

# Adjudicator's Decision

## MR [REDACTED] B [REDACTED] - v - Calderdale Borough Council

### Appeal Details

Case number:	CX00053-2511	Appeal Raised:	04/11/2025
Vehicle:	[REDACTED]	Hearing:	The Authority did not attend
Representative:	N/A	Decision:	11/12/2025
Number of PCNs:	1	Adjudicator:	Adjudicator Fantinic

### Decision - PCN CX53341091

**MR [REDACTED] B [REDACTED], you have lost this appeal.**

You need to pay the penalty charge to Calderdale Borough Council within 28 days.

Penalty Charge Amount: £50.00

Issued: 29/08/2025

Contravention: 29/08/2025 15:35

Dean Clough

6 - Parked without clearly displaying a valid pay & display ticket or voucher

Please see the next page for the Adjudicator's Reasons

## Adjudicator's Reasons

1. The Appellant attended the appeal hearing by Teams video call. The Authority did not attend and had not been expected. I reserved my decision, which is set out below.
2. The Appellant submits that the contravention did not occur and there has been a procedural impropriety by the Authority. I consider both submissions in turn below.

### *Chronology of events*

3. On 29 August 2025, a Friday, the Appellant purchased a virtual parking session for the location in which he parked. It was valid from 11:14 to 15:14. A copy of his receipt is at evidence tab 1.
4. The Penalty Charge Notice (PCN) states that the vehicle was observed from 15:18 until 15:35, and the contravention occurred at 15:35. The PCN was issued at 15:35 with contravention code 06 - *"Parked without clearly displaying a valid pay & display ticket or voucher"*.
5. The Civil Enforcement Officer's (CEO's) notes record that the vehicle was first seen at 15:18. The CEO's photographs are time stamped 15:18, 15:19, 15:20 and 15:27. There is a photograph of the relevant sign, which states that parking restrictions apply *"Mon - Sat 8 am - 6 pm"* and that parking is for *"Permit holders CP or Pay at machine Display ticket"*. There is a photograph of the ticket machine, which has information about cashless parking on it.

### *Ground 1 - The Contravention Did Not Occur*

6. Regulation 5(2) of the Civil Enforcement of Road Traffic Contraventions (Approved Devices, Charging Guidelines and General Provisions) (England) Regulations 2022 states that:

*"no penalty charge may be imposed ... in relation to a parking contravention where—*

*(a)the vehicle is stationary in a designated parking place and is left beyond the permitted parking period, and*

*(b)the period for which it is left beyond the permitted parking period does not exceed 10 minutes."*
7. The Appellant submits that as his parking session ended at 15:14, he was parked lawfully until 15:24 because the 10-minute grace period applied. The Appellant asserts that enforcement began unlawfully as the observation period, which is part of the enforcement process, began during the 10-minute grace period, and photographs were also taken during that time.
8. The Authority states that the CEO's handheld device only shows current valid parking sessions, and does not show expired sessions. Therefore, at the time of the first observation at 15:18, as the session purchased had expired, the only information available to the CEO was that there was no valid virtual session or physical permit in place.
9. Regulation 5(2) states that a penalty charge cannot be *"imposed"* during the 10-minute period. This is a reference to the PCN being actually issued. There is nothing in Regulation 5(2) to preclude observing a vehicle that appears to be in contravention during the 10-minute period. The observation period is to ascertain whether an exempt activity is underway and the contravention does not occur until the PCN is issued.

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10. I find that the CEO was entitled to observe the vehicle during the ten minute grace period. The PCN was issued after the ten-minute grace period had passed. The CEO was entitled to issue the PCN in the circumstances.

## *Ground 2 - Incorrect Contravention Code*

11. The contravention code used was "*Parked without clearly displaying a valid pay & display ticket or voucher*".
12. The Appellant submits that this is the incorrect contravention code as it refers to displaying a ticket or voucher, however, as the Appellant paid using the cashless virtual method, there was no physical ticket or voucher issued or displayed. The Appellant submits that the contravention code is inaccurate and misleading.
13. The Authority states that the CEO used the correct code and refers to the relevant Traffic Regulation Order ("TRO") at evidence tab 19, which applies to the location. At Article 4 of the TRO it defines "*pay and display ticket*" as meaning "*either: (a) a ticket issued by a pay and display machine; or (b) a virtual ticket.*"
14. The meaning of the contravention code used was that the vehicle was parked without displaying a valid ticket or voucher. This includes virtual display, by which a ticket or purchased parking session can be viewed virtually by the CEO on their handheld device. Additionally, the TRO has defined "*pay and display ticket*" to also refer to a virtual ticket.
15. I find that the contravention code used was appropriate for the circumstances. The CEO's notes confirm that cashless parking was checked and up to date at 15:35, evidently no valid virtual session was displayed, and so the PCN was issued.
16. I also considered whether the Authority should have used contravention code 05 - "*P&D Ticket Expired: Parked after the expiry of paid for time for an expired pay and display ticket*" instead of code 06.
17. The Authority has explained that the CEO's handheld device only shows current valid parking sessions, and does not show expired sessions, so it can only use code 05 where a physical ticket can be seen by the CEO. The Authority submits that contravention code 06 was used based on the information available to the CEO at the time of observation and issue of the PCN.
18. Both codes 05 and 06 are for the lower rate of penalty charge and in my view both codes adequately describe the reason for issuing the PCN in the present case. I am satisfied that the Authority was entitled to use either code in the circumstances observed and there has been no prejudice caused to the Appellant by code 06 being used.

## *Bogus Case Citations*

19. An Adjudicator will decide an appeal on the basis of its own facts and evidence. Adjudicators are not bound by one another's decisions, although they can be persuasive.
20. The Appellant referred to three Tribunal decisions which he stated upheld the principles put forward in his submissions. The Appellant provided the case names and references for these decisions. The Authority described in its case summary that it went to some length to try to locate these decisions, but it could not.
21. I was also unable to locate any of these decisions. It appears to me that the three cases cited do not exist.

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22. The Appellant confirmed in the hearing that he only saw summaries of the legal points the decisions are meant to establish but he had not seen the full decisions.
23. I do not suggest that the Appellant intentionally referred to non-existent cases and I accept that he relied on information online which he believed to be true. However, the fact that the cited cases appear not to exist highlights the importance of parties checking their sources. This is why parties are expected to provide the full written decisions when relying on cases.

## *Conclusion*

24. On the evidence before me, I find that the contravention occurred and the CEO was entitled to issue the PCN when they did and used the correct contravention code. The Appellant has not established a statutory ground of appeal. This appeal is therefore refused.

Adjudicator Fantinic

Adjudicator

11/12/2025