

IN THE COUNTY COURT BUSINESS CENTRE

CLAIM No:

BETWEEN:

CLAIMANT

AND

PARKING CONTROL MANAGEMENT (UK) LIMITED

DEFENDANT

DEFENCE FILED ON BEHALF OF THE DEFENDANT

THE PARTIES

1. The Claimant is the recipient of a number of private parking charges ('the Charges') issued by the Defendant (PCM) who is a parking operator.

CLAIM FORM/ PARTICULARS OF CLAIM

2. The Claim Form/ Particulars of Claim fall short of the criteria set out in CPR 16.2(1) (a) & (b) as they do not contain a concise statement of the nature of the Claim, nor do they specify the remedy the Claimant seeks.

3. The Claim should be struck out pursuant to CPR 3.4(2) (a) as it fails to disclose any reasonable grounds for bringing a Claim – the Claimant has no cause of action.
4. Notwithstanding the above, to avoid any doubt over its liability, PCM responds to the points pleaded, under the sub-heading ‘the Defence’. The Particulars of Claim do not contain paragraph numbers but each point is dealt with in turn in separate paragraphs below.

THE DEFENCE

5. The Claimant avers that the Defendant unlawfully issued parking charge notices dated the _____ and _____ and in so doing processed the Claimants personal Data contrary to of the Data Protection Act 1998 (the Act). This claim is denied in its entirety and the Claimant is put to full proof of the same.

The Background

6. PCM is instructed to manage the car parking at the Academy Central Development in Dagenham, by way of an agreement dated _____, a copy of this agreement is attached at ‘Document 1’ (‘the Agreement’). The Agreement requires PCM to issue a parking charge to any vehicle in breach of the Parking Restrictions, which are defined in the Agreement as:

Permit parking only in corresponding bays

Visitor scratch cards in visitor bays.

No parking outside of a marked bay or on paved/landscaped areas at any time regardless of permit display.

The Agreement was entered into with the

_____ who manage the site. The Agreement describes the address of the site as

“

_____, the postcode given is the postcode given to the site where the

parking is controlled it does not necessary correspond with the postcode of the properties where the residents entitled to use the site reside.

7. Under the terms of the agreement at the time of the parking contraventions, PCM covered the entire Estate, inclusive of the bays, roadways and paved/landscaped areas. The area covered is delineated in red on the attached document. **'Document 2'**
8. Clear and prominent signage, **'Document 3,'** is displayed throughout the site **Document 4'** informing users that the site is Private Land and that *a green residents permit must be fully displayed in the windscreen and that the vehicle must be parked wholly within the confines of a marked bay appropriate for the permit on display or visiting vehicles must be parked wholly within the confines of a marked visitor bay and display a correctly completed visitor scratch card.* In addition clear and prominent signage is placed on the roads leading into the site stating **"PRIVATE ROAD,"** at the point where the road ceases to be an adopted (i.e. Public Road') and where it becomes private **'Document 5.'**
9. In advance of the Parking Scheme coming into force all of the residents/occupiers affected by the scheme were notified in writing of the requirements of the scheme and the steps that they needed to take. Flat _____ was included in the scheme.
10. PCM in providing its service to the landowner under the above agreement complies not only with the Code of Practice set out by its Accredited Trade Association, the International Parking Community ('the IPC'), but also with the guidelines set by the DVLA, including being a signatory to a KADOE contract (Keeper of a vehicle at the date of an event) in order to obtain registered keeper details from the DVLA and the Protection of Freedoms Act 2012, in order to pursue the charges against the registered keeper of a vehicle, or the person nominated as the vehicles driver.

11. On the _____ a vehicle bearing the registration number _____ was observed to be parked in a restricted area in contravention of the Terms and Conditions that relate to this site in that the parking attendant observed that the vehicle was parked outside of a designated parking area. As a result a PCN number _____ was issued.
12. The Claimant appealed against this charge via PCM's internal appeals procedure on the _____. In that appeal he confirmed that his address was Flat _____. _____ PCM rejected that appeal on the _____. Thereafter the Claimant appealed to the Independent Appeals Service. This Appeal was also rejected, the Adjudicator being satisfied that the PCN was issued lawfully.
13. On the _____ vehicle registration number _____ was observed by operative _____ to be parked without clearly displaying a valid PCM permit at the site and PCN number _____ was issued. The Claimant also appealed against this PCN online on the _____ and _____ confirmed that his address was _____. This appeal was also rejected by PCM on the _____. Thereafter the Claimant appealed to the Independent Appeals Service. This Appeal was also rejected, the Adjudicator being satisfied that the PCN was issued lawfully.
14. In both of the above cases tickets were affixed to the vehicle in question at the time of issue. In the event that a motorist does not respond to a PCN, PCM can apply to the DVLA electronically, for the registered keeper's details. Motorists are informed of this in the signage on display "*Failure to pay the charge may result in the vehicle's keeper details being requested from the DVLA.*" The recipients of PCN's affixed to the windscreen are also informed on the reverse of the notice that "*PCM will use any data collected through the issuing of this PCN for parking enforcement and other associated purposes. All processing of this data will be in accordance with the Data Protection Act.*"
5. The DVLA by virtue of the KADOE agreement has the legal power under Regulation 7 of the Road Vehicles (Registration and Licensing) Regulations 2002aa to "*make any particulars contained in the*

register available for use by any person who can show to the satisfaction of the Secretary of State, that he has reasonable cause for wanting the particulars to be made available to him.” Under the terms of KADOE the DVLA will provide the details of the registered keeper of the vehicle on the date that a PCN is issued for “reasonable cause of enabling the customer to recover unpaid parking charges in accordance with an Accredited Trade Associations Code of Practice and the procedure in Schedule 4 Protection of Freedoms Act 2012.”

