



Parking and Bus Lane Appeals

Appeal No: AL00022-2411

Mr ██████████ Ramsey (the “appellant”)

Against

Aberdeen City Council (the “respondent”)

DECISION

The appeal is allowed.

REASONS

Introduction

1. The appellant, Mr ██████████ Ramsey, is appealing a Low Emission Zone Penalty Charge Notice (“LEZCN”) issued by Aberdeen City Council (the “Council”). Mr Ramsey has requested a decision without a hearing.
2. The LEZCN was issued on 2 October 2024 in respect of a contravention that was alleged to have taken place on 24 September 2024 at 08:32 hours (the “detection date”). It is alleged that the vehicle (registration number ██████████) was being driven in a Low Emissions Zone (“LEZ”) in Wellington Place, South College Street. The Council alleges that the vehicle did not meet the specified emission standard of the low emission zone and that the vehicle was not exempt by virtue of the Transport (Scotland) Act 2019, section 17 (4) .A scheme surcharge means that the penalty charge amount will double with each subsequent contravention by the same vehicle with the 90 days of the previous contravention. This was the fourth contravention.
3. The LEZCN was sent by Royal Mail Tracked 24 service and was delivered to Mr Ramsey on 4 October 2024.

4. On 5 October 2024, Mr Ramsey submitted formal representations to the Council. He had previously contacted the Council to request additional time to purchase a LEZ compliant van, but this request was denied. Due to the denial, he had to continue working within the LEZ to raise funds for the new van, as he operates as a property maintenance handyman with most work located in these zones. He has now purchased an LEZ-compliant van but accumulated multiple fines during the interim period. He emphasized that he attempted to cooperate with the Council and highlighted that his business is new and supported by a Council initiative. He asserted that he would not pay the penalty charges and requested no further notices, as he would consider additional correspondence to be harassment.
5. The Council considered and rejected Mr Ramsey's representations setting out their reasons for doing so in a notice of rejection dated 6 November 2024. The Council reviewed the circumstances outlined in the representation but decided not to cancel the LEZCN. It emphasized that the introduction of the LEZ was announced well in advance, providing sufficient time to obtain a compliant vehicle. The Council determined that none of the statutory grounds for appeal were established.
6. The Council must establish the contravention on a balance of probabilities.

The law

7. The Transport (Scotland) Act 2019, sections 7(1) and (2) provide:

(1) The fact that a person was driving a vehicle on a road within a low emission zone may be established only on the basis of a record produced by an approved device.

(2) A record obtained from the Secretary of State or from another source as specified in regulations by the Scottish Ministers, certifying a vehicle's emission standard as at the date and time of the record produced by an approved device, is determinative of whether the vehicle meets the specified emission standard.

Preliminary matter

8. I reviewed the documentary evidence provided by the Council to the Tribunal. On 12 December 2025, I issued case management orders. In summary, these provided for the following:
 - a. Burden of Proof: The Council must prove the alleged contravention by Mr Ramsey using evidence compliant with the Transport (Scotland) Act 2019, sections 7(1) and 7(2).

- b. Evidence Provided: The Council produced an LEZCN which meets the requirements of section 7(1).
- c. A document titled "Transport Scotland Vehicle Compliance Checker -1" was provided as evidence but did not meet the requirements of section 7(2) due to lack of certification, validation, and clear linkage to Mr Ramsey's vehicle emissions standard at the time of detection.
- d. Deficiencies in Evidence: The LEZ Checker output is not a certified emissions record. It lacks:
 - i. Certification of the data source.
 - ii. Clear confirmation that the emissions standard was determinative at the time and place of the contravention.
 - iii. Verification from an authorized source (e.g., DVLA or Transport Scotland).
- e. The Council's Obligations:
 - i. By 4pm on 27 December 2024, the Council was required to produce:

A certified emissions record from an approved source.

Evidence confirming the vehicle's emissions standard (e.g., Euro category) and non-compliance at the specific time and date.

Confirmation of the data source's certification and validation at the time of detection.

9. The Council applied for an extension of the deadline which I granted. The deadline was extended to 4pm on 10 January 2025.

10. The Council uploaded further evidence on 13 January 2025. This was in breach of the case management order. However, given the significance of the evidence for this and other LEZ appeals, I have granted a waiver to the breach and have admitted the document "Evidence Pack Statement on Chain of Evidence" into evidence (tab 120). I have reproduced the text of the document in the Appendix below.

Discussion and conclusion

11. Looking at the LEZN and the current document outlining the enforcement process, the defects identified in relation to Section 7(2) of the Transport (Scotland) Act 2019 are partially addressed but not fully cured for the following reasons:

12. Certification and Validation of Emissions Record

- f. The LEZN relied on the Transport Scotland Vehicle Compliance Checker output, which lacked clear certification or validation.
- g. It failed to explicitly trace the emissions data to a certified source (e.g., DVLA or a Scottish Ministers-designated database).

Determinative Evidence

- h. The evidence lacked a clear statement that the emissions record was determinative of the vehicle's compliance with the required standard at the relevant date and time.

