges, and to demand that statutory legislation replaces ineffective self-regulation.

That includes volunteers and staff at MKUH. UKPC have routinely issued parking tickets for which, if challenged in court, they could not demonstrate the necessary legal authority.

Parking contract law.

Unlike council car parks, or land with specific byelaws, parking tickets issued on the vast majority of private land have no special legal status. They are simply demands for money, in settlement of purported liabilities arising from alleged breach of contract - in much the same way that a consumer might request that a trader refund them for poor service.

Only the landowner, or their authorised agent, may pursue such demands for money. In law, these can only be enforced by convincing a civil court that: the consumer agreed to the landowner's terms of parking; that those terms were fair and lawful; and that the consumer harmed the landowner's legitimate interests by breaching those terms.

Because breach of contract is a civil matter, the consumer would receive no conviction or criminal record if they lost in court. The court may order them to pay more than the original parking charge, but only to cover limited hearing costs, and the consumer's credit record would only be damaged if they did not pay up once instructed by the court.

It is possible, but rare, that a landowner instead claim damages for trespass arising from unauthorised parking. It is so rare, even the government guidance is not definitive.

Consumer protection law.

The Consumer Rights Act 2015 applies to all parking charges from the past five years, while some issued up to six years ago would fall under older consumer protection law.

It is a criminal offence to breach some consumer protection regulations, but in practice, only public bodies have the knowledge and resources to pursue criminal prosecutions.

However, the Consumer Protection (Amendment) Regulations 2014, as explained by this helpful guidance, provide clear and effective remedies for the general public who suffer by the actions of rogue traders.

Parking companies must ensure that their charges are issued and pursued in an open, honest, fair, and lawful manner. If not, then consumers may be entitled to have those charges cancelled, and may also be awarded damages for inconvenience and distress.

Drivers and keepers.

Historically, parking companies could only purse the driver of the vehicle for breach of contract. This remains true for Scotland and Northern Ireland, but our article concerns England and Wales, where the Protection of Freedoms Act 2012 now applies.

The relevant section of this act was originally intended to outlaw clamping on private land. However, the British Parking Association (BPA), a private company which represents the interests of their paying members, worked to change the law - such that vehicle keepers, and not just drivers, can currently be held liable for parking charges.

It was reported at the time that the law was changed based on questionable evidence that the courts were clogged with parking cases. In truth, the total number of court claims filed by BPA members that year was 849, only 49 of which were actually heard in court, where most judgements went against the parking company.

If a parking company wishes to identify the owner of a vehicle, then they must pay to request those personal details from the Driver and Vehicle Licensing Agency (DVLA).

The DVLA automatically approve every electronic application from BPA members, trusting that the BPA will honour an agreement that their members will only apply for keeper details when they have reasonable cause to pursue a parking charge.

In 2011, it was put before a parliamentary select committee that this informal arrangement is unlawful, and that it is for the DVLA to decide when they can lawfully disclose personal data, not a private company.

We feel that the DVLA have been reluctant to stamp out bad behaviour. They considered that evidence tampering by UK Parking Control justified only a temporary suspension, and when UKPC were filmed continuing to mislead people, they remained lenient. Needless to say, the BPA have been equally against the permanent expulsion of their paying member.

Pursuing parking charges.

If a private parking companies wishes to pursue their ticket in court - and the consumer is perfectly entitled to insist that the matter is heard in court - then the parking company must have written authorisation from the landowner to do so.

That written authorisation is critical, as demonstrated by a parking case which collapsed. The BPA also spell out in their code of practice that operators must have written authority from the landowner, even to issue parking tickets - and that breaking this rule is almost as serious as receiving a criminal conviction, or failing to pay membership fees.

For the whole six years of their contract with MKUH, during which they issued at least 17,700 tickets, UKPC had no written authority to issue controversial staff parking tickets, or to issue tickets to volunteers parked in public areas at the Hospital.

The DVLA have, so far, taken no action in response to our concerns. The BPA eventually responded that they were neither a regulator, nor qualified to understand matters of law, but regardless, UKPC had reassured them that all was well, so their investigation was closed.

More usefully for consumers, the law states certain requirements and procedures that all parking companies must follow if they wish to identify the owner of a vehicle. We now wait for them to complete that process, rather than respond to the parking ticket ourselves - this filters out the laziest rogue operators, and provides actionable evidence should the DVLA release our personal data without reasonable cause.

Parking law does not require consumers to engage with an alternative means of dispute resolution (ADR). However, the parking industry directs disputes to their system, in which the parking company is first to consider if their ticket was justified. That is the reverse of the court process, in which the parking company, not the consumer, must prove their case.

If the parking company decides in their own favour, then by law they must send details of a further resolution service that meets legal standards. However, they are not obliged to use such services - BPA members offer the lesser Parking on Private Land Appeals (POPLA).

Therefore on receiving a notice to keeper, we would write to the parking company as soon as possible - keeping proof of postage and copies of all correspondence. We would state that we disputed their parking charge, without explaining why, then offer to participate in any approved ADR service - or failing that, argue our case in court.

We would state that the parking company no longer had reasonable cause to pass our details on to any third party, unless and until required to enforce a civil court judgement, thus forestalling any underhand “debt recovery” charges. We would conclude by allowing them 28 days to either withdraw their charge, or accept our offer of mediation, or commence a civil claim for enforcement.

