

To Information Commissioner's Office  
From Scrap Mersey Tolls

SMT doc CX - Complaint 2 by Scrap Mersey Tolls about Traffic Enforcement Centre

**Background**

1. The 'Mersey Gateway' is a tolled crossing of the Mersey that opened in October 2017. As part of the scheme the Council will also be tolling the previously free nearby Silver Jubilee Bridge. Halton Borough Council are responsible for the scheme, but the tolls and penalties are enforced by 'Merseyflow'. The main group opposing the tolls is 'Scrap Mersey Tolls' (SMT). The group has over 6,000 members on Facebook. Some of our members have been affected by the enforcement process.

2. Since the bridge opened over 1.4 million 'Penalty Charge Notices' (PCN) have been issued. If they are neither paid nor successfully challenged, then Merseyflow apply to the Traffic Enforcement Centre (TEC) at Northampton for a Recovery Order. The TEC seems to run in tandem with the County Court Business Centre, also based at Northampton County Court to bulk handle court cases. The main function of the TEC is to give sanction to local authority use of debt enforcement agents (bailiffs) to recover money by threatening people with increasing penalties and costs and by seizing goods.

3. Our initial request for information was made to the TEC at Northampton, and when this was escalated we were sending messages addressed to the Disclosure Team at the Ministry of Justice which is based at Petty France, London.

Replies to our messages have mainly been from 'CCBC-KILO@justice.gov.uk', this address is used by the Knowledge Information Liaison Officer at the County Court Business Centre, Northampton. To add to the confusion the CCBC at Northampton use the letter head of the Disclosure Team at Petty France, London.

4. To understand what follows it will help the ICO to be aware that-

a) there are three TE forms- TE3 the Recovery Order, TE7 an Out of Time application and TE9 a Witness Statement,

b) only a local authority can use these forms and procedures whereas SMT believe that the TEC has knowingly allowed a non local authority (Merseyflow) to use them, the refusal of the TEC to admit what is really happening has added to the difficulties in trying to get information, and

c) that to use these procedures the forms have to be approved by the TEC before they are used whereas SMT believe that the TEC allowed Merseyflow to use forms that had not been approved.

5. Before a PCN reaches the TEC stage, it can be appealed to the Traffic Penalty Tribunal, which is an adjudication body set up by the local authorities. So far all appeals to the Traffic Penalty Tribunal have been allowed. This is because in effect the tolls are not enforceable providing that drivers who get a PCN challenge the penalties on time and in the appropriate way. The cases that reach the TEC are where the driver was unaware of the situation or failed to act at one of the earlier stages.

6. Scrap Mersey Tolls first contacted the TEC in November 2017 on behalf of one of the first people affected by the apparent actions of the TEC. Since then we have raised various questions with the TEC and with the Ministry of Justice. We have also used the official complaint procedure (through Resolver service) and have also made one other FoI complaint to the ICO. That complaint was made on 5th March and the ICO refused to deal with it as it was said that we were not asking for

recorded information. The ICO refusal was on 2nd April, despite that we have continued to seek information from the TEC and MoJ.

7. This second complaint to the ICO does not cover everything that has happened. It only deals with a request that was made on 8th May 2019, and a follow up request on 20th June. In brief, the TEC has refused to supply the information and there have been a series of subsequent messages. This includes us modifying our request and various 'reviews' by the TEC. On 2nd September we sent a letter to the TEC and the Disclosure Team at the MoJ that set out how we thought that the TEC answers were unsatisfactory and gave a brief summary of most of the various messages.

## **Details**

8. On 8th May we made the following FoI request-

"TE9 WITNESS STATEMENTS FOR UNPAID PENALTY CHARGE

How many statements have been received by the TEC?

How many have been accepted and Merseyflow told to revoke the Recovery Order?

How many have been turned down?

How many are awaiting a decision?

TE7 APPLICATIONS TO FILE A STATEMENT OUT OF TIME

How many applications have been received by the TEC?

How many have been accepted by Merseyflow?

How many have been opposed by Merseyflow and that rejection has been confirmed by a court officer on behalf of the TEC?

How many have been opposed by Merseyflow but the court officer on behalf of the TEC has decided to accept the application?

How many are awaiting a decision?"

9. On 9th May at 09.46 we added to the request-

"TE3 RECOVERY ORDERS FOR UNPAID MERSEY GATEWAY PENALTY CHARGES

How many Orders have been made?"

10. There were a series of messages and as advised we then sent a consolidated request at 17.20 on 9th May to Data Access and Compliance Unit (Disclosure Team) at Petty France. On the 29th May we got a refusal from the CCBC using the letterhead of Disclosure Team at Petty France. The refusal said that any request for a review should go to Disclosure Team. On the 30th we requested a review and gave our reasons.

