

**CONSTITUTION OF THE
HALTON, KNOWSLEY, LIVERPOOL,
ST. HELENS, SEFTON AND WIRRAL
COMBINED AUTHORITY**

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Part 1

Introduction and Articles

- 1.** In this Constitution:
 - 1.1.1 “the Authority” means the Halton, Knowsley, Liverpool, St. Helens, Sefton and Wirral Combined Authority;
 - 1.1.2 “the Combined Area” means the area consisting of the areas of the Constituent Councils;
 - 1.1.3 “the Constituent Councils” mean the district councils for the local government areas of Halton, Knowsley, Liverpool, Sefton, St. Helens and Wirral;
 - 1.1.4 “the Differential Levy” means the transport levy set by the Authority pursuant to the Transport Levying Bodies Regulations 1992 in relation to Halton Borough Council recognising the distinction between its position and that of the other Constituent Councils;
 - 1.1.5 “the ITA” means the Merseyside Integrated Transport Authority;
 - 1.1.6 “Lead Officers” means the Statutory Officers and the Chief Executives of the Constituent Councils;
 - 1.1.7 “the LEP” means the Liverpool City Region Local Enterprise Partnership;
 - 1.1.8 “the Levy” means the transport levy set by the Authority pursuant to the Transport Levying Bodies Regulations 1992;
 - 1.1.9 “Merseytravel” means the Merseyside Passenger Transport Executive for the Combined Area, which is the executive body of the Authority in relation to its transport functions;
 - 1.1.10 “the Merseytravel Committee” means the committee of the Authority named as such with members co-opted from the Constituent Councils;
 - 1.1.11 “Mersey Tunnels” means “the tunnels” and “the approaches” as defined in the County of Merseyside Act 1980;
 - 1.1.12 “the Order” means The Halton, Knowsley, Liverpool, St. Helens, Sefton and Wirral Combined Authority Order 2014;
 - 1.1.13 “Statutory Officers” means the Monitoring Officer, the Treasurer, the Head of the Secretariat and the Head of Paid Service;

- 1.2 The Constitution sets out how the Halton, Knowsley, Liverpool, Sefton, St. Helens and Wirral Combined Authority (hereafter referred to as 'the Authority') operates, how decisions are made and the procedures that are followed to ensure that it operates efficiently, effectively and is both transparent and accountable.

2. Powers of the Authority

- 2.1 The Authority was established pursuant to the Order on 1st April 2014 as the combined authority for the Combined Area, with the aim of improving:-
- (a) the exercise of statutory functions relating to transport in the Combined Area;
 - (b) the effectiveness and efficiency of transport in the Combined Area;
 - (c) the exercise of statutory functions relating to economic development and regeneration in the Combined Area; and
 - (d) economic conditions in the Combined Area.
- 2.2 The Authority is responsible for a range of transport, economic development and regeneration functions across the Combined Area. The functions of the Authority conferred or imposed upon it by the Order and the functions of the Authority delegated to it by the Order are set out at Part 2 of this Constitution.
- 2.3 The Authority will exercise all its powers and duties in accordance with the law and this Constitution.
- 2.4 The Authority will agree policies and delegate responsibilities to conduct its business.

3. Members of the Authority

- 3.1 In accordance with the Order, the Constituent Councils shall each appoint one of its elected members or its Elected Mayor to be a Member of the Authority.
- 3.2 In addition, each of the Constituent Councils shall appoint another of its members to act as a Member of the Authority in the absence of the member appointed under paragraph 3.1.
- 3.3 The LEP shall nominate one of its members to be a member of the Authority and the Authority shall appoint that person as a member of the Authority.
- 3.4 The LEP shall nominate another of its members to act as a member of the Authority in the absence of the member referred to in 3.3 and the Authority shall appoint that person to act in the absence of the member referred to in 3.3.

- 3.5 Members will:
- (a) collectively be the ultimate policy makers of the Authority in respect of those areas which are the responsibility of the Authority;
 - (b) bring views of their communities into the Authority decision-making process; and
 - (c) maintain the highest standards of conduct and ethics.
- 3.6 Members will at all times observe the Code of Conduct for Members approved by the Authority.
- 3.7 Members will be entitled to receive travel and subsistence allowances in accordance with the Members Allowances Scheme approved by the Authority.
- 3.8 Subject to the provisions of Part 5A, paragraph 14.6 of this Constitution, Members appointed following nomination by the LEP will be voting members of the Authority, and Section 85(4) of the Local Transport Act 2008 shall not apply for these purposes.

4. Chairing the Authority

- 4.1 The Authority must appoint a Chair and a Vice Chair from among its Members.
- 4.2 The procedure for the appointment of the Chair and Vice Chair(s) is set out in the Meeting Procedure Rules in Part 5A of this Constitution.

5. Meetings and Procedure

- 5.1 The meetings of the Authority will be conducted in accordance with the Meeting Procedure Rules set out in Part 5A of this Constitution.
- 5.2 A calendar of meetings for the municipal year will be agreed at the Annual Meeting.

6. Responsibility for Functions

- 6.1 Only the Authority will exercise the functions set out in Part 3A of this Constitution.
- 6.2 The Authority has the power to delegate the discharge of the Authority's functions which are not reserved to the Authority to Committees, Sub-Committees, Officers, Joint Committees or other local authorities, pursuant to Section 101 of the Local Government Act 1972.
- 6.3 The Authority has delegated responsibility for the discharge of some of the Authority's functions which are not reserved to the Authority to Merseytravel, Committees and Officers in accordance with Part 3 of this Constitution.

7. Merseytravel

- 7.1 Pursuant to the Order, Merseytravel is to be an executive body of the Authority for the purposes of Part 5 of the Local Transport Act 2008 and Part 6 of the Local Democracy, Economic Development and Construction Act 2009 (LDEDCA 2009).
- 7.2 In the application of the Local Government Act 1972 (arrangements for the discharge of functions) to the Authority, Merseytravel is to be treated as if it were an officer of the Authority.
- 7.3 Where arrangements are in force for the discharge of functions of a Constituent Council by the Authority by virtue of –
- (a) section 101(1)(b) of the Local Government Act 1972; or
 - (b) section 9EA of the Local Government Act 2000 and the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012,

Merseytravel is to be treated as if it were an officer of the Authority for the purposes of Section 101 of the Local Government Act 1972 and for the purposes of those Regulations.

- 7.4 Merseytravel has power to discharge any function which is the subject of arrangements entered into with it by virtue of paragraphs 7.2 and 7.3 above.

8. Committees of the Authority

- 8.1 The Authority will establish a Merseytravel Committee and refer or delegate such transport functions of the Authority to the Merseytravel Committee, as set out in Part 3B of this Constitution.
- 8.2 The Authority shall determine how many members from each Constituent Council it will co-opt onto the Merseytravel Committee and will determine the terms of reference of such Committee.
- 8.3 The Authority having determined the number of members to be co-opted to the Merseytravel Committee, the Constituent Councils shall be requested to identify their elected member nominees and the Authority shall consider the co-option of those nominated. The Constituent Councils may change their nominations at any time and submit the names of replacement nominees for consideration, but shall not nominate members of the Authority.
- 8.4 If any co-opted member resigns from the Merseytravel Committee, the relevant Constituent Council shall nominate a replacement as soon as practicable.
- 8.5 Those members of the Merseytravel Committee who are elected members shall have voting rights for those matters referred or

delegated to it.

- 8.6 The Authority may establish such other Committees, including a Standards Committee, an Audit Committee and a Scrutiny Panel, on such terms as it thinks fit.

9. Joint Arrangements

- 9.1 The Authority has power pursuant to Section 101(5) of the Local Government Act 1972 to make arrangements with other local authorities to discharge their functions jointly.
- 9.2 Such arrangements may involve the discharge of those functions by a joint committee of such authorities or by an officer of one of them.

10. Officers

- 10.1 The Authority shall appoint the Lead Officers, whose responsibilities and delegations are as set out in legislation and as agreed by the Authority.
- 10.2 The Authority may delegate such powers to the Lead Officers as the Authority deems appropriate.
- 10.3 Unless otherwise provided, for the purposes of any enactment, the Proper Officer of the Authority is the Head of Paid Service.

11. Decision-Making

Decisions of the Authority, its Committees, Sub-Committees and its Lead Officers will be taken in accordance with the responsibilities set out in Part 3 and in accordance with the following principles:

- (a) Proportionality (meaning the action must be proportionate to the results to be achieved);
- (b) Due consultation (including the taking of relevant professional advice);
- (c) Respect for human rights;
- (d) Presumption in favour of openness;
- (e) Clarity of aims and desired outcomes; and
- (f) Due consideration will be given to alternative options.

12. Finance, Contracts and Legal Matters

12.1 Financial management

The management of the Authority's financial affairs will be conducted in accordance with the Financial Procedures set out in Part 6 of this Constitution.

12.2 Legal proceedings

The Monitoring Officer is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Authority or in any case where the Monitoring Officer considers that such action is necessary to protect the Authority's interests.

12.3 Authentication of documents

- (a) Where any document is necessary to any legal procedure or proceedings on behalf of the Authority, it will be signed by the Monitoring Officer or some other person duly authorised by the Authority or the Monitoring Officer, unless any enactment otherwise authorises or requires.
- (b) Contracts will be entered into in accordance with the Authority's Contract Procedure Rules set out in Part 6 of the Constitution, unless the Authority has delegated the function to a Constituent Council or Merseytravel, in which case the Contract Procedure Rules of such body shall be adhered to.
- (c) Land transactions will be entered into in accordance with the Authority's Land Procedure Rules set out in Part 6 of the Constitution, unless the Authority has delegated the function to a Constituent Council or Merseytravel, in which case the Land Procedure Rules of such body shall be adhered to.

12.4 Common Seal of the Authority

The Common Seal of the Authority will be kept in a safe place in the custody of the Monitoring Officer. A decision of the Authority, or any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Monitoring Officer should be sealed. The affixing of the Common Seal will be attested by the Monitoring Officer or some other person authorised by the Monitoring Officer.

13. Review and Revision of the Constitution

13.1 The Monitoring Officer will monitor and review the operation of the Constitution.

13.2 Changes to the Constitution will only be approved by the Authority

after consideration of the proposal by the Monitoring Officer and in accordance with the Meeting Procedure Rules set out in Part 5A of this Constitution and where those members present and voting approve the changes unanimously.

Part 2

Powers and Functions conferred on the Authority pursuant to the Order

A. Transport Functions of the ITA transferred to the Authority

- 1.1 Pursuant to the Order the following functions of the ITA are transferred to the Authority:-
- (a) the discharge of all the functions, duties and responsibilities of the ITA;
 - (b) without prejudice to the generality of sub-paragraph 1.1(a), the discharge of all the functions of the ITA that are provided for within the Transport Acts 1968, 1983, 1985 and 2000, the Local Government Act 1972, the Transport and Works Act 1992 and the Local Transport Act 2008; and
 - (c) the appointment of members to Merseytravel in accordance with article 16 of the Merseyside Passenger Transport Area (Designation) Order 1969.

