

Report of the Director of Resources

1. Introduction

- 1.1 The Integrated Transport Authority ("the Authority") is responsible for determining the level of tolls ("the tolls") payable for use of the Mersey Tunnels ("the Tunnels").
- 1.2 This report is intended to assist the Authority at its 9 February 2012 meeting by:
 - (a) outlining the legal procedure for revising the level of the tolls;
 - (b) summarising how the current level of tolls was arrived at; and
 - (c) making proposals for the level of tolls payable in 2012/13.

2. The Procedure for Revising Tolls

- 2.1 The County of Merseyside Act 1980 ("the 1980 Act"), as amended by the Mersey Tunnels Act 2004 ("the 2004 Act"), sets out the procedure for revising the tolls. Under Section 91(7) of the 1980 Act, the Authority must make an Order in February of each year ("a Section 91 Order") fixing the amount of tolls payable by each class of vehicle from the following April. There are four prescribed classes of vehicles, each with subcategories, as follows:

Class	Subcategories
1.	(a) Motor cycle with side car and 3 wheeled vehicle.
	(b) Motor car and goods vehicle up to 3.5 tonnes gross weight.
	(c) Passenger vehicle other than a motor car with seating capacity for under 9 persons.
2.	(a) Motor car and goods vehicle up to 3.5 tonnes gross weight, with trailer.
	(b) Goods vehicle over 3.5 tonnes gross weight, with two axles.
	(c) Passenger vehicle with seating capacity for 9 or more persons, with two axles.
3.	(a) Goods vehicle over 3.5 tonnes gross weight, with three axles.
	(b) Passenger vehicle with seating capacity for 9 or more persons, with three axles.
4.	Goods vehicle over 3.5 tonnes gross weight, with 4 or more axles.

2.2 The overriding presumption in the 1980 Act (as amended) is that tolls rise in line with inflation, so preserving their value in real terms. The increase in the tolls authorised by the 1980 Act (the "authorised tolls") is calculated by:

- (a) taking the "base" toll amounts set out in Section 91(6) of the 1980 Act for each class;
- (b) increasing them by the same percentage increase as the rise in the Retail Prices Index ("RPI") from November 1999 ("the base month") to the November immediately preceding the making of the Section 91 Order; and then
- (c) rounding the new value up or down to the nearest ten pence.

2.3 But by virtue of Section 92C of the 1980 Act the Authority has discretion to reduce the amount of the authorised tolls payable by any particular class of traffic. In other words the Authority, at its discretion, can from time to time set the tolls payable (the "actual tolls") below the amount that they have increased to in line with inflation.

2.4 Every time it makes a Section 91 Order (in February of each year) the Authority must consider whether to exercise the Section 92C general discretion to charge sub-inflationary tolls. However the circumstances in which it may allow (or continue to allow) a reduction in tolls set by a Section 91 Order are limited. It must be "necessary or appropriate" having regard to matters

of an economic or social nature in the County of Merseyside that the Authority considers to be relevant.

2.5 When making decisions on the amount of tolls to be levied, it is very important that the Authority keeps in mind the scheme and purpose of the legislation, founded upon the case made by the Authority and accepted by Parliament, as to why the changes brought in by the 2004 Act were needed. The default position is that tolls must rise in line with inflation, which is important for three reasons:

- (a) the relative costs of using the Mersey Tunnels must keep pace with other transport alternatives. This is important for demand management reasons. If the tolls do not keep pace with other transport alternatives, the Mersey Tunnels will become progressively cheaper, encouraging increased use and thus increased congestion, thereby compromising the benefit the Mersey Tunnels provide for their users;
- (b) it ensures that sufficient funds are recouped to cover the costs of operating and maintaining the Mersey Tunnels; and
- (c) it ensures that the Authority continues to receive a valuable surplus from the tolls which is then invested into public transport alternatives across Merseyside.

2.6 It should be stressed that this process of increasing the “authorised tolls” in line with inflation does not provide for the tolls to become more expensive in real terms. It simply provides a way to ensure that the effective cost of using the Mersey Tunnels stays the same.

2.7 Although the Authority must consider applying toll discounts when making a Section 91 Order, it should only apply them where it is “necessary and appropriate” having regard to matters of an economic or social nature. In effect this means that the Authority must carry out a balancing exercise, between on the one hand the need for tolls to keep pace with inflation and on the other hand a social or economic need to reduce, in real terms, the costs of using the Mersey Tunnels.

