



DECISION OF
Sheriff Komorowski

ON AN APPEAL
IN THE CASE OF

Aberdeen City Council

Appellant

- and -

Ms Alison Wilson

Respondent

FTS Case Reference: AE00054-2505

4 February 2026

The appeal against the First-tier Tribunal for Scotland's decision dated 23 July 2025 is ALLOWED, that decision is QUASHED and the appeal against the Charge Notice dated 1 April 2025 is REMITTED to the First-tier Tribunal, with a direction that a "bus lane" for the purposes of the Transport (Scotland) Act 2001, section 44, may lawfully consist of the entire width of the whole carriageway.



REASONS

Bus lanes and bus routes

[1] A bus lane is typically a longitudinally separated section of roadway for the use of buses, and potentially certain other specified classes of traffic such as taxis and cycles. For such bus lanes, general traffic can use the rest of the carriageway. I shall refer to this typical kind as a bus lane *stricto sensu*:

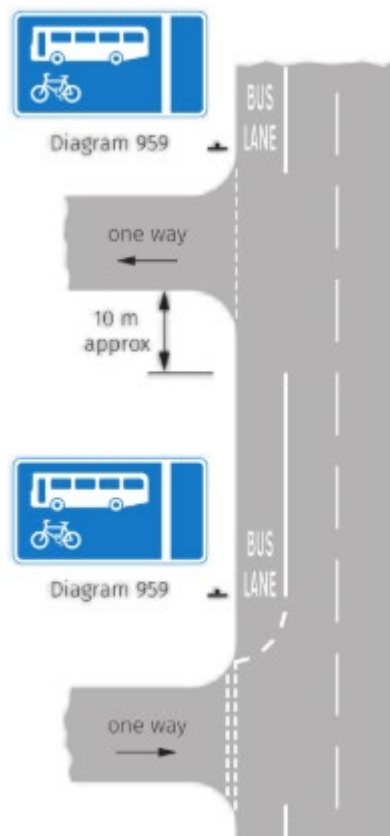


Fig. A: a bus lane *stricto sensu*

(image from the Department of Transport,

Traffic Signs Manual: Chapter 3: Regulatory Signs (2019), p. 91 (Figure 9-1))



[2] On the other hand, a bus route extends across the whole width of the carriageway. It cannot be used by general traffic. Only buses (and potentially certain other specified classes of traffic) may use any part of the road. Some of these are dubbed “bus gates”, especially if they are of short length:

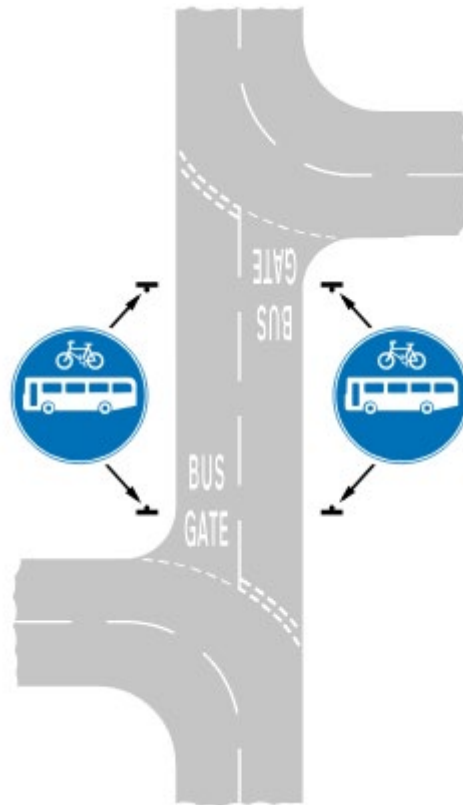


Fig. B: a bus gate which is also a bus route

(image from the Department of Transport,

Bus and cycle signs and road markings (updated 5 December 2023))



[3] The question in this case is whether, for the purposes of the Transport (Scotland) Act 2001, section 44, a “bus lane” means only bus lanes *stricto sensu*, or includes bus routes.

