

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 18 May 2020

**Public Authority:** Ministry of Justice  
**Address:** 102 Petty France  
London  
SW1H 9AJ

#### Decision (including any steps ordered)

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1. The complainant requested information relating to penalty charges associated with a specified toll bridge. During the course of the Commissioner's investigation, the Ministry of Justice (the 'MOJ') said that it had responded to the request as 'business as usual' rather than under FOIA. Ultimately, it provided more details to the complainant during the investigation, although he remained dissatisfied with some of the information provided. The Commissioner cannot consider the accuracy of the information supplied, but has investigated the FOIA aspects, namely whether the request under consideration was valid for the purposes of section 8 (request for information) and whether the MOJ has provided the information it holds in accordance with section 1 of FOIA.
2. The Commissioner's decision is that the request was valid for the purposes of section 8 of FOIA. She also find, on the balance of probabilities, that the MOJ has provided the information it holds in relation to this request.
3. The Commissioner does not requires the MOJ to take any steps to ensure compliance with the legislation.

## Background

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4. The Commissioner understands that the Traffic Enforcement Centre ('TEC') is part of Northampton County Court and was set up solely to register all unpaid Penalty Charge Notices ('PCNs') including bus lane contraventions, TfL (Transport for London) congestion charges, Dart Charges (Dartford Crossing charges) and Merseyflow (official toll operator for Mersey Gateway and Silver Jubilee bridges).
5. The Commissioner also understands that the 'Mersey Gateway' (cited in the request below) is a tolled crossing of the Mersey that opened in October 2017. Halton Borough Council is responsible for the scheme, but the tolls and penalties are enforced by Merseyflow. The main group opposing the tolls is 'Scrap Mersey Tolls' ('SMT').
6. The complainant advised that since the Mersey Gateway bridge opened over 1.5 million PCNs have been issued as at November 2019. If they are neither paid nor successfully challenged, then Merseyflow applies to the TEC at Northampton for a Recovery Order.
7. There are three 'TE' forms which are 'TE3' a Recovery Order, 'TE7' an Out of Time application and 'TE9' a Witness Statement.
8. The Commissioner has previously issued two related decision notices<sup>1</sup> on this topic, where this complainant's two requests were refused by the MOJ on cost grounds (section 12 of FOIA). Following investigation, the Commissioner upheld the MOJ's reliance on section 12(1); both decisions have now been appealed by the complainant but have not yet been decided upon.
9. The Commissioner has referenced the previous two decision notices as the request below was made between the two previous requests (9 May 2019 and 20 June 2019).
10. The complainant also made a further request on the same subject on 28 June 2019 which the Commissioner is considering under *FS50895195*, and her decision in that case will be issued and published in due course.

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<sup>1</sup> <https://ico.org.uk/media/action-weve-taken/decision-notices/2020/2617203/fs50896164.pdf> and <https://ico.org.uk/media/action-weve-taken/decision-notices/2020/2617231/fs50876139.pdf>

## Request and response

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11. On 17 June 2019, the complainant wrote to the MOJ and requested information in the following terms:

*"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."*

12. The MOJ responded on 11 July 2019 as follows:

*"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."*

13. It also provided links to relevant legislation and stated:

*"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<sup>2</sup>:*

*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."*

14. The complainant wrote to the MOJ on 1 August 2019, raising a number of points of concern arising from its substantive response, which he labelled (a) to (g). The MOJ did not respond. The Commissioner has commented on the MOJ's failure to respond to the complainant's concerns in the 'Other matters' section of this notice.

## **Scope of the case**

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15. The complainant contacted the Commissioner on 20 November 2019 to complain about the way his request for information had been handled. His grounds of complaint were summarised as follows:

*"The complaint is that the TEC did not supply the requested information. Neither did they send a proper response to our request for a review of what was in effect a refusal by them.*

*I appreciate that our requests were in the form of various questions, but it was clear that they were information requests and the 'Knowledge Information Liaison Officer' never suggested that they were not information requests. I also appreciate that normally an authority can only supply information that has been*

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<sup>2</sup> <http://www.merseygateway.co.uk/wp-content/uploads/2017/03/Roads-User-Charging-Scheme-Order-2017.pdf>

*recorded, but we believe that they must have recorded information relating to our requests. If they do not then they could have said so."*

16. On 10 February 2020, the Commissioner wrote to the complainant to set out her understanding of the points at issue. She clarified that she would not consider some parts of his complaint because her remit does not include determining whether the TEC has acted illegally as the complainant believes.
17. Following confirmation from the complainant, the Commissioner initially set out to consider points (d) to (g) which were raised by the complainant with the MOJ on 1 August 2019 as part of his internal review but to which the MOJ failed to provide any response. These points are set out later in this notice. On 25 February 2020, the Commissioner advised the complainant as follows:

*"The focus of my investigation will be to determine whether the MOJ handled your request in accordance with the FOIA. Following your reply, together with a further review of all the case correspondence, I note that you consider that the MOJ has not provided a substantive response to your request. I will ask it do so, and as part of that, I will ask the MOJ to confirm whether it holds some or all of the requested information. If it does, I will ask the MOJ to provide it to you or to cite a relevant exemption to withhold some or all of that information. Dependent on the MOJ's investigation response, I may need to make further enquiries."*

18. On 25 February 2020, the Commissioner wrote to the MOJ and asked it to respond to point (d), which the complainant considered had not been responded to at all, and to "respond fully" to points (e) and (g). She also asked the MOJ why it had not carried out an internal review in this case.
19. The MOJ explained that it had not carried out any internal review because it had handled this request as "business as usual". It said:

*"[The complainant's] email was not handled as an FOIA request. It was processed as general correspondence under 'Business as Usual'".*
20. In addition, the MOJ provided its response to the complainant's points (d) to (g).
21. The complainant later confirmed that point (g) could be disregarded for the purposes of this investigation.
22. The Commissioner has considered whether the request was valid in accordance with section 8 of FOIA and whether the MOJ should have

handled it as such. She has also considered whether the MOJ has now provided a response and all the information it holds in relation to points (d) to (f) of the complainant's complaint in accordance with section 1 of FOIA.

## Reasons for decision

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### Section 8 - Request for information

23. Section 8 of FOIA states:

*"(1) In this Act any reference to a "request for information" is a reference to such a request which-*  
*(a) is in writing,*  
*(b) states the name of the applicant and an address for correspondence, and*  
*(c) describes the information requested".*

24. In this case, the complainant made his request in writing, stated his name and gave an address for correspondence. Therefore the requirements of section 8(1)(a) and (b) were satisfied.

25. The Commissioner considers that a request will meet the requirements of section 8(1)(c) as long as it contains a sufficient description of the information required. Each request has to be judged on its individual merits as to whether there were sufficient indicators provided to enable the information requested to be adequately described for the purposes of section 8. As long as a request attempts to describe the information it is likely to meet the requirements of section 8(1)(c) as it is always open to the public authority to seek further clarification to identify the information.

#### *The Commissioner's view*

26. In her guidance<sup>3</sup> for organisations on what they should do when they receive a request, the Commissioner states:

*"Any genuine attempt to describe the information will be enough to trigger the Act, even if the description is unclear, or you think it is too broad or unreasonable in some way...."*

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<sup>3</sup> <https://ico.org.uk/for-organisations/guide-to-freedom-of-information/receiving-a-request/>

*This is not a hard test to satisfy. Almost anything in writing which asks for information will count as a request under the Act. The Act contains other provisions to deal with requests which are too broad, unclear or unreasonable”.*

27. The Commissioner has considered the wording of the request under consideration in this case.
28. The Commissioner considers that, although phrased as questions, the wording of the request was sufficiently descriptive to allow the MOJ to identify the information sought.

### *Conclusion*

29. It follows that the Commissioner is satisfied that the request is a request for information as per section 8 of FOIA, and that the complainant was entitled to request and receive an internal review in this case.

### **Section 1 – general right of access**

30. Section 1(1) of FOIA states that:

*“Any person making a request for information to a public authority is entitled –*

- (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and*
- (b) if that is the case, to have that information communicated to him.”*

### *Points (d) to (f)*

31. The complainant’s concerns raised as part of his internal review (in bold text) and the MOJ’s responses, relayed to the complainant by the Commissioner on 24 March 2020, and the complainant’s subsequent replies are set out below:

### *Point (d)*

32. The complainant said:

***“(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?"**

33. The MOJ's response to (d) was:

*"Court staff are not legally trained. We are unable to comment on the validity of the Order made in 2017 or any subsequent order made in 2018.*

*The TEC clerk responding to [the complainant] visited the Halton Borough Council website and provided that link with the intention of signposting [the complainant] to somewhere he may find the information he has requested. This was done in an attempt to be as helpful as possible.*

*The TEC is governed by Civil Procedure Rule (CPR) 75. Halton Borough Council register unpaid debts with the TEC, in accordance with CPR 75. The TEC is unable to answer questions surrounding any other legislation.*

