



Home Office

LICENSING OF VEHICLE IMMOBILISATION BUSINESSES

A Consultation Paper

30 April 2009

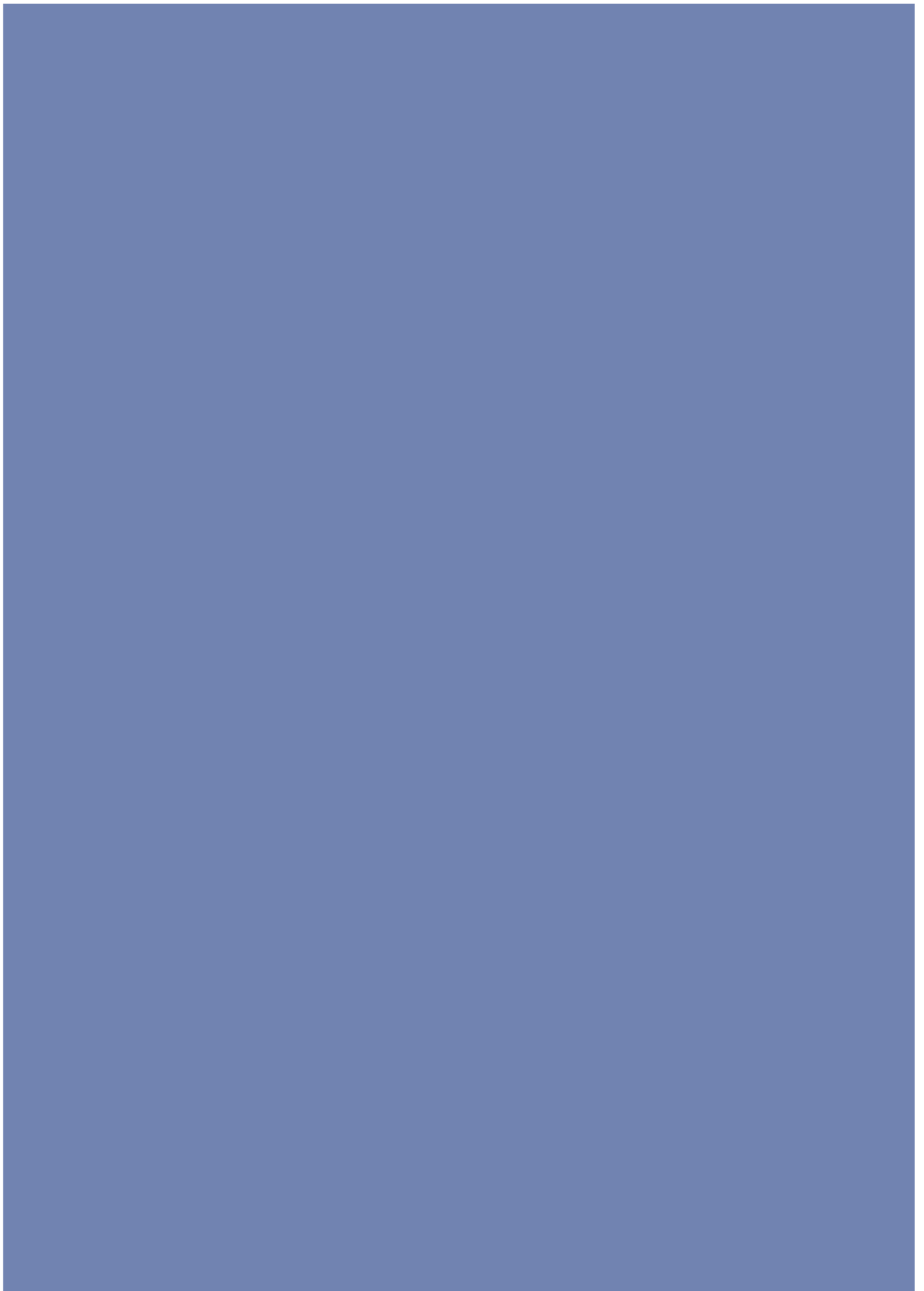
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MINISTERIAL FOREWORD



The private security industry in the United Kingdom is a major employer and makes a significant contribution to the economy. The vehicle immobilisation sector is a small but visible part of the wider private security industry which gives land owners the means to control parking on their land. This is entirely legitimate and we have no wish to prevent landowners from continuing to protect their property.

There has, however, been a high level of complaints and concerns about the practices of some in the vehicle immobilisation sector. We introduced requirements for individual vehicle immobilisers to hold a licence from the Security Industry Authority; they were intended to deal with inappropriate behaviour by these individuals. The requirements however were not designed to deal with business practices that are largely outside of the control of individual employees and they are not sufficient to ensure that these practices are conducted to minimum standards.

The licensing of individual vehicle immobilisers has gone a long way to reducing criminality and improving standards in the industry but it has become clear that the existing licensing scheme does not address all the concerns the public have. There are clearly a minority of businesses indulging in unacceptable behaviour including unclear signage and excessive fees.

The Government intends to act to prevent abuses by some vehicle immobilisation businesses and their employees. This consultation paper is a vital step towards this. It seeks views on a range of options for controls on vehicle immobilisation businesses.

We welcome your views and I would encourage you to respond to this consultation paper.

A handwritten signature in black ink that reads "Alan Campbell". The signature is written in a cursive, flowing style.

Alan Campbell MP

Parliamentary Under Secretary of State for Crime Reduction

INTRODUCTION

The purpose of this consultation paper is to seek views on the best way to regulate businesses in the vehicle immobilisation industry. It sets out how the existing controls work and the pattern of complaints. The main part of the paper discusses different options for regulation and seeks views on the best way forward.

