

MERSEY GATEWAY TOLLS AND PENALTIES MAY BE ILLEGAL

The Traffic Penalty Tribunal have released an unprecedented statement that reveals that their adjudicator decided that a penalty was not payable as the Mersey Gateway tolls are not legal. This decision followed an appeal made by 'Ms C' against a penalty issued in November by Merseyflow for not paying a toll. Halton Council have issued a statement saying that they "will rigorously dispute the adjudicator's decision" and that it is "business as usual on Mersey Gateway and motorists should continue to pay tolls." There is to be a review of the decision by a different Tribunal adjudicator on 8th May.

The eight page Tribunal decision gives two main reasons why the adjudicator considers that the tolls are illegal. One is that they say proper notice was not given of when the tolls would start. The other reason is that the current 'Road User Charging Scheme Order' does not specify what the toll is, instead it specifies a range of tolls with the Council free to say what the toll is within the range. The Tribunal have decided that this way of specifying the toll does not comply with the national regulations.

The Tribunal issued 'directions' on 12th January and made their formal decision on 16th February. It is not clear why the Tribunal then waited nearly seven weeks before making public their unprecedented decision. But on 8th March, three weeks after the Tribunal decision, the Council launched a consultation on "Proposed changes to Road User Charging Scheme Order". The Council said that the purpose of the new order was to make changes "which could see even more users receive unlimited travel across the Mersey Gateway Bridge".

John McGoldrick from campaign group 'Scrap Mersey Tolls' says that "Last month following a Freedom of Information request to the Tribunal we learnt that Merseyflow were issuing penalties at the rate of over 800,000 a year but that the Council had not won a single case when people had appealed to the Tribunal. We were puzzled why this was happening, but at the time were more puzzled why such a widespread burden of financial misery was not being reported. This latest news shows why the Council had not won a single appeal decision and we wonder why it has taken so long for the public to be told about this."

"On the 10th October last year we said that the Council had used a dubious device to avoid giving the legally required three months notice and suggested that this was illegal. Despite that at midnight on Friday 13th October they closed the Silver Jubilee bridge and opened the new bridge with a firework display. It seemed that the Council was relying on their lawyers to successfully fight anyone who dared to challenge whatever they did. It now seems that one woman dared to take them on and has, pending a review, won"

"The recent consultation over changes to the current Toll Charging Order seems to have been a sham. They said that the changes would allow more users to have free travel but the proposed changes were trivial and affect almost no one. The real purpose of the Order will be to try and comply with the national rules about specifying toll levels. Though even this could not address the issue of the Council not giving proper notice of the tolls. Neither would it deal with what seems to have been the illegal taking of tolls since 14th October 2017 nor the illegal issue of hundreds of thousands of penalties by the Council."

Halton Council and the other enthusiasts for tolling the Mersey seem to have got themselves into a jam and will no doubt fight tooth and claw to reverse the Tribunal decision. They may also be helped by their collaborators in the Government to change the law. Even if they do not get this decision reversed we fear that they will continue to collect the tolls and issue penalties, and that they will not take any action to reimburse what it seems may have been taken by them illegally."

"For now we are not suggesting that drivers do not pay the toll, but if they do receive a penalty charge notice, for any reason, then they should fight it. And everyone should sign the Scrap Mersey Tolls petition and press MPs and councillors on the issue."

Ends

Notes.

Traffic Penalty Tribunal statement which appeared on their website the afternoon of Friday 6th, and which directs enquiries to a PR firm -

<https://www.trafficpenaltytribunal.gov.uk/mersey-gateway-bridge-statement/>

The eight page decision of the Tribunal on the 16th February-

<https://www.trafficpenaltytribunal.gov.uk/docs/Decision-XM00480-1712.pdf>

Halton Council statement of 6th April on the Gateway site-

<http://www.merseygateway.co.uk/2018/04/business-as-usual-on-mersey-gateway-despite-decision-by-the-traffic-penalty-tribunal/>

Halton Council consultation launched 8th March on proposed changes to the current Toll charging order. The consultation launched on 29th March-

<http://www.merseygateway.co.uk/2018/03/consultation-proposed-changes-to-road-user-charging-scheme-order/>

The current Toll charging order which specifies the tolls (para 10(4) on page 5) in a way that the Tribunal considers does not comply with the law-

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

Our press release of 10th October 2017 about the tolls being illegal-

<http://www.notolls.org.uk/smtpdfs/SMTPR20171010-GatewayTolls%20regime%20may%20start%20this%20weekend-ScrapMerseyTolls%20say%20that%20this%20would%20be%20illegal.pdf>

Our petition to get all Mersey tolls scrapped-

<https://you.38degrees.org.uk/petitions/scrap-mersey-tolls>