

# LIVERPOOL CITY REGION COMBINED AUTHORITY

## REPORT OF THE HEAD OF PAID SERVICE

### NOTIFICATION OF OFFICER DECISION

**Authority/Authorities Affected:** All

**EXEMPT/CONFIDENTIAL ITEM:** Report is not exempt

#### Changes to Tunnel Operations in Light of COVID-19

#### 1. PURPOSE OF REPORT

To confirm and to put on notice;

- that without further notice, a decision may be required to temporarily close the Queensway Tunnel; and
- for the Mersey Tunnels to suspend tolls being levied during the period of the government directions on Covid-19 with effect from 20:00 on 26 March 2020.

#### 2. DECISIONS OF THE HEAD OF PAID SERVICE (CHIEF EXECUTIVE)

- 2.1 To note the context of the report as follows; in advance of both implementation of these decisions and of this report being published, the Metro Mayor and each of the Leaders of the constituent councils in the Liverpool City Region have individually been consulted and given an, in principle approval, to the decisions detailed in this report.
- 2.2 To exercise authority in accordance with the Constitution (March 2020) (Part 3, Section G paragraph 4) as Head of Paid Service to carry out the following actions;
- a. To put on notice, that without further notice, a decision may be required to temporarily close the Queensway Tunnel in accordance with Section 88 (1) of the County of Merseyside Act 1980 (as amended) indefinitely and until further notice on emergency grounds.
  - b. To cease with effect from 20.00 on 26 March 2020 and until further notice the payment of tolls on the Mersey Tunnels in light of paragraphs 3.8-3.16 of this report.
  - c. To continually review the tunnel operations in light of the unfolding COVID-19 crisis and to operationally reinstate the Queensway Tunnel (if necessary) and/or reinstate the tolls on both Mersey tunnels in light of relevant government announcements.

### 3. BACKGROUND

- 3.1 Members will be aware that at its meeting on 20 March 2020, consideration was given to a number of issues which were identified by officers as being necessary to be agreed in light of the COVID-19 pandemic. Members will also recall that on the 11 March 2020, the World Health Organisation stated that COVID-19 (coronavirus) is a pandemic. National government has passed emergency legislation in the form of the Coronavirus Act 2020 which recognises that a number of usual checks, statutory steps and balances cannot be taken due to the extreme circumstances of COVID-19. On 23 March 2020, the Prime Minister made announcements to confirm that the country is in effect, in lockdown

<https://www.gov.uk/government/speeches/pm-address-to-the-nation-on-coronavirus-23-march-2020>

In this context a number of extraordinary measures are being taken by those charged with public administration and beyond. The report is written in the context of the COVID-19 (coronavirus) pandemic.

- 3.2 The Mersey Tunnels are established as statutorily regulated assets owned by the Combined Authority and managed by Merseytravel. They are governed by the County of Merseyside Act 1980 as amended by the Mersey Tunnels Act 2004. The tunnels are part of the Key Route Network, responsibility for which was devolved to the Combined Authority from government in 2017. This means that to make changes to the operation of the tunnels and the tolls levied is governed by legislation.
- 3.3 These extraordinary times have led to serious consideration as to what role the Combined Authority can play in the immediate response to this crisis and further consideration will be given to what role it can and should play in the recovery from the crisis.
- 3.4 As part of the Government's response to the crisis it has identified professions, sectors and industries as being or having key workers. See <https://www.gov.uk/coronavirus>. The need for key workers to be able to carry out their role with ease is being recognised nationally through a number of initiatives such as specified times for shopping in supermarkets. Such steps not only facilitate keyworkers being able to carry out their role but also show a national appreciation for all that they do and contribute. The Combined Authority is keen to similarly support key workers.

#### Temporary Closure of the Queensway Tunnel

- 3.5 Incremental announcements have been made by government which have curtailed social, working and economic activity. Due to the need to socially isolate and social distancing staff numbers to operate the tunnels have reduced significantly.
- 3.6 Patronage has also reduced significantly during the month of March in light of the unfolding crisis. Income levels are incomparable with normal activity. Set out in Appendix One is the modelling data to help understand the patronage impacts of the Covid-19 outbreak on the Tunnels.