This paper can be downloaded from <http://www.homeoffice.gov.uk/about-us/haveyoursay/current-consultations/>.

This consultation is being conducted in line with the Government's Code of Practice on Consultation, the criteria for which are set out in Annex B of the paper.

A partial Impact Assessment is included at Annex A.

The Government welcomes informed views from any quarter and therefore invites responses from all interested parties.

The consultation period will end on **23 July 2009**. We expect to publish a summary of responses before or alongside any further action, and this will be made available on the Home Office website.

SCOPE OF THE CONSULTATION

Topic of this consultation:	Introducing regulation of businesses involved in vehicle immobilisation.
Scope of this consultation:	To seek views on the merits and costs of the options identified.
Geographical scope:	England and Wales and Northern Ireland. Vehicle immobilisation is illegal in Scotland.
Impact Assessment:	A partial Impact Assessment is attached.

To:	This consultation is open to everyone but we would particularly like to hear from those involved in the vehicle immobilisation industry. This paper can be downloaded from our website at http://www.homeoffice.gov.uk/about-us/haveyoursay/current-consultations/ (or go to www.homeoffice.gov.uk > about us > consultations > current consultations)
Duration:	30 April 2009 to 23 July 2009 (12 weeks)
Enquiries:	Home Office Wheel Clamping Businesses Consultation Security Industry Authority Sponsor Team 4 th Floor, Peel Building 2 Marsham Street London SW1P 4DF Email: Clamping@homeoffice.gsi.gov.uk
How to respond:	Postal address as above. Email: Clamping@homeoffice.gsi.gov.uk
Additional ways to become involved:	This will be a written consultation exercise. Copies of this document can be made available in alternative formats on request.
After the consultation:	A summary of responses will be published before or alongside any further action.

Background

Getting to this stage:	The existing controls on vehicle immobilisers are set out in Part 1 of this paper. The Home Office and the Security Industry Authority have sought to identify the extent of the concerns (Part 2) and have identified a range of options for strengthening the controls (Part 3).
Previous engagement:	The Home Secretary announced on 3 April 2009 her intention to consult. Prior to that Ministers and officials have had discussions with stakeholders about the extent of the problem and about the available options.

PART 1

EXISTING CONTROLS

Existing controls: regulations and legislation

1. The Private Security Industry Act 2001 (the 2001 Act) already requires the licensing of any individual in England and Wales (and, by the end of this year, in Northern Ireland) involved in immobilising vehicles on private land with a view to charging a release fee. It also requires the licensing of anyone involved in blocking in or towing away vehicles for the same purpose, and of those who collect the fee. (In Scotland vehicle immobilisation with a view to charging a release fee is effectively banned by a decision of the Scottish courts).
2. Unless the context explicitly refers to vehicle immobilisation only, where this document refers to “vehicle immobilisers” (VIs) or “vehicle immobilisation” (“VI”) this includes the other activities for which a VI licence is required (see paragraph 5).
3. The requirement to hold a licence applies to contract and in-house vehicle immobilisers (VIs).
4. There are no other specific regulations governing off-road parking enforcement when it is carried out on private land. It is primarily a matter between the vehicle owner and the parking business or the landowner.
5. Under the 2001 Act, an individual worker needs a VI licence when

undertaking any of the following activities:

- **the immobilisation of a vehicle by the attachment of an immobilising device**
 - **moving of a vehicle by any means;**
 - **restriction of the movement of a vehicle by any means;**
 - **release of a vehicle which has been so moved or restricted, where release is effected by returning the vehicle to the control of the person who was otherwise entitled to remove it, by removing any restriction on the movement of the vehicle or by any other means; or**
 - **the demanding or collection of a charge as a condition of the removal of the immobilising device from a vehicle or any release of a vehicle...**
6. The licence requirement for VI activity applies only where:
 - **it is proposed to impose a charge for the release of the vehicle;**
 - **the activities are carried out for the purpose of preventing or inhibiting the removal of a vehicle by a person otherwise entitled to do so;**
 - **the activities are carried out in relation to a vehicle if it is not on a road within the meaning of the Road Traffic Act 1988**
 7. The requirement to hold such a licence applies to anyone carrying out such activity, such as land owners, in-house employees, staff supplied for the purposes of - or in connection with - any contract to a consumer and volunteers. It applies to contract and in-house VIs. In

general SIA licences are required for contract staff only; apart from VIs, the only other exception is door supervisors. A “non-front line” licence is required for those who manage, supervise and/or employ individuals who engage in licensable activity, as long as front line activity is not carried out - this includes directors¹ or partners.

VI Businesses

8. VI businesses are not required to be licensed under the 2001 Act at present. However, because of the licence requirement for individuals, VI businesses may only employ licensed individuals to undertake designated activities. The SIA does not regulate business practices such as signage or level of fee and the 2001 Act does not provide the power for it to do so.
9. Security businesses may seek accreditation under the SIA’s voluntary Approved Contractor Scheme². The ACS does not cover specific commercial issues such as signage or fees and these matters are not regulated by the SIA.

¹ For the purposes of the Private Security Industry Act 2001, “director” means executive and non-executive directors, shadow directors, parent business directors and corporate entities holding a directorship.

² Under section 15 of the 2001 Act, the SIA set up the Approved Contractor Scheme (ACS). ACS is a voluntary scheme that accredits businesses providing security services that provide service to a high standard and who have good operational practices. Under section 14 of the 2001 Act, the SIA is required to establish and maintain a register of approved providers of security industry services.

