

London Tribunals | Road User Charging Adjudicators

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Case Reference: [REDACTED]  
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-v-

Transport for London

[REDACTED] appealed against liability for payment of the penalty charge in respect of:

Vehicle Registration Number	[REDACTED]
Penalty Charge Notice	[REDACTED]
Penalty Charge	£ 160.00
Contravention Date	29th December 2019
Contravention	Failure to pay charge for Ultra Low Emission Zone

**Adjudicator's Decision**

The adjudicator, having considered the evidence submitted by the parties, has decided that the appeal against liability for the penalty charge should be refused.

The reasons for the adjudicator's decision are enclosed.

The full penalty charge must be paid within 28 days to:

Transport for London  
PO BOX 340, Darlington, DL1 9PZ

If the penalty has not been paid Transport for London can issue a charge certificate increasing the full penalty charge by a further 50%.

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## **Adjudicator's Reasons**

### **Parties**

1 This is a reserved decision following the personal hearing of an appeal by [REDACTED] ("the Appellant") against a penalty charge imposed by Transport for London ("TfL") in relation to the use of the Appellant's vehicle with registration mark [REDACTED] in the Ultra Low Emission Zone ("ULEZ") on 29 December 2019 at Druid Street at 10:52.

### **Issue**

2 The responsibility is upon TfL initially to demonstrate that there may have been a contravention of the ULEZ scheme. If I am satisfied from the evidence that there has been a potential contravention, then the responsibility moves to the Appellant to satisfy me, more likely than not, that one of the six grounds of appeal as set out in the relevant regulations is made out.

### **Law**

3 The law relating to penalty charges under the ULEZ scheme is set out in the Greater London Low Emission Zone Charging Order 2006, as amended ("the Charging Order"). The relevant regulations relating to the possible grounds of appeal are Regulation 13(3) of the Road User Charging (Enforcement and Adjudication) (London) Regulations 2001, as amended ("the Enforcement and Adjudication Regulations").

### **Ground of appeal and representations**

4 The Appellant puts forward the ground of appeal that the penalty charge exceeded the amount applicable.

5 The Appellant's online representations were based on his claimed inadequacy of the ULEZ signage at the location of the contravention and were accompanied by six undated Google images of signage and road markings prior to, at and beyond the junction of Tower Bridge Road and Druid Street. I have considered those representations, which I summarise below:

- (a) The Appellant had not previously driven through London, and was unaware of ULEZ, and hence would only have been so aware if there had been adequate signage. He was aware of the Congestion Charge and had been informed that this did not apply between Christmas and New Year, and hence he drove through central London without paying any charges.
- (b) He asserted that the only opportunity to view the signs at the entrance to the ULEZ on Druid Street (approaching from the south on Druid Street) was from the other side of the junction with Tower Bridge Road. He explained that this was a 30 mph road with three lanes of traffic driving in the same direction and that, by the time the signs were visible, he was already committed to driving straight ahead due to his positioning within the lanes and surrounding traffic. The junction (at Druid Street/Tower Bridge Road) is a box junction and so he states that it would have been illegal to stop within it to read the signs.
- (c) The Appellant contended that it was very difficult, if not impossible, to assimilate all of the information displayed across eight different road signs, spread out on both sides of the road at this junction whilst driving. This was quite overwhelming, especially if there was a need to navigate other cars and pedestrians (as seen in one of the Google photos filed) at the same time.
- (d) The ULEZ signage had very small lettering and no information regarding any charge. As he passed the junction, the Appellant was able to manage to identify the Congestion Charge Zone sign but ignored it as it was not applicable. Having since viewed the signage on Google Maps, the Appellant had seen that there was an additional sign on the approach to the junction on the right hand side. However the red route was suspended on the date he drove past it (the signs state Mon-Sat 7am -7pm) and hence the view of this sign from his car from the left hand lane would have been blocked by parked traffic. This sign was not repeated on the left hand side of the road for some reason, and therefore even if he had been able to recognise the ULEZ sign, he would not have seen it until it was too late to take any corrective action without breaking the law and/or causing an accident.
- (e) The Appellant stated that he was not averse to paying the daily charge if and when he drives through London again. In the future, however he felt that the signage was quite misleading and

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perhaps intended to catch people out in order to generate income from penalty charges, and a more honest approach would be very much appreciated.

(f) Additionally, the Appellant considered that the penalty charge did not seem very reflective of similar traffic penalty charges elsewhere in the country. His research claimed that, for example, in Darlington a typical parking or bus lane penalty charge is £70 (£90 less than the PCN in contention) which he opined was presumably to reflect the relatively higher income of people living in London, although this did not seem particularly fair for drivers like him who does not.