- 3.7 The Patronage Data in Appendix 1 shows that traffic volumes began to be truly impacted on Saturday 14 March 2020, when the number of discretionary journeys were starting to stop as the outbreak and media coverage widened. This in turn triggered a downward trend which is visible from the data in Appendix 1. Following the government announcement on Monday 23 March, estimates indicate that traffic volume will fall to 50% and is likely to continue to fall as the message is repeated, the sanctions strengthened or enforced. Informal feedback is traffic will likely be even lower.

### Temporary Suspension of the Toll Levy on the Mersey Tunnels

- 3.8 Key workers are defined by national government:

#### **Transport**

*This includes those who will keep the air, water, road and rail passenger and freight transport modes operating during the COVID-19 response, including those working on transport systems through which supply chains pass.*

- 3.9 Whilst the operation of the Mersey Tunnels fits into that category, the question is whether the toll officer facilitates the journey, or simply collects the income. In effect, the journey could still take place without the wide scale toll operation. Officers are now of the view that the toll officer role of collecting income is not a key worker role. The government instruction is that only essential people should be travelling at this time. In the circumstances of low staffing levels, (due to the rapid increase in Government measures to arrest the spread of the infection) increasing staff exposure to the virus and in support of the government instruction to ensure that minimum numbers of the population are leaving their homes, a view has been formed by officers that it would be appropriate for toll officers to remain at home.

In light of this view, a detailed review of the operation has been undertaken of the toll plaza and toll systems. The options are summarised below:

1. Removal of staffed lanes and operation from the toll office only, meaning staff lanes are free but the Auto and Fast Tag lanes are payable – in effect an honesty approach.
2. Facilitating Toll free payment in every lane with a barrier in operation.
3. Removal of the barriers completely from the toll plaza, allowing vehicles to travel through at no cost

Option 2 is the option preferred by officers in light of the specifics and limitations of the toll collection system, the overhead gantry, the lane width restrictions and a range of other operational issues.

- 3.10 To be clear, to facilitate onward travel, this would still require the deployment of one toll officer per plaza operation on a 24 hour basis, but the role of this toll officer would be office based, remotely from the barriers, dealing with any in lane issues via intercom. This approach offers the right balance between the customer/key worker experience and the need to minimise the need to deploy and protect staff. This option also gives us the following benefits:

- A resilience around the provision of service at this time.

- The ability to manage the process – being able to record the number of vehicles using the system.
- Ensures our key workers/customers continue to receive support and re-assurance through the help system on our automated toll machines.

### 3.11 Financial implications

For overall financial impact planning, the toll income is approximately £40m per annum. Disregarding slight seasonal changes, this equates to £800k per week in income on average. Week commencing Sunday 15 March saw use at 81.9% traffic, i.e. an 18.1% loss of weekly income = £144,800.

If current traffic levels are 50% or less, this will see an income loss of £400k per week or more. As this downward trend continues, current estimate are that traffic levels will drop to around 30%. So, over 12 weeks the profile could be as follows:

Week No	% Traffic	Income Loss
Week 1	81%	£145k
Week 2	50%	£400k
Week 3	40%	£480k
Week 4	30%	£560k
Week 5	30%	£560k
Week 6	30%	£560k
Week 7	30%	£560k
Week 8	30%	£560k
Week 9	30%	£560k
Week 10	40%	£480k
Week 11	50%	£400k
Week 12	75%	£200k
<b>Totals</b>		<b>£5.465m</b>

3.12 The above table assumes the impact remains for a 12 week period commencing on 15 March 2020. There is no hard factual evidence to support this but it assumes that traffic will drop over a number of weeks, plateau and then rise gradually, returning to normal. In reality return to “normal” again is not guaranteed given the wider economic impacts of the pandemic in the medium to longer term.

3.13 The figure highlighted in yellow gives the total income loss over that period. If however the organisation considers toll staff not to be key workers and for safety reasons removes them from risk, then the ability to collect toll monies is compromised. The recommendation to operate toll free for a 3 week peak period. In line with the data above this would see a further loss of income for the weeks shaded in green. Assuming this 3 weeks period was not extended, then the additional total income loss (above what is shown above) would be £800k over the three weeks.