*There is a private public partnership between Halton Borough Council and the delegated authority Mersey Gateway. This was approved under the Department for Transport's regulations. [The complainant] may wish to contact the Department for Transport for further information."*

34. Having considered the above response, the complainant responded to the Commissioner on 31 March 2020 with the following:

*"It is perhaps surprising that 'court staff are not legally trained' but we did not in any way ask a question about the validity of any Order. It was the MOJ that mentioned an Order- an out of date one.*

*It is not 'helpful' for the MOJ to refer us to a link with incorrect information.*

*The last two paragraphs of the reply are not factually correct. For instance, Halton Council do not register the 'debts' or anything else with the TEC, that is a fiction.*



*There is no such authority or legal entity as 'Mersey Gateway'.*

*There is what might be referred to as a 'private public partnership', but it is between the Council and a PF2 consortium called 'Merseylink'. This is a different company from Emovis Operations (Mersey) Ltd using the name Merseyflow. Merseylink designed, built and financed the Mersey Gateway but they have not the slightest involvement with the tolls, penalties, enforcement of penalties or the TEC.*

*The whole response is not in any way an answer to the question of when they were informed of the April 2018 Order. They should have either told us when they were informed of the April 2018 Order or told us that they had no record of being told about it."*

35. On 14 April 2020, the Commissioner wrote to the complainant summarising her understanding of his remaining concerns, and explained the Commissioner's role is not to challenge the accuracy of the information given in response to any part of a request. Rather, her role is to determine whether any recorded information is held relevant to the request and, if so, to decide whether that has been provided on the balance of probabilities, or whether any FOIA exemptions may apply to some or all of that recorded information.
36. The complainant responded further on 15 April 2020.
37. With the complainant's consent, (and in relation to all points (d) to (f)), the Commissioner sent the MOJ copies of his recent correspondence, together with her intervening replies, for the MOJ to review and provide any further response/clarification. Specifically, this included:
  - The Commissioner's update letter of 24 March 2020 to the complainant relaying the MOJ's response as set out above.
  - The complainant's reply letter of 31 March 2020.
  - The Commissioner's email of 14 April 2020 seeking clarification about the complainant's specific FOIA concerns.
  - The complainant's further reply letter and consent of 15 April 2020.
38. On 29 April 2020, the MOJ wrote to the Commissioner confirming it had no further comment to make in relation to any part of the above correspondence.
39. In this case, no exemptions have been cited, so the Commissioner must decide whether the MOJ has responded to the request and provided any recorded information it holds.
40. For point (d), ultimately the complainant said in his letter of 15 April 2020:

*"It can not [sic] be reasonable that the MOJ can reply to a request with nonsense and that by doing so they need not give a proper answer. I realise that the ICO is not in a position to say whether what the MOJ says is accurate but if the ICO does not try to assess whether we have been given a proper answer or at least pass what we say on to the MOJ for comment, then the whole process is a waste of time. This is particularly the case with our FOI requests to the MOJ as in my view almost all of their answers are nonsense and contain statements that they should know are not correct."*

41. The Commissioner notes that it appears the complainant feels that the MOJ has been unreasonable in its approach; however she also notes that the MOJ provided the link to the April 2017 Order with a view to assisting the complainant. The Commissioner cannot comment on whether another newer Order exists and should have been adhered to, as this falls outside her remit.
42. It would, perhaps, have been helpful to the complainant if the MOJ had been able to definitively state whether or not it is aware of the April 2018 Order; however, it has explained that its staff would not be aware of the validity or otherwise of either Order and that the TEC adheres to its governing regulations, namely CPR 75<sup>4</sup> as referred to in its response.
43. The Commissioner cannot rule on the complainant's remaining points because they are not FOIA issues. She has passed the complainant's points onto the MOJ, but cannot compel it to make any further comments if it feels that it has responded. She understands that the complaint is not satisfied with the MOJ's response to (d); however, on the balance of probabilities, the Commissioner considers that the MOJ's response to (d) supplies the relevant information held. The Commissioner cannot comment further as, in her view, there are no remaining FOIA issues for her to consider.

