

## Miss [REDACTED] P [REDACTED] - v - City of Bradford Metropolitan District Council CAZ

### Appeal Details

Case number:	DY00083-2301	Appeal Raised:	19/01/2023
Vehicle:	[REDACTED]	Hearing:	There was no hearing
Representative:	N/A	Decision:	30/01/2023
Number of PCNs:	1	Adjudicator:	James Richardson

Decision - PCN DY1014358A

**Miss [REDACTED] P [REDACTED], you have lost this appeal.**

You need to pay the penalty charge to City of Bradford Metropolitan District Council CAZ.  
Penalty Charge Amount: £120.00

Issued: 28/10/2022

Entered: 04/10/2022 16:14

Mayo Avenue 4

1 - Taxi/PHV/LGV/Minibus

Please see the next page for the Adjudicator's Reasons

## Adjudicator's Reasons

1. I have delivered a written decision without a hearing.
2. On 4th October 2022 Miss P■■■■'s motor vehicle was recorded being driven on Mayo Avenue within the Council's Clean Air Zone; for which a user charge is payable.
3. Miss P■■■■ explains "I don't believe I should be the person paying this fine as I did not have the van at this time as it was in for mot.". Evidence to support the collection of the vehicle for the purpose described has been submitted.
4. Regulation 6(1) of the Road User Charging Schemes (Penalty Charges, Adjudication and Enforcement) (England) Regulations 2013, provides that road user charges and penalty charges imposed upon a relevant vehicle by a charging scheme are to be paid by the registered keeper of the vehicle.
5. Regulation 8(3)(b) provides the registered keeper with a defence to that liability where the vehicle was driven in the CAZ "...by a person who was in control of the motor vehicle without the consent of the recipient [of the PCN]."
6. The terms of the Enforcement Regulations expressly deal with the circumstances in which someone else, other than the registered keeper was driving the vehicle providing a defence to a PCN relating to a road user charge.
7. The issue before me is whether the ground for representations in regulation 8(3)(b) applies here. Regulation 8(3)(b) only provides the registered keeper with a defence to a PCN where the vehicle was driven in the CAZ "... by a person who was in control of the motor vehicle without ... consent.". The test is whether the person who drove the vehicle in the CAZ on this occasion had control of the vehicle without Miss P■■■■'s consent. I do not know the identity of the driver but do know the vehicle was collected by and in the control / custody of Mr F■■■■ for the purpose of a MOT.
8. I find Miss P■■■■ gave control of the vehicle to Mr F■■■■ for the MOT and because of that act regulation 8(3)(b) does not apply. Because Miss P■■■■ is the registered keeper of the car, she was liable for the road user charge when the vehicle was driven in the CAZ and is liable for the penalty charge which became payable in lieu of the road user charge because that road user charge has not been paid.
9. While the particular circumstances and the absence of knowledge that the vehicle was driven within the CAZ may amount to mitigation, that is not a reason for the appeal to be allowed because mitigation is not one of the statutory grounds of challenge to a CAZ penalty. Mitigation is something for the Council to consider when determining if to pursue the penalty. It is not a decision I can make. Any issue about possible reimbursement is a private matter between Miss P■■■■ and Mr F■■■■ / the company.
10. This appeal has been lost.

# Adjudicator's Decision

James Richardson

Adjudicator

30/01/2023