B. Transport Functions of the Constituent Councils delegated to the Authority

- 1.1 Pursuant to the Order, the functions of the Constituent Councils under Section 2 of the Road Traffic Reduction Act 1997 (duty of principal councils to make reports) are delegated to the Authority.
- 1.2 Pursuant to the Order, the functions of Halton Council under the following enactments are transferred to the Authority:
- (a) Parts IV and V of the Transport Act 1985; and
 - (b) Part II of the Transport Act 2000

C. Powers and Duties of the Authority in relation to Transport Functions

- 1.1 Pursuant to the Order, the following are functions of the Authority:
- (a) the power to issue fixed penalty notices in respect of offences in breach of the Mersey Tunnels Byelaws 2003 or any revision thereof pursuant to Section 237A of the Local Government Act 1972;

- (b) the powers and duties of a Local Transport Authority pursuant to the Local Transport Act 2008; and
 - (c) the power to enter into individual agreements with local highway authorities pursuant to Section 8 of the Highways Act 1980 and for such purposes to be designated
 - (i) as a Local Highway Authority pursuant to the said Section 8;
 - (ii) as a Traffic Authority pursuant to Section 121A of the Road Traffic Regulation Act 1984; and
 - (iii) as a Street Authority pursuant to Section 49 of the New Roads and Street Works Act 1991.
- 1.2 In relation to the powers set out in 1.1(c) , these powers will be subject to written agreements entered into by the Authority and the Constituent Council(s) in relation to specific highways or parts of highways so that the rights and liabilities of the relevant Highway Authority, Traffic Authority or Street Authority are clearly set out.
- 1.3 In the event that the power in 1.1(c) is to be exercised, the Authority will, prior to such exercise, approve a Protocol regarding its use.

D. Economic Development and Regeneration Functions to be exercised by the Authority concurrently with the Constituent Councils

- 1.1 Pursuant to the Order, the following economic development and regeneration functions of the Constituent Councils are to be exercised by the Authority concurrently with the Constituent Councils:-
- (a) the power under Section 144 of the Local Government Act 1972 (the power to encourage visitors and provide conference and other facilities);
 - (b) the duty under Section 8(1) of the Housing Act 1985 (duty of local housing authorities to consider housing conditions in their district and the needs of the district with respect to the provision of further housing accommodation);
 - (c) the duties under Sections 15ZA, 15ZB, 15ZC, 17A, 18A(1)(b), of the Education Act 1996 and the power under Sections 514A and 560A of that Act (duties and powers related to the provision of education and training for persons over compulsory school age);
 - (d) the duty under Section 69 of the 2009 Act (duty to prepare an assessment of economic conditions); and
 - (e) such functions of the Constituent Councils as are exercisable for the purposes of economic development and regeneration in

reliance on the general power of competence under section 1 of the Localism Act 2011.

- 1.2 Any requirement in any enactment for a Constituent Council to exercise any of the functions set out in paragraph 1.1 above may be fulfilled by the exercise of that function by the Authority.
- 1.3 The Authority and the Constituent Councils will draw up and agree detailed Protocols in relation to the discharge of the economic development and regeneration functions set out at paragraph 1.1 above.
- 1.4 The Authority and the Constituent Councils will keep the Protocols referred to at paragraph 1.3 above under regular review and may revise them from time to time, such revisions to be agreed by the Chief Executives of the Constituent Councils and the Head of Paid Service of the Authority.
- 1.5 Protocols drawn up, agreed, or revised under paragraphs 1.3 and 1.4 above will not in themselves constitute arrangements for the discharge of functions made in accordance with Section 101 of the Local Government Act 1972 and the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012.
- 1.6 By virtue of Section 91(5) of the LDEDCA 2009, the Authority must exercise the functions in paragraph 1.1 above with a view to promoting the economic development and regeneration of the area.

E. Incidental Provisions

- 1.1 Pursuant to the Order, the following provisions have effect as if the Authority were a local authority for the purposes of these provisions:-
 - (a) Section 142(2) of the Local Government Act 1972 (the power to arrange for publication of information etc. relating to the functions of the authority); and
 - (b) Section 222 of the Local Government Act 1972 (the power to instigate and defend legal proceedings).
- 1.2 The Authority shall have the power to exercise any of the functions described in subsection 1(a) and (b) of section 88 of the Local Government Act 1985 (research and collection of information) whether or not a scheme is made under that section.

F. Functions conferred on the Authority by Local Government Legislation

- 1.1 The Authority shall have such other powers and duties as are conferred on a combined authority by any enactment.

- 1.2 Without prejudice to the generality of the above, such powers and duties include:
- (a) the duty to appoint a Head of Paid Service, a Monitoring Officer and an Officer with responsibility for the administration of the Authority's financial affairs (the Treasurer);
 - (b) the power to borrow money for a purpose relevant to its transport functions only;
 - (c) the power to appoint staff and to enter into agreements with other local authorities for the secondment of staff;
 - (d) the power to acquire land by agreement or compulsorily for the purpose of any of its functions and to dispose of such land;
 - (e) the power to pay subscriptions to the funds of local authority associations;
 - (f) the duty (without prejudice to any other obligation) to exercise its functions with due regard to the need to prevent crime and disorder, the misuse of drugs and alcohol or re-offending in its area;
 - (g) the power under Section 99 of the Local Transport Act 2008 to promote the economic, social and environmental well-being of its area; and
 - (h) the power under Section 113A of the LDEDCA 2009 to do anything it considers appropriate for the purpose of carrying out any of its functions.
- 1.3 The Authority is a local authority for the purpose of Section 101 of the Local Government Act 1972 (arrangements for the discharge of functions by local authorities).
- 1.4 The Authority is a best value authority for the purpose of Section 1 of the Local Government Act 1999.
- 1.5 The Authority is a public body for the purpose of the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.
- 1.6 The Authority is a local authority for the purpose of the power of a Minister of the Crown to pay grants.

Part 3

Responsibility for Functions

THE AUTHORITY

A. Functions Reserved to the Authority

1. In respect of the Constitution

- (a) adopting and amending the Authority Constitution;
- (b) the acceptance of arrangements to delegate the functions of any person to the Authority;
- (c) to appoint the Statutory Officers of the Authority;
- (d) to determine the requirement for composition of and terms of reference of any Joint Committees, Committees and Sub-Committees;
- (e) determine the voting rights in respect of decisions of the Authority;
- (f) to appoint the Chair and Vice Chair;
- (g) determine the co-option and the terms of such co-option of any person who is not a constituent member of the Authority;
- (h) agree the submission of an application to the Government to expand/constrict the area of the Authority and its duties and responsibilities;
- (i) appointing representative to outside bodies;
- (j) holding the Committees of the Authority to account;
- (k) receiving reports from Statutory Officers; and
- (l) all other matters which must, by law, be reserved to the Authority.

2. In respect of strategy, policy and agreements

- (a) the discharge of all statutory duties and responsibilities as provided for by relevant legislation;
- (b) the adoption, approval, and any modification of a plan or strategy as provided for by relevant legislation;
- (c) determine general policies for the Liverpool City Region in respect of transport;
- (d) the power to enter into individual agreements with Local Highway Authorities pursuant to Section 8 of the Highways Act 1980 and for such purposes to be designated:-
 - (i) as a Local Highway Authority pursuant to the said Section 8;
 - (ii) as a Traffic Authority pursuant to Section 121A of the Road Traffic Regulation Act 1984; and
 - (iii) as a Street Authority pursuant to Section 49 of the New Roads and Street Works Act 1991; and
- (e) produce and deliver a Strategic Plan for the Authority.

3. In respect of finance

- (a) approval of the budget of the Authority;
- (b) setting of an appropriate transport levy and differential levy;
- (c) approval of borrowing limits of the Authority in respect of transport functions;
- (d) approval of the treasury management and investment strategies of the Authority;
- (e) subject to regulation 4.4 of the Financial Regulations, approving the transport capital programme of the Authority and Merseytravel and approving new transport schemes to be funded by the Merseyside City Region Transport Fund;
- (f) approve the setting of the Mersey Tunnel tolls under the County of Merseyside Act 1980 and Mersey Tunnels Act 2004;
- (g) identifying a prioritised list of transport investments for Liverpool City Region;
- (h) making decisions on individual scheme approvals, investment decision-making and release of funding, including scrutiny of individual scheme business cases;
- (i) responsibility for ensuring value for money is achieved;
- (j) monitoring the progress of scheme delivery and spend, in concert with other appropriate LCR bodies;
- (k) actively managing the devolved budget and programme to respond to changed circumstances in collaboration with the Authority as the Accountable Body and Merseytravel; and
- (l) determine whether to act as an accountable body in respect of finance and/or grant funding.

4. In respect of Merseytravel

- (a) make grants to Merseytravel, including grants for operation and maintenance of Mersey Tunnels;
- (b) grant approval to Merseytravel to promote or oppose any Bill in Parliament;
- (c) grant approval to Merseytravel to make a written request to the Minister to purchase compulsorily any land;
- (d) to exercise the power, to cause a review to be made of the organisation of Merseytravel;
- (e) to give to Merseytravel such directions as appear from any such review to be requisite to ensure that Merseytravel's undertaking is organised in an efficient manner;
- (f) make appointments of members of the Merseyside Passenger Transport Executive in accordance with the Merseyside Passenger Transport Area (Designation) Order 1969; and
- (g) provide directions to Merseytravel in regard to functions being undertaken for the Authority.

5. In respect of economic development and regeneration

- (a) all functions set out in the Order to be exercised concurrently with the Constituent Councils and in accordance with agreed protocols.

The Merseytravel Committee

B I. Transport Functions of the Authority referred to the Merseytravel Committee

The following transport functions of the Authority are **not delegated** but are referred by the Authority to the Merseytravel Committee to make recommendations to the Authority

1. In respect of strategy, policy and agreements

To make recommendations, having consulted stakeholders where appropriate, in respect of:

- (a) the discharge of all statutory duties and responsibilities as provided for by relevant legislation;
- (b) the adoption, approval and any modification of a plan or strategy as provided for by relevant legislation; and
- (c) the determination of general policies for the Liverpool City Region in respect of transport.

2. In respect of finance

To make recommendations in respect of:

- (a) the budget of the Authority for transport;
- (b) the Levy and the Differential Levy pursuant to the Transport Levying Bodies Regulations 1992;
- (c) the capital programme of the Authority and Merseytravel; and
- (d) the setting of the Mersey Tunnel tolls.

3. In respect of Merseytravel

To make recommendations in respect of:

- (a) financial grants to Merseytravel (including grant for the operation and maintenance of Mersey Tunnels);
- (b) the power to allow Merseytravel to promote or oppose any Bill in Parliament;
- (c) authorising Merseytravel to purchase compulsorily any land;
- (d) the need for a review to be made of the organisation of Merseytravel;
- (e) making appointments of members of the Merseyside Passenger Transport Executive in accordance with the Merseyside Passenger Transport Area (Designation) Order 1969;
- (f) provide directions to Merseytravel in regard to functions being undertaken for the Authority; and
- (g) new transport schemes to be funded by the LCR Transport Fund.