If the company failed to respond, or rejected all our options, then we would consider that they had acted in bad faith - being unwilling to defend their ticket in court. In which case, we would proceed to file our own claim against them under consumer protection law.

The alternative is, as at present, self-regulation, featuring a mediator that apparently doesn't read parking contracts, and that readily accepts false evidence from parking operators, including what a judge would later describe as a *“wholly inaccurate statement... ...without any legal basis”.*

NHS parking & complaints.

NHS organisations may run income generation schemes, so may charge for car parking, as long as this does not interfere with providing healthcare. The NHS parking principles, first published in 2014, state that NHS sites should ensure that everybody can get there, and park if necessary, as safely, conveniently, and economically as possible.

The Principles state that NHS organisations should publish their parking policy, principles, finances, and their summarised responses to parking complaints. They are responsible for the actions of their parking contractors, who must not be incentivised to issue extra tickets, and contracts in which they earn money only by issuing tickets are explicitly prohibited.

NHS complaints are regulated by law, and national guidance. The Chief Executive Officer (CEO) of each organisation is responsible for ensuring that all complaints are recorded properly, investigated fairly, and result in timely conclusions for appropriate remedial actions. This includes complaints about their contractors, who can only investigate themselves if the complainant agrees that would be appropriate.

If the complainant is unhappy with the outcome, then they may request that their complaint is reviewed by the Parliamentary and Health Service Ombudsman, who perform the same role for complaints about the DVLA and Courts and Tribunals. If the PHSO does not agree, then their decision can be challenged in court - but only at the risk of huge legal expense.

Other organisations.

The Information Commissioner's Office (ICO) were the only organisation that offered us effective assistance outside of court. When faced with bare denials that UKPC were sending false evidence to POPLA, we tried the lateral approach that, under data protection law, it was our right to have the false personal data in that evidence corrected.

While we still disagree with the ICO's conclusion that the false documents amounted to statements of opinion, rather than statements of fact which would require correction, they were equally prepared to enforce the law. For example, when the Hospital were reluctant to disclose some critical personal evidence, a complaint to the ICO soon put them right.

We still have to convince the ICO that the DVLA, having left all parking regulation to an ineffective private company, are still releasing personal details without reasonable cause. However, if you have been personally affected by this, then we are confident that the ICO will take your complaint seriously - and see the big picture, if enough people complain.

Citizen's Advice knew their limitations, which were to pass our details to Milton Keynes Trading Standards, who did not respond. We later sent MK Trading Standards a hard copy of the court judgement, but only received an empty promise that they would be in touch.

I spoke to the NHS Counter Fraud Authority, who implied that they only investigated fraud against the NHS, not fraud committed by the NHS, then cut me off when I challenged this.

The MP for Milton Keynes South has now written to the Department for Transport, seeking their response to our allegations regarding the DVLA. Mr Stewart is also aware of previous parking complaints at Milton Keynes Hospital, so please let him know if you are one of his constituents who has been similarly affected.

MKUH parking policy.

Milton Keynes University Hospital last revised their car parking policy in September 2012. They do not publish this policy - we obtained our copy through a Freedom of Information (FoI) request, which has still not been added to their disclosure log page as of December 2020.

The policy limits parking spaces to reduce car usage, which has been poor practice since 2010, and includes clamping as an enforcement measure, which was criminalised in 2012. It claims to meet safeguarding requirements, but does not consider the possibility of unfair parking charges, or how those faced with unfair demands for money should contest them.

The policy states that volunteers are issued with volunteer parking permits, and allowed to park for free in any of their car parks. Staff may choose to pay for a staff parking permit, linked to their registration plate, then park in staff car parks which are accessed via their identity badges.

The policy implies that staff may not park at all without a permit. In practice, those who choose not to buy one use the Hospital's public car parks instead, and my court judgement confirms that all staff are lawfully entitled to use them if they pay the fee - which is paid when leaving the car park, and there is no requirement to display the ticket beforehand.

Although the policy states that contracted security officers may be used for enforcement, the Hospital's in-house car parking team remain responsible for authorising parking policy, for resolving any parking problems that arise, and for reviewing the policy - annually.

MKUH parking contracts.

MKUH ran their own car parks until 2013, with little controversy, then appointed UK Parking Control to supply a *“warden patrol and self ticketing service”.* This contract could only be varied by written agreement, and remained unchanged until termination in 2019.

After the first three months, either side could cancel the contract for any reason at short notice. UKPC were authorised to issue court proceedings on behalf of MKUH, who could hold them liable for any fraudulent behaviour. UKPC would earn their income from parking tickets alone, and pay 10% of their operating profits to the Hospital each quarter.

The contract specified precisely which parking restrictions UKPC were authorised to enforce. Most importantly for staff members, the contract did not restrict permit holders from using public car parks, and did not require them to display their permit.

MKUH provide only total parking income and expenditure figures deep within their annual reports. They have repeatedly denied knowing how much their parking contractor earns, and have repeatedly denied receiving payments from them - which could be false, because MKUH were always due their 10% cut throughout the contract period.

Because the only source of income for UKPC was parking tickets, it was in their financial interests to issue as many as possible. However, once this arrangement was specifically prohibited by the NHS parking principles, MKUH continued the contract regardless.