The licence

10. The VI licence application fee for individuals is currently £245 for a 1 year licence. A front-line vehicle immobilising SIA licence has to be renewed every year (instead of the normal three years for other SIA licences). Non-front line licences also cost £245 but last for 3 years.

Requirements of licence holders

11. In addition to holding a valid SIA licence, VIs must observe the following licence conditions:
 - **a vehicle must not be clamped / blocked / towed if:**
 - a valid disabled badge is displayed on the vehicle; or
 - it is a marked emergency service vehicle which is in use as such.
 - **any licence holder who collects a release fee must provide a receipt, which must include the following:**
 - the location where the vehicle was clamped or towed.
 - their own name and signature
 - their licence number.
 - the date.

Current offences and sanctions available to the SIA

12. Under the Private Security Act 2001 it is an offence for an unlicensed individual to clamp, unclamp,

block in or remove a vehicle from private land for payment or collect a payment. It is also an offence for a person to use an unlicensed individual for this purpose. The penalties are:

- **For those working in a licensable role without an SIA licence:**

- upon summary conviction, a maximum penalty of six months imprisonment and/or a fine of up to £5,000.

- **For those supplying unlicensed staff:**

- upon summary conviction, a maximum penalty of six months imprisonment and/or a fine of up to £5,000;
- upon conviction on indictment, an unlimited fine and/or up to five years imprisonment.

13. Breaching one or more conditions of an SIA licence is also an offence leading to a maximum penalty of six months imprisonment and/or a fine of up to £5,000. If VIs do breach their licence conditions, they can be reported to their business and to the SIA. The SIA will assess such reports and use them to inform their compliance and enforcement activities.

14. The SIA also have the power to revoke or suspend an individual's licence.

15. However, the SIA's preferred option is to encourage compliance with the law in the first instance, using verbal or written warnings to start with where this is appropriate. They undertake to do all they can to help

organisations meet their obligations.

16. It is envisaged that the penalties and powers available for enforcement of a business licensing scheme would mirror those available for enforcement of individual licensing.

The size of the Vehicle Immobilisation sector

17. As at April 2009, there were some 1,900 valid licences, which has grown from just over 1,200 in March 2008.

18. The SIA does not hold detailed data on the number of Vehicle Immobilisation businesses that operate in the UK. It is believed that the majority of vehicle immobilisation is undertaken by one or two person operations or small businesses with less than ten employees. On this basis it is estimated that there are between 100 and 200 businesses in the sector.

19. The SIA has a range of actions short of prosecution which it may take to secure compliance. They may issue a verbal or written warning. They can revoke an individual's licence (there is a right of appeal during which the licence remains valid). They may also suspend a licence if they consider that permitting it to remain valid could pose a risk to the public.

20. The SIA's preferred approach, which is set out in its website under "Enforcement" is to take proportionate action with a view to securing compliance.

PART 2

THE ISSUES

The issues: concerns about the vehicle immobilisation industry

21. The Government and the Security Industry Authority are concerned at the level of complaints received about the activities of some vehicle immobilisation businesses and their staff. The main areas of complaint include:

- **inadequate signage;**
- **the size of release fees;**
- **immediate clamping and/or towing away;**
- **operatives refusing to identify themselves;**
- **operatives luring people to park, or intimidating them;**
- **SIA's lack of powers against these types of conduct;**
- **operatives clamping blue-badged disabled users' vehicles.**

Steps taken by the SIA to address concerns

22. The SIA has already implemented a number of additional steps to address concerns about the activities of vehicle immobilisers (VIs):

- **front line VI licences are valid for one year only to ensure annual Criminal Records Bureau (CRB) or AccessNI checks. (Licences for other private security sectors are valid for 3 years);**

- **the 2001 Act was amended by Order to extend licensing to include not only Vehicle Immobilisation but also towing away and blocking in;**
- **further legislation also clarified that not only those who apply clamps, but also those who remove them and who collect payment, need to be licensed;**
- **specific licence conditions have been introduced to prevent immobilisation of emergency service vehicles and vehicles with a displayed disabled blue badge;**
- **any licence holder collecting a release fee must provide a receipt; and**
- **the required Vehicle Immobilisation qualification, in common with the qualifications for other sectors of the private security industry, includes communication and conflict management knowledge and skills.**

Redress and remedies

23. There is no accredited body which is responsible for regulating the practice of Vehicle Immobilisation businesses. This is of course the situation with most types of business. However, the VI industry is able to place others in a situation where they feel obliged to pay and have no practical way to contest the demand for payment.

24. Complaints about a VI's behaviour or other dispute in an individual case must normally be made to the business. In the case of the British Parking Association (BPA), member businesses of the Approved Operator Scheme must have an effective appeals system.

Landowners' interests

25. Landowners (who include a wide range of individuals and public and private bodies) have the right to enjoy the use of their land and to restrict access to it. They are entitled to prevent unwanted parking, including the use of any parking facilities they provide for visitors or customers by other vehicle drivers, to charge for use of their land and put in place such charging schemes as the law allows. In many cases the vehicle driver is at fault in knowing, or not taking reasonable steps to ascertain, that they should not have parked on private land.

The Feasibility Study

26. In February 2008, the Minister asked the SIA to carry out a feasibility study of the various options for the regulation of Vehicle Immobilisation businesses in the private sector, including a business registration scheme. This has now been completed and considered by Ministers. There was also a programme of informal consultation with MPs and industry bodies to ascertain any further concerns or issues to finalise the profile of the sector.