B II. Transport Functions of the Authority delegated to the Merseytravel Committee

The following transport functions of the Authority **are delegated** by the Authority to the Merseytravel Committee, subject to the Merseytravel Committee exercising these functions in accordance with any transport policies of the Authority, the Local Transport Plan and the Authority's agreed transport budget and borrowing limits (and without prejudice to the Authority's right to discharge such functions itself):

1. In respect of strategy, policy and agreements

- (a) formulating general policies with respect to the availability and convenience of transport Services;
- (b) considering and approving the creation and development of:-
 - (i) Quality Partnership Schemes;
 - (ii) Quality Contracts Schemes;
 - (iii) Ticketing Schemes;
 - (iv) Concessionary Travel Schemes; and
 - (v) Bus service information and publicity
- (c) monitoring performance against the Local Transport Plan and other Authority transport policies, plans and strategies; and
- (d) formulating, developing and monitoring procedures for stakeholder consultation on the Authority's transport policies, including taking responsibility for the active promotion of Liverpool City Region's transport interests.

2. In respect of finance

- (a) monitoring the Authority's transport budget and capital schemes; and
- (b) approving the level of financial support of local rail services over and above that in the baseline franchise specification agreed between Liverpool City Region and the Department for Transport.

3. In respect of Merseytravel

- (a) monitoring and overseeing the activities and performance of Merseytravel;
- (b) ensuring that Merseytravel secures the provision of appropriate transport and associated services;
- (c) ensuring that Merseytravel implements those actions delegated to it for promoting the economic, social and environmental well-being of the Liverpool City Region;
- (d) determining variations in charges for transport services or facilities provided by Merseytravel;
- (e) determining issues arising from the rail franchising process and/or the MEL Rail Concession that are not the legal responsibility of Merseytravel;
- (f) considering issues arising from the implementation by Merseytravel of transport schemes on behalf of the Authority;

- (g) determine the operation, performance, contract management and development of the transport network and monitoring the operation and performance of bus and local rail services and influencing such;
- (h) to give to Merseytravel such directions as appear from any such review to be requisite to ensure that Merseytravel's undertaking is organised in an efficient manner;
- (i) approval of any transactions of Merseytravel which require approval under Section 10(1) of the Transport Act 1968; and
- (j) exercise any delegation from the Authority as required.

B III. Transport Functions of the Authority delegated to Halton Borough Council ("Halton")

1. The Authority may delegate any of its transport functions to Halton insofar as this is necessary to discharge the functions of the Authority within the area of Halton.
2. Any such delegation will be by way of separate agreement between the Authority and Halton and shall make appropriate provision for the delegation of such resources required to discharge those functions.

Merseytravel

C. Functions of the Authority delegated to Merseytravel

- (a) to provide advice to the Authority and Merseytravel Committee to enable development of policies for the promotion and encouragement of safe, integrated, efficient and economic transport to, from and within the Liverpool City Region;
- (b) to prepare the Local Transport Plan (LTP) and advise the Authority and Merseytravel Committee upon proposals for the implementation of the LTP;
- (c) where the Authority has provided financial assistance to other persons or bodies (including the Constituent Councils), to implement the Authority's transport policies or the LTP and to monitor and secure compliance with any terms and conditions of such financial assistance;
- (d) to secure the implementation of the Authority's transport policies and the LTP;
- (e) to implement decisions taken by the Authority and Merseytravel Committee in a transport context to promote and improve the economic, social and environmental well-being of the Liverpool City Region;
- (f) to implement any legal agreements entered into by the Authority relating to transport, as required by the Authority;
- (g) gathering data from relevant stakeholders in relation to transport matters as required by the Authority;
- (h) to maintain any databases/models for the Liverpool City Region databases as required by the Authority;
- (i) to institute, conduct, prosecute or defend any legal proceedings relating to its transport functions on behalf of the Authority;
- (j) to do anything incidental to or calculated to facilitate the discharge of those responsibilities;
- (k) to appoint officers to act as law enforcement officers in respect of the Mersey Tunnels as provided for by the County of Merseyside Act 1980;
- (l) to enforce the County of Merseyside Act 1980 and the Mersey Tunnels Bylaws 2003;
- (m) to provide and operate the concessionary travel scheme as determined by the Authority;
- (n) to provide travel information as determined by the Authority;
- (o) to maintain proper records as required by the Authority, and pursuant to legislation, in connection with any transport functions delegated to Merseytravel;
- (p) to recover and account for tolls revenue on behalf of the Authority;
- (q) to operate and maintain the Mersey Tunnels as required by the Authority;
- (r) to issue fixed penalty notices in respect of offences under the Mersey Tunnel Byelaws 2003;
- (s) approving its transport capital programme and releases for capital transport within the agreed budget; and
- (t) to exercise any delegation as provided by the Authority.

D. Scheme of Delegation of Functions to Lead Officers

General Principles

1. The Authority may choose to delegate any of its functions to officers of the Authority.
2. Powers delegated to Lead Officers may be exercised by other officers if the relevant Lead Officer has further delegated that power, but this must be properly recorded and capable of being evidenced.
3. The exercise of delegated powers by officers shall be in accordance with the principles of decision-making which the Authority follows and in accordance with the requirements of the Constitution.
4. Lead Officers are not obliged to exercise delegated powers if they believe circumstances are such that the powers should more appropriately be exercised by the Authority or one of its Committees.
5. Where delegated powers are exercised, Lead Officers should ensure that the decisions taken are appropriately recorded.

General Delegations to Lead Officers

1. The day-to-day routine, management, supervision and control of services provided on behalf of the Authority relating only to the functions for which they are responsible.
2. Within the scope of their delegations, the exercise of powers in relation to Low Value Procurements as set out in the Contract Procedure Rules, subject to compliance with any guidance issued by the Treasurer.
3. Within the scope of their delegations, the acceptance of tenders in accordance with the provisions of the Contract Procedure Rules.
4. Within the scope of their delegations, the power to set up Boards on an informal basis for the purpose of promoting economic development and regeneration in the Liverpool City Region. The Lead Officer in respect of any Board will determine its membership. In particular, the Lead Officer will have the power to co-ordinate the work of the relevant Board with a view to furthering the aims and ambitions of the Authority. Any Board established under this power will not itself have decision-making powers and the Lead Officer will be responsible for ensuring that the work of the Board is, in appropriate circumstances, referred to the Authority for consideration and approval.

Delegated Powers of the Head of Paid Service

1. The functions of the Head of Paid Service as set out in the Local Government and Housing Act 1989.

2. The discharge of any function not reserved to the Authority or delegated to any Committee or officer.
3. The discharge of any function delegated to another officer where that officer is absent or otherwise unable to act.
4. The taking of any action which is required as a matter of urgency or which cannot reasonably await consideration at the next scheduled meeting of the Authority where such action is necessary in the view of the Head of Paid Service to protect the interests of the Authority and where practicable the Head of Paid Service has consulted with the Chair of the Authority.
5. To make such arrangements as are necessary for the organisation of meetings of the Merseytravel Committee and its Sub-Committees, including determining requests to record or film such meetings.
6. To exercise the responsibilities assigned to the Head of Paid Service which are set out in the Constitution.

Delegations to the Treasurer

1. To effect the proper administration of the Authority's financial affairs, particularly in relation to financial advice, procedures, records and accounting systems, internal audit and financial control generally.
2. The taking of all action required on borrowing, investment and financing, subject to the submission to the Authority of an annual report of the Treasurer on treasury management activities and at 6-monthly intervals in accordance with CIPFA's Code of Practice for Treasury Management & Prudential Codes.
3. To effect all insurance cover required in connection with the business of the Authority and to settle claims under such insurances, where this is appropriate, for the benefit of the Authority.
4. To accept grant offers on behalf of the Authority, subject to all the terms and conditions set out by the grant awarding body.
5. The submission of all claims for grant to the UK Government or the European Community (EC) or any other third party.
6. To make all necessary banking arrangements on behalf of the Authority to sign all cheques drawn on behalf of the Authority or make arrangements for cheques to be signed by other officers or to arrange for such cheques to bear the facsimile signature of the Treasurer.
7. To monitor capital spending and submit a report to the Authority at not more than quarterly intervals. This report will separately identify the capital expenditure relating to schemes promoted by Merseytravel.

8. In relation to revenue expenditure under the control of Lead Officers, to consider reports of officers on any likely overspending, and to approve transfers between expenditure heads up to a maximum of £25,000.
9. The approval of contracts and agreements proposed to be entered into by the Authority provided that, subject to any other requirement of this Constitution, the Treasurer may give a general consent to Lead Officers to enter into contracts or agreements, the value of which does not exceed £250,000.
10. The collection of all money due to the Authority and the writing-off of bad debts in accordance with the Financial Procedure Rules.
11. To supervise procedures for the invitation, receipt and acceptance of tenders.
12. To administer the Members' Allowance Scheme.
13. To discharge the functions of the 'responsible financial officer' under the Accounts and Audit (England) Regulations 2011, including the requirement under Regulation 8(2) to sign and date the statement of accounts, and certify that it presents a true and fair view of the financial position of the Authority at the end of the year to which it relates and of the Authority's income and expenditure for that year.
14. To discharge the functions of the Authority under the Accounts and Audit (England) Regulations 2011 (with the exception of regulations 4(3), 6(4) and 8(3)).
15. To be the officer nominated, or to nominate in writing another officer, as the person to receive disclosures of suspicious transactions for the purposes of the Proceeds of Crime Act 2002 and any regulations made thereunder.
16. To determine an amount (not exceeding £5,000) being the maximum sum which the Authority will receive in cash without the express written consent of the Treasurer.
17. To exercise the responsibilities assigned to the Treasurer which are set out in the Constitution.

Delegations to the Monitoring Officer

1. The functions of the Monitoring Officer set out in the Local Government and Housing Act 1989.
2. To receive complaints that any member has failed to comply with the Code of Conduct for Members.
3. To determine whether to reject, informally resolve or investigate any complaint received, referred to in 2 above, and to take such action as is necessary to implement that determination.

4. To prepare and maintain the Authority's Register of Members' Interests and have it available for inspection as required by the Localism Act 2011.
5. To determine requests from Members for dispensations pursuant to the provisions of the Localism Act 2011, subject to the right of appeal by a member to the Standards Committee in the case of a refusal.
6. To institute, conduct, prosecute and defend or settle any legal proceedings on behalf of the Authority as may be necessary to protect and promote the interests of the Authority, subject to consultation with the Chair, in any case where the matter is of significance to the Authority's reputation.
7. To settle any threatened legal proceedings where it is in the Authority's interests to do so.
8. To instruct Counsel and professional advisers as appropriate.
9. To provide undertakings on behalf of the Authority.
10. To supervise the preparation and completion of legal documents and processes necessary to give effect to the decisions of the Authority.
11. To determine whether exemptions should be applied to requests made under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.
12. To accept service on behalf of the Authority.
13. To sign certificates under the Local Government (Contracts) Act 1997.
14. To exercise the responsibilities of the Monitoring Officer which are set out in the Constitution.

