

MR [REDACTED] M [REDACTED] - v - East Hertfordshire District Council

Appeal Details

Case number:	ET00005-2503	Appeal Raised:	01/03/2025
Vehicle:	[REDACTED]	Hearing:	The Authority did not attend
Representative:	[REDACTED]	Decision:	13/04/2025
Number of PCNs:	1	Adjudicator:	Adjudicator Brennan

Decision - PCN ET35605461

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

You need to pay the penalty charge to East Hertfordshire District Council.
Penalty Charge Amount: £70.00

Issued: 20/09/2024

Contravention: 20/09/2024 19:57

Fore Street Hertford

45 - Stopped on a taxi rank

Please see the next page for the Adjudicator's Reasons

Adjudicator's Reasons

1. A video hearing took place on 9th April with [REDACTED] representing the appellant who did not attend. A council representative did not attend. I reserved my decision.
2. The civil enforcement officer's evidence shows the appellant's car parked in a bay where there is a sign that has three panels. The top panel indicates that there is a waiting restriction Friday-Saturday 6pm-8am except taxis. The second panel states goods vehicles loading Monday to Saturday 8am-6pm. The lower panel indicates that parking is permitted at all other times.
3. At 19:57 on Friday 20th September 2024 a Penalty Charge Notice was issued to the appellant's car. The Penalty Charge Notice states that the grounds on which the civil enforcement officer believed that a contravention occurred was that the vehicle was parked in a taxi rank.
4. [REDACTED] argues firstly that there has been a procedural impropriety and secondly that no contravention occurred.
5. The Penalty Charge Notice was issued by East Hertfordshire District council. Both informal and formal representations were made to East Hertfordshire District council. The district council is the authority seeking to enforce the Penalty Charge Notice.
6. The Traffic Regulation Order that created the restriction in Fore Street was made by Hertfordshire County Council. The Order defines the County Council as the Council of the County of Hertfordshire and the Council as East Hertfordshire District Council including any contractors or agents appointed by and acting on behalf of the Council to carry out functions under the provisions of the Order.
7. There are references to the Council throughout the Order including that penalty charges are payable to the Council
8. The map tile at evidence 12 creates the restriction.
9. Schedule 2 of the *Civil Enforcement of Road Traffic Contraventions (Approved Devices, Charging Guidelines and General Provisions) Regulations 2022* sets out the regulatory matters that must be stated on a Penalty Charge Notice. One of the regulatory matters to be included on a Penalty Charge Notice is the name of the enforcement authority.
10. [REDACTED] argues that the enforcement authority is Hertfordshire County Council and not East Hertfordshire District Council.
11. Schedule 8 of the Traffic Management Act 2004 states that a reference to an enforcement authority in relation to parking contraventions in a civil enforcement area outside Greater London are in relation to contraventions relating to a parking place authorised by section 32(1)(a) or (b) of the Road Traffic

Regulation Act 1984 or designated by order under section 45 of that Act the authority by whom the parking place was provided, authorised or designated.

12. The Traffic Regulation Order was made under the Road Traffic Regulation Act 1984 and [REDACTED] states that this means that the county council and not the district council is the enforcement authority. [REDACTED] argues that the Penalty Charge Notice has to refer to Hertfordshire County Council and that it should be clear on the Penalty Charge Notice that the district council is acting on behalf of the county council.
13. Notwithstanding that the county council is the enforcement authority as defined in the Traffic Management Act 2004 the reality is that it is the district council that is actually the enforcement authority who is issuing the Penalty Charge Notice and dealing with all aspects of enforcement up to and including contesting any appeal that may be made.
14. The reason that there is a requirement for the name of the enforcement authority to be stated on a Penalty Charge Notice must be to enable a motorist receiving a Penalty Charge Notice to know the authority to which either a payment or representation should be made. The authority to which the payment was due was East Hertfordshire District Council. The authority to which representations should be made is East Hertfordshire District Council.
15. I find that the reference on the Penalty Charge Notice to the authority that is actually enforcing the Penalty Charge Notice and not to Hertfordshire County Council does not amount to a procedural impropriety such that the Penalty Charge Notice cannot be enforced.
16. In reaching my decision I have considered the recent Scottish case of *Glasgow City Council v The Upper Tribunal of Scotland* [2025] CSIH 2 XA38/4. I find that Parliament could not have intended that a lapse in procedure, that was inconsequential in terms of procedural fairness, would defeat the substantive purpose of the legislative scheme. The failure to refer to Hertfordshire County Council was entirely inconsequential because the recipient of the Penalty Charge Notice knew who he had to contact to pay or make representations.
17. I find that the sign in Fore Street clearly indicated the different restrictions that applied to different vehicles at different times of the day. At the time that the Penalty Charge Notice was issued there was a waiting restriction on all vehicles except taxis.
18. [REDACTED] argues that as the enforcement was being carried out by the district council they needed to have authorised the taxi stand pursuant to the Local Government (Miscellaneous Provisions) Act 1976.
19. A Penalty Charge Notice must state the grounds on which the civil enforcement officer issuing the notice believes that a penalty charge was payable. As no vehicles other than taxis were permitted to stop or wait at the location at the time that the Penalty Charge Notice was issued I find that the Penalty Charge Notice did properly state that the ground on which it was believed that a contravention occurred was that the car was stopped in a taxi rank.

Adjudicator's Decision

20. The appellant's car is not a taxi therefore Mr M [REDACTED] should not have stopped or waited at the location. I find that the contravention occurred. I dismiss this appeal.

Adjudicator Brennan

Adjudicator

13/04/2025