PART 3

OPTIONS FOR REGULATION OF BUSINESSES

27. The Government intends to act to put a stop to abuses and unacceptable behaviour by some vehicle immobilisation businesses and their employees.
28. A range of options for control is discussed below. The Government would welcome views on which option, or combination of options, represents the best way forward. A series of questions is given in the next section which you are invited to respond to.

Option 1: Status Quo

29. Make no change to the current requirements for those that work in the VI sector.
30. This option would not address any of the concerns or complaints of stakeholders, nor does it address any of the objectives which the Government is seeking to achieve.

Option 2: A voluntary code of practice

31. A government endorsed code of practice could be drafted to address the concerns and complaints identified by stakeholders.
32. Such a code already exists through the British Parking Association, and while a small number of VI businesses are members of the BPA Approved Operator Scheme, the majority of VI businesses, which would include those most likely to operate unacceptable business practices are not.

There is no evidence to suggest that a government endorsed code of practice would be any more successful at addressing unacceptable business practices than existing codes. The government believe that the adoption of any code of practice, or membership of a scheme which is backed by an effective code of practice, would need to be compulsory to be able to achieve the objectives of intervention.

Option 3: Compulsory membership of a Business Licensing Scheme for VI businesses.

33. This would involve development of a business licensing scheme which requires VI businesses to provide the SIA with specific information by way of registration, plus compliance with a compulsory code of practice through an accredited third party.
34. The scheme would prohibit employees or representatives of the business from engaging in unacceptable practices, and make them more accountable to the public by requiring a transparent internal business appeals system. The proposed scheme would include both general and sector specific licence conditions, which businesses would have to abide by in order to obtain and retain their business licence.

Accreditation and Monitoring

35. It is proposed that a third party accrediting body (or bodies) would be contracted by the SIA to decide whether each business which applied for a licence met the scheme's requirements.
36. Under this approach, the SIA would remain as the regulator. The accrediting body would decide whether each business that applied for a licence met the requirements for qualification and also be responsible for continuing to monitor all licensed businesses to check that they are complying with the terms of the licence. It is proposed that businesses would have to directly pay the accrediting body for this service.
37. Businesses would first have to join the accredited body, and then membership of the appropriate scheme would be available to businesses which met the criteria. In becoming a member of the accrediting body's scheme the business would have to comply with the body's code of conduct. The model proposed is similar to the DVLA's "Accredited Trade Association (ATA)" scheme.
38. Estimated figures for the costs of accreditation and monitoring by a third party are included in the Impact Assessment. However, as an example, the costs of yearly membership of the British Parking Association are understood to be £535 (for a "standard" business: it

can be less or more for smaller or larger businesses) and minimum yearly membership of their Approved Operator Scheme to be £1000. In addition there could be one-off costs to the industry for items such as replacing equipment and training estimated at £474,000 to £950,000 for 100-200 businesses.

Compliance and enforcement

39. The accredited third party would provide a set of licence conditions agreed by the SIA for vehicle immobilisation businesses, a framework for considering applications referred to them by the SIA for membership of their scheme and ensuring compliance with their standards, and ensure that effective arrangements were in place for considering complaints and securing redress.
40. The SIA would be the regulator with responsibility for administration of the scheme, with specific functions of receiving and processing licence applications and fees, approving applications, approving accredited third parties and taking or initiating compliance enforcement action. The SIA's role in compliance and enforcement will be to ensure that businesses are licensed (that is, that they comply with the law in this respect), and to initiate enforcement action where a business fails to comply with the terms of the licence.
41. The SIA would have powers of enforcement similar to those

which they have now in relation to individual licences, including revocation or suspension of a licence and/or prosecution. It should be added, however, that the SIA would follow its existing policy with regard to enforcement of seeking to take proportionate action with a view to securing compliance.

Prosecution

42. The current court imposed penalties for supplying unlicensed staff, not possessing a licence when so required, or breaking licence conditions are set out in the section on current offences and sanctions. We would expect penalties for new business licences to reflect current levels of penalties.

Option 4: Compulsory Approved Contractor Scheme (ACS)

43. This would make the current voluntary ACS compulsory for all businesses in the VI sector.
44. ACS is designed to allow the top performing businesses within the industry as a whole to demonstrate achievement of, and continued compliance with, a very specific set of high standards. It is considered that making ACS compulsory would create an excessively high target for the VI sector, resulting in the majority of businesses being unable to operate. It could also undermine the elite status of ACS to those high achieving businesses who

have invested heavily in time and resources to achieve ACS.

45. In addition the ACS does not cover business practices such as those which this consultation is seeking to address. It would be necessary to devise additional rules and an enforcement mechanism.

Preferred Option

46. The options are set out in the partial Impact Assessment at Annex A, which also includes further details of the potential costs.
47. At present the Government believes that option 3, a Business Licensing Scheme (BLS), offers the most effective approach. This would make it mandatory for businesses to be licensed, to help ensure they sign up to standards of conduct which will be enforced if they are not met. The remit of the BLS will extend to all partnerships, sole traders etc who provide VI services, whether in house or under contract, and will NOT be restricted to limited companies.
48. We are keen to receive the views of the public and the industry and you are encouraged to propose other solutions.
49. The licence would be issued by the SIA and would require a set of conditions to be met. This would be divided into general details and conditions which would be specific to the sector.

