

MR [REDACTED] M [REDACTED] - v - Birmingham City Council

Appeal Details

Case number:	KW00360-2502	Appeal Raised:	06/02/2025
Vehicle:	[REDACTED]	Hearing:	The Authority did not attend
Representative:	N/A	Decision:	26/02/2025
Number of PCNs:	1	Adjudicator:	Adjudicator Fantinic

Decision - PCN KW34582009

MR [REDACTED] M [REDACTED], you have lost this appeal.

You need to pay the penalty charge to Birmingham City Council.

Penalty Charge Amount: £120.00

Issued: 03/01/2025

Entered: 13/12/2024 22:53

Birmingham Clean Air Zone

1000 - DEFAULTRUC

Please see the next page for the Adjudicator's Reasons

Adjudicator's Reasons

1. The Appellant attended by video call. The Authority did not attend and had not been expected.
2. The Appellant explained that he believed that he had paid the road user charge, however, after receiving the Penalty Charge Notice (PCN) he realised that he had paid using a fraudulent website. The Appellant described thinking it was odd that he had been charged £14 and not £8, but he thought that perhaps he had entered the CAZ a second time after leaving.
3. The Appellant has provided a screenshot showing the bank transaction for the £14 paid on 16 December. The Appellant has also provided the confirmation email sent to him on 16 December by "Clean Air" confirming receipt of a £14 payment. The email states "£Bath".
4. In its case summary, the Authority submits that the responsibility lies with the motorist to ensure the payment has been made for the correct date and vehicle registration, using the official payment channels. The Authority did not receive the road user charge and so it was entitled to issue a PCN. The Authority comments that the email evidence provided by the Appellant indicates that he did not pay by the official payment platform, and that it does not confirm the vehicle registration paid for and states that the payment was made for the Bath CAZ, not for the Birmingham CAZ.
5. The Appellant's vehicle entered the CAZ on 13 December 2024 and was liable to pay the road user charge for entry. The road user charge was not paid to the official website by the relevant deadline (which is up to six days after entry). In these circumstances, the Authority was entitled to issue a PCN.
6. I found the Appellant to be a credible witness and I believed what he told me was true. However, the circumstances described by the Appellant are mitigating circumstances. The Adjudicator is unable to allow an appeal on the basis of mitigating circumstances. It is only the Authority that can cancel a PCN on the basis of mitigating factors, and it has decided not to do so on this occasion.
7. The penalty charge is £120. The Authority was obliged to accept a 50% reduced penalty charge of £60 if it was paid within 14 days of the date that the PCN was served. After that date it is at the Authority's discretion whether to re-offer the reduced charge. The Authority sought the full penalty charge in the Notice of Rejection, and states in its case summary that it still seeks the full penalty charge. The Authority is entitled to seek the full penalty charge in the circumstances. The Adjudicator has no power to direct the Authority to re-offer the reduced penalty charge or to accept the road user charge only.
8. On the evidence before me, I find that the contravention occurred. The Appellant has not established a statutory ground of appeal and I am therefore bound to refuse this appeal.

Adjudicator Fantinic

Adjudicator

26/02/2025