

Section 43 FOIA – Commercial Interests	
Section 43(2) - Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any persons (including the public authority holding it).	
<i>Factors for disclosure</i>	<i>Factors for with-holding</i>
<ul style="list-style-type: none"> • The FOI Act presupposes that disclosure of information generally is regarded to be in the public interest. • The sanction points system and how it is applied in respect of individual operators' cases has a bearing on whether requests for vehicle keeper data are granted. 	<ul style="list-style-type: none"> • DVLA is assured that the operators that remain in the Approved Operator Scheme are now compliant with the code of practice. • Disclosure of sanction points may give the impression of general non-compliant practice and damage the operators' prospects of success when bidding for future contracts. The effect would be particularly unfair if the proposed contract was not connected with parking management activities. • The sanction point system is a method of quantifying the seriousness of non-compliant activities over a specified period, to inform the actions of BPA, DVLA and the operator involved. Publicising the details of the operators involved (except where membership is terminated) would have the effect of allowing sanction points to be regarded as de facto rating criteria and is likely to be used by potential commercial customers to decide whether or not to contract with the companies concerned. This is not the purpose of the system.

Reasons why public interest favours withholding information

DVLA requires information about sanction points for the specific purpose of considering whether it is appropriate to release vehicle data to operators who have breached the AOS code of practice. Sanction points should not be regarded in any other context, but this could not be guaranteed if details were made public. There is a significant risk that the operators' commercial interests would be damaged as a result of disclosure. It is likely that operators would want the sanction points scheme to be abandoned in favour of one less likely to be misconstrued by the public or business. The current scheme is regarded as a valuable tool in monitoring and enforcing compliance with the AOS code of practice and assessing appropriateness of disclosure of data.