

MR [REDACTED] M [REDACTED] - v - Secretary of State for Transport

Appeal Details

Case number: IO00731-2504

Vehicle: [REDACTED]

Representative: N/A

Number of PCNs: 1

Appeal Raised: 18/04/2025

Hearing: All parties attended the hearing

Decision: 14/05/2025

Adjudicator: Adjudicator Fantinic

Decision - PCN IO02369919

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

Both the Penalty Charge Notice and liability for the crossing charge must be cancelled. There is nothing to pay.

There has been a procedural impropriety on the part of the Charging Authority.

Issued: 24/12/2024

Contravention: 27/01/2024 15:37

1 - Dart Charge Class B (Cars)

Please see the next page for the Adjudicator's Reasons

Adjudicator's Reasons

1. The Appellant attended the hearing by Teams video call. A presenting officer attended by Teams video call on behalf of the Authority. I reserved my decision, which is set out below.
2. The Appellant submits that there has been procedural impropriety for two reasons: (i) Firstly, because the Penalty Charge Notice (PCN) was issued more than 28 days after the alleged contravention. (ii) Secondly, because after he challenged the PCN, the Authority did not provide him information about how to appeal the decision after rejecting his representations, instead it reissued the PCN.
3. The presenting officer explained that the PCN was reissued on 20 June 2024 to provide the Appellant the opportunity to pay the reduced charge again as it did not accept his representations.

Brief chronology

4. On 27 January 2024, the alleged contravention took place.
5. On 10 April 2024, the Authority issued the PCN, which was deemed served on 12 April 2024.
6. On 8 May 2024, the Appellant challenged the PCN on the basis that there was a procedural impropriety as the PCN had been issued almost three months after the crossing and not within 28 days.
7. On 18 June 2024, the Authority responded, referring to the Road User Charging Scheme (Penalty Charges, Adjudication and Enforcement) (England) user Regulations 2013 ("the General Regulations"). It stated that in accordance with the General Regulations, there was no timescale by which it had to issue a PCN and that the PCN was legally compliant. Under the heading "*What happens next*" it stated "*We have reissued the PCN(s) to you under separate cover*" no explanation was provided as to why the PCN was to be reissued.
8. On 20 June 2024 the PCN was reissued for the alleged contravention on 27 January 2024.
9. I will not set out the further chronology in detail here as it is not the basis upon which I am making my decision. However, I have considered the correspondence in detail, and for completeness I will add that the PCN was reissued twice again and on 15 January 2025 the Authority first issued a notice of rejection, which was then reissued on 19 March 2025.

Findings

10. There is no time limit in the General Regulations by when the Authority must issue a PCN following a contravention. Therefore, the Appellant's initial representations that there was a procedural impropriety because the PCN was issued almost three months after the alleged contravention, are unfounded.
11. The Appellant's representations of 8 May 2024 were made under Regulation 8(1) of the General Regulations, and within the 28 days of service of the PCN.
12. Regulation 8(9) of the General Regulations places a duty on the Authority to consider the Appellant's Regulation 8(1) representations, and to serve a notice of its decision on the Appellant within 56 days beginning with the date on which the representations were served on it. The deadline to serve the notice in this case was by 2 July 2024.

Adjudicator's Decision

13. Regulation 8(10) of the General Regulations sets out that where an Authority fails to issue the notice within 56 days, it is deemed to have accepted the representations made under Regulations 8(1) and to have served a notice to that effect under Regulation 9(1).
14. The reference to “notice” in Regulation 8 is to a notice of rejection. Regulation 10(1) sets out the information that a notice of rejection must contain.
15. Following receipt of the Appellant’s representations on 5 May 2024, the Authority failed to comply with the 56 day deadline by which it was required to issue the notice of rejection. The Authority issued a letter on 18 June 2024 in which it referred to the General Regulations and stated that the PCN was legally compliant, however, I find that letter cannot be treated as a notice of rejection. It did not comply with the requirements of Regulation 10(1) and did not contain any information as to how the Appellant could appeal to the Tribunal. The presenting officer did not suggest that the letter of 18 June should be considered a notice of rejection.
16. The Authority failed to issue the notice of rejection within 56 days of the Appellant’s representations. Therefore the Authority is deemed to have accepted them.
17. The fact that the Authority reissued the PCN on 20 June, does not enable it to avoid the 56 day deadline in Regulation 8(9)(b). In fact, there is a danger that the Authority could be perceived to be re-issuing the PCN as a method of increasing the time it has to issue the notice of rejection, which would be an entirely unacceptable abuse of process. To be clear, I do not consider that the PCN was reissued so that the Authority could increase the time it had to issue the notice of rejection in this case. I accept the presenting officer’s explanation that the PCN was reissued on 20 June to reoffer the reduced charge to the Appellant. However, the appropriate place for the reduced charge to be re-offered was in the notice of rejection. An Authority has the discretion to reoffer the reduced charge at any time, and in fact the two notices of rejection eventually issued to the Appellant both reoffered the reduced charge for a further 14 days.
18. For the reasons set out above, I find that the Authority failed to comply with the 56 day deadline in Regulation 8(9)(b) and therefore, in accordance with Regulation 8(10)(a), the Authority is deemed to have accepted the Appellant’s representations. This appeal is therefore allowed.

Adjudicator Fantinic

Adjudicator

14/05/2025