General Conditions: these are likely to include

- **Business Name**
- **Business Contact Details**
- **Directors/partners/sole traders**
- **Business Directors' Contact Details**
- **Any other information that the SIA consider relevant.**

Sector Specific Conditions –these are intended to focus on requiring minimum standards and reducing the risk of specific harms or abuses. For VI businesses they are likely to include (but not be limited to):

- **signage, including size and visibility;**
- **maximum penalties charged and payment methods;**
- **minimum time between immobilisation and removal;**
- **providing evidence that a parking infringement has taken place;**
- **security and location of pound where vehicles are impounded; and**
- **complaints and appeals policy.**

Further recommendations with Option 3:

Reducing costs to the VI sector

50. The 1 year VI licence for individuals was initially introduced because it was thought this sector was likely to be more criminal than others. The SIA has reviewed the position and found that there is no evidence that this is the case. It is therefore proposed to move to a 3 year licence

for individuals. This will reduce costs to the industry but this is not the main reason for wanting to make the change. The change to the licence (equal to the cost of two licences which is £490 over three years) would be a considerable cost reduction to the VI sector.

Monitoring consequences of these proposals

51. The SIA would keep under review the possible consequences of the introduction of a compulsory business licensing scheme e.g. the possible move by some unscrupulous businesses into other abuses, for example in similar areas such as ticketing.

Extending regulation to other sectors

52. This consultation is solely about the VI sector. If consideration were to be given to extending the compulsory licensing scheme into other sectors of the private security industry further consultation would be required.

Scheme to co-exist with the Approved Contractor Scheme

53. The BLS will co-exist with the Approved Contractor Scheme (ACS), with the ACS standards remaining focussed on a different set of priorities to those of the proposed BLS. This will ensure existing ACS businesses are not subjected to a duplicated administrative burden.

The ACS scheme standards will remain a target for businesses to aspire to. There would be distinct and separate branding between current ACS and any VI business registration.

DVLA's consultation will run to 29 May 2009 and can be found at www.dvla.gov.uk/consultations.aspx

Note on DVLA consultation on proposals regarding release of data from its records

Another form of parking control known as "ticketing" is a request for payment, using information from the Driver and Vehicle Licensing Agency (DVLA) to establish the address of the registered keeper.

DVLA is obliged to release data to those with reasonable cause. On 16 April DVLA issued a public consultation on proposals under which any car parking business requesting information from the vehicle record in order to issue a parking charge notice would be required to be a member of a DVLA Accredited Trade Association (ATA), and to abide by that ATA's Code of Practice. The proposals are aimed at strengthening the safeguards on personal information held by DVLA.

Parking businesses wishing to have approved access via an electronic link to the vehicle record are already required to be a member of an ATA. DVLA's intention is to extend this requirement to parking businesses making manual, paper-based requests. Compliance with the Code of Practice is strictly monitored by the ATA.

ANNEX A

PARTIAL IMPACT ASSESSMENT

The following pages contain a partial impact assessment, which is a first step in identifying the costs and benefits of the proposals in this consultation paper. This is a continuous process and respondents are invited to submit figures, costings and other details to help refine the impact assessment and thereby ensure that decisions are taken in the light of full and accurate information.

Summary: Intervention & Options

Department / Agency: Home Office		Title: Partial Impact Assessment of Legislation to Introduce Mandatory Licensing of Vehicle Immobilisation businesses under the PSI Act 2001	
Stage: Public consultation	Version: 1	Date: 30 April 2009	
Related Publications:			
Available to view or download at: http://www.homeoffice.gov.uk/about-us/haveyoursay/current-consultations/			
Contact for enquiries: Clamping@Homeoffice.gsi.gov.uk			

What is the problem under consideration? Why is government intervention necessary?

Under the Private Security Industry Act 2001 (the 2001 Act) anyone in England and Wales (and in Northern Ireland from 1 December 2009) who immobilises or tows away vehicles on private land with a view to charging a release fee, those who take the fee, and those who manage them, must be licensed by the Security Industry Authority (SIA). There are no other regulations governing off-road parking enforcement. There continue to be frequent complaints about vehicle immobilisation (VI), including the size of release fees, inadequate signage, immediate clamping, operatives luring people to park, and unreasonableness, e.g. in demanding immediate cash payment. Security businesses are not required to be licensed.

What are the policy objectives and the intended effects?

Ensure that abuses and unreasonable or intimidating behaviour and demands are stopped as far as possible while preserving the rights of land-owners to take reasonable action to deter or prevent unwanted parking on their land.
Provide a framework for a reasonable licensing requirement for private security businesses.

What policy options have been considered? Please justify any preferred option.

Four policy options have been considered

Option 1: Make no change to the current requirements for those that work in the VI sector.

Option 2: Voluntary code of Practice

Option 3: Compulsory membership of a Business Licensing Scheme for VI businesses.

Option 4: Compulsory Approved Contractor Scheme (ACS)

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

Should licensing be introduced in any sector, the SIA (following consultation with both sectors) would aim to review and assess the impact one year after the offence date.

Ministerial Sign-off (For final proposal/implementation stage Assessments):

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy and (b) that the benefits justify the costs.

