

From: Scrap Mersey Tolls [mailto:scrapmerseytolls@notolls.org.uk]  
Sent: Thursday, August 1, 2019, 9:33 PM  
To: CCBC-KILO  
Cc: Disclosure team at Ministry of Justice  
Subject: Merseyflow TE7 application rejections

██████████,

You make us aware that "any FOI, DPA or GDPR related queries have a 20 working day response time". May I remind you that FOIA section 10 (1) says that public authorities should reply "promptly" and that 20 working days is the limit of when requests should normally be answered by.

We were at a bit of a loss on how to respond to your reply of the 11th. You largely repeat statements that you made to us in an answer on 15th May to a complaint that we made on 20th April, via Resolver, which related to issues that went back to last year. I responded to that answer on the 17th May and have had no reply. The issue was escalated to HMCTS Investigations Team on 7th June; they have not responded.

a) You say that "the TEC is a Government department and is in no way doing anything illegal". I had thought that the TEC was part of the Courts system rather than part of the Government. In any case it is our view that the TEC are acting illegally and that the Ministry of Justice either does not understand what is going on or is turning a blind eye to it.

b) You give us links to what you say is the 'relevant legislation. This is the same as what you gave us on the 15th May and which I commented on in our reply of 17th May.

c) You say that "Halton Borough Council are the Local Authority that have registered this penalty charge, Mersey flow covers Halton's Mersey Gateway Bridge and the Silver Jubilee Bridge." Merseyflow are indeed the company that are enforcing the tolls and the penalties on the Mersey Gateway, and will be doing so on the Silver Jubilee bridge when it opens. They are not, as you seem to imply, part of Halton Borough Council.

We believe that it is untrue that "Halton Borough Council are the Local Authority that have registered this penalty charge". Despite our questions and complaints the TEC have failed to substantiate this claim, and it is clear that it is actually Merseyflow that the TEC have been dealing with and not Halton Borough Council.

d) You say that "This is the regulation that the Mersey crossing comes under..." and give a link to a 2017 Order. You gave us that link on the 15th May. In our answer to you on 17th May we said "That Order in dubious circumstances was revoked by an Order made on 19 April 2018. Are the TEC saying that the 2017 Order still applies?"

As you are still quoting this Order nearly two months later, can we now assume that the TEC believes that the 2017 Order still applies? Did the TEC know that apart from sundry other illegalities that 2017 Order was revoked because the collection of tolls and penalties using that Order was found to be invalid by the Traffic Penalty Tribunal? Have Merseyflow not informed the TEC of the April 2018 Order?

e) You say "As advised previously all out of time applications are looked at on an individual basis. So this may mean that they are either accepted or refused, each case is looked at on its own merit if the LA refuse it. It is then down to the court officer to review the application and make an impartial decision."

As you know the TEC refused to supply requested information that would have shown to what extent the TEC was looking at applications. It might also have shown whether the apparent inconsistency of decisions was due to Merseyflow being inconsistent and that the TEC was merely rubber-stamping their opposition to applications, or, whether the TEC was itself acting inconsistently.

As well as refusing to supply that information, the TEC have of course also ignored our questions of 17th June - "Can you explain why this is happening on a random basis? To what extent, if any, have the TEC been approving TE7 out of time applications where Merseyflow have requested you not to?"

As to your statement that it is "the LA" who refuse it, that is of course not so. "The LA" is presumably meant to imply that it is Halton Borough Council and they have nothing to do with it.

f) Your message ends "With regard to sending letter that Merseyflow have refused your application it is their responsibility to send these out to you, the TEC will then send a further order out confirming if we have refused or accepted it."

This was in response to the penultimate paragraph of our message of 17th May where we asked "...why are the TEC sending out misleading letters? Can the TEC also say why Merseyflow are not sending any letters out to the people whose applications were refused after Merseyflow asked you to".

There are two points here.

The first of course is that Merseyflow is not a local authority and can not be "the local authority". It is therefore not Merseyflow whose "responsibility" it is. The TEC seems to be trying to reinforce a fiction that Merseyflow is Halton Borough Council.

The second point is that neither Merseyflow nor Halton Borough Council are sending out any responses. The TEC is well aware of this and it seems have not done anything about it. Will you confirm that you have not done anything? Is this because the TEC is having difficulty with the fiction that Merseyflow is 'the authority'?

g) Over the last few weeks we have been encouraging people, who we know have received refusals from the TEC, to contact both Halton Borough Council and Merseyflow with identical messages on the lines of -

"After submitting TE forms to the TEC in respect of PCNs xxxxxxxx, I had a refusal letter from them which said "The response from the local authority with regards to your out of time application should already have been served to you." I received no such response. Will you forward it to me without delay."

Not all the requests have been answered. The answers that have been received from the Council are fairly standard and say- "Thank you for your enquiry. Unfortunately, Halton Borough Council do not deal with the Mersey gateway Bridge and any complaints or queries need to be directed to Merseyflow. You can contact them on 01928 878878 or by emailing them at [info@merseyflow.co.uk](mailto:info@merseyflow.co.uk)."

The answers from Merseyflow have varied, but here is an example-

"I understand that the Traffic Enforcement Centre (TEC) at Northampton County Court have refused your Out of Time Witness Statements. To discuss further or request this matter is reviewed by a District Judge, you must contact TEC directly. Should you require further assistance, please email [info@merseyflow.co.uk](mailto:info@merseyflow.co.uk) quoting STCC-271-347836 in the subject header....