6 In their Notice of Rejection, TfL confirmed that they had erected regulatory traffic signs at the points where vehicles entered the ULEZ, as well as warning signs on the approaches to the zone. The representations were rejected, and the reduced penalty was reoffered for a limited period, but the offer was not taken up at that stage.

### **Appeal details**

7 The appeal details were set out in the Appellant's letter dated [REDACTED], in which he mainly refers to the same issues raised in his representations as well as to TfL's response. For sake of completeness, I set out below a summary of the issues raised, notwithstanding that these, for the most part, duplicate the representations:

(1) This was the first time that he had driven in London and he was not familiar with ULEZ. The only relevant signs on Druid Street (approaching from the South) were those on the far side of the yellow box junction (Google image enclosed), and the pale advance sign on the right. However, as the red route was non-operational at the time (Mon-Sat 7am - 7pm) this sign was not apparent from his position due to parked vehicles (similar to the Google image enclosed, taken from a higher elevation) so he had no forewarning of the ULEZ restriction.

(2) He states that he clearly did not manage to identify the ULEZ signage amongst the eight road signs and two road markings at this location. He believed it would have been very difficult, if not impossible, to assimilate all of the information displayed across eight different road signs, spread out on both sides of the road at this junction whilst driving. This signage he claimed was quite overwhelming, especially if you needed to navigate other cars and pedestrians (as seen in the camera photo) at the same time. Even if he had, he would have found himself committed to driving straight ahead anyway due to his positioning within the lanes, and surrounding traffic.

(3) He accepts that TfL did acknowledge his first point: *"By the time the signs were visible, I was already committed to driving straight ahead due to my positioning within the lanes and surrounding traffic"*

(4) He continues that, although very inflated with material, the rejection notice at its most basic level did not contain even a hint of reasoning why, in the particular circumstances pertinent to this particular placement of ULEZ signs, TfL had considered that the placement was adequate, and that he did have a fair opportunity on approach from whatever lane (he could not recall) to choose an alternative route at the time when the red route was non-operational, and the pale advance sign was not apparent from his position due to parked vehicles.

(5) His second point was that *"It's very difficult, if not impossible to assimilate all of the information displayed across eight different road signs, spread out on both sides of the road at this junction whilst driving"* but states that TfL appears to have not addressed this.

(6) His third point was that *"The red route was suspended on the date I drove past the approach sign and hence the view of this sign from my car in the left hand lane was blocked by parked traffic"* but that reference to this by TfL was conspicuous by its absence.

(7) In referring to signage matters covered by the Notice of Rejection, the Appellant quotes TfL's statement within their Notice of Rejection that they have been authorised to use the signage by the DfT as per document GT50/139/0171. The Appellant accepts that this document does authorise TfL to use specific signs but refers to paragraph 4(1) of this document as stating: *"The Secretary of State hereby directs that - (1)Without prejudice to any regulations made under paragraph 22 (1) (e) of Schedule 9 to the Road Traffic Regulation Act 1984; the authorised signs A and B shall be placed on or near any road in Greater London in sufficient numbers and in appropriate positions to indicate to all traffic entering the London Ultra Low Emission Zone the nature of the provisions of a Scheme."*

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(8) The Appellant concludes on this point that for the reasons outlined above, TfL have not "fulfilled this clause" on Druid Street as they have not used Signs A and Signs B in an appropriate position, and that, whilst the document does authorise TfL to use the signs, clearly it does not state that the DfT has reviewed the positioning and agreed that it meets the criteria.

(9) Similarly, the Appellant refers to paragraph 4(2) of document GT50/139/0171 which states *"Without prejudice to any regulations made under paragraph 22 (1)(e) of Schedule 9 to the Road Traffic Regulation Act 1984; the authorised signs C-F or signs incorporating symbols G and H may be placed on or near any road in Greater London in sufficient numbers and in appropriate positions to indicate to all traffic entering the London Ultra Low Emission Zone the nature of the provisions of a Scheme."* Likewise, the Appellant concludes that Symbol H had been used on an advance sign to the junction, but that this sign was not in an appropriate position because it was not visible to all traffic at all times.

8 In summary, the Appellant concludes that he did not allege inadequacy of ULEZ signs in general, rather the inadequacy of the particular signs in the particular circumstances pertinent to their particular placement on Druid Street. However, using much material, TfL have wrongly addressed the adequacy of ULEZ signs in general, and he believes that he may have touched a raw nerve.