16. This however was not necessary in this case as the Claimant himself made contact with PCM and provided them with his name and his address.
17. Irrespective of how the registered keepers/drivers details are obtained PCM are entitled thereafter as a Data Controller to continue to process the Claimants Data through the Reasonable Cause Criteria of pursuing an outstanding parking charge notice. PCM therefore had legitimate grounds for collecting, storing and using the data.
18. Where a PCN remains unpaid following a final reminder being sent the unpaid parking charges may be passed to third parties for debt recovery. This is something that PCM are entitled to do under Category One of the criteria for sharing Data, as the sharing of the personal Data with third parties is permitted as it is to be used for joint purposes – namely the recovery of the un-paid parking charge. PCM at the point that it shares the Data with a third party, then becomes a ‘Joint Controller,’ under the terms of GDPR with the third party, who will then process that person’s Data in line with their own technical and organisational measures, and contractual safeguards in accordance with Data Protection law requirements. It is accepted that the Claimants unpaid PCM were subsequently referred to Solicitors in order to recover the unpaid parking charges in . This is something that PCM are entitled to do and does not amount to a prima facie breach of data protection.
19. On the : the Solicitors acting on the instructions of PCM sent a letter before claim to the Claimant to the address supplied to them by PCM namely . As no

response was received a Claim was issued on the _____ under Claim Number _____
_____. Judgement in default was obtained on the _____ . In _____ the
Claimant applied to have that judgement set aside as he was no longer living at the address on the
Court Documents but was now living at _____ , which is part of the same Development.
The Claimants application was granted in _____ by Deputy District Judge _____ sitting at the
County Court at _____ . Thereafter, PCM decided to discontinue part of the claim (PCN number
_____) as it was issued so close in time to the earlier PCN, however they are continuing with
the claim in relation to PCN _____. This matter is still the subject of live proceedings and the
parties are awaiting a date for a hearing of the claim from the courts.

20. Given the above PCM aver that the Claimant in bringing these proceedings as a separate issue to the
above has erred and the same should have been brought by a way of Counter Claim in the above
proceedings in order that the matters could be heard together.
 21. The Claimant has alleged to the _____ Defendant, that they “chose to serve the claim form at an old
address in a deliberate attempt to obtain a judgment in default. This assertion is denied in its entirety.
The _____ Defendant relied upon the information that they had on their systems in relation to these two
PCN’s and this is the information that was passed to the Solicitors in order for the claim to be
processed.
 22. The Claimant further avers that the first Defendant was aware of his change of address as they had
subsequently issued him with further PCN’s and written to him at “his new address” 27 Campus
Avenue, a property located in the same development.
 23. The _____ Defendant accepts that further PCN’s were issued to the Claimant between
_____ the address that was supplied to them in relation to these PCN’s at the time was
_____ and this was the address that the claim issued on the
_____ was sent to. Subsequent PCN’s have also been issued to a
person with the same name as the Claimant but at a different address, resulting in claim numbers
_____ (presently the subject of an application for leave to appeal) _____ (concluded)
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(listed for directions at _____ on the _____) and _____ (concluded).

The reason for these claims not all being grouped together is due to the nature of the recovery process, charges pertaining to one individual may be referred for legal action at separate times and as such there are occasions where there are multiple claims against one debtor.

24. For the sake of clarification a motorist does not have an 'account' or 'profile' with the Defendant. Given that each parking event may have been caused by a different driver, each charge is dealt with on an individual basis. Each PCN has the details of the registered keeper/driver recorded against it, it is only if a person contacts the Defendant to change the details on a specific PCN that the Defendants system is updated, solely in relation to that PCN. In relation to these two PCN's there was no request made to update the system as to the registered keepers address and therefore the proceedings were issued to _____, which was the address given to the Defendant by the Claimant and the address that all correspondence had been sent to in relation to these two PCN's. As it subsequently emerged that this was incorrect, as ascertained from the Claimants application to set the judgement aside, the Defendant amended the Claimants personal details in relation to these two PCN's on _____.

25. It is maintained that Parking Control Management (UK) Ltd have acted reasonably and that no material breaches of relevant data protection legislation have occurred and the Claimant is put to full proof of the disadvantage that he has suffered in this regard.

26. It is therefore denied that the sum of _____ is owed to the Claimant. The Claimant has failed to provide any quantification of this sum, nor indeed has the Claimant provided any evidence in support of the claim nor has he specified his cause of action and the grounds on which he believes PCM is liable for this sum.

COSTS

PCM asks that the Claim is dismissed as it is without merit. CPM reserves its right to seek costs on an indemnity basis as the Claimant has acted unreasonably (CPR 27.14(2) (g)).

STATEMENT OF TRUTH

The Defendant believes that the facts stated in this Defence are true. I am duly authorised by the Defendant to sign this statement of truth.

Signed: Position: Solicitor

Name: Dated: