

From: [REDACTED]
Sent: 08 December 2015 09:48
To: Robert Toft; [REDACTED]
Cc: [REDACTED]
Subject: FW: Railway Byelaws & parking

All

[REDACTED]

An update on this issue.

DfT asked for a conference call last Friday to discuss the railway byelaws, following South Eastern Railways wanting to operate a civil contract parking regime on rail land for which there were specific byelaws in place that controlled parking. [REDACTED] and I attended the conference call. For DfT there was [REDACTED] The main points were:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- In relation to parking charges where there was no keeper liability, DfT asked if we had any examples of 'good practice' parking charge notices that would be sent to keepers in cases where there was no keeper liability. [REDACTED] – do you hold any examples of such letters on DSAT?

- i asked whether there had been any representations made by the train operators to amend the byelaws or repeal the parking provisions, but DfT advised that none had been received.

I'll let you know if there are any further developments.

[REDACTED]
Data Sharing and Protection Policy
Strategy, Policy & Communications Directorate | D16 | DVLA | Swansea | SAB 7JL
[REDACTED]

 Driver & Vehicle Licensing Agency

Find out about DVLA's online services at:
www.gov.uk/browse/driving

From: [REDACTED]
Sent: 03 December 2015 16:12
To: [REDACTED]
Subject: RE: Railway Byelaw Signs

[REDACTED]
Just to confirm the conference call will take place tomorrow at 10am.

We will call you from a speaker phone in a meeting room on your number [REDACTED]
[REDACTED]

Regards
[REDACTED]

4/14 GMH | [REDACTED]

Department for Transport

From: [REDACTED]
Sent: 01 December 2015 11:01
To: [REDACTED]
Cc: [REDACTED]

[REDACTED]
[REDACTED]
Subject: RE: Railway Byelaw Signs Robert Toft <Robert.Toft@Dvla.Gsi.Gov.Uk>

[REDACTED]
Can you block out 10-11 on Friday. We will set about organising the conference call for then. Will be in touch with details.

Thanks

[REDACTED]
4/14 GMH | [REDACTED], Department for Transport

From: [REDACTED]
Sent: 30 November 2015 09:36
To: [REDACTED]
Cc: [REDACTED]
[REDACTED]
[REDACTED]; Robert Toft <Robert.Toft@Dvla.Gsi.Gov.Uk>
Subject: RE: Railway Byelaw Signs

[REDACTED]
Thanks for the update. Apologies for missing your call on Friday as I had a meeting that overran.

DVLA replied to [REDACTED] last week in relation to the disclosure of DVLA data, and we stated that the matter of byelaws covering railway car parks was being looked into further.

I have good availability on Thursday all day but I am only available 10-11am on Friday.

From DVLA's perspective, as we need to assess 'reasonable cause' for the disclosure of DVLA vehicle keeper data we are keen for clarity asap on the question I mentioned previously i.e.

- i. whether the Rail Byelaws in relation to parking represent a statutory scheme that must be followed if enforcement takes place, or
- ii. whether the Byelaws are merely permissive, and it is open to the train operator to chose another method of enforcement (i.e. contract parking under civil law)

I'll keep all Thursday free if you want to book the conference call for then.

[REDACTED]
Data Sharing and Protection Policy
Strategy, Policy & Communications Directorate | D16 | DVLA | Swansea | SA6 7JL
[REDACTED]

 Driver & Vehicle Licensing Agency

Find out about DVLA's online services at:
www.gov.uk/browse/driving

From: [REDACTED]
Sent: 27 November 2015 18:28
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: Railway Byelaw Signs

[REDACTED]

I called your number earlier and left a message with your colleague. Earlier this afternoon, I met with my relevant DfT colleagues, including legal, and we agreed that the next step should be to speak with the DVLA about this matter.

I note that there is an outstanding chapter case [REDACTED] which is currently allocated to the DVLA Correspondence Team regarding the release of DVLA data (correspondent - [REDACTED], deadline - 14 Dec). This has implications for both our organisations so it is imperative that we speak before a response is issued.

Can I suggest a conference call next week. Thursday afternoon and Friday morning look reasonable for us at this end at the moment, although diaries are filling up fast.

Regards

[REDACTED]

[REDACTED]

4/14 GMH | [REDACTED]

Department for Transport

From: [REDACTED]
Sent: 18 November 2015 15:24
To: [REDACTED]
Cc: [REDACTED]

Subject: RE: Railway Byelaw Signs

Thanks [REDACTED]

Southeastern might have had discussions with the parking operator and BPA about a return to the previous enforcement model but DVLA wouldn't have intervened in that particular discussion or provided any recommendations.