2.8 It would be wrong for the Authority to assume, based on its past practice surrounding Section 91 Orders, that it must automatically continue to apply some form of discount. The Authority is not bound by its previous decisions; it must make an independent assessment of the position in February of each year.

3. **Authorised Tolls – 2012/13**

The RPI in November 2011 dictates the following levels of “authorised tolls” for the Mersey Tunnels from 1 April 2012:

Vehicle Class	1 April 2011 Authorised Toll (RPI Linked Rates)	1 April 2012 (RPI Linked Rates)
1	£1.60	£1.70
2	£3.30	£3.40
3	£4.90	£5.20
4	£6.50	£6.90

4. **Actual Tolls – 2012/13**

4.1 As outlined above, the Authority must now consider whether to exercise its discretion under Section 92C of the 1980 Act to reduce the amount of these “authorised tolls” payable for each class of traffic.

4.2 The following table shows the tolls payable in the “base month” (November 1999) and compares, since the commencement of the annual Section 91 Order-making process in 2005, the amount of toll that could have been levied (ie the “authorised toll”, being that reflecting the rise in inflation) against the “actual” tolls.

Class	Toll	Nov99	Apr '05	Apr '06	Apr '07	Apr '08	Apr '09	Apr '10	Apr '11
1	Authorised	£1.20	£1.40	£1.40	£1.40	£1.50	£1.60	£1.60	£1.60
	Cash	£1.20	£1.30	£1.30	£1.30	£1.40	£1.40	£1.40	£1.50
	Fast Tag	£1.10	£1.15	£1.15	£1.15	£1.25	£1.25	£1.25	£1.30
2	Authorised	£2.40	£2.70	£2.80	£2.90	£3.00	£3.10	£3.10	£3.30
	Cash	£2.40	£1.30	£1.30	£1.30	£2.80	£2.80	£2.80	£3.00
	Fast Tag	£2.20	£1.15	£1.15	£1.15	£2.50	£2.50	£2.50	£2.60
3	Authorised	£3.60	£4.10	£4.20	£4.30	£4.50	£4.70	£4.70	£4.90
	Cash	£3.60	£3.90	£3.90	£3.90	£4.20	£4.20	£4.20	£4.50
	Fast Tag	£3.30	£3.45	£3.45	£3.45	£3.75	£3.75	£3.75	£3.90
4	Authorised	£4.80	£5.40	£5.60	£5.80	£6.00	£6.20	£6.20	£6.50
	Cash	£4.80	£3.90	£5.20	£5.20	£5.60	£5.60	£5.60	£6.00
	Fast Tag	£4.40	£3.45	£4.60	£4.60	£5.00	£5.00	£5.00	£5.20

4.3 It can be seen that in making its Section 91 Orders since 2005 the Authority has each year considered it necessary and appropriate, on economic and social grounds, to exercise its discretion to charge sub-inflationary tolls by applying discounts to the authorised tolls payable across all classes of traffic.

- 4.4 The annual rate of inflation as at November 2011 resulted in an increase in the authorised toll in classes 1, 2, 3 and 4 this year.

5. **Mersey Economic Review 2011**

- 5.1 In previous years the Authority, as part of its deliberations on whether to discount the authorised tolls, has taken into consideration the annual Merseyside Economic Reviews produced by the Mersey Partnership. The Mersey Partnership Economic Review 2011 (“the 2011 Review”) is the most recent publication the Authority should refer to.
- 5.2 The 2011 Review statistical data showed that:
- (a) Gross Value Added (GVA) is the Government recognised measure of economic output. Despite a strong period of growth, GVA per capita in the Liverpool City Region is still well below that of the UK. The gap currently stands at approximately £6,400 per capita;
 - (b) Liverpool City Region’s employment rate continues to be below the national average, although the trend is that this gap is reducing;
 - (c) Business start up rates in the Liverpool City Region are above the national average. However, the number of businesses per 1,000 people remains 25% lower than the national average; and
 - (d) Whilst the population in the UK continues to rise, the population of the Liverpool City Region continues to reduce annually, although there is evidence that the level of reduction is dropping annually.
- 5.3 While these findings were largely in line with the national trends, they demonstrated that the Merseyside economy is still performing below national average levels across almost all key indicators.