Signed by the responsible Minister:

.....Date:

Summary: Analysis & Evidence

Policy Option: 1	Description: The current position of individual licensing only would continue, and no action to address any of the identified unacceptable business practices would be
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COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' There are no costs associated with the status quo option
	One-off (Transition)	Yrs	
	£ zero	3	
	Average Annual Cost (excluding one-off)		
	£ zero		
Total Cost (PV)			
Other key non-monetised costs by 'main affected groups' Main affected groups will continue to be affected by excessive fee and unacceptable business practices of a minority of VI businesses			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' There are no monetised benefits to the key affected groups, that of members of the public who are subject to unacceptable business practices of a minority of VI businesses
	One-off	Yrs	
	£ 0		
	Average Annual Benefit (excluding one-off)		
	£ 0		
Total Benefit (PV)			£ 0
Other key non-monetised benefits by 'main affected groups' None			

Key Assumptions/Sensitivities/Risks

Price Base Year	Time Period Years	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £
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Summary: Analysis & Evidence

Policy Option: 2

Description: Voluntary Code of Practice

COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' One off costs for renewing stock and training staff, in a range of 100-200 businesses All VI businesses would be encouraged to join a trade association scheme such as the Approved Operator Scheme operated by the British Parking Association
	One-off (Transition)	Yrs	
	£ £474,000 to £950,000	3	
	Average Annual Cost (excluding one-off)		
	£ 150,000 to £300,000		
Other key non-monetised costs by 'main affected groups'			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' There are no monetised benefits to the key affected groups, that of members of the public who are subject to unacceptable business practices of a minority of VI businesses
	One-off	Yrs	
	£ 0		
	Average Annual Benefit (excluding one-off)		
	£ 0		
Other key non-monetised benefits by 'main affected groups'			

Key Assumptions/Sensitivities/Risks

Costs are estimated based on the following assumptions:

- **100 to 200 VI businesses**
- **Annual fees totalling £1500 per business**

Price Base Year 2009	Time Period Years 3	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £
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Summary: Analysis & Evidence

Policy Option: 3

Description: Compulsory Membership of a Business Licensing Scheme

COSTS	ANNUAL COSTS		<p>Description and scale of key monetised costs by ‘main affected groups’</p> <p>Assumes 100 – 200 businesses. All VI businesses will be required to pay a Licence Fee covering a 3 year licence period. Initial estimates indicate that if a flat fee (each 3 years) was charged it would be in the region of £2,721 for 100 businesses, or £2,316 for 200 businesses.</p> <p>Further work is required to confirm fee levels, and to establish whether any differentiation between businesses of different sizes would be appropriate. Each VI business will also be required to join an accredited trade scheme. This is assumed to cost £1500 per annum which is included in the Total Cost.</p>
	One-off (Transition)	Yrs	
	£ 690,000 plus (£474,000 to £950,000)	3	
	Average Annual Cost (excluding one-off)		
	£ 240,417 to £480,833		
		Total Cost (PV)	
<p>Other key non-monetised costs by ‘main affected groups’</p> <p>There will be an increased administrative burden as a result of the requirement to apply for the BLS license and for membership of the trade scheme.</p>			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' It is being proposed that the current requirement for all VI operatives to re-licence every year be extended to 3 years. On an industry basis this represents a cost saving of £0.93 million over 3 years	
	One-off	Yrs		
	£ 0			
	Average Annual Benefit (excluding one-off)		Total Benefit (PV)	
	£ 310,000			
Other key non-monetised benefits by 'main affected groups' Reduced administrative burden by making the current 1 year licence valid for 3 years				

Key Assumptions/Sensitivities/Risks

Costs:

- Assumed number of VI businesses is 100 - 200. As the number increases the licence fee level will reduce, but only marginally.
- Licence fee income is calculated to be £271,000 - £460,000 over a 3 year period – this only covers estimated SIA operational costs and depreciation of costs incurred in developing existing IT systems. It assumes Home Office fund all the other scheme development costs. The licence fee is therefore subsidised by the amount of those other development costs (approximately £690,000) which would normally be recovered over a 5 year period within the licence fee income
- Assumes costs of membership of an accredited trade scheme as £1,500 per annum
- **Benefits:**
- Assumes around 1900 individual VI operatives at the current license fee rate of £245 per annum

Price Base Year 2009	Time Period Years 3	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £
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Summary: Analysis & Evidence

Policy Option: 4

Description: Compulsory Approved Contractor Scheme (making the existing voluntary scheme compulsory)

COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' Cost of joining the ACS scheme will apply to each VI businesses, only 5 of which are currently ACS accredited. The Application fee is currently on a sliding scale from £400 to £2400 dependant on the business size (covering a 3 year period) with an annual fee payable of £17 per employee. Costs for 100-200 businesses.
	One-off (Transition)	Yrs	
	£ 500,000		
	Average Annual Cost (excluding one-off)		
	£200,000 to £400,000		
Other key non-monetised costs by 'main affected groups'			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' There are no monetised benefits to the key affected groups, that of members of the public who are subject to unacceptable business practices of a minority of VI businesses
	One-off	Yrs	
	£ 0		
	Average Annual Benefit (excluding one-off)		
	£ 0		
Other key non-monetised benefits by 'main affected groups'			

Key Assumptions/Sensitivities/Risks

Costs are estimated based on the following assumptions:

- 100 to 200 VI businesses
- Application Fee: 75% @ £400, 20% @£800, 5% @£1600
- 1900 VI operatives in total across the industry

Price Base Year 2009	Time Period Years 3	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £
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What is the geographic coverage of the policy/option?		E&W, NI		
On what date will the policy be implemented?		Not yet known		
Which organisation(s) will enforce the policy?		SIA and partners		
What is the total annual cost of enforcement for these organisations?		£ not yet known		
Does enforcement comply with Hampton principles?		Yes - current SIA enforcement		
Will implementation go beyond minimum EU requirements?		No		
What is the value of the proposed offsetting measure per year?		£310,000		
What is the value of changes in greenhouse gas emissions?		£ N/A		
Will the proposal have a significant impact on competition?		No		
Annual cost (£-£) per organisation (excluding one-off) Licence fee plus ??? all/part enforcement costs	Micro TTBC	Small TBC	Medium TBC	Large TBC
Are any of these organisations exempt?			N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)				(Increase - Decrease)
Increase of	£	Decrease of	£ 0	Net Impact £