In 2019, MKUH appointed Saba to run their car parks. Mr Leaper has left the Hospital, and I have not parked there since Saba ignored my requests for legible terms of parking. The Hospital have refused to disclose this new contract, although Saba would be required to do so by the courts, if challenged to prove their authority to issue parking tickets.

MKUH parking complaints.

MKUH direct complaints to their CEO. The Hospital do not openly publish data regarding parking complaints, despite the NHS parking principles. However, they are legally obliged to supply annual complaint reports, and the six we received revealed what follows.

"Security & car parking" complaints at MKUH rose significantly after UKPC were appointed in 2013, to become 6th most common complaint area in 2015 and 2016. Such complaints only fell from the top ten following the end of UKPC's parking contract in 2019.

This is consistent with a FoI response, from 2018, in which MKUH stated that they had received 97 parking complaints over the past four years, and that UKPC had issued, in round numbers, 17,000 parking charges, of which 2,000 were informally withdrawn.

I would later state in my court evidence that, based on further public figures, only 57% of the parking tickets issued by UKPC were upheld when challenged outside of court. UKPC did not contest my statement.

MKUH must also have known that UKPC were twice suspended by the DVLA during their contract period. They were even filmed misleading motorists within the Hospital's own car park before their second suspension.

However, from 2019, MKUH began denying that they held any information regarding parking complaints. This followed belated media interest in a staff member who received tickets in 2017-18, to which the Hospital responded that they could assist no further, as in law, this dispute was now solely between the staff member and UKPC.

That was false, because UKPC could not bring any legal proceedings without the explicit authority of the Hospital. Regardless, they were not contractually authorised to issue any of those staff parking tickets in the first place. We hope to hear from the person affected, even if they lost, because the courts take unauthorised legal claims very seriously indeed.

Of course, MKUH could have taken that staff member to court themselves, though would have struggled to argue against staff being lawfully entitled to use their public car parks. Because the staff car parks remain restricted to validated card-holders, and because staff were frequently ticketed on the evidence of their registration plate alone, we would argue that, in law, the extra requirement to display parking permits served no legitimate interest.

Mr Leaper is ticketed.

On a dark Sunday morning in November 2017, Mr Leaper entered the Cardiology car park at MKUH - his access card having been accepted at the entrance. On returning to the car following his voluntary work, he met a parking attendant who had just ticketed him for breaching parking conditions by being, as stated on the ticket, a *“Staff member parked in no staff parking area.”*

Mr Leaper claims that he did not see the unlit terms and conditions sign, which remained illegible in the attendant's own photographic evidence, and that he was only using that car park for the first time because walking further had become too painful.

In either case, he was a volunteer, so was fully entitled to park there by the Hospital's own policy. However, being unaware of this at the time, Mr Leaper explained his circumstances to the attendant, who having agreed that they would now email their employer in support of his mitigating circumstances, signed the ticket.

Mr Leaper then wrote to UKPC, explaining the big entrance sign inviting him to park, the difficulty of noticing the smaller sign inside, and the supporting email from their attendant. He asked that the charge be cancelled, and their reply be copied to the CEO of MKUH.

Although, as UKPC should have known, Mr Leaper had not breached the landowner's parking policy, they insisted that their charge was valid, and that their signage was perfect. They gave him three options: pay now, appeal to POPLA, or, in bold capitals, ignore their letter and risk legal action, with a hyperlink to examples of their previous legal claims.

Mr Leaper replied to request confirmation that their response had been copied to the CEO. He explained that he could not see their electronic evidence, having no internet access, so requested copies of their attendant's photographs and emails as a matter of urgency.

Mr Leaper and POPLA.

Mr Leaper, having received no reply, wrote to POPLA. In response, UKPC immediately increased their parking charge by £30, which as they would later explain to MKUH, was to cover the fee that POPLA would charge them to hear Mr Leaper's case.

We later told POPLA and the BPA that this went against government guidance that their service was *“provided free to motorists”* and *“entirely sector funded”*. Neither responded.

The next issue was that, as POPLA say themselves, it is not their job to gather evidence, nor can they compel a parking operator to disclose evidence. Therefore they had never read the MKUH parking policy, which made it plain that this ticket was completely unjustified.

POPLA compounded their error by accepting the operator's evidence at face value. UKPC sent a witness statement, signed in March 2017, by the Security & Car Parks Manager at MKUH. They had written that the terms and conditions under which UKPC were authorised to issue parking charges were as set out on the signage.

This statement was false. UKPC were only authorised to pursue those contraventions that were specifically listed in their contract, which was never modified to correspond with what they had chosen to write on their signs. However, POPLA decided to uphold the ticket.

In court, the parking attendant would have been at the centre of the dispute. However, POPLA did not question the alleged omission of his email, and were equally untroubled that UKPC had send photos of completely irrelevant car parks - dated 2008 - while failing to provide a legible photo of the sign within the car park in question.

Mr Leaper, a former criminal investigator, was deeply hurt by the inference that he was dishonest, and that his then seventeen years of voluntary service at MKUH counted for nothing. He paid, for the sake of his family, who were concerned at the ongoing impact to his mental health.

Mr Walford is ticketed.

My story was made public at Milton Keynes County Court, where UKPC did not refute my version of events. This is the abridged version.

On the 18th of March 2018, a snowy Sunday morning, I entered the Cardiology car park at MKUH - the same car park where Mr Leaper had received his ticket. My access card was accepted at the main entrance, though being a regular user, I knew that this car park contained an inner staff area behind a second access barrier.