Specificity and Completeness

- i. The LEZN did not provide:
 - i. Time-stamped emissions certification.
 - ii. Clear details linking the vehicle's VRM to its emissions compliance status as certified by an approved source.

Addressed Defects

Chain of Evidence

- j. The current document provides a detailed explanation of the chain of evidence, including:
 - i. The use of approved devices to capture the vehicle's VRM, location, time, and date.
 - ii. Verification of the vehicle's emissions compliance through the CCAZ service, which uses data from DVLA and DEFRA.

Process Certification

- k. The document asserts that the process and systems used by the council are certified and approved by Scottish Ministers, satisfying the procedural requirements under Section 7(1).

VRM Capture and Cross-Reference

- i. The VRM is matched against the emissions database, with additional staff verification of the captured data before issuing the LEZCN.

Remaining Defects

Certified Emissions Record (Section 7(2))

- m. The CCAZ service output is referenced as the source of emissions compliance data, but:
 - i. There is no direct certification of the vehicle's emissions standard at the specific time and date of the contravention.
 - ii. The document does not explicitly state that the CCAZ output is determinative under Section 7(2).

Specificity of the Emissions Standard

- n. The emissions compliance status (e.g., "Euro 4" or "Euro 6") is not explicitly stated or certified in the provided documentation.
- o. There is no evidence showing that the data used by the CCAZ service was time-stamped and certified for the specific contravention.

Certification Source

- p. While the document states that the data is derived from DVLA and DEFRA, it does not include certification from these sources confirming the vehicle's compliance or non-compliance as required under Section 7(2).

Conclusion

- q. The defects are partially addressed, but critical gaps remain:
 - i. The process described ensures compliance with Section 7(1), but Section 7(2) is not fully satisfied due to the lack of a certified, determinative emissions record for the specific date and time of the contravention.

- ii. To cure these defects, the Council must provide a certified record from an approved source (e.g., DVLA) that explicitly confirms the vehicle's emissions compliance or non-compliance as of the contravention date and time
13. For future appeals, it is essential that local authorities provide clear, certified, and determinative evidence of emissions compliance as required under Section 7(2). While the capture of a vehicle's presence within the LEZ is foundational, it alone is insufficient to prove a contravention without the additional certified emissions data. This guidance aims to standardize evidential expectations and ensure fairness in LEZ enforcement proceedings. Outputs from systems like the CCAZ service, which provide a vehicle's compliance status, may be used as supplementary evidence but cannot substitute for a certified emissions record unless they explicitly meet the requirements of Section 7(2).
14. The Council has not established the contravention.

A.M.S Green, Chamber President
16 January 2025

Appendix

Evidence Pack Statement on Chain of Evidence

Driver's Responsibilities under the Regulations

It is the responsibility of the driver to ensure that the vehicle they are driving is either compliant with the required Emissions Standards as laid out in Part 2, Section 2 of the Regulations or has an exemption in place, prior to entering and driving within Aberdeen's Low Emission Zone (LEZ) to avoid being issued with a penalty charge.

Authority to Enforce

The laws and Regulations that permit Local Authorities in Scotland to operate a Low Emission Zone (LEZ) scheme and enforce it legally, including the issuance of Penalty Charge Notices (PCN), are laid out in the following:

- 1. The Transport Act (Scotland) 2019 Part 2.*
- 2. The Low Emission Zones (Emission Standards, Exemptions and Enforcement) (Scotland) Regulations 2021.*

The definition of the contravention is noted in the first section of the PCN as follows:

“Notice is hereby served to the registered keeper of vehicle registration mark <VRM> for the alleged contravention of driving a vehicle that does not meet the specified emission standards in a Low Emission Zone.”

The section of the Act covering the proving of contraventions and the issue of penalty charge notices is provided below for reference from Part 2, Chapter 1, Section 7.

Section 7: Proving Contraventions and Issue of a Penalty Charge Notice

1. The fact that a person was driving a vehicle on a road within a low emission zone may be established only on the basis of a record produced by an approved device.

2. A record obtained from the Secretary of State or from another source as specified in regulations by the Scottish Ministers, certifying a vehicle’s emission standard as at the date and time of the record produced by an approved device, is determinative of whether the vehicle meets the specified emission standard.

3. Where a local authority considers that a penalty charge is payable under Section 6(2) in respect of a low emission zone scheme it has made, it may issue, or make arrangements relating to the issue of, a penalty charge notice in accordance with regulations under Section 8(1).

4. A penalty charge under Section 6(2) is payable to the local authority which issued the penalty charge notice:

- a. By the registered keeper of the vehicle, or*
- b. In such circumstances, following consultation with such persons as they consider appropriate, as the Scottish Ministers by regulations specify, by such other person as is so specified.*

Determining the Compliance or Non-Compliance Status of a Vehicle

The source of certified vehicle emissions records, specified in Section 7(2) of the Act, is the approved Charging Clean Air Zone (CCAZ) service provided by the Joint Air Quality Unit (JAQU). This is used by all CAZ and LEZ schemes across the UK.

The design and management of the data, system, and algorithms utilized by the CCAZ service are provided by both DVLA and DEFRA to determine whether a vehicle is compliant with the required standards or not.