*Point (e)*

44. In relation to (e), the complainant said the following:

***"(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***

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<sup>4</sup> <https://www.justice.gov.uk/courts/procedure-rules/civil/rules/part75>

***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."***

45. The MOJ's response to (e) was:

*"If a respondent appeals against a Penalty Charge via the submission of a TE7 form, the following takes place.*

- *A copy of the respondents TE7 appeal is forwarded to Halton Borough Council.*
- *Halton Borough Council are given a deadline to respond to the appeal.*
  - *If Halton Borough Council accept the appeal, the penalty charge is revoked.*
  - *If Halton Borough Council fail to respond within the set deadline, the penalty charge is revoked.*
  - *If Halton Borough Council oppose the appeal, the matter is referred to a Court Officer.*
- *The Court Officer will read the appeal provided by the respondent, and the objections submitted by Halton Borough Council. The Court Officer then determines whether the case should be revoked, or proceed.*
- *Every case is reviewed on a case by case basis.*

*In instances where identical appeals (TE7's) have received different outcomes, there will have been differences in Halton Borough Council's response, if one was submitted at all."*

46. In response to the MOJ's reply to (e), the complainant said:

*"This is just another case of the MOJ saying things that they should realise we know to be incorrect, and are thus wasting everyone's time.*

*An appeal to the TEC against a penalty charge is NOT made on a TE7, the appeal is made on a TE9 form titled "Witness statement – unpaid penalty charge". If this appeal is submitted by the due date, then that is it. The decision to accept the appeal or not is taken by the TEC. (The TEC seems to nearly always accept the appeal if the TE9 form has been completed correctly.)*

*I repeat that the TE7 form is NOT an appeal against a penalty charge. The TE7 form is an "Application to file a statement out of time". It is only completed if the deadline for the TE9 appeal has passed, in which case the 'respondent' has to submit a TE7 application for each TE9 statement.*

*Unlike the appeal itself, the out of time application is passed to 'the authority' to comment.*

*The references to 'Halton Borough Council' are a fabrication. The TEC actually passes the TE7 forms to Emovis Operations (Mersey) Ltd who use the name Merseyflow. The MOJ is well aware of the real situation.*

*The main point is that the MOJ have still not answered the question. They should have either answered it or said that they had no recorded information - though we might then have queried why what is in effect a court, where everything is computerised, has no records by which they could answer such a simple question."*

47. In his letter of 15 April 2020 in relation to (e), the complainant told the Commissioner:

*"You say 'You consider that the MOJ has not properly answered part e) of your request. (You [ie the complainant] have stated: 'The main point is that the MOJ have still not answered the question. They should have either answered it or said that they had no recorded information...')."*

*I assume that you are raising this with MOJ."*

48. The main question asked at (e) was: "To what extent, if any, have the TEC been approving TE7 out of time applications where Merseyflow have requested you not to?"
49. The MOJ has set out the process for appeals via the TE7s for the complainant. The Commissioner notes the complainant's view that TE7s are not the form for appeals but are for out of time applications, he states that the TE9 form is the correct appeal form. This is not a matter for the Commissioner to rule on; however, an online search reveals that

the TE7 form<sup>5</sup> is used to file appeals/statements which are out of time. The TE9 form<sup>6</sup> is used for witness statements in relation to unpaid penalty charge notices.

50. In the Commissioner's view, the MOJ's use of the terms 'appeal' as opposed to 'out of time applications to appeal' in relation to the TE7 form may have caused some unintentional confusion. However, the Commissioner is satisfied that the MOJ has provided a reasonable response to part (e).
51. Whilst the MOJ has not expressly stated whether the TEC has been approving out of time applications where Merseyflow has requested it not to, the fact that the MOJ chose not to make any further comment would, in the Commissioner's view, indicate that it handles all the appeals as it has set out.
52. The Commissioner cannot identify any FOIA issues to investigate in respect of point (e).

*Point (f)*

53. For point (f), the complainant said:

***"(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 cannot be "the local authority". It is***

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<sup>5</sup> <https://www.gov.uk/government/publications/form-te7-dart-charge-application-to-file-a-statement-out-of-time-extension-of-time>

<sup>6</sup> <https://www.gov.uk/government/publications/form-te9-dart-charge-witness-statement-unpaid-penalty-charge>

**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'?"**

54. The MOJ's response to (f) was:

*"Point 1. As mentioned above, there is a private public partnership between Halton Borough Council and the delegated authority Mersey Gateway. This was approved under the Department for Transport's regulations. I can confirm that the TE3 is produced by the 'local authority' or Halton Borough Council / Mersey Gateway. Responses to appeals are also submitted by the "local authority" or Halton Borough Council / Mersey Gateway.*

*Regular reminders are issued to all TEC users, of their responsibilities. The most recent of which was sent earlier this year (2020)."*

55. The complainant responded to the above as follows:

*"What the MOJ say on 'Point 1' as I have said earlier is not correct. The response is not material to our request but the MOJ repeatedly saying this casts doubt on any other statements from them.*