9 The Appellant submits that TfL's Notice of Rejection demonstrates that they did not "fully" consider all the material circumstances of his case as was required and, consequently, submits that TfL have failed to properly consider his representations and that, had they done so, it is possible that he would have had no need to appeal on the ground of appeal that the penalty charge exceeded the amount applicable in the circumstances of the case

#### **Agreed facts**

10 There is no dispute that on the contravention date vehicle [REDACTED] was registered to the Appellant, as is also confirmed by the evidence I have been provided with from the Driver and Vehicle Licensing Agency. It is also not in dispute that on the contravention date the Appellant's vehicle was used within the ULEZ and that no payment of the ULEZ charge for that date was made to TfL, which I am satisfied is proved by the evidence filed by TfL.

#### **Signage**

11 I have carefully considered all of the issues raised by the Appellant in his representations and appeal details. The case turns on whether it is more likely than not that TfL has complied with its legal obligation to sign the entry point to the ULEZ at Druid Street in an appropriate position and, having chosen to do so, whether the optional advance information sign was also placed in an appropriate position

12 I have noted the responses of TfL and, in particular, the following extract from their Case Summary: *"We also gave consideration to the location of each boundary point and road layout and sought to rationalise the number of entry signs and attempt to limit the level of street clutter and visual intrusion. In all instances the signs have been placed to offer the most reasonable location identifiable at that site to offer as much visibility as possible and in some instances they have been co-located on the same poles as the Congestion Charging signs, given they share the same boundary. There are also signs to provide warning on the main approaches to the zone, which are placed to allow motorists time to take alternative routes to avoid entering the ULEZ. The advance signs are non-regulatory and have been provided to inform drivers that they are approaching the ULEZ."*

13 Having considered the parties' evidence, I find on the balance of probabilities that (i) the mandatory ULEZ entry signage, authorised in accordance with the Department of Transport authorisation GT50/139/0171 dated 1 August 2018, had been erected at the entry to the ULEZ at Druid Street, and am satisfied that this entry point to the zone was lawfully signed in an appropriate position; and (ii) the optional advance signage was similarly lawfully signed in an appropriate position.

#### **Conclusions**

13 I conclude in favour of TfL as I am satisfied, from the evidence before me, that that a penalty was validly imposed in relation to the use of the Appellant's vehicle within the ULEZ on the contravention date and that none of the six grounds of appeal as set out in Regulation 13(3) of the Enforcement and Adjudication Regulations has been made out.

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14 As the Appellant's vehicle is a class [REDACTED] vehicle under the Charging Order, which uses diesel fuel, and was manufactured in [REDACTED], before the mandatory emission standards now required were introduced, it was built to achieve emissions standards which exceed those now required by the ULEZ. Only [REDACTED] vehicles which use diesel fuel and which have an emission standard of Euro 6 or above are not required to purchase a ULEZ daily charge.

15 I am therefore satisfied that the Appellant's vehicle was liable to the ULEZ scheme and was required to pay a daily charge to avoid a penalty. As the evidence shows that the Appellant's vehicle was used within the ULEZ on the contravention date and no daily charge was purchased, this is what led to the Penalty Charge Notice being issued.

16 I have no doubt of the truthfulness of the Appellant's account of being unaware of the existence of the ULEZ and the need to purchase a daily charge, but I am satisfied that the facts do not amount to a ground of appeal as set out in Regulation 13(3) of the Enforcement and Adjudication Regulations. The ULEZ scheme came into force on 8 April 2019 and applies to all vehicles that do not meet the relevant emissions standards as set out in the Charging Order.

17 Whilst TfL has complete discretion as to whether or not to pursue a contravention in this instance, it has chosen to proceed with enforcement of the Penalty Charge Notice. As an Adjudicator, I do not share the same power of discretion, but am limited to considering whether one or more of the six statutory grounds of appeal is made out.

#### **Decision**

18 Accordingly, as I am satisfied that none of the grounds of appeal under the Enforcement and Adjudication Regulations are made out, having considered all six, not simply the grounds of appeal raised by the Appellant, I therefore have no option but to find in favour of TfL and must refuse the appeal.

#### **Amount to be paid**

19 I note that TfL has chosen to accept the discounted sum of £80.00 from the Appellant in relation to this contravention if paid within 14 days of the date of this letter. If payment is not made within this time then the penalty amount will revert to £160.00 and the Appellant will have a further 14 days in which to make payment. If full payment has not been made within 28 days of the date of this letter the penalty amount will increase by 50% and TfL will be able to pursue its normal enforcement procedures

[REDACTED]

Adjudicator appointed under Regulation 3 of the Road User Charging (Enforcement and Adjudication) (London) Regulations 2001 (as amended).

[REDACTED]

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