At the second barrier, I discovered a dumped, unlabelled obstruction. There were no signs elsewhere to explain why, and I discovered that the pay-on-exit dispenser was broken. My voluntary shift was imminent, so because my access card had been accepted, I assumed that I was invited by the Hospital to use the outer area on this particular occasion.

I returned to find a ticket on my car, as did many other staff and volunteers that day. The online evidence from UKPC comprised some close-up photos of my car, plus one illegible photo of the same sign as in Mr Leaper's case.

I filed my dispute online, including my own photos and video. I noted that this submission system appeared to be flawed, as the judgement would confirm. When forced to resubmit by post, I informed UKPC that my rate for work caused by their errors was £20 per hour.

I summarised my case as follows: that UKPC had accepted my entering the car park; that they had not made it clear that I was not allowed to park there; and that they had refused my attempt to pay the visitor rate. I noted that others had been unfairly ticketed too.

According to the parking policy, I was lawfully entitled to park there, and according to the Court, so were staff members. However, UKPC insisted that their signs were perfect, and that their online system was perfect. They said that I had failed to notify the parking office, despite this being 500m away, not permanently staffed, and not mentioned on any sign.

Their letters all included the same, bold-capitals warning that Mr Leaper had received.

I wrote to POPLA, restating my case in further detail, and setting out where I consider that UKPC had acted in breach of the BPA Code of Practice. I shared my story with Mr Leaper, who, noting the similarities, filed subject access requests to gather his old case records.

POPLA are sent misleading documents.

In their attempt to refute my case, UKPC sent POPLA what the judge would later describe as *“inaccurate and misleading documents”*. Having checked Mr Leaper's records, it was not the first time that they had sent false tickets, letters, and sign reproductions.

The false tickets comprised some text fields on a background template, neither of which matched the originals. The true tickets stated that UKPC *“may”* request keeper details from the DVLA, while the false tickets stated *“will”* - this phrasing being misleading, if present on any tickets issued during UKPC's first or second suspension from accessing those details.

The false letters most importantly omitted the bold capitals paragraph threatening legal action. This paragraph linked to examples of previous cases, which the ICO had already forbidden them from publishing in that manner.

The false signs claimed to be reproductions of their illegible photos. The real signs set a £60 debt recovery charge, while the false signs warned of unspecified legal and debt enforcement costs - that would affect how much UKPC could later claim in court.

All false tickets and letters featured an old office address, which, as noted on a returned letter, was *“demolished four years ago”.* However, neither POPLA nor the BPA replied to our concerns that UKPC could have been falsifying their evidence since 2013.

UKPC sent the same false witness statement as used against Mr Leaper, now one year old, which did not even confirm that the contract was still in force. UKPC also sent the same irrelevant photos as before, including the same false timestamps.

POPLA, however, merely cancelled the ticket on the basis of insufficient evidence. They did not refer my allegations to the BPA, nor did they respond to our subsequent complaint, and they would not confirm how many other cases they had considered at MKUH.

Mr Leaper requested that POPLA review his case, enclosing my witness statement which specified where, and why, the evidence from UKPC was false, misleading, and irrelevant. POPLA replied that all that mattered was that, in their eyes, the illegible photo of the only relevant sign was perfectly clear, and thus their decision remained to uphold the ticket.

The BPA are alerted.

I first put my concerns to the BPA in June 2018, and two months later, had provided them with the case records to prove that Mr Leaper had been similarly affected. I explained that POPLA appeared to have no procedures in place for referring any concerns to the BPA.

The BPA replied that their investigation would be private, and that they were not qualified to consider if UKPC had broken any aspect of the law. When pressed, they claimed that their investigation had concluded in August 2018, but would not reveal the outcome.

In November 2018, following discussions with the ICO, I presented the BPA evidence that UKPC may have deleted our case records early, in contravention of the Code of Practice.

The BPA responded that this was fine in law, that their code was not legally binding, and that there was no need to confirm if UKPC had been honest with the ICO (they hadn't.) The BPA clarified that, where the law conflicted with their code, *“the law will prevail”*.

The DVLA are alerted.

I wrote to the DVLA in tandem with the BPA, sending the same case records, plus some further evidence. The DVLA suggested that we leave the investigative work to the BPA.

I replied that the BPA had stated that they were not qualified to investigate potential fraud, and that their investigation would remain confidential, so this was a matter for the DVLA.

The DVLA replied that they did not regulate private parking companies. Their role was to accredit trade associations, such as the BPA, who would then ensure that their members operated within their code of practice. They concluded that standard DVLA procedure was to refer all complaints about private parking companies to the relevant trade association.

The DVLA also replied that, in our case, their legal department had advised that we should send them our documents. We did, in November 2018, but never heard from them again.

The Hospital are alerted.

We first wrote to MKUH in June 2018, addressing our letter to their CEO. We explained how UKPC were dishonest, by persistently falsifying evidence, and proposed a meeting between us, UKPC's Appeals Manager, and the Hospital's CEO.

This letter went missing, but by the end of July, the Hospital had our full story, our parking case reference numbers, and our authorisation to obtain copies of the associated records.

The investigation was assigned to the Hospital's Head of Security and Car Parking (HoP), who we were assured, would be in touch with us in due course. They belatedly proposed meeting us towards the end of September, stating that UKPC had refused to disclose our records on data protection grounds - which, as we explained, were completely unfounded.

Our minutes of that meeting remain undisputed. We presented our evidence, highlighting exactly where UKPC had sent false, misleading, and irrelevant information to POPLA. However, the HoP did not accept that our parking records were true copies, so we agreed that they would source the same from UKPC, in order to verify the truth of our allegations.

The HoP stated that there had been absolutely no other parking complaints at MKUH since March 2013, that they were aware of.

The HoP was the person named as responsible for the Hospital's parking policy. However, they did not disclose that this policy made it clear that our tickets were totally unjustified.

We trusted that the HoP would now gather and review all of the evidence for themselves. However, they ignored our requests for a progress update. In December, we suggested to the CEO that we might now contact the Parliamentary and Health Service Ombudsman.

The CEO passed our case to the Deputy HoP who, in January 2019, concluded that UKPC still refused to provide our records, but this was not really a matter for the Hospital anyway.

We wrote to the PHSO in March 2019, carefully detailing our case. Two months later, they replied that MKUH had never officially filed our complaint, so we would have to make another one. We filed our revised complaint in June 2019, then four months later, received another belated dismissal, even though our allegations had now been vindicated in court.

Mr Walford takes UKPC to court.

In July 2018, I sent UKPC an itemised invoice for my loss of earnings incurred while refuting their unjustified ticket. They did not respond within 28 days, so I sent them a letter before court action, which as explained here, is required by the civil procedure rules.

Those rules do allow documents to be sent electronically, but only when certain conditions are satisfied. To be safe, I posted all my documents first class, obtaining proof of postage, and no later than two business days before any deadline for their arrival.

My letter before action set out the amount that I believed was due. I listed the grounds on which I believed I was justified to claim that amount, and outlined the supporting evidence that I intended to rely on in court, if necessary.

I invited UKPC to accept or reject each point in my letter, in order that we might narrow down the scope of our dispute, and said that I was willing to participate in an approved dispute resolution service. I concluded by requesting their response within 14 days, or failing that, I would commence civil proceedings without further notice.

UKPC rejected my claim in full, implying that POPLA had made the wrong decision, and stating that the BPA investigation of my complaint had found no breach of their code.

I wrote back, to request an example of a similar parking case where POPLA had decided in their favour, and a copy of the BPA investigation report. However, I received no further reply within 14 days, so proceeded to file my civil claim for money electronically.

The fees for such claims begin at £25. If you win, then the defendant must pay you back.

UKPC were automatically notified that they had 14 working days to respond to my claim, and that if they did not, then I could apply for a default court judgement in my favour.

They denied my claim in full, stating that both ParkingEye Limited v Beavis and Trading Standards had endorsed their charges as proportionate and commercially justifiable.

The Courts now instructed both parties to complete the Directions questionnaire, stating our preferred hearing venue and any prior commitments. UKPC didn't respond, until the Courts warned them that this would resulted in their defence being struck out.

We both agreed to engage with the Court's dispute resolution service. However, UKPC ignored the appointment that was offered, and faced absolutely no sanction for doing so, so this service did nothing but stall the court hearing by two months.

In March 2019, Milton Keynes County Court wrote that my hearing was schedule for the 29th of May, and that it was expected to last 90 minutes. I paid the hearing fee, which the defendant would be liable to pay back if they lost.

Milton Keynes County Court then instructed both parties to file their evidence, including a witness statement, and exchange copies of the same. This was required no later than two weeks before the hearing, so that there would be no surprises or ambushes on the day.

I only discovered MKUH's parking policy a few days before the filing deadline. My claim would have been much simpler if the Hospital had published this openly, as they should.

UKPC deny their contract with the consumer.

In their witness statement, the Litigation Manager for UKPC wrote that there was no contract between them and myself, so I was not entitled to claim for breach of contract.

Curiously, they did not explain why, if there was no contract between us, they had issued that parking ticket for *“breach of the terms and conditions”* in the first place.

Their case comprised: false copies of the ticket and sign; four pages from the judgement *ParkingEye Limited v Beavis*; and the 2017 statement from MKUH's Head of Parking.

There was no evidence that the BPA had, as UKPC claimed, conducted any investigation following my complaint. The judge largely dismissed the 2017 witness statement, because the witness themselves - the Head of Parking - did not attend the hearing for questioning.

ParkingEye Limited v Beavis.

The judge dismissed this case as irrelevant to my hearing. However, it is frequently cited by the parking industry, so we will provide a shorter explanation than the press summary, or indeed, the full judgement.

Mr Beavis accepted that he had overstayed in a private car park for one hour, in breach of the terms of parking. However, he argued that, because ParkingEye's charge of £85 was much greater than the actual damage caused to the landowner, the charge was in fact a penalty - which, unlike claims for actual damages, are prohibited in law.

In November 2015, The Supreme Court ruled - with one judge dissenting - that the charge was indeed more than the actual damages, but not to the extent that it was a penalty. This ruling established that parties to a contract may, to a reasonable degree, charge more than their actual losses resulting from a breach, if doing so protects their legitimate interests.

UKPC appoint legal representation.

I represented myself at the hearing. However, I was very fortunate to share the legal experience of both Mr Leaper and a former magistrate friend in preparing my case.