Key:	Annual costs and benefits: Constant Prices	(Net) Present Value
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Evidence Base (for summary sheets)

STRATEGIC OVERVIEW

Background

1. The Private Security Industry Act 2001 (the 2001 Act) requires the licensing of individuals involved in immobilising vehicles on private land with a view to charging a release fee includes anyone involved in blocking in or towing away vehicles for the same purpose, and of those who collect the fee. The requirement applies to contract and in-house vehicle immobilisers (VIs).
2. In February 2008, as a result of concerns Home Office Ministers asked the SIA to carry out a feasibility study of the various options for the regulation of VI businesses. In the light of the study Ministers have decided that further consultation should be taken forward on VI businesses.
3. At different stages of the study the SIA have consulted with stakeholders from the industry (VI Network meetings), motoring and trade associations, Government Departments and MPs.
4. The SIA's records indicate that while VIs account for less than 1 per cent of the licensable population, complaints about VIs' activities account for at least 25% of the Parliamentary correspondence and over 10% of the public correspondence they receive.
5. The SIA report that in the period January 2006 to February 2007, 75 letters related to complaints

about Vehicle Immobilisation, of which 28% of issues fall within their regulatory remit:

- **16% General queries about VI regulation;**
- **7% Reports of potential breaches of licence conditions;**
- **5% Unlicensed activity.**

However, 72% related to matters outside the SIA's remit. .

- **28% VI businesses;**
 - **15% Release fee;**
 - **12% Signage;**
 - **9% Behaviour of VIs;**
 - **8% Speed of clamping/towing.**
6. In the period from April 2008 to April 2009 The Home Office received about at least 70 Parliamentary Questions and letters from MPs relating to vehicle immobilisation.

Rationale

7. The principle aim of the BLS is to protect the public by addressing the main areas of concern and complaint highlighted by stakeholders and interested parties:
 - **Signage specifications**
 - **Fees**
 - **Payment methods**
 - **Clamping prohibition rules (e.g. not clamping emergency vehicles)**
 - **Impounding rules (e.g. relating to security and location of pound)**

- **Time Intervals (e.g. between immobilisation and removal)**
- **Evidence of parking infringement (i.e. providing data upon request)**
- **Records management (such as keeping and making available the details of operational sites to SIA on request)**
- **Complaints and Appeals policy**

Objective of intervention

8. To increase public safety and reduce the scope for abuses by requiring businesses to operate outside a prescribed regulatory regime, and by providing an opportunity, in selected circumstances, to deal with behavioural or operational malpractice.

Appraisal at present

Option 1: Status Quo

9. Make no change to the current requirements for those that work in the VI sector.
 - **This option does nothing to address any of the concerns or complaints of stakeholders, nor does it address any of the objectives of intervention outlined above**

Option 2: Voluntary code of Practice

10. A government endorsed code of practice could be drafted to address the concerns and complaints identified by stakeholders.
 - **There is no evidence to suggest that a government endorsed code of practice**

would be any more successful at addressing unacceptable business practices than existing voluntary codes. The government believe that any code of practice would need to be compulsory to be able to achieve the objectives of intervention.

Option 3: Compulsory membership of a Business Licensing Scheme for VI businesses.

11. Development of a business licensing scheme which requires businesses to provide the SIA with specific information by way of registration and compliance with a compulsory code of practice through an accredited third party.

- **The scheme will prohibit its employees or representatives from engaging in unacceptable practices, and make them more accountable to the public by requiring a transparent appeals system. Such a scheme could also include both general and sector specific licence conditions which businesses would have to abide by in order to obtain and retain their business licence.**
- **SIA would do the licensing and be responsible for enforcing compliance where necessary. A third party would check whether the applicant business met the specific conditions for a licence, and check on compliance**
- **Conditions could include adherence to a code of practice, or very simple rules, such as the required size of signage, time necessary to wait before clamping/towing and the size of fines. See Consultation document for details of proposals**

Option 4: Compulsory Approved Contractor Scheme (ACS)

12. Turn the current voluntary ACS into a compulsory scheme for the VI sector.
 - **It is believed that to make ACS, which measures private security suppliers against a wide range of independently assessed criteria in nine categories, compulsory, would place an excessive burden on the VI sector by requiring that all achieve those standards and represent an unnecessarily high standard for the general purpose.**
 - **This would require very high investment in categories not directly relevant to the improvements sought under these proposals.**
 - **It would also require annual assessment by independent assessors (at a fee) to ensure the ACS standards continued to be met.**

Choice of Option.

13. **Option 3** appears to offer an effective way forward without representing an unreasonable burden on the industry.

Accreditation and Monitoring

14. It is proposed that a third party accrediting body (or bodies) would be contracted by the SIA to decide whether each business which applied for a licence met the scheme's requirements.

15. Under this approach, the SIA would remain as the regulator. The accrediting body would decide whether each business that applied for a licence met the requirements for qualification and also be responsible for continuing to monitor all licensed businesses to check that they are complying with the terms of the licence. It is proposed that businesses would have to pay the accrediting body for this service.
16. Businesses would first have to join the accredited body, and then membership of the appropriate scheme would be available to businesses which met the criteria. In becoming a member of the accrediting body's scheme the business would have to comply with the body's code of conduct. The model proposed is similar to the DVLA's "Accredited Trade Association (ATA)" scheme.
17. Estimated figures for the costs of accreditation and monitoring by a third party are included in the Impact Assessment. However, as an example, the costs of yearly membership of the British Parking Association are understood to be £500 for standard size businesses and minimum yearly membership of their Approved Operator Scheme to be £1000. In addition there would be one-off costs to the industry estimated at £474,000 to £950,000 for 100-200 businesses.