6. **Cuts in Public Sector Spending**

- 6.1 Members will be acutely aware of the severe cuts being imposed by the Government on public sector spending as it seeks to reduce the budget deficit. The Authority’s 2011/12 allocation of the Merseyside Integrated Transport Block is 66% lower than its initial 2010/11 allocation and 55% lower than its revised 2010/11 allocation after In-Year cuts.

- 6.2 There is now less Central Government funding available for local transport and this is expected to remain a feature for the current Parliament and possibly beyond. In the face of this, the Tunnels tolls offer a valuable source of local funding for transport projects, as the 1980 Act allows the ITA to spend surplus tolls on the facilitation of Local Transport Plan public transport policies. Therefore in deciding whether matters of an economic and social nature on Merseyside make toll discounts necessary or appropriate, the Authority will need to consider whether toll discounts can be justified if, as they would, they reduce surplus toll revenue that would otherwise be available for supporting Local Transport Plan projects. Surplus toll revenue can only be used for these projects.
- 6.3 It is expected that any public sector cuts will impact the local employment and economic conditions adversely, therefore further supporting the need to discount tolls below Authorised levels.
- 6.4 Current forecast for 2011/12 is for traffic throughput to reduce by a further 2.7% and for this trend to continue into 2012/13.

7. **Conclusions for 2012/13**

- 7.1 From a legal perspective it should be remembered that there is an overriding presumption in the legislation that the tolls will increase each year in line with inflation. Exercising the discounting power under Section 92C(2)-(3) is conditional upon discounts being “necessary” or “appropriate” in light of the evidence.
- 7.2 Considering these factors, the underlying evidence, particularly evidenced by the volume of traffic throughput for both Tunnels, is that the national economy retains limited growth and the Merseyside economy still has some way to go to reach national levels. Officers have come to the conclusion that discounts on cash tolls are still appropriate.
- 7.3 However, in reaching this conclusion the Authority still needs to consider the level of those discounts. RPI rates during 2011 have resulted in the Authorised toll levels increasing further. As a result, the Authority is required to reach a decision as whether to increase the discount in line with the Authorised toll, and therefore retain Actual toll levels as 2011/12, or whether to retain consistent discount levels and apply an increase in the actual toll.

- 7.4 The Authority should also remember that in setting the 2011/12 Actual tolls, they increased the level of discount for Fast Tag users from 11% per journey to 13.5%. In the main, Fast Tag users are the most regular users of the Tunnel service and account for approximately 30% of all journeys.

8. **Financial Implications**

- 8.1 It should be noted that it is anticipated that the toll revenue will be approximately 2.7% down on the budgeted level for 2011/12 and a similar fall is anticipated in 2012/13. This is likely to reduce income by approximately £800k based on the previous financial year.
- 8.2 Any toll revenue increase would be partly offset by the toll revenue lost from reduced traffic flow and, similarly, that the actual 2012/13 revenue will be significantly reduced relative to 2011/12 should the applied toll not be increased.
- 8.3 In real terms, a 1% reduction in traffic is a net loss of approximately £380,000 in actual income.

9. **Equality Impact Assessment**

It will be noted that there are no significant implications at this high level stage, though it will be essential that Equality Impact Assessments of all subsequent, detailed financial proposals are undertaken.

10. **Risk Implications**

- 10.1 There are significant reputational and financial risks associated with this report. From a financial perspective, a decision not to increase the “actual tolls” is likely to reduce revenue for 2012/13 by approximately £1m.
- 10.2 However, any decision to increase tolls is likely to result in adverse publicity and the relevant risks this brings. To mitigate this risk, a pro-active media statement could be produced and Fast Tag discount levels maintained.

11. **Recommendations**

Balancing the different factors and associated with this decision, the Authority is recommended to:

- (a) note the contents of this report;
- (b) to authorise the making of a legal order by the Authority setting the following levels of “authorised tolls” for the Mersey Tunnels from 1 April 2012:

Vehicle Class	1 April 2012 (RPI Linked Rates)
1	£1.70
2	£3.40
3	£5.20
4	£6.90

- (c) maintain the tolls at current levels by increasing the discounts on “authorised tolls” for cash and Fast Tag tolls, with effect from 1 April 2012 as follows:

Vehicle Class	2012/13 Cash Toll	2012/13 Fast Tag Toll
1	£1.50	£1.30
2	£3.00	£2.60
3	£4.50	£3.90
4	£6.00	£5.20

Background Papers

Merseyside Economic Review 2011, The Mersey Partnership

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