We correctly guessed that UKPC would appoint their parking specialists at SCS Law to represent them in court. Their legal fees could not be reclaimed, even if I lost.

If I had I lost, then I would have lost my court fees, and have been liable to pay for any travel expenses and loss of earnings incurred by the defendant in attending the hearing. However, they did not attend in person, so there may have been no such losses.

Please be aware that, in exceptional circumstances, judges have the discretion to award lesser or greater costs. If you behave with honesty and integrity, from the moment your parking contract begins, then that discretion is more likely to be exercised in your favour.

The court hearing.

I arrived at the County Court in good time for the hearing. I was accompanied by my two witnesses, one being Mr Leaper, and could have also brought a friend to support me.

Having passed though security, we informed the court clerk that we had arrived, then made ourselves comfortable in the waiting room. We soon met Mr Travedi, UKPC's legal representative, though we only spoke briefly, as his client was not prepared to negotiate.

The hearing room was a small office. The judge, seated at the front, invited Mr Travedi to address him first. This took about two hours, during which my two witnesses only briefly addressed the judge, as Mr Travedi did not question the contents of their statements.

Mr Travedi first argued that UKPC was not a trader. The judge considered otherwise. Mr Travedi next argued that the parking contract did not explicitly state that I was entitled to claim damages against UKPC, so allowing my claim would set a *“dangerous precedent”*.

Mr Travedi argued that, now POPLA had cancelled the ticket, it was no longer relevant if UKPC had falsified evidence or not. He argued that motorists were expected to challenge parking tickets in their own time, without compensation, regardless of the outcome.

The judge refuted many of those arguments, while I took notes for myself. When I was invited to speak, I refuted the remaining arguments, and presented the actual parking ticket to satisfy the judge that UKPC had, once again, submitted false evidence.

The hearing had begun four hours later than scheduled, and the court was now due to close for the day. The judge concluded that, having read and heard the evidence, from both sides, he would deliver his judgement on a later occasion.

After a last-minute rescheduling, the judgement was delivered in court, three months later, in August 2019.

The court judgement.

During the judgement hearing, I was awarded damages, plus court costs, plus travel expenses and my loss of earnings while in court. Mr Travedi was refused permission to appeal, and failed to convince the judge that this award of damages and costs was excessive.

The judge was clear that UKPC were liable for wasting my time. He was also impartial, awarding my damages at a nominal £10 per hour, because my court submission included no evidence of how much I normally earned.

We recommend reading the full judgement, which provides the full context of the case, including the arguments from both sides. However, we have quoted the key numbered paragraphs from the judgement below.

The judge said that, regarding my reply to POPLA, UKPC did indeed send false evidence:

> ***39.*** *I do not intend going through each point made by Mr Walford, which are set out in 45 pages. What is clear, however, is that some of the documentation submitted to POPLA by the defendant were not true copies of documents or letters. Mr Walford, in his response to POPLA, refers to "false, misleading and irrelevant information".*

The judge said that, regarding UKPC concealing their legal threats from POPLA:

> ***46.*** *In the absence of any explanation, I can only find that this was deliberately done by the defendant. This may, perhaps, have been an attempt to present to POPLA that the defendant had at all times sought to act as a responsible operator. Deliberate exclusion of such wording does not, however, sit well with such a position. It suggests to me that when dealing with an authority - here, POPLA, the face the defendant presents is misleadingly different from the face it presents to the driver or registered keeper of a vehicle.*

The judge said that UKPC had made a false, unsupported statement to POPLA:

> ***51.*** *As part of its submission to POPLA, the defendant states that "obtaining a visitors' parking ticket for the site would not have authorised Mr Walford to park in the car park whilst displaying a valid staff parking permit in the vehicle."*
>
> ***52.*** *The defendant goes on to say that "should Mr Walford wish to visit the site in a private capacity, the staff permit should be removed from the windscreen." That is a wholly inaccurate statement by the defendant to POPLA, without any legal basis. It is, perhaps, indicative, however, of the defendant's general approach.*
>
> ***53.*** *None of the signage on which the defendant sought to rely supports the defendant's assertion.*

The judge said that staff members were lawfully entitled to park in public areas, if they purchased a ticket, and recommended that MKUH ensure that UKPC were complying with the terms of their contract:

> ***54.*** *If a staff member parks in an area not designated for use by staff, but then purchases a ticket, that staff member is lawfully entitled to park in that area. Indeed, that is clear from paragraph 5.6 of the hospital's own parking policy, to which I have already referred.*
>
> ***55.*** *If the representation made to POPLA on this aspect is the guidance that the defendant provides to its staff who issue parking charge notices at the hospital, then the defendant needs to revise its guidance to staff. I suspect that the hospital may themselves also want to ensure that the defendant complies with its contractual obligations as between the two parties.*

The judge said that parking contracts worked both ways, with consumers being equally entitled to seek damages when parking companies were negligent and dishonest:

> ***64.*** *I find that the defendant cannot seek to have the benefit of the contract that, it says, justifies the issuing of the PCN without having the burden that consequently flows, if it transpires that there was no justification for issuing the parking charge notice in the first instance.*
>
> ***65.*** *This does not mean that in every case where a parking charge notice is issued and, then, either withdrawn or the operator fails to satisfy POPLA that a parking charge notice was issued incorrectly, that the other party is entitled to seek damages.*
>
> ***66.*** *I do, however, find that there is an implied term in the parking contract that - in dealing with POPLA - that the defendant is to act bona fide and in good faith. Indeed, section 62, subsection 4 of the Consumer Rights Act says: "A term is unfair if, contrary to the requirement of good faith, it causes a significant imbalance in the parties' rights and obligations under the contract to the detriment of the consumer." It is evident from the issues that I've highlighted that documents submitted to POPLA were inaccurate, misleading and with copy correspondence omitting the warning at the end of the letter sent to Mr Walford, and the reliance on photographs where the date stamp was evidently inaccurate by many, many years.*
>
> ***67.*** *Furthermore, it is clear that the defendant does not understand its own legal position when asserting to POPLA that Mr Walford was not allowed to park in a non-staff parking area even if he had purchased a valid ticket.*
>
> ***68.*** *Drivers and/or registered keepers of vehicles issued with parking charge notices are entitled to expect that an operator firstly understands its own contract which it seeks to enforce, and secondly that in dealings with them, and in dealings with POPLA, that they will act in good faith.*

The judge did not accept that consumers should always challenge parking tickets at their own expense:

> ***69.*** *The defendant's position is that it provides an appeal process; first internally, and, then, to POPLA, such that the driver/registered keeper has no need to incur any costs.*
>
> ***70.*** *That argument, if it was to be accepted, of course, provides a win-win situation for those who issue parking charge notices without any justification.*

The judge confirmed that UKPC were liable for damages in this case:

> ***73.*** *I find that the defendant should have contemplated, that, in producing to POPLA inaccurate and misleading documents, and asserting as part of its case something that was patently wrong in law, that it was reasonably foreseeable that a person faced with such a situation would go to the lengths that Mr Walford did, in identifying the inaccuracies, et cetera, which resulted in POPLA concluding that the parking charge notice was issued incorrectly.*
>
> ***74.*** *At paragraph 7 of the witness statement of Mr Yaqub on behalf of the defendant, Mr Yaqub says: "The claim to the alleged monies owed is a way for the claimant to exploit a situation where they were required to adequately represent themselves against a parking charge notice. The defendant contends this is frivolous and exploitive."*
>
> ***75.*** *The defendants only have themselves to blame for the representations they made to POPLA. They cannot seek to lay blame at Mr Walford's door for dealing with their own shortcomings.*

The judge explained why, in this case, £400 in damages, plus costs, was appropriate:

> ***76.*** *Whilst the type of loss claimed was reasonably foreseeable, the burden nevertheless is still on Mr Walford to prove his claim for damages.*
>
> *...*
>
> ***84.*** *Whilst I therefore have no evidence to support Mr Walford's claim for loss of earnings, an award of general - of nominal damage is, however, appropriate, which I assess at £400. As Mr Walford has succeeded with his claim, the usual order is for the defendant to pay the claimant's costs.*

Credit records and lost recordings.

The judge ordered UKPC to pay within 14 days. However, having received nothing by the deadline, I instructed one of the many available private, certified High Court Enforcement Officers (HCEO) to enforce the court order.

The payment arrived three days late. I spoke to the HCEO myself, rather than let UKPC sort out their own mess, which was a mistake. Regardless, I had sought enforcement of the court order, but Milton Keynes County Court have yet to explain why they did not file an unpaid County Court Judgement note on UKPC's credit record.

While I sympathise with the civil court system being underfunded, Milton Keynes County Court also ignored my request to explain how they would now ensure that no other judgement risked being erased from the public record by their technical failures.

With very few exceptions, civil court hearings are public. The court records all of their own hearings, and making your own recording without permission is contempt of court. Should you later wish to obtain a copy of what was said, including the judgement, then you must pay for a transcript - which cost me about £200, for the second hearing session alone.

Milton Keynes County Court sent the wrong recording to the transcribers, twice. They next claimed that it was permanently lost due to a technical failure, which had now been fixed. When pressed further, it turned out that they had been looking in the wrong hearing room.

So, their technician had been misdirected, and found - by chance - that another recorder was broken. I remained sympathetic, because things usually stay broken when money is short, though pointed out the dire implications for open justice.

My complaint letter remains ignored, and the response to my complaint about this being ignored is still pending. It has been one year since the problem was first identified, and there is still no evidence that vital recording equipment is being properly maintained.

If your civil hearing matters, in any court, then ask for confirmation that their recording equipment works. If in doubt, ask for permission to record the hearing yourself.

Mr Leaper gets his money back.

In light of discovering MKUH's parking policy, which confirmed that his parking ticket had been completely unjustified, Mr Leaper wrote his own letter before action to UKPC. They replied that he had accepted liability by paying, so they would defend his claim.

Mr Leaper filed his claim for the amount on the parking ticket, plus nominal damages. UKPC responded with an offer to settle out of court, which after further negotiations, amounted to the ticket value, plus lesser damages, plus a written letter of apology.

Most importantly for Mr Leaper, a further condition was that UKPC would send a copy of their written apology directly to the Hospital's CEO.

Milton Keynes Hospital ignore the evidence.

In August 2019, MKUH were informed of the court judgement vindicating my allegations against their parking contractor. In January 2020, UKPC claimed to have sent the Hospital a copy of their apology to Mr Leaper, also vindicating his allegations.