Delegations to the Head of the Secretariat

1. The provision of a response to any Government consultation, subject to consultation with the Chair and Head of Paid Service of the Authority.
2. The co-ordination of public relations for the Authority, including the approval of press releases on behalf of the Authority.
3. To make such arrangements as are necessary for the organisation of meetings of the Authority, its Scrutiny Panel, its Standards Committee and its Audit Committee, including determining requests to record or film such meetings.
4. To exercise the responsibilities assigned to the Head of the Secretariat, which are set out in the Constitution.

PART 4

A. Standards Committee

4.1 Standards Committee

The Authority will establish a Standards Committee, which shall be convened from time to time at the request of the Monitoring Officer.

4.2 Composition

(a) Membership

The Standards Committee will be composed of a pool of six members or Substitute Members of the Authority, of whom three will form a Committee.

(b) Chairing the Committee

The Authority will appoint the Chair of the Committee. In the absence of the appointed Chair, the Committee will be chaired as determined by the Committee.

(c) Quorum

The quorum for the Standards Committee shall be three.

4.3 Role and Function

The Authority has delegated to the Standards Committee the following powers to deal with matters of conduct and ethical standards, and the Authority's Standards Committee has the following role and functions:

- (a)** to promote and maintain high standards of conduct by Authority Members;
- (b)** to assist Authority Members to observe the Authority's Code of Conduct for Members;
- (c)** to advise the Authority on the adoption, revision or replacement of the Authority's Code of Conduct for Members and the Authority's Arrangements for Dealing with Complaints that Authority Members have failed to comply with the Authority's Code of Conduct for Members ("the Authority's Arrangements");
- (d)** to monitor the operation of the Authority's Code of Conduct for

Members and the Authority's Arrangements;

- (e) to advise, train or arrange to train Authority Members to observe the Authority's Code of Conduct for Members;
- (f) to determine, or to delegate to a Standards Sub-Committee, to determine, in accordance with the Authority's Arrangements, whether an Authority Member has failed to comply with the Authority's Code of Conduct for Members and, if so, to determine, or to delegate to a Standards Sub-Committee, to determine, what action (if any) to take in respect of the Authority Member, such actions to include:–
 - publication of the findings of the Authority's Standards Committee in respect of the Subject Member's conduct;
 - reporting the findings of the Authority's Standards Committee to the Authority for information;
 - recommendation to the Authority that the Subject Member should be censured;
 - instructing the Authority's Monitoring Officer to arrange training for the Subject Member; or
 - recommendation to the Authority that the Subject Member should be removed from all appointments to which the Subject Member has been appointed or nominated by the Authority
- (g) to determine appeals against the Monitoring Officer's decision on the grant of dispensations; and
- (h) to consider the Authority's Code of Corporate Governance and the Annual Governance Statement;

B. Audit Committee

4.4 The Authority will establish an Audit Committee.

4.5 Composition

(a) Membership

The number of members of the Committee shall be six. The members of the Committee shall include members of the Authority, the Merseytravel Committee and the Scrutiny Panel in such proportion as the Authority shall determine.

(b) Chairing the Committee

- (i) The Chair of the Committee shall not be a member of the Authority.
- (ii) The Chair of the Committee shall not have a casting vote.

- (c) The quorum for the Audit Committee shall be three.

4.6 **Role and Function**

The Authority has delegated to the Audit Committee the following roles in order to advise the Authority:

- (a) to receive the Authority's statement of accounts in accordance with The Accounts and Audit (England) Regulations 2011 and to advise the Authority in relation to its approval;
- (b) to consider the External Auditor's Annual Audit and Inspection Letter in accordance with The Accounts and Audit (England) Regulations 2011 and to monitor the Authority's response to individual issues of concern identified;
- (c) to consider and advise the Authority on the findings of the Authority's review of the effectiveness of its system of internal control and on the Annual Governance Statement;
- (d) to consider and advise the Authority on the findings of the review of the effectiveness of its internal audit;
- (e) to oversee the effectiveness of the Authority's and the Merseytravel Committee's risk management arrangements, the control environment and associated anti-fraud and anti-corruption arrangements;
- (f) to challenge the Authority's performance management arrangements;
- (g) to oversee and review the Authority's relevant strategies, policies and codes;
- (h) to engage with the External Auditor and external inspection agencies and other relevant bodies to ensure that there are effective relationships between external and internal audit;
- (i) to make recommendations to the Treasurer and Monitoring Officer in respect of Part 6 of the Authority's Constitution;
- (j) to ensure effective scrutiny of the Treasury Management Strategy and Policies; and
- (k) to consider and advise the Authority on its Code of Corporate Governance.

Part 5

Meeting Procedure Rules and Scrutiny

Section A – Meeting Procedure Rules

1. Interpretation, Suspension and Chair’s Ruling

- 1.1 These Rules apply to meetings of the Authority and, where appropriate, to meetings of Committees and Sub-Committees of the Authority. Any reference to Authority in these rules also refers to Committees and Sub-Committees, provided that in respect of the Merseytravel Committee and its Sub-Committees, references to the Head of the Secretariat shall be replaced by Head of Paid Service.
- 1.2 References in these Rules to the “Chair” mean the Member of the Authority for the time being presiding at the meeting of the Authority and a meeting of a Committee or Sub-Committee of the Authority.
- 1.3 These Rules should be read in conjunction with other parts of the Authority’s Constitution.
- 1.4 **These Rules are subject to any statute or other enactment whether passed before or after these Rules came into effect.
- 1.5 The ruling of the Chair on the interpretation of these Rules in relation to all questions of order and matters arising in debate shall be final.

2. Suspension and Revocation of the Meeting Procedure Rules

- 2.1 **With the exception of the Rules marked by an asterisk (**) any Rule may be suspended at a meeting of the Authority either by a motion included on the agenda or by a motion put to the meeting without notice and passed by a majority of those present and voting. A motion to suspend any Rules will not be moved without notice unless at least 4 Members of the Authority are present.
- 2.2 Rules may be changed by the Authority either at the Annual Meeting or by a motion on notice made at a meeting of the Authority.

3. Membership of the Authority

- 3.1 **Each Constituent Council will be represented by one of its elected members or its elected Mayor.
- 3.2 **Each Constituent Council shall appoint another of its elected

members to act as a Member of the Authority in the absence of the Member appointed under sub-paragraph 3.1 above (“the Substitute Member”).

- 3.3 **A person shall cease to be a Member or a Substitute Member of the Authority if they cease to be a member of the Constituent Council that appointed them.
- 3.4 **A person may resign as a Member or Substitute Member of the Authority by written notice served on the proper officer of the Constituent Council that appointed them (who for the purposes of this sub-paragraph 3.4 shall be the Monitoring Officer of the Constituent Council that appointed them) and the resignation shall take effect on receipt of the notice by the proper officer.
- 3.5 **Where a Member or Substitute Member of the Authority’s appointment ceases by virtue of sub-paragraph 3.3 or 3.4, the Constituent Council that made the appointment must, as soon as practicable, give written notice of that fact to the Head of the Secretariat and appoint another of its elected members in that person’s place.
- 3.6 **A Constituent Council may at any time terminate the appointment of a Member or Substitute Member appointed by it to the Authority and appoint another of its elected members in that person’s place.
- 3.7 **Where a Constituent Council exercises its power under sub-paragraph 3.6, it must give written notice of the new appointment and the termination of the previous appointment to the Head of the Secretariat and the new appointment shall take effect and the previous appointment terminate at the end of one week from the date on which the notice is given (or such longer period not exceeding one month, as is specified in the notice).
- 3.8 **For the purposes of this paragraph 3, an elected mayor of a Constituent Council shall be treated as a member of the Constituent Council.

4. Chair and Vice Chair

- 4.1 **A Chair and a Vice Chair will be appointed annually by the Authority from among Members of the Constituent Councils and will, unless they resign, cease to be members of the Authority or become disqualified, act until their successors become entitled to act as Chair or Vice Chair.
- 4.2 In the case of an equality of votes in respect of the appointment of a Chair, the appointment for that meeting only will be determined by the drawing of lots on such basis as the Monitoring Officer shall determine. The matter will then be considered at the next meeting of the Authority when, in the case of an equality of votes, the same process shall apply.
- 4.3 **The appointment of the Chair and Vice Chair shall be the first business transacted at the Annual Meeting of the Authority.

- 4.4 **On a vacancy arising in the office of Chair or Vice Chair for whatever reason, the Authority shall make an appointment to fill the vacancy at the next ordinary meeting of the Authority held after the date on which the vacancy occurs, or, if that meeting is held within 14 days after that date, then not later than the next following meeting. The Member appointed shall hold such office for the remainder of the year in which such vacancy occurred.
- 4.5 **Subject to these Rules, anything authorised or required to be done by, or in relation to, the Chair, may be done by, or in relation to, the Vice Chair.
- 4.6 The Chair (or the Vice Chair or any other Member acting in the absence of the Chair) shall not have a casting vote on any issue.

5. Meetings

- 5.1 **The Annual Meeting of the Authority shall be held in June on a date and at a time determined by the Authority.
- 5.2 **Ordinary meetings of the Authority for the transaction of general business shall be held on such dates and at such times as the Authority shall determine at its Annual Meeting.
- 5.3 **An Extraordinary Meeting of the Authority may be called at any time by the Chair.

Admission of Public

- 5.4 All meetings of the Authority, its Committees and Sub-Committees shall be open to the public (including the press) except to the extent that they are excluded whether during the whole or part of the proceedings either:
- (a) In accordance with Section 100A(2) of the Local Government Act 1972; or
 - (b) By resolution passed to exclude the public on the grounds that it is likely, in view of the nature of the proceedings, that if members of the public were present there would be disclosure to them of exempt information as defined in Section 101 of the Local Government Act 1972. Any such Resolution shall identify the proceedings or the part of the proceedings to which it applies and state the description, in terms of Schedule 12A to the Local Government Act 1972 of the exempt information giving rise to the exclusion of the public.

6. Notice of Meetings

- 6.1 At least five clear working days before a meeting of the Authority:
- (a) notice of the time and place of the intended meeting shall be

published by the Head of the Secretariat and posted on the Authority's website;

- (b) a summons to attend the meeting, specifying an agenda for the meeting, shall be sent to all Members of the Authority by electronic mail.

6.2 **Lack of service on a Member of the Authority of the summons shall not affect the validity of a meeting of the Authority.

7. Meeting Agendas

7.1 The Chair of the Authority will decide upon the agenda for the meetings of the Authority. The Chair may put on the agenda of any meeting any matter which the Chair wishes.

7.2 **Any Member of the Authority may require the Head of the Secretariat to ensure that an item is placed on the agenda of the next available meeting of the Authority for consideration.

7.3 Any item proposed to be included on the agenda for any meeting of the Authority in accordance with sub-paragraph 7.2 above, which is not submitted in writing before 7 working days of the meeting, shall not be included on the agenda for that meeting unless it is agreed by the Chair. In this case the amended agenda for the meeting will state the reason for the late acceptance of any such item.