The decisions under appeal

[4] Aberdeen City Council has issued a Charge Notice to a registered keeper of a vehicle which was present in an area of road forming part of a “bus lane” at Broad Street, Aberdeen. The relevant part of the road is described by the Council as a “bus gate”, and extends across the whole width of the carriageway, excluding other motor vehicles from using that part of the route.

[5] The First-tier Tribunal held that a bus gate could not constitute a bus lane, as a bus lane could only be part of the carriageway, allowing general traffic to use the remainder of the carriageway (reasons: paras. 15, 16).

[6] Accordingly, the tribunal held that as a matter of law there was no bus lane for a vehicle to be wrongly present in at Broad Street. The tribunal therefore allowed the appeal against the Charge Notice. The Council has been granted permission to appeal against the tribunal’s decision.

Summary of outcome

[7] As I hold that a bus lane for the purposes of imposing civil penalties may extend to the entire width of the carriageway, I allow the Council’s appeal and quash the First-tier Tribunal’s decision.



Transport Scotland Act 2001

[8] The Transport (Scotland) Act 2001, section 44, creates a power to impose civil penalties for bus lane contraventions. Section 44(3) provides that a “bus lane contravention is a contravention of any such provision of ... [certain specified traffic orders] as relates to the use of an area of road which is or forms part of a bus lane”. Section 44(4) provides for the purposes of the previous subsection that an “area of road is or forms part of a bus lane” where “the order provides that it may be used – (a) only by buses, or (b) only by buses and some other class or classes of traffic specified in the order”.

First-tier Tribunal’s reasoning

[9] The First-tier Tribunal said that the purpose of section 44(4) was “to provide that a contravention only occurs where the instrument in question specifies that the area of road (being a bus lane) may only be used by buses (and any other specified class of traffic) ... s. 44(4) is about the content of the instrument creating the contravention, it does not intend to define what a bus lane is” (para. 12).

[10] The tribunal said that: “Parliament must be taken to be aware of existing statutory definitions of terms it uses in later legislation.” (para. 12). It then held that the meaning of “bus lane” term was to be derived from the Traffic Signs Regulations and General Directions 2016 (SI No. 362), Schedule 1 (para 13). The tribunal considered that Parliament could not have intended the meaning of “bus lane” to differ between different traffic legislation, where there was a direct



link between the 2016 Regulations concerned with bus lane signage and liability to a penalty further to the 2001 Act (para 14).

[11] The tribunal considered that the ordinary and more natural meaning of lane, in the context of traffic, denoted “only a part of the carriageway, not all of it” (para. 16).

[12] The distinction between bus lanes *stricto sensu* and other bus ways mattered, in the tribunal’s view, as “when Parliament was authorising the creation of bus lanes, it intended to allow local authorities to delineate a part of the carriageway for the use of buses only, allowing other types of traffic to use the remainder of the carriageway alongside the bus lane” (para. 17).

The definition in the 2001 Act

[13] The 2001 Act, section 44(3), creates a power to punish contraventions concerning the “use of an area of road which is or forms part of a bus lane” by means of a civil penalty. Parliament could have simply allowed the terms of that phrase to be given their natural meanings, whatever they might be. Instead, in subsection (4), Parliament provided that: “an area of road is or forms part of a bus lane if the order in question provides that it may be used ... only by buses [or any other specified class of traffic].” There is a question as to what the “it” refers to.

Subsection (4) does not create a sub-class of “bus lanes”, with “bus lanes” undefined

[14] In theory, the “it” might refer to the bus lane, so that the subsection could have been drafted in this way: “an area of road is or forms part of a bus lane if the order in question provides that ... [the bus lane] may be used ... only by buses [along with any other specified class of traffic].”



[15] On this reading, there is a class of *<bus lanes>*, and within that there is a sub-class of *<bus lanes (may be used by buses [along with any other specified class of traffic])>*. Thus, subsection (4) provides that some but not all *<bus lanes>* fall within the scope of section 44(3): that is to say, only those within sub-class *<bus lanes (which may be used by buses [along with any other specified class of traffic])>*. One would still be left with the task of determining what the parent class *<bus lane>* consisted of.

[16] I think something of this nature is what the First-tier Tribunal meant by stating that subsection (4) was concerned with the content of the instrument (the traffic order) and not with the meaning of bus lane (para. 12).