However, MKUH ignored all this evidence. When we finally obtained the records of their complaint investigation, following a subject access request, it turned out that, in the course of over one year and over 300 pages, they had considered no evidence at all.

In March 2019, the Head of Security and Car Parking informed us that they had obtained our parking records from UKPC, having refused to accept our own copies. However, six months later, in the final complaint report, they denied holding our records at all.

We later discovered, through the diligence of the Information Governance department in pursuing our subject access request, that the HoP did indeed have our parking records in good time for their final complaint report - but had chosen to completely ignore them.

In the absence of verifiable evidence, the HoP's conclusion contained nothing more than assertions that all was well. They claimed that, in any case, they were not responsible for the actions of their parking contractor, completely disregarding the NHS parking principles.

Despite the involvement of MKUH's Police Officer, their Counter Fraud Specialist, their Head of Procurement, and their CEO, nobody questioned the conclusions, nor why the HoP had been allowed to investigate our complaints about their own conduct.

The Parliamentary and Health Service Ombudsman.

Having received MKUH's second response to our complaint in October 2019, we spent the next four months preparing our review request for the PHSO. For procedural reasons, we were not allowed to file a joint review request, but I was assured that Mr Leaper's evidence would be taken into account.

We provided the full timeline of events. We explained the Hospital's complaint procedure, and how we had followed that correctly from our very first letter. We deconstructed their paperwork to demonstrate how the investigation had been a sham, then used the court judgement transcript to demonstrate how the actual evidence supported our complaint.

In July 2020, the PHSO decided to not take my case forward for investigation.

Having confirmed that MKUH had provided no fresh evidence, the next step was to request that the PHSO caseworker review their decision. Only then was I permitted to request that their manager review the decision independently.

That was four months ago, and we are still awaiting their final response. If their decision stands, then I may only challenge it by a judicial review, which can be hugely expensive.

It appears that the PHSO, who also regulate the DVLA and courts, will not accept a civil judgement as cause for action. However, those with enough resources to bring their own criminal prosecutions do not need the PHSO, so they serve no apparent purpose.

The BPA is not a regulator.

In March 2020, we sent my court judgement, and the witness statements from both sides, to the DVLA's legal department. We asked if they now considered it appropriate to continue to allow UKPC to access their database of keeper details. We received no response.

The DVLA had stated that their role was merely to approve trade associations, relying on them in turn to regulate their members. The BPA were the only approved association until 2014, and remain the largest, so they are in effect the gatekeepers of “reasonable cause”.

In March 2020, we sent the same court documents to the BPA. They replied that they would be in touch with UKPC's comments, within 14 days. We warned that UKPC had already been caught making misleading comments to POPLA and the courts.

We next heard from the BPA in November 2020. Their Senior Compliance Investigations Officer replied that they had not identified a breach of their code, so the case was closed.

They stated that they were *“not legally trained”*, and that *“nor are we a regulatory body”*. That was clear from how they gave full credibility to UKPC, and none to the judgement.

They twisted logic until it broke in concluding that, even though I had won what UKPC themselves called an *“action for harassment”*, that did not technically breach their code. The BPA earlier wrote that *“the law will prevail”*, but apparently, only when it suited them.

The way forward.

So, for eight years, the DVLA has relied on a trade association with no legal knowledge, and one which isn't a regulator, in automatically assuming that every single one of their members has “reasonable cause” in law to obtain personal data - no questions asked.

We have written to the DVLA, explaining why they should halt this immediately. We will certainly be forwarding their response to the ICO, but we suspect that won't be enough.

If you have ever received a Notice to Keeper for a parking ticket, then please help us by asking the DVLA how they established “reasonable cause” to release your personal data. If you are not satisfied with their response, then please complain to the ICO.

If you are, or were, a volunteer or member of staff at Milton Keynes University Hospital, and if you received a parking ticket for using their public car parks within the past six years - which you would now like to challenge as a matter of principle - then please get in touch.

There is currently a legal framework for new parking legislation, which is due to be created and enforced early in 2021. Here's what we suggest that the new law should say:

> All private landowners, and their legally-appointed agents, would be entitled to issue parking tickets. The motorist would not need to respond, because the issuer would be required to send a copy of their ticket, and supporting evidence, to a new parking court.
>
> This civil court would be staffed by those qualified in consumer and parking law. It would also periodically inspect all private car parks to ensure compliance with those laws.
>
> The ticket issuer would be charged £50 for each application to this parking court, per the current court fees for parking tickets up to £300. The ticket issuer would be required to include this charge in the value of their ticket.
>
> If the ticker issuer should fail to satisfy the parking court that their charge is valid, then the court would automatically award damages to the registered keeper. Based on *ParkingEye Limited v Beavis*, we suggest that five times the ticket value would protect the consumer's legitimate interest of avoiding unfair parking tickets.
>
> If the parking court should be initially satisfied that the charge is valid, then they would write to the registered keeper, inviting them to contest the charge, or pay.
>
> If the charge should be successfully contested, then the registered keeper receives damages. Failing that, the keeper may still argue their case in the civil courts, but the ticket issuer may present the findings of the parking court in support of their claim.

After eight years of an unregulated parking industry, we feel that routing all tickets through one public parking court is the only sensible way forward. It would cost no more than the civil courts, while protecting the lawful interest of both consumers and private landowners.

Email: comments at arbitraryfiles.com

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