The output of the CCAZ service is a compliance status based on its analysis of the vehicle that is either:

- 1. Non-compliant with the required emissions standards and not exempted.*
- 2. Compliant with the required emissions standards or exempted via one of the published exemption categories.*

This compliance status is the record that certifies whether a vehicle is compliant or not with the required emissions standards as laid out in Part 2, Section 2 of the Regulations and is used as the basis for determining whether or not to issue a PCN.

The Chain of Evidence and PCN Issue Process

Proof of contravention is derived through a chain of evidence process approved by the Secretary of State as laid out in Part 2, Chapter 1, Section 7 of the Act as follows:

- 1. Using approved and certified devices (Point 20 of the Regulations) to capture VRMs of vehicles being driven within the LEZ area specifically – vehicle registration mark, location, time, and date.*
- 2. Using the CCAZ service to verify the vehicle emissions of all VRMs captured by approved devices to determine whether individual vehicles meet the regulations or are exempted.*
- 3. If a vehicle does not meet the emissions standards and is not exempted, it is therefore in contravention of the Regulations, and the approved CCAZ process allows the Council to request the vehicle keeper's details to start the enforcement process. Any vehicles that are compliant with the emissions standards are immediately discarded, and no further action is taken.*
- 4. The enforcement process utilizes the record of the contravention to create and issue a PCN to the keeper of the vehicle in line with the provisions of the Act.*

If a vehicle does not meet the required standards, this chain of evidence satisfies the requirement for proving that a contravention has taken place and

that a PCN can be issued to the registered keeper of the vehicle in line with the Act and Regulations as approved by the Scottish Ministers.

Certification and Process Approval

The process and systems used by the Council are certified and approved by Scottish Ministers. This ensures that only vehicles captured by an LEZ scheme approved device and services can be processed.

Following the identification of a vehicle as non-compliant, a member of staff reviews the images of the vehicle and confirms that the recorded VRM corresponds with the images captured and the record on the system. This will then be re-submitted, and a request for keeper details made to the DVLA. If keeper details (i.e., name and address) are available, then a penalty charge notice will be issued to the registered keeper.

The PCN Document Includes:

- 1. A link to the council's online portal, which shows two images of the vehicle captured by the approved device at the time of the contravention, showing that the vehicle was within the LEZ. One of these images is enhanced to clearly show the VRM. Images are time- and date-stamped.*
- 2. The vehicle registration mark (VRM).*
- 3. The location, time, and date of the contravention, which verifies when the images were used to determine the VRM and enable a check of the vehicle's emissions standards to be carried out and, where appropriate, progress to issuing a PCN where a contravention has occurred.*

The process noted above, and certified by the VCA, satisfies Sections 7(1) and (2) of the Transport (Scotland) Act 2019. This proves that:

- The vehicle was driving on a road within the LEZ.*
- This was established by a record produced by an approved device.*
- Confirmation was obtained from the JAQU CCAZ service that the vehicle did not meet the required emissions standards and/or that no exemption was in place at the date and time when the record was produced.*

Right to Appeal

If the recipient of a PCN believes that the vehicle is either compliant or exempted, they can appeal the PCN by providing one or more of the following:

1. *A copy of the vehicle's V5C.*
2. *A certificate of conformity from the manufacturer.*
3. *Relevant documentation to prove that the vehicle is exempted under the terms of one of the LEZ exemption categories.*

If the records provided prove that the PCN was issued in error, it will be cancelled, and where appropriate, the records will be passed onto the DVLA to have the vehicle records updated.

Appeals

If you are aggrieved by the decision of the First-tier Tribunal you may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, you must first seek permission to appeal from the First-tier Tribunal. You must seek permission to appeal within 30 days of the date the decision was sent to you.

The Upper Tribunal may uphold or quash the decision on a point of law in question. If the Upper Tribunal quashes the decision, it may:

- re-make the decision;
- remit the case to the First-tier Tribunal;
- make such other order as the Upper Tribunal considers appropriate.

The application must:

- identify the decision of the First-Tier Tribunal to which it relates;
- identify the alleged point or points of law on which the party making the application wishes to appeal; and
- state the result the party making the application is seeking (e.g. quash and re-make the decision).

Reviews

You may ask the First-tier Tribunal to, or the First-tier Tribunal may on its own initiative, review the decision.

If you want the First-tier Tribunal to review the decision you must apply in writing and send a copy of your application to the other party/parties. You must make your application within 14 days of the date on which the decision was made or within 14 days of the date that the written reasons were sent to you. You must also explain why a review of the decision is necessary. The grounds on which a decision may be reviewed are that:

- **the decision was wrongly made because of an error on the part of its administrative staff**
- **the Appellant who had failed to appear or be represented at a hearing had good and sufficient reason for their failure to appear**
- **where the decision was made after a hearing, new evidence has become available since the conclusion of the hearing, the existence of which could not have been reasonably known about or foreseen by the parties**
- **where the decision was made without a hearing, new evidence has become available since the decision was made, the existence of which could not have been reasonably known about or foreseen; or**
- **the interests of justice require such a review**