

Mrs [REDACTED] K [REDACTED] - v - Gateshead Council

Appeal Details

Case number:	GH00035-2304	Appeal Raised:	20/04/2023
Vehicle:	[REDACTED]	Hearing:	There was no hearing
Representative:	N/A	Decision:	10/05/2023
Number of PCNs:	1	Adjudicator:	Annie Hockaday

Decision - PCN GH11086728

Mrs [REDACTED] K [REDACTED], you have lost this appeal.

You need to pay the penalty charge to Gateshead Council.

Penalty Charge Amount: £50.00

Issued: 24/01/2023

Contravention: 24/01/2023 10:47

Gladstone Terrace West

24 - Not parked correctly within the markings of the bay or space

Please see the next page for the Adjudicator's Reasons

Adjudicator's Reasons

1. The penalty charge notice (PCN) is for not parking correctly within the markings of the 2 hour parking bay. Mrs K [REDACTED] wrote the same day to object that a minimum of 5 minutes observation was not given and they were doing a delivery and had to park safely. They say that they were gone within 5 minutes and offer to provide a delivery note. They query why the silver car behind in the disabled bay, which did not appear to have a blue badge, did not receive a PCN.
2. The officer noted 'straddled across two bays' and took photos. The officer logged Mrs K [REDACTED]'s car at 10:46 and issued at 10:47. Photos at 10:48 and 10:49 show the PCN served to the windscreen. I find that the rear (about a quarter of the length) was parked in the disabled bay. She does not claim that a valid disabled blue badge was on display. The lettering 'DISABLED' along the edge was in good condition and clearly visible, as was the corner and end line that marks the boundary before the start of the adjoining bay that offers 2 hours' parking.
3. There is no right under the law to a minimum number of minutes on arriving and parking at a location before a PCN can be issued for an alleged contravention. There is a wide range of parking restrictions and potential contraventions. Whether or not an officer will in practice observe for some minutes depends on what restriction is in place and whether observation would be relevant.
4. For example, if the underlying traffic regulation order creates an exemption for loading activity, such as the loading exemption to 'no waiting' yellow lines, an officer will usually in practice observe for about 5 minutes to watch for loading (but is not required by law to do so). The purpose of this observation is to gather evidence about whether or not a relevant exemption applies. The longer an officer waits without seeing activity, the more the driver will have to explain the period of the absence. The observation avoids creating situations where an officer issues immediately on yellow lines, but the driver returns within 2 minutes carrying heavy items to load into the vehicle and the vehicle is clearly entitled to the exemption.
5. For a bay that is restricted to vehicles displaying a disabled blue badge, a vehicle that parks inside it without a blue badge is in contravention of that restriction. There is not an exemption for loading by a vehicle that is not displaying a blue badge. The purpose of the bay is to keep the bay available for use by disabled badge holders. The Highway Code at rule 241 is clear '*You MUST NOT park in parking spaces reserved for specific users, such as Blue Badge holders, residents or motorcycles, unless entitled to do so*'.
6. As for the other silver car in the disabled bay, the photos do not show the dashboard. I do not have all the relevant evidence about the circumstances of that car and cannot comment on whether or not it was parked in contravention of the bay. In any event, its status is not directly relevant to the contravention by Mrs K [REDACTED]'s car. She expresses a feeling of being targeted by the officer but there is no evidence to support that claim. There is no evidence of any encounter between the officer and the driver of Mrs K [REDACTED]'s car on arrival to form the basis for the officer then to target them while they were absent by issuing a PCN.
7. I find that a significant amount of Mrs K [REDACTED]'s car was parked outside the marking of the 2 hour bay and inside the disabled bay. It was parked in the disabled bay without

Adjudicator's Decision

justification. The contravention is proved. Mrs K [REDACTED] has not shown a reason to win her appeal.

8. The contravention starts at £50. The law requires the Council to offer a 50% discount in the PCN. After that, any later discount is only at the Council's discretion. They extended the chance to pay 50% by letter 2 February but that offer passed. Mrs K [REDACTED] is liable to pay £50.
9. I note that the amount would have been higher (£70) if the officer had used the alternative contravention of parking in a disabled bay without displaying a valid badge.

Annie Hockaday
Adjudicator
10/05/2023