7.4 The Head of the Secretariat shall set out in the agenda for each meeting of the Authority the items of business requested by Members (if any) in the order in which they have been received, unless the Member concerned has given prior written notice to the Head of the Secretariat prior to the issue of the agenda for the meeting, for it to be withdrawn. If the Member concerned is not present at the meeting when an item of which they have given notice comes up for discussion, this item shall, unless the Authority decides otherwise, be treated as withdrawn.

7.5 (a) A motion or amendment to rescind a decision made at a meeting of the Authority within the previous six months cannot be moved unless notice of the motion is signed by at least three members.

- (b) A motion or amendment in similar terms to one which has been rejected by the Authority in the previous six months cannot be moved unless the notice of motion or amendment is signed by at least three members.

7.6 **Except in the case of business required by these Rules to be transacted at a meeting of the Authority, and other business brought before the meeting as a matter of urgency (and of which the Head of the Secretariat shall have prior notice and which the Chair considers should be discussed at the meeting), no business shall be transacted at a meeting of the Authority other than that specified in the agenda for the meeting.

8. Chair of Meeting

- 8.1 **At each meeting of the Authority the Chair, if present, shall preside.
- 8.2 **If the Chair is absent from a meeting of the Authority, the Vice Chair, if present, shall preside.
- 8.3 **If both the Chair and Vice Chair of the Authority are absent from a meeting of the Authority, the Head of the Secretariat shall invite the Members present to elect a Member to preside for the duration of the meeting or until such time as the Chair (or Vice Chair) joins the meeting.
- 8.4 Any power or function of the Chair in relation to the conduct of a meeting shall be exercised by the person presiding at the meeting.

9. Quorum

- 9.1 No business shall be transacted at any meeting of the Authority unless at least 4 of the Members are present.
- 9.2 If at the time for which a meeting is called, and for 15 minutes thereafter, a quorum is not present, then no meeting shall take place.
- 9.3 If during any meeting of the Authority the Chair, after counting the number of Members present, declares that there is not a quorum present, the meeting shall stand adjourned to a time fixed by the Chair. If there is no quorum and the Chair does not fix a time for the reconvened meeting, the meeting shall stand adjourned to the next ordinary meeting of the Authority.

10. Order of Business

- 10.1 At every meeting of the Authority the order of business shall be to select a person to preside if the Chair or Vice-Chair are absent and thereafter shall be in accordance with the order specified in the agenda for the meeting, except that such order may be varied -
- (a) by the Chair at his/her discretion; or
 - (b) on a request agreed to by the Authority.
- 10.2 The Chair may bring before the Authority at their discretion any matter that they consider appropriate to bring before the Authority as a matter of urgency.

11. Committees

- 11.1. The Authority shall appoint such committees as it thinks fit.
- 11.2 The rules of political balance will apply to appointments to Committees, unless no member of the Authority objects to any alternative

arrangement.

12. Submission of Merseytravel Committee Proceedings and Proceedings of any Committee or Sub-Committee of the Authority

- 12.1 Except where the Merseytravel Committee or any Committee or Sub-Committee of the Authority is acting under delegated authority, the Minutes of the proceedings of Merseytravel Committee, and the Minutes of any Committee or Sub-Committee of the Authority, shall be submitted to the Authority for confirmation. Confirmation by the Authority of those Minutes shall constitute approval of the proceedings of Merseytravel Committee and any Committee or Sub-Committee of the Authority.
- 12.2 Where the Merseytravel Committee or any Committee or Sub-Committee of the Authority is acting under delegated authority, the Minutes of the proceedings of Merseytravel Committee, and the Minutes of any Committee or Sub-Committee of the Authority, shall be submitted to the Authority for information.

13. Rules of Debate

- 13.1 A Motion or amendment shall not be discussed unless it has been proposed and seconded.
- 13.2 A Member shall address the Chair and direct any speech to the question under discussion. If two or more Members indicate they wish to speak, the Chair shall call on one to speak first.
- 13.3. An amendment shall be relevant to the Motion and shall be either:-
- (a) to leave out words from the Motion;
 - (b) to leave out words from, and insert or add others to, the Motion;
 - and
 - (c) to insert words in, or add words to, the Motion

but such omission, insertion or addition of words shall not have the effect of introducing a new proposal into or negating the original Motion before the Authority.

- 13.4 A Member shall not speak for longer than five minutes on any matter without the consent of the Chair.
- 13.5 A Member may claim to speak on a point of order or in personal explanation, and shall be entitled to be heard immediately. A point of order shall relate only to an alleged breach of a specified statutory provision or the Constitution and the way in which the Member raising it considers that it has been broken. A personal explanation shall be confined to some material part of a former speech by the Member in the current debate which may appear to have been misunderstood. The ruling of the Chair on a point of order, or on the admissibility of a personal explanation, shall not be open to discussion.

- 13.6 If an amendment is rejected, other amendments may be moved on the original Motion. If an amendment is carried, the Motion as amended shall take the place of the original Motion and shall become the substantive Motion upon which any further amendment may be moved.
- 13.7 A further amendment shall not be moved until the Authority has disposed of every amendment previously moved, provided that the Chair shall have discretion to allow debate to take place on two or more amendments.
- 13.8 A Member at the conclusion of a speech of another Member may move without comment:
- (a) that the question/motion be now put;
 - (b) that the debate/motion be adjourned;
 - (c) that the Authority proceed to the next business; and
 - (d) that this meeting of the Authority be adjourned.

If such a Motion is seconded, the Chair shall, subject to the mover's right to reply, put the Motion to the vote, and if it is carried:-

- (i) in case (a), the Motion then before the Authority shall, subject to the right to reply, be put to the vote; or
 - (ii) in case (b), the debate on the Motion then before the Authority shall stand adjourned until the next ordinary meeting of the Authority; or
 - (iii) in case (c), the Motion then before the Authority shall be regarded as lost and the Authority shall proceed to the next item on the Agenda, if any; or
 - (iv) in case (d), the meeting shall stand adjourned.
- 13.9 If the Chair is of the opinion that the matter before the Authority has been sufficiently discussed the Chair may put the Motion that the question now be put.
- 13.10 The Chair shall decide all questions of order and any ruling by the Chair upon such questions and the interpretation of these Rules of Procedure and upon matters rising in debate shall be final and shall not be open to discussion.
- 13.11 A Motion to exclude the press and public in accordance with Section 100A of the Local Government Act, 1972 may be moved, without notice, at any meeting of the Authority during an item of business whenever it is likely that if members of the public were present during that item there would be disclosure to them of confidential or exempt information as defined in Section 100A of the 1972 Act.

14. Voting

- 14.1 Subject to sub-paragraphs 14.5 and 14.6, any questions that are to be decided by the Authority are to be decided by a majority of the Members or Substitute Members, acting in place of Members, present

and voting on that question at a meeting of the Authority.

- 14.2 Each Member of the Authority, or Substitute Member acting in that Member's place, is to have one vote and no Member of the Authority or Substitute Member is to have a casting vote.
- 14.3 Whenever a vote is taken at meetings of the Authority it shall be by a show of hands. On the requisition of any member of the Authority, supported by one other Member who signifies their support by rising in their places, and before the vote is taken, the voting on any question shall be recorded so as to show whether each Member present gave their vote for or against that question or abstained from voting.
- 14.4 **A Member of the Authority, or Substitute Member acting in that Member's place may demand that his/her vote be recorded in the Minutes of the meeting.
- 14.5 **Decisions that are to be made by the Authority relating to the following matters require the unanimous approval of those present and voting:
- (a) the co-option of additional voting and non-voting members onto the Authority;
 - (b) amendments to the Constitution; and
 - (c) the determination and review of any transitional arrangements on transport.
- 14.6 The member of the Authority representing the LEP (or their substitute) shall not be entitled to vote on the following matters, but shall otherwise be entitled to vote on matters before the Authority for decision:
- (a) the setting of any Levy or Differential Levy;
 - (b) the appointment of the Chair and Vice Chair of the Authority;
 - (c) amendments to the Constitution;
 - (d) approval of borrowing limits;
 - (e) approval of treasury management and investment strategies;
 - (f) financial matters which may have implications on the budgets of the Constituent Councils;
 - (g) approval of the setting of the Mersey Tunnel tolls;
 - (h) approval of the grant to Merseytravel; and
 - (i) such other matters as the members of the Authority (or their substitutes) who are members of the Constituent Councils, shall determine.
- 14.7 The proceedings of the Authority are not invalidated by any vacancy among its Members or Substitute Members or by any defect in the appointment or qualifications of any Member or Substitute Member.

15. Conduct of Members

- 15.1 If the Chair is of the opinion that at a meeting any Member of the Authority, or Substitute Member acting in that Member's place, has misconducted, or is misconducting him or herself by persistently disregarding the ruling of the Chair, or by behaving irregularly,

improperly or offensively, or by willfully obstructing the business of the Authority, the Chair may notify the meeting of that opinion and may take any of the following actions either separately or in sequence:

- (a) the Chair may direct the Member to refrain from speaking during all or part of the remainder of the meeting of the Authority;
- (b) the Chair may direct the Member to withdraw from all or part of the remainder of the meeting of the Authority;
- (c) the Chair may order the Member to be removed from the meeting of the Authority; and
- (d) the Chair may adjourn the meeting of the Authority for such period as they consider expedient.

15.2 In the event of general disturbance, which in the opinion of the Chair, renders the due and orderly dispatch of business impossible the Chair, in addition to any other power vested in the Chair may, without question put, adjourn the meeting of the Authority for such period as the Chair considers expedient.

16. Disturbance by Members of the Public

16.1 If a member of the public interrupts the proceedings at any meeting of the Authority the Chair shall warn him or her. If they continue the interruption the Chair shall order his or her removal from the room. In the case of general disturbance in any part of the room open to the public the Chair shall order that part to be cleared.

17. Notification and Declaration of Interests

Members of the Authority shall comply with the Code of Conduct for Members contained in Part 7 of the Constitution.

18. Records

18.1 The Head of the Secretariat shall ensure that the names of the Members of the Authority present at any meeting of the Authority, and any Substitute Member acting in a Member's place, shall be recorded in the Minutes of the meeting concerned.

18.2 The Minutes of the proceedings of a meeting of the Authority are to be kept in such form as the Authority may from time to time determine.

18.3 The Minutes of the proceedings of a meeting of the Authority shall be signed at the next suitable meeting of the Authority.

18.4 Any minute purporting to be signed as mentioned in sub-paragraph 18.3 shall be received in evidence for the purposes of any legal proceedings without further proof.

18.5 Until the contrary is proved, a meeting of the Authority, a Minute of whose proceedings has been signed in accordance with this paragraph 18 is deemed to have been duly convened and held, and all the

Members of the Authority present at the meeting, and any Substitute Member acting in a Member's place, are deemed to have been duly qualified.

- 18.6 For the purposes of sub-paragraph 18.3, the next suitable meeting of the Authority is the next following meeting of the Authority.

19. Access to Information Procedure Rules

- 19.1 Except as otherwise indicated, these rules apply to all meetings of the Authority and its Committees.

- 19.2 The Rules in paragraph 19 do not affect any more specific rights to information contained elsewhere in these Rules of Procedure or the law.

