

**The proposed
A533 (Mersey Gateway Bridge) and A557 (Silver Jubilee Bridge)
Road User Charging Scheme Order 2018
(the 2018 RUCSO)**

Supplementary to the Public Consultation Report

Prepared by the Mersey Gateway Crossing Board (the Board)

16 April 2018

1.0 Executive Summary

- 1.1 In accordance with the resolution made by the Council at its meeting on 7 March 2018, the Mersey Gateway Project ("Project") held a public consultation between 8th March 2018 and 29th March 2018 (inclusive) into the proposed updated RUCSO considered by Halton Borough Council ("Council"), which will become the 2018 RUCSO.
- 1.2 This Report sets out the consultation response received from the Traffic Penalty Tribunal following the preparation of the Public Consultation Report and how it is proposed that these responses should be taken into account by the Council.

2.0 Background

- 2.1 Appendix B to the Public Consultation Report indicates those organisations who were contacted for their comments on the 2018 RUCSO. The consultation ran from the 8 March 2018 to 29 March 2018 following the Council's approval to conduct the consultation on the 7 March 2018.
- 2.2 It will be noted that the Traffic Penalty Tribunal (TPT) and PATROL were listed as consultees. TPT are the adjudicators who, as a body, consider all appeals from those who receive Penalty Charge Notices (PCNs) which have not been resolved between the bridge user (to whom the PCN has been issued) and Merseyflow (the Council's 'tolling' operator). Because of TPT's key role in the enforcement process, TPT were considered an important consultee. It should be noted that PATROL are the organisation that provides the administrative support to the adjudicators at TPT and are an important communication conduit in the adjudication processes.
- 2.3 By the closing date on 29 March 2018, TPT had not responded to the consultation. PATROL was contacted during the W/B 2 April 2018 with a view to obtaining the TPT comments in time to incorporate them in the Public Consultation Report. PATROL indicated that TPT did have comments and would request of them that these be issued to meet the time frame communicated to PATROL by the Board for the preparation of the necessary reports for publication and for presentation to the Council. Despite this the comments from TPT were only received on 10 April 2018. These comments have been given careful consideration and are addressed in para 3 below.

3.0 Comments received from TPT

3.1 TPT have confined their comments to the drafting of the 2018 RUCSO and have not offered an opinion on the specific questions in the consultation. This is as expected and appropriate.

3.2 The responses from TPT were set out in accordance with the Article and Schedule numbers set out in the 2018 RUCSO. TPT's comments are paraphrased together with the Responses in Appendix (i) and the 2018 RUCSO has been modified accordingly (see accompanying officer's report) which attaches a revision to the 2018 RUCSO (the revised 2018 RUCSO).

LIST OF APPENDICES

APPENDIX (i) - ANALYSIS OF RESPONSES FROM TPT

APPENDIX (i)

RESPONSE TO TPT CONSULTATION COMMENTS

2017 RUCSO ARTICLE	TPT COMMENT	RESPONSE
1(2) - Citation and Commencement	The Scheme is set out in the body of the Order, not the Schedules	Updated in revised 2018 RUCSO
2 - "Concession Agreement" and "Concessionaire"	The terms are no longer used in the Order	They appear in Schedules 3 and 4 and are relevant to the application 9 funds. No change to 2018 RUCSO
5 - Scheme Roads	Circumlocution to define the roads by reference to the defined term in Art. 2. Should describe the scheme roads in Art. 5.	The expression is used more than once and is therefore a defined term within Art. 2. The approach in Art. 5 adopts the correct drafting convention. No change to 2018 RUCSO
6 - Imposition of Charges	Incompatibility with Art. 21 of the 2016 Byelaws.	The byelaws may require to be adjusted - not the RUCSO. However, the present wording of Art. 21 of the Byelaws is compatible with when liability arises under the RUCSO. No change to 2018 RUCSO
7 - Payment of Charges	<p>1. Article does not state time by which toll to be paid.</p> <p>2. The Article is long winded and incomprehensible.</p> <p>3. Provides for payment at tollbooths. (Art. 7(6)).</p>	<p>1. This is implicit in Art. 12 but can be made explicit in Art. 7. Updated in revised 2018 RUCSO</p> <p>2. This is a stylistic comment and the drafting is not incomprehensible. However, the opportunity has been taken to revisit the drafting of this article. Updated drafting in revised 2018 RUCSO</p> <p>3. The current drafting allows for fixed point or free flow tolling however we can update to remove fixed point tolling in line with Dartford. Updated in 2018 RUCSO</p>

	<p>4. Art. 7(8) application to appeals and allocation of payments to crossings - potential problems.</p>	<p>4. Payment allocation is not a matter for the 2018 RUCSO and it is unclear what issues PATROL envisage but the drafting has been reviewed and amendments made. Updated in 2018 RUCSO</p>
<p>9 - Exempt Vehicles (Schedules 2)</p>	<p>1. Dartford Order exempts classes of vehicles, without need for entry onto a register.</p> <p>2. The register is not defined.</p> <p>3. Requirement to display blue badge not relevant to free flow tolling.</p>	<p>1. Procedure aligns with Mersey Tunnels operational processes. It is also not clear how the MGB ANPR system would recognise "police" or "fire" vehicles unless the vehicle is registered. Dartford use registration though there is no legal requirement to maintain a register. No change to 2018 RUCSO</p> <p>2. Definition clarified. Updated in 2018 RUCSO</p> <p>3. The requirement originates from toll booth arrangements but has a purpose with open road arrangements. The ANPR cameras can pick up the badges and in future full detail may be discernible. The requirement deters abuse of the exemption and an authorised officer under the Byelaws can stop vehicle and inspect the badge. No change to 2018 RUCSO</p>
<p>12 - Penalty Charges</p>	<p>1. State the penalty charges on the face of the Order.</p> <p>2. Conflict between civil and criminal offences in RUCSO and Byelaws.</p>	<p>1. Will be addressed. Updated in 2018 RUCSO</p> <p>2. This is not a conflict. Rather, a criminal offence is created for breach of a Byelaw (e.g. non-payment) and a civil offence under the RUCSO which is the regime that would be pursued under. The duality of offences and civil matters is a legal common place - for example battery is a criminal offence but the same action can give rise to a civil claim for trespass to the person. No change to 2018 RUCSO</p>