However, at DVLA we have been dealing with the question of disclosure of vehicle data under the Road Vehicles (Registration & Licensing) Regulations. In cases where the Byelaws are being enforced in relation to parking on railway land the answer is a clear yes, vehicle data can be disclosed for such enforcement.

The answer does not seem to be so clear cut where an operator wants to request data for contract enforcement on land where Byelaws cover parking. As DVLA were unsure as to whether the Byelaws in relation to parking enforcement could simply be set aside in favour of civil contract enforcement, we were unable to agree to the disclosure of vehicle data at that time and informed the BPA that we needed sight of an explanation/advice that it was lawful for a contract model to be used on railway land. This remains the position.

[REDACTED]

i. whether the Byelaws in relation to parking represent a statutory scheme that must be followed if enforcement takes place, or

ii. whether the Byelaws are merely permissive, and it is open to the train operator to choose another method of enforcement

When it is established that an enforcement scheme is lawful, the question of disclosure of DVLA vehicle keeper data is a straightforward one.

The matter of keeper liability under Schedule 4 the Protection of Freedoms Act 2012 (PoFA) can be a complex area, particularly in relation to land subject to any sort of statutory control. The Parking & Blue Badge team in DfT was in the lead in introducing the keeper liability provisions in PoFA, though responsibility for PoFA Sch 4 has since transferred to DCLG. The definitions in the "Introductory" section of Schedule 4 excluded land on which "parking is subject to statutory control" from the keeper liability provisions. Page 10 of the DfT guidance provided a good plain English explanation: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/9155/guidance-unpaid-parking-charges.pdf

I imagine that land in which parking is subject to any sort of statutory control was excluded from PoFA as if keeper liability was required on such land then the relevant Statute, Byelaw or Order would provide for it, and legislation never replicates powers that already exist under other legislation.

The above pretty much exhausts my knowledge of the issues. When you and those copied in have had time to ponder the matter, perhaps we should consider how to move this forward either via a meeting, conference call or [REDACTED]

Regards,
[REDACTED]

[REDACTED]
Data Sharing and Protection Policy
Strategy, Policy & Communications Directorate | D16 | DVLA | Swansea | SA6 7JL
[REDACTED]

 Driver & Vehicle Licensing Agency

Find out about DVLA's online services at:
www.gov.uk/browse/driving

From: [REDACTED]
Sent: 18 November 2015 12:33
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: Railway Byelaw Signs

[REDACTED]

Thank you for coming back to me on this.

[REDACTED] has been corresponding with Southeastern, for at least six months, on the legality of how they operate their car parks and in particular the enforcement model they apply. [REDACTED]

[REDACTED]

[REDACTED]

I am very grateful to you for setting out so clearly your perspective on this issue and to move this forward I think it would be beneficial if we met (possibly with the BPA as well if appropriate) to reach a common understanding of this issue and the way forward.

We'd be happy to host you here or set up a conference call.

Kind regards

[REDACTED]

[REDACTED], Department for Transport

4/14 GMH | [REDACTED]

From: [REDACTED]
Sent: 18 November 2015 09:13
To: [REDACTED]
Cc: [REDACTED]

[REDACTED]
Subject: Railway Byelaw Signs

[REDACTED]
A colleague mentioned that you wanted some more information on [REDACTED] complaint about the parking Byelaws at South Eastern Railways car parks. I have attached her concerns.

Obviously, DVLA has no expertise on Railway Byelaws, but is asked to disclose vehicle keeper data where train operating companies (or their contractors for parking enforcement) are dealing with non-compliance in the car parks. DVLA can disclose vehicle data under Regulation 27 of the Road Vehicles (Registration & Licensing) Regulations 2002 for the investigation of alleged parking transgressions.

If you think there is a problem with South Eastern Railway's (or their contractor's) use of the Byelaws to enforce parking then it would be useful to know asap as it would clearly have a knock on effect on whether DVLA should disclose data for enforcement in their car parks.

DVLA had some contact with [REDACTED] (BPA) recently as the BPA had an operator who had been asked by a train operating company to manage a car park purely under private contract parking i.e. ignoring the Byelaws that were in place. [REDACTED]

[REDACTED] If/when we receive further input on that issue, the disclosure of vehicle data will be reconsidered, as so long as the enforcement regime is lawful then there would be reasonable cause to disclose vehicle data under Regulation 27 mentioned above.

Are you aware if DfT has provided any advice to train operating companies stating whether or not they can set aside the Byelaws in place and run their car parks under a purely private contract model?

Regards,
[REDACTED]

Data Sharing Policy
DVLA

