

A contravention can occur if a vehicle is driven so as to use a route restricted to certain vehicles.

There appears to be no dispute that the vehicle was at this location, as shown in the closed circuit television (cctv) images produced by the Enforcement Authority. The vehicle is seen to pass the sign which clearly indicates that the route is restricted to buses and pedal cycles only.

Mrs Rosshandler's case is that the wording of the Penalty Charge Notice is incorrect and that the signage is confusing.

Section 4 (5) of the London Local Authorities and Transport for London Act 2003 and the Road Traffic Act 1988 provides that [. . .] for the purposes of this section, a penalty charge is payable with respect to a motor vehicle by the owner of the vehicle if the person driving or propelling the vehicle (a) acts in contravention of a prescribed order; or (b) fails to comply with an indication given by a scheduled section 36 traffic sign.

This is subject to subsection 6 which provides that no penalty charge shall be payable under subsection (5)(a) above where the person acting in contravention of the prescribed order also fails to comply with an indication given by a scheduled section 36 traffic sign.

The purpose of this provision is simply to prevent the possibility the motorist being in double jeopardy of paying a penalty for two aspects of the same contravention. A motorist contravening a sign cannot also be required to pay penalty for contravening the Traffic Management Order.

The vehicle in the present case was in breach both of the order and the sign indicating its effect. Only a single Penalty Charge Notice was issued demanding penalty charge. If the Enforcement Authority was demanding payment of the penalty charge for the breach of the Order then it is indeed difficult to see how it could lawfully do so in view of the plain wording of Section 4(6). However, the Penalty Charge Notice in this present case makes no reference to breach of the Traffic Management Order and simply states on its face that the ground on which it is believed a penalty is payable as 'using a route restricted to certain vehicles (local buses and cycles only)'.

I find that the wording of this Penalty Charge Notice does not commit itself firmly to demanding a penalty purely on the basis of a breach of the Order and therefore does not breach Section 4(6). The remaining question is therefore whether the wording used is adequate to indicate to the motorist that there is a traffic sign that has been contravened. It seems to me that it does.

It does remain the responsibility of the motorist to check carefully at all times whilst driving their vehicle, so as to ensure that they do so only as permitted and that this will remain the position for as long as the vehicle will be there. This includes making sure that they comply with all restrictions and prohibitions indicated by the signs.

The sign itself appears to comply with the prescription of Diagram 953 at Item 33 in Part 2 of Schedule 3 to the Traffic Signs Regulations and General Directions 2016,

being a permitted variant therefor and indicating a route for use by buses and pedal cycles only.

One sign is placed on each side of the carriageway and each is clear and unobstructed. Further there is a legend on the surface of the carriageway indicating that the route is for buses and cycles only.

Considering all the evidence before me carefully I must find as a fact that, on this particular occasion, a contravention did occur and that the Penalty Charge Notice was valid and properly issued.

Accordingly this appeal must be refused.