

**Mr [REDACTED] S [REDACTED] - v - Blackburn with Darwen BC**

## Appeal Details

Case number: LY00020-2010  
Vehicle: [REDACTED]  
Representative: N/A  
Number of PCNs: 1

Appeal Raised: 03/10/2020  
Hearing: All parties attended the  
hearing  
Decision: 19/05/2021  
Adjudicator: Caroline Sheppard

Decision - PCN LY00517745

**Mr [REDACTED] S [REDACTED], you have reached an agreement with the authority**

On this occasion the authority agree that you do not have to pay the penalty. There is nothing to pay.

Penalty Charge Amount: £60.00

Issued: 01/10/2020

Contravention: 01/09/2020 05:47

Penny Street (southbound)

34 - Being in a bus lane

Please see the next page for the Adjudicator's Reasons

## Adjudicator's Reasons

1. Mr S [REDACTED] took part in a video hearing of his appeals on 3 March 2021. Blackburn Council was represented Ms H [REDACTED], who took part by audio only. I am grateful to them both for the courteous and cooperative way they participated in the hearing.
2. Mr S [REDACTED] has appealed a number of penalty charge issued to him because his vehicle, [REDACTED], was repeatedly detected driven in various bus lanes in Blackburn over a significant period of time.
3. He believed he could travel in the bus lanes because his vehicle is a licenced hackney carriage.
4. Mr S [REDACTED], whose permanent address is in Reading, is a taxi driver and his vehicle is a hackney carriage. Both Mr S [REDACTED] and his vehicle are licenced by South Oxfordshire District Council. The terms of the vehicle licence are:

"To use the following as Hackney Carriage within the district of South Oxfordshire District Council pursuant to the powers conferred upon it by the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976"

5. The licence is valid from 30 March 2020 until 29 March 2021.
6. He made representations against each PCN producing his hackney carriage licence. His representations were nonetheless rejected with identical Notices of Rejection. None of them provided explained why the Council did not accept that his South Oxfordshire licences qualified him to use a bus lane in Blackburn.
7. Mr S [REDACTED] appealed on the basis that his vehicle is a licenced taxi and therefore he was permitted to drive in the bus lane.
8. It was only at the hearing that Ms H [REDACTED], on behalf of the Council, explained that although his vehicle was licenced as a hackney carriage by South Oxfordshire, Blackburn Council did not consider it a valid taxi for the purpose of their bus lanes.
9. Mr S [REDACTED] explained the unfortunate family circumstances that required him to be in Blackburn for a considerable period of time. During that time, assuming that the bus lane exception for taxis applied to his vehicle, he used the bus lanes whenever he needed to travel the particular route. There is no question that he was carrying paying passengers - he was using his vehicle as the family car for that period of time.
10. The rules about taxis and private hire vehicles are not straightforward. There have been a number of High Court Cases about what they may or may not do. In each of these, the High Court emphasised that the law was by no means clear. I am not going to analyse and quote from those cases because they all turned on whether taxis licenced in one area could operate within a private hire business in another area. The Court was principally concerned with the application of Section 46 of the Local Government (Miscellaneous Provisions) Act 1976. On that narrow issue, the High Court concluded that for the purposes of Section 46 a hackney carriage, which provides:

“no person being the proprietor of any vehicle, not being a hackney carriage in respect of which a vehicle licence is in force, shall use or permit the same to be used in a controlled district as a private hire vehicle without having for such a vehicle a current licence under section 48 of this Act;”

11. This essentially provides that a separate licence is required to operate as a private hire vehicle.
12. The purpose of the licencing provisions is to ensure that the vehicles are regularly inspected and in a satisfactory state of repair to carry passengers, and as a safeguard that the licenced drivers are fit and proper persons to carry out this service. The Court was not concerned with the application of the description of hackney carriage for the purposes of road traffic regulation.
13. The position in relation to taxis - hackney carriages - where there is an exemption conveyed by the word 'taxi' in the traffic sign can be summarised:
  - a. Every taxi (hackney carriage) is licenced by a district council. The driver must be separately licenced. The significant feature of the hackney carriage licence is that it allows the licenced driver to ply for hire within the area of the council that issued the licence. Mr S [REDACTED]'s licence makes that clear. This means that the taxi may wait for a fare on a taxi rank provided by the council, and drive around the area plying for hire. A taxi in the area where it is licenced may use the bus lanes when plying for hire, even though not carrying a fare.
  - b. Outside the licencing council's area, for a bus lane exemption to apply, a taxi must be in use as a hackney carriage, i.e. carrying a paid fare to a particular destination. Returning, having dropped off the passenger, also qualifies as part and parcel of the taxi fare for the purpose of any taxi exemption to bus lane restrictions.
  - c. Taxis licenced by one authority will inevitably be carrying fares in other districts and any particular authority will recognise the taxis of neighbouring authorities.
  - d. Taxis may also pick up booked fares. These may be for long journeys into distant council areas. In these circumstances that taxi will still be operating as a taxi and entitled to use any bus lane with a taxi exemption.
  - e. If a licenced vehicle is simply being used by the owner for personal use, then it is not in use as a taxi, but as a private vehicle. It follows that exemptions from traffic regulations for taxis do not apply in these circumstances.
  - f. The upshot for councils enforcing bus lanes is that they can presume taxis licenced by adjacent authorities are using the bus lane in the course of carrying a fare, or returning from such a job, but may wish to see evidence of the fare from taxis licenced from further afield.
  - g. Licenced taxis and PHVs should always have a record of a particular fare or booking if evidence is required.
14. Since Mr S [REDACTED] and his taxi are licenced in South Oxfordshire it is not surprising that Blackburn Council questioned whether his licenced vehicle was carrying fares. Had that been the case then it is probable that a criminal offence may have been committed. However, that was not the case.

# Adjudicator's Decision

15. I therefore conclude, and explained to the parties at the hearing, that on each occasion when Mr S [REDACTED]'s car was detected in the bus lane it was not permitted to be there since it was, effectively, a private car. It follows that there was technically a contravention on each occasion for which a penalty charge notice was issued.
16. Not surprisingly, there has been considerable confusion about whether Mr S [REDACTED] car was a taxi for the purposes of his time in Blackburn. An adjudicator early on allowed his appeal on the basis of his licence, and the Council accepted some of his representations on the same basis. Mr S [REDACTED] was therefore led to believe he was entitled to drive in the bus lanes. When the Council decided to reject his representations, unfortunately, they did not explain why in the notice of rejection. The form of the identical, and I must say, irrelevant reasons given would not have clarified his impression that by virtue of his South Oxfordshire licence, he was entitled to be in the bus lanes.
17. Ms H [REDACTED] very reasonably and graciously said that now both parties understand the complex rules about 'when is a taxi not a taxi?', the Council would cancel all of the penalty charge notices. Mr S [REDACTED] confirmed that at the time of the hearing he had returned to Reading with the custody of his children.
18. I am recording that all the appeals have been resolved with the consent of the parties, recognising that while there was a technical bus lane contravention in each case the Council have waived payment of each penalty charge. Consequently, there is nothing to pay.

Caroline Sheppard  
Chief Adjudicator  
19/05/2021