[17] The problem with that reading is that I cannot conceive of any members of the class *<bus lane>* which are not also members of the sub-class *<bus lanes (which may be used by buses [along with any other specified class of traffic])>*. The sub-class contains all members of the parent class. I cannot see, on this view, how subsection (4) would serve any purpose.

Subsection (4) defines “bus lane” or part thereof as any area of road for buses

[18] I think the more natural reading is that “it” refers to an “area of road”, so that the provision could have been drafted as follows: “an area of road is or forms part of a bus lane if the order in question provides that ... [such area of road] may be used ... only by buses [or any other specified class of traffic].”

[19] On that reading, the phrase being defined is “area of road which is or forms part of a bus lane”. Such an area of road is one where it may be used only by buses (along with any other specified class of vehicle). No other qualification is stated. The phrase “area of road” is therefore



apt to cover the entire width of the road or only longitudinal sections of it, determined solely by what the traffic order provides. Subsection (4) serves a purpose by making clear it is any area of road for buses that falls within subsection (4), not just bus lanes *stricto sensu*.

Relevance of meanings of “bus lane” from elsewhere

[20] “The defined term may itself colour the meaning of the definition” (*Bennion, Bailly & Norbury on Statutory Interpretation*, 8th Edt. (2020), para. 18.6). Where statute provides that “X means Y”, the ordinary meaning of X can affect what is meant by Y. It follows that my reading of section 44(4) as defining an area of road that is or forms part of a bus lane does not conclude my inquiry. I must consider whether the phrase “bus lane” imports some kind of modification of the plain meaning of the definition I have identified in subsection (4). “Bus lane” may have a meaning derived from other legislation that Parliament must be taken to be aware of when enacting the 2001 Act, or it may have an ordinary meaning, which in turn affects meaning of the words in the definition in subsection (4).

2016 Regulations

[21] Schedule 1 of the 2016 Regulations defines a “bus lane” as “a traffic lane reserved for [only or *inter alia*] buses” and defines a “traffic lane” as “a part of the carriageway ... [*inter alia*] reserved for use by vehicles of a particular type and separated from other parts of the carriageway by markings.”

[22] The First-tier Tribunal was plainly right that if a similar definition of bus lane was to apply to section 44 of the 2001 Act, a “bus gate” covering the width of the carriage way could not



constitute a bus lane. But I do not consider that it is legitimate to import a definition from the 2016 Regulations.

[23] The First-tier Tribunal’s observation that “Parliament must be taken to be aware of existing statutory definitions of terms it uses in later legislation” (para. 12) is of no relevance to the 2016 Regulations as a guide to the 2001 Act. The Scottish Parliament cannot be taken to have legislated with the knowledge of what the Secretary of State would prescribe around fifteen years later.

2002 Regulations

[24] The Traffic Signs Regulations and General Directions 2002 (SI No. 3113), which were replaced by the 2016 Regulations, were also too late to have been in Parliament’s contemplation when acting the 2001 Act.

[25] On the other hand, the 2002 Regulations are close enough to potentially be *contemporanea expositio*. But they were not authored by the executive that sponsored the 2001 Act and thus do not indicate what the sponsoring executive meant by that legislation (see e.g. *Darwell v. Dartmore National Park Authority* [2025] UKSC 20, [2025] AC 1292, paras. 52, 53).

1994 Regulations

[26] The 2002 Regulations replaced the Traffic Signs Regulations and General Directions 1994 (SI No. 1519).

[27] The 1994 Regulations could in theory have been in the Scottish Parliament’s contemplation when enacting the 2001 Act. As the First-tier Tribunal might have largely substituted the 1994



Regulations for its mistaken reliance on the 2002 Regulations and set forth much the same reasoning, I shall discuss the terms of the 1994 Regulations in some detail.

[28] The 1994 Regulations provide:

“Interpretation general

4. In these Regulations unless the context otherwise requires—

...

“traffic lane” means, in relation to a road, a part of the carriageway having, as a boundary which separates it from another such part, a road marking of the type shown in diagram

[*inter alia*] 1049

[29] The road marking depicted by diagram 1049 is in Schedule 6 and is a solid white line. The diagram bears the legend: “Boundary of a bus lane or a cycle lane ...”.