3.14 Combined with falling staffing levels, this has meant that the continuing to operate two tunnels (to a pre COVID-19 standard) is becoming unviable and it may in time not become possible to continue to operate to the usual Mersey Tunnels practices and procedures which would have an impact on operational safety. The legislative framework has been reviewed and it would seem that the circumstances of the

COVID-19 crisis can be interpreted to constitute an emergency. Section 88 (1) of the County of Merseyside Act 1980 refers.

- 3.15 Whilst the above information deals with the practical situation of the tunnels operations, the statutory procedure for suspension of the toll is legally more complex and challenging for officers. Section 92C of the County of Merseyside Act 1980 is the statutory provision which allows the Combined Authority to cease to demand tolls. In making such a decision the legislation allows the Combined Authority to have regard to such matters of an economic or social nature within the County of Merseyside as the Combined Authority considers to be relevant.
- 3.16 Given the context in which public authorities are acting and rapidity of the crisis, there is insufficient time for the usual statutory procedural requirements to be followed. This means that the Order will be prepared and published on the website and promoted extensively through usual communication channels and newspapers. However time will not be allowed for the statutory Order to be published in the usual way i.e. as a formal notice in the newspapers. The Monitoring Officer of the Combined Authority has been consulted at length in this regard. To this effect this report also serves as a Section 5 report under the Local Government Act 1989. The report will therefore be circulated to all members of the Combined Authority to effect that responsibility and bring this matter to their attention.

## **4. RESOURCE IMPLICATIONS**

### **4.1 Financial**

The cost of this measure is part of a wider suite of costs associated with the impact of CV-19 on the Combined Authority's transport functions.

These will be picked up in an Emergency Budget which will need to be presented to the Combined Authority in the new financial year once the full costs of this situation have become apparent.

This is part of a wider collapse in transport revenues across each of the English Passenger Transport Executive and Combined Authority areas and we are working with other Combined Authority's and with the DfT to agree a package of financial support that protects local taxpayers from any impact. At present, such a package has not been agreed therefore members of the Combined Authority should note that this measure does have direct financial implications for the Combined Authority as set out in the paragraphs above.

### **4.2 Human Resources**

The implications are detailed in the report.

### **4.3 Physical Assets**

The implications are detailed in the report.

### **4.4 Information Technology**

No implications are identified as a result of the contents of this report.

## **5. LEGAL IMPLICATIONS**

To temporarily close, without further notice, the Queensway Tunnel. The authority relied upon is Section 88(1) of the County of Merseyside Act 1980.

To remove payment of the toll on the Mersey Tunnels. The power to do this is set out in Section 92(C) of the County of Merseyside Act 1980.

In recognition that not all statutory procedures associated with the suspension of the tolls have been carried out in these exceptional circumstances, this report also serves to fulfil the obligation on the Monitoring Officer under Section 5 of the Local Government and Housing Act 1989. This report identifies the decision to suspend the collection of tolls is lawful but that the process adopted to effect that decision is not compliant with the usual statutory steps. The step that has been omitted is completion of the notice in a local newspaper in line with the associated timeframe of 14 days.

The risk of challenge is considered to be low due to the national context. If a challenge does occur, then the tolls would need to be reinstated pending completion of a statutorily compliant process.

## **6. EQUALITY AND DIVERSITY IMPLICATIONS**

No implications are identified as a result of the contents of this report.

## **7. COMMUNICATION ISSUES**

Announcements and social media channels will be used to communicate the closure and the suspension of toll charges.

## **8. CONCLUSION**

The report recognises the national context of the COVID-19 emergency. The report determines;

- to support the key workers in the discharge of their various duties
- to potentially have to close the Queensway Tunnel due to viability and operational issues, without further notice on the grounds of emergency
- to suspend the Toll payments for both Mersey Tunnels until further notice and that such suspension will be reviewed in line with government announcements relating to government demands.
- To circulate the report to all Combined Authority leaders to comply with the Monitoring Officers' duty under Section 5 of the Local Government and Housing Act 1989.

**FRANK ROGERS**  
Chief Executive

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**Appendices:**

Appendix 1 – Patronage Data

Appendix 2 – The Mersey Tunnels (Disapplication of Tolls) (Coronavirus) Order 2020

**Background Documents:**

Nil