Compliance and enforcement

18. The accredited third party would provide a set of licence conditions agreed by the SIA for vehicle immobilisation businesses, a framework for considering applications referred to them by the SIA for membership of their scheme and ensuring compliance with their standards, and ensure that effective arrangements were in place for considering complaints and securing redress.
19. The SIA would be the regulator with responsibility for administration of the scheme, with specific functions of receiving and processing licence applications and fees, approving applications, approving accredited third parties and taking or initiating compliance enforcement action. The SIA's role in compliance and enforcement will be to ensure that businesses are licensed (that is, that they comply with the law in this respect), and to initiate enforcement action where a business fails to comply with the terms of the licence.
20. The SIA would have powers of enforcement similar to those which they have now in relation to individual licences, including revocation or suspension of a licence and/or prosecution. It should be added, however, that the SIA would follow its existing policy with regard to enforcement of seeking to take proportionate action with a view to securing compliance.

Prosecution

21. The current court imposed penalties for supplying unlicensed staff, not possessing a licence when so required, or breaking licence conditions are set out in the section on current offences and sanctions in the Consultation Document. We would expect penalties for new business licences to reflect current levels of penalties.

Costs and fees

22. The application fee for VI businesses could be set so as to seek to recover a proportion of the initial costs but total recovery would be on the basis that the scheme will eventually be rolled out to other sectors. Otherwise the fee would have to be set very high for the first 5 years of the scheme and would then drop to cover running costs only.
23. As the policy option 3 summary (above) explains, the licence fee income has been estimated to be in the region of £271,000 - £460,000 over a 3 year period – this only covers estimated SIA operational costs and depreciation of costs incurred in developing existing IT systems. It assumes Home Office fund all the other scheme development costs. The licence fee is therefore subsidised by the amount of those other development costs which would normally be recovered over a 5 year period within the licence fee income.

24. Figures for costs of vetting and enforcement by a third party are included in the Impact Assessment. As an example, the costs of yearly membership of the British Parking Association are understood to be £500 and yearly membership of their Approved Operator Scheme to be £1000.
25. The costings assume that there would be a flat fee for membership every three years, estimated at £2,721 for 100 businesses. This figure would drop to £2,316 for 200 businesses. Further work needs to be done, however, to confirm fee levels, and to establish whether any differentiation between businesses of different sizes would be appropriate.
29. The yearly review would evaluate operational effectiveness, compliance, proportionality and cost, and would analyse the level and content of complaints to assess the effectiveness of the scheme in meeting the objective of intervention.

Offsetting the costs of scheme to business

26. The reduction of the yearly licence (equal to £735 over three years) to a three yearly licence at £245 would be a considerable cost reduction and simplification across the VI sector.

Timing

27. We intend to make the necessary legislation as soon as possible.

Monitoring and evaluation

28. If Option 3 is implemented it is proposed that the scheme would be subject to yearly review.

HOW TO RESPOND

The closing date for responses to this consultation is 23 July 2009.

Please send your replies on the questions raised using the questionnaire.

You can email your views to us at:
Clamping@homeoffice.gsi.gov.uk

Or you can write to us at:

**Home Office
Wheel Clamping Businesses
Consultation
Security Industry Authority Sponsor
Team
4th Floor, Peel Building
2 Marsham Street
London SW1P 4DF**

This consultation and questionnaire can be downloaded from our website at <http://www.homeoffice.gov.uk/about-us/haveyoursay/current-consultations/>

(or go to www.homeoffice.gov.uk > about us > consultations > current consultations)

Alternative Formats

Copies of this document can be made available in alternative formats on request.

Responses: Confidentiality & Disclaimer

The information you send us may be passed to colleagues within the Home Office, the Government or related agencies.

Furthermore, information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these

are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

Please ensure that your response is marked clearly if you wish your response and name to be kept confidential.

Confidential responses will be included in any statistical summary of numbers of comments received and views expressed.

The Department will process your personal data in accordance with the DPA – in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Individual responses will not be acknowledged unless specifically requested.

Representative bodies are asked to give a summary of the people and organisations they represent when they respond.

ANNEX B

CONSULTATION CRITERIA

This consultation follows the Government's Code of Practice on Consultation, the criteria for which are set out below.

1. When to consult – Formal consultation should take place at a stage when there is scope to influence the policy outcome.
2. Duration of consultation exercises – Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.
3. Clarity of scope and impact – Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.
4. Accessibility of consultation exercises - Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.
5. The burden of consultation – Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.
6. Responsiveness of consultation exercises – Consultation responses should be analysed carefully and clear feedback should be provided to participants following the

consultation.

7. Capacity to consult – Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

The full code of practice is available at: <http://www.berr.gov.uk/whatwedo/bre/consultation-guidance/page44420.html>

Consultation Co-ordinator

If you have any complaints or comments specifically about the consultation process, you should contact the Home Office Consultation Co-ordinator by email at:

Nigel.Lawrence@homeoffice.gsi.gov.uk.

Alternatively, you may wish to write to:

Nigel Lawrence
Consultation Co-ordinator
Home Office – Strategic Centre
Better Regulation Team
3rd Floor, Seacole Building
2 Marsham Street
London SW1P 4DF

Please do not send your response to this consultation document to Nigel Lawrence.

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**LICENSING OF VEHICLE IMMOBILISATION BUSINESSES:
A Consultation Paper**