[30] The Regulations further provide:

“Bus lanes

23.—(1) In the sign shown in diagram 962, 962.2, 963, 963.2, 964, 1048 or 1048.1 the expression ‘bus lane’ has the meaning given in ... [paragraph] (3).

(3) ... “bus lane’ in the signs referred to in paragraph (1) means a traffic lane reserved for— [*inter alia* buses]”

[31] The diagrams listed in regulation 23, set out in Schedule 5, are rectangular signs but lacking a depiction of the carriageway. It is not obvious from the nature of the sign that these should only be used where the restriction applies only to a longitudinal section, rather than the whole width, of the carriage way. Hence regulation 23 is required to make this clear.



[32] By contrast, diagrams 958, 959 and 960, also in Schedule 5 (but not listed in regulation 23), all illustrate rectangular signs depicting a carriageway with a separate section in which not all vehicles are permitted, but where buses are permitted, indicated by a pictogram of a bus (the image in diagram 959 can also be seen above in **Fig. A**). Each diagram carries a legend referring to the use of the particular sign in respect of a “bus lane”. A definition of bus lane for these diagrams was clearly not thought necessary – it is obvious from the signs themselves that a longitudinally separate part of carriageway is contemplated – and thus they are not listed in regulation 23 as diagrams to which the definition applies.

[33] Finally, there is diagram 953 (again in Schedule 5), which has an illustration of a circular sign with a pictogram of a bus and is for use in respect of a carriageway no part of which is for general traffic and which buses are permitted to use (the image in diagram 953 can also be seen above in **Fig. B**). The legend for that diagram states it is for “Route for use by buses ...”. It is not apparent from what the sign depicts that it is for a longitudinally separate part of carriageway, yet it is not listed in regulation 23. By implication, a “route” is *not* a longitudinally separate part of carriageway. Thus, a route consists of the whole carriageway. This sign is used where the entire width of the carriageway is devoted to buses (and any other specified classes of vehicle).

[34] From an examination of the Regulations as a whole, it is apparent that the purpose of regulation 23 is to make clear where certain signs are for use in carriageways with restrictions applying to a longitudinally segregated section of the carriageway, where this is not obvious from the sign itself. It is a definition with a very particular purpose, concerned with making sure that the right signs are used for the right kinds of road feature.



[35] Consideration of regulation 23 alongside the various diagrams in Schedule 5 shows that the term “lane” is used consistently in the Regulations for a longitudinally segregated section of the carriageway, whereas “route” is used for the carriageway entire. I do not think that indicates anything more than that the convenience of shorthand terms as “bus lane” and “route”. Certainly, it avoids unwieldy phrases of the kind — such as to a “longitudinally separated section”, or the “entire width of the carriageway” — that I have felt compelled to repeatedly burden the reader with in these reasons. It does not necessarily reflect some fundamental difference in nature or function of bus ways into those which are “lanes” and those which are “routes”; it is for descriptive practicality rather than ontology. It is apparent that, for whatever reason, the view has been taken that certain kinds of sign are appropriate, or required, for bus lanes *stricto sensu* and not bus routes and *vice-versa*.

[36] That being so, I do not consider the usage of “bus lane” in the legislation on road signs and markings to be of the same subject matter as the legislation regarding imposition of penalties for bus lane infractions. In a broad sense they are both concerned with traffic, and buses in particular. I agree with the First-tier Tribunal that there is an association between the legislative instruments in that to have a working system of penalties for infractions of a prohibition, that prohibition must be appropriately publicised. But there is nothing linking what the author in the legislation on road signs and markings was concerned with, and what the enactor of legislation on civil penalties for the improper use of areas intended for buses was addressing, when they were both using the concept of “bus lane”. They were conducting different exercises. A term



used to determine what signs best suit what kinds of road feature has little connection to a term to determine what kinds of traffic regulation should be enforceable by civil penalty.