11. On 18th June the CCBC again using the letterhead of the Disclosure Team at Petty France confirmed their refusal. On the 20th we wrote back with various questions and fresh requests. Our message ended- "We are considering whether to complain to the ICO about your response, but before doing so we will wait to see what response, if any, the TEC makes to the queries and fresh requests in this email."

12. On the 21st June, the Disclosure Team suggested that we contact the ICO with our concerns, but they ignored the queries and fresh requests. So on the same day we separately submitted the fresh requests to the Disclosure Team-

"1. If you do keep any figures at all on TE3s, TE7s and TE9s for the Mersey Gateway then we hereby request those figures. This will include any counts (e.g. total number of TE3s issued) or samples (e.g. proportion of TE7s rejected) whether done by computer or manually.

2. In response to the previous request you said "when an out of time is processed it is then sent to the Local Authority who have 19 days to respond to the TEC confirming if they accept or refuse the respondents application". Can you tell us exactly who and where (i.e. a postal or email address) the applications are sent to?"

13. On 25th June the CCBC using letterhead of Disclosure Team at Petty France replied acknowledging our message of 20th and in effect treating the whole of it as if it was a fresh request. On 18th July the CCBC using letterhead of Disclosure Team at Petty France gave us their reply to our message of 20th June. The reply covered most of what we had raised in the message of 20th but refused to supply the requested information on cost grounds.

14. On 2nd August we replied. We raised the confusion as to whether we were dealing with the "MoJ Disclosure Team or the County Court Business Centre at Northampton". We also asked for a review of the refusal to supply information. Things then got more confused on 6th August as we got a message from CCBC. The message was in reply to a thread that was separate from this FoI request but said "Please note that your emails have been treated as an internal review of 190621006. You will be sent an acknowledgement accordingly, advising of the deadline." On the 12th we sent a reply to CCBC (copied to Disclosure Team) pointing out the confusion. On the 15th the CCBC acknowledged our email and said "...The County Court Business Centre (CCBC) are the department responsible (sic) for responding to Traffic Information (TEC) FOI requests." Though it said that the CCBC were acting for the TEC, it did not say why they were using the letterhead of the Disclosure Team at Petty France.

15. On 28th August we received another message from the CCBC using the letterhead of Disclosure Team at Petty France. In brief they confirmed their refusal to supply the information. In part they claimed that the requested information was not available. We replied on the 2nd September saying that "We will now be raising this with the ICO". I would have made this complaint earlier, but our priority has been trying to give advice to some of the people affected by the Warrants of Control issued by the TEC that authorise the seizure of people's cars and other possessions. We estimate that so far the TEC has issued about 100 thousand of these warrants.

## **Summary of our case**

16. The responses on behalf of TEC have have been partly to ignore what we have asked for, partly to say that it would cost too much to get the information, and partly to say that the information does not exist and could not be produced. The various messages from us to those acting for the TEC have set out in detail why we think that the information requested should be released and raised various questions.

17. Our response to the initial refusal to give the figures requested on 8th / 9th May was set out in our message of 30th May. We refer the ICO to what was said there. As the ICO may not be aware, I stress that in practice the TEC is largely a computer data base to facilitate the bulk processing of applications for recovery action for 'debts'. The TEC does not even print and issue the Recovery Orders that are sent out in its name. It is implausible to suggest that to obtain information the TEC would have to manually look through 170,000 Mersey Gateway Recovery Order records. It is also implausible that the TEC do not have any figures produced for their own purposes.

18. Our responses to the refusal to supply the information requested on 20th / 21st June is set out at a) to e) of our letter on 2nd September and we refer the ICO to what we said there.

## **Documents being sent to ICO -**

SMT doc CW- Your complaint form.  
SMT doc CX- Details of our complaint, i.e. this doc.  
SMT doc CY- Email thread 8th and 9th May (17.20)- our initial request  
SMT doc CZ- Letter from TEC emailed on 29th May  
SMT doc DA- Email on 30th May requesting a review  
SMT doc DB- Letter from TEC emailed on 18th June  
SMT doc DC- Email from SMT on 20th June  
SMT doc DD- Part of reply put as a fresh request on 21st June (14.52)  
SMT doc DE- Letter from TEC emailed on 18th July  
SMT doc DF- Reply from SMT on 2nd August  
SMT doc DG- Email thread 12th to 15th August about confusion  
SMT doc DH- Letter from TEC emailed on 28th August  
SMT doc DI- Letter emailed to TEC on 2 Sep 2019

(Note that documents which are mainly acknowledgements are excluded. Also note that 'TEC' also covers the CCBC and the Disclosure Team at Petty France.)

End of this doc