*The second paragraph is relevant to our request but is totally insufficient. We raised this matter with the MOJ on 17th June 2019. What they did at some unspecified date in 2020 is not material, it is even less material as there is no indication of whether they sent this reminder to Merseyflow.*

*We asked what they had done to correct what they were telling people. They have neither answered nor have they said that they have no record of having done anything about this. This is not a slight issue as this incorrect statement was being made in an official document giving the court's refusal.*

*A refusal which it is possible to appeal, but which is rarely appealed because of the costs and difficulties.*

*There is in any case a question of whether the MOJ response accords with what has actually happened. That Merseyflow (or the TEC) should be telling the respondent why the 'authority' opposed the TE7 out of time application seems to be a requirement under the County Court Business Centre - Traffic Enforcement Centre - Applicant Correspondence User Guide<sup>2</sup>. This says at paragraph 7.8 (2014 version)- "The authority should either serve a copy of the rejection on the respondent or provide the TEC with two copies."*

*The MOJ response implies that they told Merseyflow to send out the required response. But in fact the TEC have recently changed the official document where they give the court's refusal. The court's refusal now omits the sentence "The response from the local authority with regards to your out of time application should already have been served to you."*

*It seems that instead of ensuring that Merseyflow comply with the rules, the MOJ have stopped telling people that they should be served with a copy of the rejection from Merseyflow.*

*If the MOJ were operating above board then they would give clear and open answers to a question that was put to them in June last year. A question which was not an idle one but which was and may still be important to the many thousands who are being chased by enforcement agents acting for Merseyflow and using warrants authorised by the TEC."*

56. In his subsequent clarification letter of 15 April 2020, the complainant told the Commissioner the following:

*"i) As with (d) what the MOJ has said is not correct, and I refer to my comment above.*

*ii) The MOJ has not said what, if anything, they have done about this. Their answer refers only to "Regular reminders... issued to all TEC users.... The most recent of which was sent earlier this year (2020)."*

*There is no indication of what if anything they sent to Merseyflow about this specific issue (failure to give a response to people whose TE7 out of time applications had been refused following a request from Merseyflow).*

*iii) The MOJ response seems to be hiding the fact that instead of getting Merseyflow to follow the rules, the MOJ altered the letters that they sent out to the people whose applications had been refused. Information related to that action is very relevant to our*

*request of "what, if anything, they had done about this", but it is not mentioned by them. This suggests to me that the MOJ feel that they can do what they like and not deal with information requests in a proper manner."*

57. The MOJ has explained that the arrangement between Halton Borough Council and Mersey Gateway operates as a public private partnership. The complainant considers this to be incorrect. This is not an FOIA matter for the Commissioner to determine.
58. The MOJ has stated that it sends out regular reminders to all TEC users in relation to their responsibilities and that the latest reminder was issued earlier in 2020. The Commissioner notes that the complainant has not requested any date details.
59. The question for the Commissioner here is whether the MOJ has supplied any information which would answer the question as to why the TEC is sending out 'misleading' letters and why it is not sending letters for 'out of time' applications. It is clear that there is a dispute between the MOJ and the complainant regarding the terminology and names used, and the processes in place. The Commissioner is not in a position to make a finding on these disputes, rather to consider whether the complainant's request for information has been complied with.
60. In the context of supplying information that a public authority holds, it appears to the Commissioner that the MOJ has addressed the complainant's point in (f) and that there are no FOIA issues remaining for her to consider.

### *Conclusion*

61. The Commissioner cannot determine whether a public authority's response is accurate or whether it is compliant with regulations/laws which she does not regulate. She considers that the MOJ has now provided responses to points (d) to (f), albeit the complainant is not satisfied that those responses are correct.
62. The Commissioner must therefore conclude that the MOJ has complied with section 1 of FOIA as it has supplied the relevant information it holds in respect of the information request of 17 June 2019.

### **Other matters**

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63. In this case, because the MOJ did not handle the request under FOIA, it failed to carry out an internal review. The Commissioner would remind the MOJ that any expression of dissatisfaction with a response should be



replied to, and that it should ensure that where a request is valid in accordance with section 8 of FOIA, it carries out an internal review.

64. The Commissioner also considers that if the request had been considered under FOIA from the outset, then some of the subsequent confusion and dissatisfaction may have been avoided.

## Right of appeal

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65. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)  
GRC & GRP Tribunals,  
PO Box 9300,  
LEICESTER,  
LE1 8DJ

Tel: 0300 1234504

Fax: 0870 739 5836

Email: [grc@justice.gov.uk](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

66. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.

67. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Signed .....**

**Laura Tomkinson**  
**Interim Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**