- 19.3 The Authority and its Committees will supply copies of:

- (a) any Agenda and reports that are open to public inspection; and
- (b) any further statements or particulars, if any, as are necessary to indicate the nature of the items in the Agenda

to any person on payment of a charge for postage and any other costs (if applicable).

- 19.4 The Authority and its Committees and Sub-Committees will make available copies of the following for six years after a meeting:

- (a) the Minutes of the meeting, excluding any part of the Minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- (b) the Agenda for the meeting; and
- (c) reports relating to items when the meeting was open to the public.

- 19.5 The relevant Lead Officer will set out in every report a list of those documents (called background papers) relating to the subject matter of the report that in his/her opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information.

20. Exclusion of Access by the Public to Meetings

(a) Confidential information – requirement to exclude public

- 20.1 The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

(b) Meaning of confidential information

20.2 Confidential information means information given to the Authority, its Committees and Sub-Committees by a Government department on terms that forbid its public disclosure or information that cannot be publicly disclosed by reason of a Court Order or any enactment.

(c) Meaning of exempt information

20.3 Exempt information means information falling within the following categories (subject to any qualifications):

- (i) information relating to any individual;
- (ii) information which is likely to reveal the identity of any individual;
- (iii) information relating to the financial or business affairs of any particular person (including the authority holding that information);
- (iv) information relating to any consultations or negotiations, or contemplated consultations or negotiations in connection with any labour relations matter arising between the Authority, its Committees or a Minister of the Crown and employees of, or office holders under, the Authority and its Committees;
- (v) information in respect of which a claim to legal professional privilege could be maintained in legal proceedings;
- (vi) information which reveals that the Authority and its Committees propose a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or b) to make an order or direction under any enactment;
- (vii) information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

(d) Exclusion of access by the public to reports

20.4 If the Monitoring Officer thinks fit, the Authority and its Committees may exclude access by the public to reports which in his/her opinion relate to items during which the meeting is likely not to be open to the public. Such reports will be marked "Not for Publication" together with the category of information likely to be disclosed.

Section B – Scrutiny Arrangements for the Authority, Merseytravel Committee and Merseytravel

1. Introduction

- 1.1 The Authority is to be supported by a scrutiny model in order to scrutinise decisions made at the sub-regional level.

2. Function of Scrutiny at a City Region Level

- 2.1 Scrutiny exists to achieve greater public accountability over decisions made and services delivered to the whole Liverpool City Region in respect of those functions under the remit of the Combined Authority.
- 2.2 The principal ways in which the Combined Authority will be 'held to account ' via Scrutiny are:-
- (i) 'Critical Friend' role
 - (ii) Pre-decision scrutiny
 - (iii) Monitoring the delivery of the Combined Authority Strategic Plan
- 2.3 Pre-decision scrutiny would need to be used selectively otherwise the scrutiny system would, by spreading its energies too thinly, be likely to have little impact.
- 2.4 The role of Scrutiny in these three key function areas will be:-

a. To provide a 'critical friend' to policy and strategy development

The main priority for scrutiny should be to help the Authority to:-

- Develop policies to deal with new issues
- Reviewing existing policies which are felt to be in need of review
- Contributing to the formulation of the annual budget
- Reviewing policies or actions of agencies external to the local authorities which may be impacting adversely on the quality of life of local people

b. To undertake scrutiny reviews into areas of strategic importance for the people of the Liverpool City Region

The Authority's Scrutiny Panel should aim to investigate matters of strategic significance for the Liverpool City Region area and review should focus on sub-regional issues that are directly linked to the work of the Combined Authority and its sub-structure.

The Panel would take a similar approach to a Parliamentary Select Committee. Panel members will collect evidence through a variety of sources, including –

- Questioning expert ‘witnesses’
- Receiving reports and other literature
- Undertaking consultation
- Communication with stakeholders

The Panel will work with this information to make suggestions for improvement, acknowledge good practice and make recommendations. It will not deal with individual issues or queries that are more suitably dealt with by a local authority or specific organisation. The findings of each review will be submitted to the Authority for consideration.

There are two potential sources for identifying in-depth studies to be carried out by scrutiny; the Scrutiny Panel itself and the Authority. The Authority may require scrutiny of a particular policy before agreeing a policy or taking a decision.

c. To monitor the delivery of the Authority’s Strategic Plan

The Scrutiny Panel will review the outcomes of the Authority’s Strategic Plans.

Any involvement of scrutiny in this activity would need to demonstrate that it could add value and not just replicate what the Authority, its Boards or Committees were doing. Scrutiny would again need to be highly selective acting only when it was concerned about evidence of poor performance and it was not satisfied by the Authority’s response to it.

3. Operation of Scrutiny Arrangements

- 3.1 The Scrutiny Panel will comprise of Members from each of the Constituent Councils. Membership will be agreed at the Annual General Meeting. Nominations to the Scrutiny Panel must not be members of the Authority (including substitute members) or the Merseytravel Committee.
- 3.2 Nominations to the Scrutiny Panel by the Constituent Councils will be made in accordance with the principles of political balance set out in Section 15(5) of the LGHA 1989.
- 3.3 Any elected member appointed to the Scrutiny Panel by the Authority under these scrutiny arrangements who is also appointed to any Committee of the Authority, cannot participate in the operation of the scrutiny arrangements on any issues which were taken at any meeting of the Authority or any Committee of the Authority at which they were present.
- 3.4 The term of office for members of the Scrutiny Panel will be one year from the date of the annual council meeting of the Constituent Council that nominates them to the Scrutiny Panel, unless:-

- (a) they cease to be an elected member of the Constituent Council that appointed them;
- (b) they wish to no longer participate in these arrangements; or
- (c) the Head of the Secretariat is advised by any of the Constituent Councils that it wishes to change one or more of its nominees to the Scrutiny Panel.

3.5 Non-voting members may be co-opted to participate in these arrangements from other organisations as the Scrutiny Panel members may decide.

4. Meetings of Scrutiny Panel

4.1 The members appointed by the Authority to the Scrutiny Panel will hold at least one annual meeting and may convene additional meetings in accordance with these arrangements.

4.2 The Scrutiny Panel members will:

- (a) elect a Chair and Vice Chair;
- (b) determine the areas of review and scrutiny that they wish to pursue during the ensuing 12 months;
- (c) agree to establish Scrutiny Working Groups from amongst their number in order to carry out agreed areas of review and scrutiny.

4.3 The quorum for the annual meeting and any other meetings is 6, and must include representatives of at least 4 of the Constituent Councils.

4.4 The principle of decision-making at any such meeting shall be that, wherever possible, decisions will be made by agreement, without the need for a vote. If a vote is necessary it will be a simple majority of those present and the Chair will not have a casting vote.

4.5 The venue for each annual meeting and the usual venue for any other meetings will be the offices of Merseytravel, save that the Scrutiny Panel may choose to hold meetings other than the annual meeting in other venues if this is deemed to assist the scrutiny process.

4.6 Notice of the annual meeting and any other meetings will be sent to each Scrutiny Panel member in accordance with the requirements of the Local Government Act 1972.

4.7 The Chair will approve the agenda for each annual meeting and any other meetings; however, any member of the Scrutiny Panel will be entitled to require an item to be placed on the agenda for the meeting.

4.8 Subject to paragraphs 4.1 to 4.7, meetings will proceed in accordance with the Rules of Procedure.

5. Key Principles for the Operation of the Scrutiny Arrangements

- 5.1 The Constituent Councils will work together to maximise the exchange of information and views, to minimise bureaucracy and make best use of the time of members and officers of other bodies or agencies.
- 5.2 Members of the Scrutiny Panel will, when considering reviews, determine whether the issue is more appropriately dealt with by one of the Constituent Councils or elsewhere and will not duplicate the work of existing bodies or agencies.
- 5.3 Subject to prior consultation, the Constituent Councils will respond positively to requests for information, or for the attendance of a member or officer at any meetings set up under these arrangements.
- 5.4 While it is ultimately for each Constituent Council to decide who it considers the most appropriate person(s) to speak on its behalf at any meetings set up under these arrangements, consideration will be given to meeting specific requests.
- 5.5 Dates and times for officer and member attendance at any meetings set up under these arrangements should be by agreement.
- 5.6 Members appointed under these arrangements may request the attendance of officers employed by the Constituent Councils to answer questions and give evidence at any meetings set up under these arrangements. All such requests must be made via the Chief Executive of the relevant Constituent Council. If any request is declined by the Chief Executive, he/she must state the reasons for so doing.
- 5.7 The Scrutiny Panel may
 - (a) invite members to attend before it to answer questions;
 - (b) invite other persons to attend meetings of the Panel;
 - (c) review or scrutinise decisions made or other action taken in connection with the discharge of any functions of the Authority;
 - (d) make reports or recommendations to the Authority with respect to the discharge of any functions which are the responsibility of the Authority.
- 5.8 The power to review or scrutinise a decision made, but not implemented under sub-paragraph 5.7(c), includes the power to recommend that the decision be re-considered, but is subject to the following provisions:
 - (a) this shall not apply where, in the view of the decision-making body stated when the decision is made, any delay in implementing the decision would prejudice the interests of the Authority or the interests of the public;
 - (b) (i) in relation to decisions which may be subject to

reconsideration, each decision shall be available where possible by electronic means within two working days of being made. Members of the Scrutiny Panel will be provided with a copy of the decision which will bear the date published and indicate it will come into effect on the expiry of three working days after publication;

- (ii) if two-thirds of the membership of the Scrutiny Panel notify the Head of the Secretariat that they wish the Scrutiny Panel to consider the decision, then the Head of the Secretariat will arrange for a meeting of the Scrutiny Panel to be convened at the first available opportunity and in any event within seven working days of the request being notified to him. No action will be taken in the meantime to implement the decision which is subject to the request;
 - (iii) the Scrutiny Panel will consider the matter and if it chooses to, may resolve to request that the decision-maker reconsiders the decision. The Scrutiny Panel must set out the basis upon which reconsideration is requested;
 - (iv) the decision-making body will reconsider the decision and that reconsideration shall take place within seven working days of the Scrutiny Panel's request;
 - (v) no further requests for reconsideration may be made in cases where decisions have been reconsidered and the decision has been affirmed;
- (c) decisions which have been subject to pre-decision scrutiny cannot be recommended for reconsideration unless the decision taken is, in the view of the Head of the Secretariat, significantly different from the proposal under contemplation at the pre-decision scrutiny stage;

5.9 Where the Scrutiny Panel makes a report or recommendation under 5.7(d), it may:

- (a) publish the report or recommendations;
- (b) by notice in writing, require the Authority to
 - (i) consider the report or recommendation;
 - (ii) provide a response to the Scrutiny Panel indicating what action (if any) it proposes to take;
 - (iii) where the Scrutiny Panel has published the report or recommendations, publish the response;

5.10 A notice under 5.9(b) will require the Authority to comply with it within two months, beginning with the date on which the Authority receives the report or recommendations or (if later) the notice.

5.11 The Authority will comply with a notice given under 5.9(b).

5.12 The requirements or power to publish contained in 5.9(a) and 5.11, shall not apply where the reports contain exempt or confidential information.