[37] Accordingly, there is little reason to consider the Scottish Parliament in enacting the civil enforcement regime in the 2001 Act would have adopted the usage of the Secretary of State in 1994 for the purpose of road signs and markings. Given the volume of legislation of all kinds, I do not think parliamentary counsel responsible for the 2001 Act could reasonably be assumed to have become acquainted with the usage in secondary legislation of some 17 years earlier in a tangentially related field.

[38] On the other hand, the provision for “bus routes” does indicate that the existence of carriageways for the exclusive use of buses was a known phenomenon from at least 1994.

Ordinary meaning

[39] I accept the First-tier Tribunal’s statement that: “On the ordinary and natural meaning of the term ‘lane’, in the context of traffic, it refers only to part of the carriageway, not all of it” (para. 16). That, of course, is not the only meaning, the term having been derived from the older meaning of a narrow street.

[40] The natural meaning is of no assistance where there is a lack of general consensus as to the core content of the term or its limits (*R (PACCAR Inc) v. Competition Appeal Tribunal* [2023] UKSC 28, [2023] 1 WLR 2594, para. 48). Equally, in my view, where the term concerned has two meanings both of which might be apposite, that one is the somewhat more natural usage is of no material assistance. Whilst it might not be the more common usage, I see nothing unnatural in referring to a (perhaps narrow) street dedicated to buses as a bus lane.



Avoiding redundancy for subsection (4)

[41] I have noted already a formidable obstacle in reading s. 44(4) as in some way qualifying what would otherwise be a bus lane, rather than defining what a “bus lane” is (or more exactly an “area of road which is or forms part of a bus lane”). My concern is to read it in that way would make subsection (4) redundant.

[42] Precisely the same problem arises if “bus lane” is to be understood in line with the legislation on traffic signs and markings, or with the natural and ordinary meaning in the context of traffic. If either of those meanings was imported into section 44, subsection (4) would do nothing to alter what areas of road the civil penalty regime would otherwise apply to.

Parliament’s purpose

[43] I think the First-tier Tribunal was also mistaken in considering Parliament’s purpose in making provision for bus lanes as only contemplating parts of carriageways being devoted to bus use with other traffic permitted to drive alongside.

[44] The tribunal was mistaken in stating that the power to make the relevant traffic order stemmed from the Transport (Scotland) Act 2001 and subordinate legislation made thereunder (para. 3). As the Aberdeen City Council (Broad Street / Queen Street, Aberdeen) (Traffic Management) Order 2018 recites, it was made under the Road Traffic Regulation Act 1984. Section 1(1)(c) of the 1984 Act provides that an order can be made where it is expedient *inter alia* for facilitating the passage on the road of any class of traffic. Section 2 of the 1984 Act provides that traffic orders may, amongst other things, “make any provision prohibiting ... the use of a



road, or of any part of the width of a road, ... by vehicular traffic of any class specified in the order". Those provisions are perfectly habile to allow the prohibition of certain vehicles other than buses from carriageways to allow buses to flow through the city more freely. That there might be such provision is reflected in the legislation on traffic signs predating the 2001 Act which, as I have noted, prescribe a sign for carriageways for the exclusive use of buses. Once it is realised that bus ways might consist of carriageways for the exclusive use of buses ("bus routes"), there is no obvious policy reason why the Scottish Parliament would want the improper use of such bus routes to be solely enforced by means of criminal prosecution, whilst permitting dual civil and criminal enforcement for bus lanes *stricto sensu*.

Disposal

[45] On the First-tier Tribunal's approach, as there was no valid bus lane, it was not necessary to consider the merits of the registered keeper's appeal against the penalty notice. The registered keeper's appeal is remitted to that tribunal so that this can now be determined.

A party to this case who is aggrieved by this decision may seek permission to appeal to the Court of Session on a point of law only. A party who wishes to appeal must seek permission to do so from the Upper Tribunal within 30 days of the date on which this decision was sent to them. Any such request for permission must be in writing and must (a) identify the decision of the Upper Tribunal to which it relates, (b) identify the alleged error or errors of law in the decision and (c) state in terms of section 50(4) of the Tribunals (Scotland) Act 2014 what important point of principle or practice would be raised or what other compelling reason there is for allowing a further appeal to proceed.

Sheriff Komorowski
Member of the Upper Tribunal for Scotland