Further information can also be found at [www.merseyflow.co.uk](http://www.merseyflow.co.uk)

Yours sincerely,

The Merseyflow Customer Service Team".

The answers clearly show that Halton Borough Council is not involved despite the claims of the TEC. They also show that the Merseyflow company are not only failing to send out the responses which the TEC pretend would have been from the local authority, the Merseyflow staff also seem not to realise that they are supposed to masquerade as the Council and send out responses to applicants where Merseyflow have opposed the Out of time applications (which they mistakenly refer to as 'Witness Statements').

Though there is one person who somehow did manage to get from Merseyflow a copy of what they sent to TEC as their 'Response to Out of Time Application'. The 'Local Authority' is shown as 'Mersey Gateway Bridge'. I have of course pointed out before that a bridge can not be a legal entity let alone be a local authority.

I have copied this email to the HMCTS Investigations Team. When they reply to my complaint on Resolver I assume that they will take this into account. In any case I intend to post a copy of this email onto the case (RES6696963).

John McGoldrick  
Scrap Mersey Tolls

From: CCBC-KILO [mailto:CCBC-KILO@justice.gov.uk]  
Sent: Thursday, July 11, 2019, 2:11 PM  
To: Scrap Mersey Tolls  
Subject: Merseyflow TE7 application rejections

Good Afternoon

Thank you for the below email, I apologise if you have not received a response to this.

Just to make you aware any FOI, DPA or GDPR related queries have a 20 working day response time.

I can confirm that the TEC is a Government department and is in no way doing anything illegal, at all times the TEC carries out its duties and responsibilities in line with the rules governing Civil Courts.

Please find below links to relevant legislation

County Court Rules 1981  
<https://www.legislation.gov.uk/ukxi/1981/1687/contents/made>

CPR 75  
<https://www.justice.gov.uk/courts/procedure-rules/civil/rules/part75>

Road traffic act 1991  
<https://www.legislation.gov.uk/ukpga/1991/40/contents>

Traffic Management act 2004

<https://www.legislation.gov.uk/ukpga/2004/18/contents>

CPR 17.6 Regarding Contempt of court

[https://www.justice.gov.uk/courts/procedure-rules/family/parts/part\\_17](https://www.justice.gov.uk/courts/procedure-rules/family/parts/part_17)

Halton Borough Council are the Local Authority that have registered this penalty charge, Mersey flow covers Halton's Mersey Gateway Bridge and the Silver Jubilee Bridge.

This is the regulation that the Mersey crossing comes under:

<http://www.merseygateway.co.uk/wp-content/uploads/2017/03/Roads-User-Charging-Scheme-Order-2017.pdf>

As advised previously all out of time applications are looked at on an individual basis. So this may mean that they are either accepted or refused, each case is looked at on its own merit if the LA refuse it. It is then down to the court officer to review the application and make an impartial decision.

With regard to sending letter that Merseyflow have refused your application it is their responsibility to send these out to you, the TEC will then send a further order out confirming if we have refused or accepted it.

Regards

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Knowledge Information Liaison Officer  
County Court Business Centre | HMCTS | St Katharines House | 21-27 St Katharines Street |  
Northampton | NN1 2LH

From: Scrap Mersey Tolls [mailto:scrapmerseytolls@notolls.org.uk]  
Sent: Friday, June 28, 2019, 3:31 PM  
To: Traffic Enforcement Centre  
Cc: Nickie Gardner TEC; CCBC-KILO; Disclosure team at Ministry of Justice  
Subject: Merseyflow TE7 application rejections

I refer to the message below. It ends "Can I repeat that this is an urgent issue as the people that you have been sending these letters to have only 14 days to decide what they can do" There has been no response despite our members who have had TE7 applications turned down only having a limited time to decide what to do. When can we expect a response?

John McGoldrick  
SMT

From: Scrap Mersey Tolls [mailto:scrapmerseytolls@notolls.org.uk]  
Sent: Monday, June 17, 2019, 11:54 AM  
To: Traffic Enforcement Centre  
Cc: Nickie Gardner TEC; CCBC-KILO; Disclosure team at Ministry of Justice  
Subject: Merseyflow TE7 application rejections

As you know we believe that the TEC has been illegally helping Merseyflow in the enforcement of

Mersey Gateway penalties and has been trying to hide what has been happening. That has yet to be resolved. In the meantime we have some queries which we would like an urgent answer to. We are sending this email to multiple addresses due to the difficulty in getting any clear replies. If you prefer these messages to go to one email address, then will you say which one we should use.

Around the beginning of May, the TEC at the request of Merseyflow, started rejecting TE7 out of time applications.

This seems to have been done on a random basis, with TE7 applications being rejected while identical applications sent by the same person for another PCN have been rejected. Can you explain why this is happening on a random basis? To what extent, if any, have the TEC been approving TE7 out of time applications where Merseyflow have requested you not to?

The rejection letters that the TEC send out say in the first paragraph- "The response from the local authority with regards to your out of time application should already have been served to you." We have asked our members and no one has seen such a letter from "the local authority" or Merseyflow or anyone else. The TEC knows full well that there is no local authority involved in this process. So why are the TEC sending out misleading letters? Can the TEC also say why Merseyflow are not sending any letters out to the people whose applications were refused after Merseyflow asked you to?

Can I repeat that this is an urgent issue as the people that you have been sending these letters to have only 14 days to decide what they can do.

John McGoldrick  
Admin  
Scrap Mersey Tolls