6. Scrutiny Working Groups

- 6.1 The annual meeting of members of the Scrutiny Panel may establish Scrutiny Working Groups to undertake agreed scrutiny reviews.
- 6.2 Scrutiny Working Groups shall include representatives from at least 4 of the Constituent Councils.
- 6.3 Scrutiny Working Groups established under this Protocol must be appointed to carry out specific scrutiny tasks and be time limited. Their continuation will be subject to confirmation at each annual meeting of the Scrutiny Panel members.
- 6.4 The Authority may also, if they choose, request that a Scrutiny Working Group be appointed to examine a specific issue in more detail and report back its findings to the Authority as appropriate.
- 6.5 Scrutiny Working Groups will have no delegated powers and will refer the outcome of their investigations to the Scrutiny Panel for consideration and decision.

7. Reviews and Recommendations

- 7.1 The process of scrutiny will be an open and transparent process designed to engage the Constituent Councils, their residents and other stakeholders.
- 7.2 Meetings will be held in public unless the meeting decides to convene in private in order to discuss confidential or exempt information, in accordance with the relevant provisions of the LGA 1972 or LGA 2000.
- 7.3 The terms of reference, timescale and outline of any review will be agreed by Scrutiny Panel members appointed at their annual meeting.
- 7.4 Different approaches to scrutiny reviews may be taken in each case, but members will seek to act in an inclusive manner and will take evidence from a wide range of opinion.
- 7.5 The primary objective of any Scrutiny Working Group established under these arrangements will be to reach consensus on its recommendations, but where a minimum number of 2 members express an alternative to the majority view, they will be permitted to produce a minority report.

8. Budget and Administration

- 8.1 The scrutiny leads from each Constituent Council will provide guidance to the Scrutiny Panel on its work programme, advice on the scoping of reviews (at different levels) and ensuring the appropriate information and advice is made available during the reviews, where appropriate, through the use of expert witnesses.

8.2 The decisions and recommendations of the Scrutiny Panel will be communicated to the Authority and/or Merseytravel as appropriate, as soon as practicable.

9. Support and Advice to Scrutiny Arrangements

9.1 The Scrutiny Panel may ask individuals or groups to assist it on a review by review basis and may ask independent professionals for advice during the course of reviews. Such individuals or groups will not be able to vote.

9.2 The Scrutiny Officer of each Constituent Council will ensure that the work programmes and minutes relating to the work carried out by the Scrutiny Panel in scrutinising the Authority and the Merseytravel Committee, are circulated appropriately within their own Constituent Council's scrutiny arrangements.

9.3 Each Constituent Council will nominate one of the 2 members of that Constituent Council who have been appointed to the Scrutiny Panel to act as that Constituent Council's "Authority Scrutiny Link". The Authority Scrutiny Link will be responsible for reporting back to their own Constituent Council on the scrutiny work carried out by the Scrutiny Panel and will also be responsible for reporting to the Scrutiny Panel any issues identified locally by their own Constituent Council which may warrant scrutiny at a sub-regional level. The nomination of an Authority Scrutiny Link and the way in which this role will be performed will be determined by each Constituent Council.

Part 6

Financial Procedure Rules

A. Financial Procedure Rules

1 General

- 1.1 These Financial Procedure Rules have been prepared in accordance with the Authority's Constitution.
- 1.2 The Authority is responsible for:
- (a) adopting the Authority's Constitution, including these Financial Procedure Rules;
 - (b) setting policy and approving the Authority budget;
 - (c) approving procedures for the recording and reporting of its decisions taken; and
 - (d) the determination of the Levy to be issued to the Constituent Authorities.
- 1.3 The Treasurer is responsible for maintaining a continuous review of Financial Procedure Rules and submitting any changes necessary to the Authority for approval. The Treasurer is also responsible for reporting, where appropriate, breaches to the Financial Procedure Rules to the Authority.
- 1.4 Lead Officers are responsible for compliance with these Financial Procedure Rules. Lead Officers with delegated authority may only delegate to other officers who have the skills and knowledge appropriate to the task. Officers shall be informed by his/her Lead Officer of the extent of any sub-delegation. Lead Officers shall supply the Treasurer with a list of sub-delegations which have been made and shall review and update this list on a regular basis.
- 1.5 Where Lead Officers or their nominated officers require further guidance on the interpretation and application of these Financial Procedure Rules, this should be obtained from the Treasurer.

2 The Role of the Treasurer

- 2.1 The Treasurer is the responsible officer for the proper administration of the Authority's financial affairs. The Treasurer will also fulfil all relevant statutory responsibilities, including those set out in Part VIII of the Local Government Finance Act 1988.
- 2.2 Financial management covers all financial accountabilities in relation to running the Authority, including the policy framework and budget.
- 2.3 The Treasurer will determine the standards of financial management to

be observed by Lead Officers and will monitor compliance with them.

3 The Role of Lead Officers

- 3.1 Lead Officers shall promote the financial management standards set by the Treasurer and shall monitor adherence to the standards and practices.
- 3.2 It is the responsibility of Lead Officers to consult with the Treasurer and seek advice on any matter likely to have a material effect on the Authority's finances, before any decisions are made.
- 3.3 If any Lead Officer or officer acting on behalf of the Authority is aware of any contravention of these Financial Procedure Rules, they must immediately notify the Treasurer who shall determine appropriate action.

4 Managing Expenditure

- 4.1 All revenue and capital expenditure must be incurred in accordance with the Financial Procedure Rules and Contract Procedure Rules or Land Procedure Rules of the Authority, Merseytravel or the appropriate Constituent Council, unless otherwise determined by the Treasurer.
- 4.2 Lead Officers are expected to plan and manage their expenditure to ensure:
 - (a) that resources are used in the most efficient, effective and economic way;
 - (b) that expenditure does not exceed the overall budget allocated; and
 - (c) that future commitments for the Authority are not made for which they have not identified future resources.
- 4.3 Lead Officers shall inform the Treasurer as soon as possible of all contracts, agreements, awards or other instruments involving the payment or receipt of money on behalf of the Authority. A record shall be maintained of all such transactions in a form to be determined by the Treasurer.

5 Accounting Policies Records and Returns

- 5.1 The Treasurer will determine the Authority's required accounting policies and procedures taking into account prevailing national and international accounting requirements.
- 5.2 Lead Officers and their officers will adhere to the accounting policies and procedures as determined by the Treasurer.
- 5.3 All the principal accounting and costing records of the Authority shall be determined by the Treasurer and compiled under the Treasurer's direction.
- 5.4 The Treasurer shall exercise overall supervision and control over the form and standard of all financial records, financial statements and accounts kept by the Authority and its Lead Officers, and will determine the period for which such documents shall be kept.

- 5.5 As soon as possible after the end of Authority's financial year in each year, each Lead Officer shall, in line with the guidance of the Treasurer, account for all income due to the Authority for works goods and services supplied in the previous financial year (debtors), and all payments due for works goods and services received in the previous financial year (creditors).
- 5.6 The Treasurer is responsible for preparation of the Authority's annual statement of accounts in accordance with the Authority's accounting policies. The Treasurer will:-
- (a) draw up the timetable for final accounts preparation;
 - (b) make proper arrangements for the completion of the Authority's accounts;
 - (c) make proper arrangements for the audit of the Authority's accounts; and
 - (d) publish the audited accounts in accordance with the statutory timetable.
- 5.7 Lead Officers must maintain appropriate reconciliations and working papers to support the production of the annual statement of accounts in accordance with guidance issued by the Treasurer.
- 5.8 The Authority's Audit Committee is responsible for the scrutiny and approval of the annual statement of accounts prior to their certification by the external auditor.

6 Financial Management

Budget Monitoring and Control – Revenue and Capital

- 6.1 Lead Officers are responsible for monitoring their income and expenditure against the revenue and capital budgets approved by the Authority.
- 6.2 The Treasurer will establish an appropriate framework of financial management and control for the Authority which ensures that:-
- (a) budget management is exercised within approved Authority revenue and capital budgets;
 - (b) expenditure and income is monitored using information held on the Authority's corporate financial information system; and
 - (c) timely and sufficient information on receipts and payments on each budget is available to enable managers to fulfil their budgetary responsibilities.
- 6.3 Unless otherwise determined by the Treasurer, each Lead Officer shall make appropriate arrangements for compliance with the Authority's Financial Procedure Rules for the proper management and monitoring of revenue and capital income and expenditure.

- 6.4 Lead Officers must personally ensure that any information which suggests a potentially significant variation against their approved budget (both overspends and underspends) is notified at the earliest opportunity to the Treasurer. Where appropriate, the Treasurer shall prepare a specific report for the Authority to consider the proposed approach to mitigate the effects of such variation.
- 6.5 In respect of a forecast overspend that cannot be contained within the relevant approved budget, the Lead Officer should seek to identify proposed corrective action or alternative funding options. The Treasurer will work with Lead Officers to consider these options. Wherever possible, action should be taken by the Lead Officer to reduce planned levels of expenditure.
- 6.6 Where additional revenue or capital resources become available, or are forecast to become available, the Lead Officer must notify the Treasurer at the earliest opportunity. If deemed appropriate, the Treasurer shall prepare a specific report for the Authority to consider the allocation of the additional available resources.
- 6.7 At the end of each financial year, the Treasurer will report to the Authority on the treatment of any residual overspending or underspending against the Authority's revenue and capital budgets.

Reporting of Budget Monitoring

- 6.8 The Treasurer will prepare revenue and capital budget monitoring reports in conjunction with Lead Officers for presentation to the Authority on a regular basis. The frequency and content of these reports shall be determined by the Treasurer, in consultation with the Authority.

Approval for Capital Expenditure

- 6.9 Where Lead Officers wish to propose new capital schemes or blocks for inclusion in the Authority's capital programme, they must first consult the Treasurer who will determine the approach to be taken for approval of the proposal.

The Capital Programme

- 6.10 The Capital Programme will be reported to the Authority at regular intervals as determined by the Treasurer.
- 6.11 Lead Officers must ensure that capital expenditure plans are phased as accurately as possible, and as soon as possible. These should be based on estimates if there is uncertainty regarding confirmation of funding sources or scheme details.
- 6.12 Any proposal to re-phase (i.e. delay or bring forward) programmed capital expenditure should be notified by the Lead Officer to the Treasurer at the earliest opportunity. If deemed appropriate, the Treasurer shall prepare a report for the Authority to consider the proposal.

7 Financial Planning

Budget Preparation

- 7.1 The Authority is required to establish an annual budget in line with its strategic plan. The Treasurer shall determine the appropriate timetable for the preparation of the annual budget that conforms to the statutory deadlines, including those in relation to setting the Levy for Constituent Councils.
- 7.2 The annual budget must take proper account of available resources and financial risk.
- 7.3 Each financial year, as part of the Authority's ongoing Medium Term Financial Strategy, Lead Officers will develop annual revenue and capital budget proposals in consultation with the Treasurer for consideration by the Authority.
- 7.4 Lead Officers shall also prepare a rolling three-year programme of capital expenditure, identifying realistic phasing of all approved schemes.
- 7.5 The Treasurer will advise the Authority on the robustness of budget proposals and the adequacy of reserves in accordance with his/her responsibilities under these Financial Procedure Rules.

8 Maintenance of Reserves and Balances

- 8.1 All revenue reserves held by the Authority will be kept under review by the Treasurer with a view to ensuring that they are spent on their specified purposes and that planned expenditure is properly phased.
- 8.2 The Treasurer will advise the Authority on prudent levels of reserves and general balances for the Authority.
- 8.3 The Authority will determine a reserves strategy as part of its Medium Term Financial Strategy on advice provided by the Treasurer.
- 8.4 In establishing its reserves strategy, the Authority must consider all known financial risks and future liabilities of the Authority.

9 Treasury Management

- 9.1 The Authority's treasury management activities shall be defined as the management of its investments and cash flows, its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks.
- 9.2 All treasury management activity shall be undertaken in full compliance with the Chartered Institute of Public Finance and Accountancy's Code of Practice: Treasury Management in Public Services (revised 2011) as may be revised from time to time or such other practices and procedures as may be approved by the Authority.
- 9.3 All investments and borrowings shall be made in the name of the Authority.

- 9.4 All of the Authority's funds shall be aggregated for the purposes of the treasury management and shall be under the control of the Treasurer.
- 9.5 Lead Officers shall ensure that loans are not made to third parties and that interests are not acquired in companies, joint ventures or other enterprises without the prior approval of the Treasurer and the Authority.
- 9.6 Credit arrangements, such as finance leases, operating leases, and borrowing cannot be entered into without the approval of the Treasurer.

10 Banking Arrangements and Cheque Security

- 10.1 No officer other than the Treasurer may open any bank account in the name of the Authority.
- 10.2 The Authority's banking terms and overdraft arrangements shall be agreed by the Treasurer.
- 10.3 All arrangements for the ordering and issuing of cheques shall be made by the Treasurer, who shall make proper arrangements for their custody.
- 10.4 All cheques drawn on behalf of the Authority shall be signed by the Treasurer.

11 Arrangements with External Organisations

Partnerships

- 11.1 The Treasurer must be consulted prior to the establishment of any financial arrangements as part of partnerships or joint arrangements with external companies, other public organisations and community and voluntary groups. No partnership or joint arrangements shall be entered into without the approval of the Authority.
- 11.2 Lead Officers must confirm whether any arrangement requires the Authority to be designated an 'Accountable Body'. Where this is the case, the Treasurer must be consulted and approval of the Authority must be obtained prior to the arrangement becoming operational.
- 11.3 The financial arrangements of all partnerships where the Authority is the Accountable Body should meet the requirements of the Authority's Financial Procedure Rules and Contract Procedure Rules.
- 11.4 Lead Officers must ensure that the accounting and monitoring arrangements to be adopted relating to partnerships and joint arrangements are in accordance with the requirements of the Treasurer.

External Funding

- 11.5 The Treasurer must be consulted on all submissions to central government and external agencies for funding. Prior to making any submission in relation to external funding, Lead Officers must ensure that:
- (a) an exit strategy is identified to manage the ultimate cessation of the funding stream with no adverse impact on the Authority;
 - (b) any match-funding requirements are given due consideration prior

to entering into long-term agreements and that future revenue budgets reflect these requirements; and

- (c) they are able to comply with the terms and conditions of a grant scheme, including auditor certification requirements, before accepting them.
- 11.6 Lead Officers must seek approval from the Treasurer before accepting any offer of funding from external bodies.
 - 11.7 Lead Officers must ensure that all funding from external bodies is recorded, monitored and accounted for in accordance with Financial Procedure Rules and also the requirements of the funding body.
 - 11.8 Lead Officers are responsible for ensuring that all expenditure to be funded by grant is properly incurred in accordance with the requirements and conditions of the funding body, and is supported by adequate evidence.
 - 11.9 Lead Officers are responsible for ensuring the completion and submission of grant claims. Lead Officers must also ensure that grant claims comply with the requirements and grant conditions of the funding body, and are submitted promptly and supported by adequate evidence. The Treasurer will provide guidance and advice on compliance with general and specific grant conditions and the requirements for submission.
 - 11.10 Lead Officers must ensure that all income and expenditure relating to external funding approvals is properly budgeted for. These budgets should be monitored as part of the budget monitoring arrangements set out in these Financial Procedure Rules.
 - 11.11 The Treasurer will maintain a register of bids submitted to external bodies together with a register of all grant arrangements entered into with external bodies. Lead Officers are responsible for ensuring that the information held on these registers is accurate and up to date in accordance with the Authority's External Funding Strategy.

12 Income

- 12.1 All monies received on behalf of the Authority shall be paid in full into the Authority's bank account or, where approved by the Treasurer, Merseytravel or the relevant Constituent Council's bank account.
- 12.2 Any Value Added Tax should be accounted for separately.
- 12.3 The write off of unrecoverable debt should be in accordance with the Treasurer's write off criteria (see Financial Procedure Rule 19 below).

Fees and Charges (including Tunnel Tolls)

- 12.4 Any proposal to introduce new charges or make changes in existing charges for the provision of services by the Authority must be in line with the guidance of the Treasurer and must be agreed by the Authority.
- 12.5 A schedule of all fees and charges for the provision of services will be presented by the Treasurer for approval by the Authority on an annual

basis.

13 Ordering of and Payments for Works Goods and Services

General Ordering Procedures

- 13.1 All orders for works goods and services must be made in accordance with the Authority's Financial Procedure Rules and Contract Procedure Rules.

Contract Payments and Variations

- 13.2 Payments to contractors on account of contracts must be made in accordance with the requirements of the Authority's Financial Procedure Rules and Contract Procedure Rules.
- 13.3 Where a breach of contract occurs, the Lead Officer concerned shall seek appropriate legal advice and, in consultation with the Treasurer, shall prepare a statement of any liquidated and ascertained damages, or such other penalties stipulated in the contract. Any breach that may lead to termination of the contract shall be reported to the Monitoring Officer.
- 13.4 Any variation in the amount of a contract must be notified to the Treasurer. Where appropriate the Treasurer may require the matter to be reported to the Authority.

14 Payment of Expenses and Allowances

- 14.1 No remuneration shall be payable by the Authority to its members other than the reimbursement for allowable travel and subsistence. Such claims must be made in accordance with the Authority's guidance.
- 14.2 Any remuneration or reimbursement for travel and subsistence of co-opted members to the Authority shall only be payable in accordance with the terms agreed by the Authority.

15 Insurance

- 15.1 The Treasurer, in consultation with Lead Officers, shall be responsible for ensuring that all insurable risks of the Authority are adequately covered, for maintaining the necessary records and for making all claims on behalf of the Authority.
- 15.2 Lead Officers shall notify the Treasurer promptly of all risks, liabilities, properties or vehicles which are required to be insured, and of any alterations affecting risk or insurances indicating the amount of cover required.
- 15.3 Lead Officers shall immediately notify the Treasurer of any fire, loss, accident or other event that may give rise to a claim against the Authority's insurers.

16 Internal Audit

- 16.1 The Treasurer shall be responsible for maintaining an internal audit of all accounts and financial transactions of the Authority, and shall satisfy himself/herself as to security arrangements for the custody and safeguarding of the Authority's assets as laid down in any legislation applicable to the Authority and any relevant codes of practice adopted by the Authority.
- 16.2 The Treasurer, or nominated individuals undertaking internal audit functions, shall have authority to visit all establishments of the Authority, shall have access to all relevant records of any Service, and shall be entitled to require the production of all cash, stores and other property and to obtain information or explanations with regard to any matters under examination.
- 16.3 Lead Officers shall notify the Treasurer immediately of any circumstances which may suggest the possibility of irregularity or loss affecting cash, stores, property or transactions of the Authority. Where the Treasurer considers that an irregularity may have occurred, action shall be taken by way of an investigation and report.
- 16.4 Lead officers shall consider and respond promptly to recommendations in audit reports and ensure that any agreed actions arising from audit recommendations are implemented in a timely manner.

17 External Audit

- 17.1 The Treasurer will ensure that external auditors are given reasonable access to premises, personnel, documentation and assets considered necessary for the purposes of their work and to ensure effective liaison with the Authority's internal audit function.
- 17.2 Lead Officers shall ensure all records and systems are up to date and available for inspection by the external auditor.

18 Inventories/Asset Registers

- 18.1 Lead Officers shall ensure that an inventory is prepared and maintained in a manner agreed with the Treasurer.
- 18.2 Write off of any assets should be in accordance with the Treasurer's write off criteria (see Financial Procedure Rule 19 below).
- 18.3 The disposal of surplus, obsolete, or redundant equipment shall be effected in accordance with the procedures laid down by the Treasurer.

19 Write-Off Criteria

19.1 Any write offs shall be in accordance with the following write off criteria:

<u>Value of Individual Item to be Written off</u>	<u>Authorisation Required</u>
Up to and including £50,000	Appropriate Lead Officer and the Treasurer (unless considered by the appropriate Lead Officer and/or the Treasurer that the item should be referred to the Authority)
Above £50,000	Appropriate Lead Officer and the Treasurer in consultation with the Chair of the Authority (unless considered by the appropriate Lead Officer and/or the Treasurer that the item should be referred to the Authority).

B. Contract Procedure Rules

1. The need for Contract Procedure Rules

- 1.1 Every contract entered into by the Authority shall be entered into pursuant to or in connection with the Authority's functions and shall comply with:
- (a) all relevant statutory provisions;
 - (b) the relevant European procurement rules (i.e. the EC Treaty, the general principles of EU law and the EU public procurement directives implemented by the EU Regulations);
 - (c) the Authority's Constitution including these Contract Procedure Rules, the Authority's Financial Procedure Rules and the Authority's Scheme of Delegation; and
 - (d) the Authority's Procurement Strategy and policies.
- 1.2 These Contract Procedure Rules are intended to ensure that all Authority contracts are entered into following a transparent and fair procurement process and provide best value for the Authority.
- 1.3 The highest standards of probity are required of all officers and Members involved in the procurement, award, and management of Authority contracts. Members shall comply with the Code of Conduct for Members.
- 1.4 At all times during the contract award procedure, the Authority, through its Members and officers, shall consider and implement the principles of non-discrimination, equal treatment, and transparency.
- 1.5 The procurement guidance issued by the Treasurer assists with ensuring the consistency of approach to procurement across the Authority. Lead Officers shall have regard to the procurement guidance when undertaking procurement.
- 1.6 It is recognised, however, that through the normal course of its business, contracts will be entered into and expenditure incurred on behalf of the Combined Authority by its Constituent Councils and its Accountable Body.
- 1.7 Where expenditure is incurred or contracts entered into by Constituent Councils using Authority resources, it shall be that body's own Contract Procurement Rules that will be relevant in determining thresholds for the purposes of delegated authority to spend.
- 1.8 The Authority, through its Treasurer, shall maintain an up-to-date record of each Constituent Council's contract procurement rules for the purposes of assurance.
- 1.9 The Contract Procurement Rules contained within this document relate solely to contracts entered into and expenditure incurred directly by the Authority.

2. Commissioning and Procurement plans

- 2.1 Prior to the start of each financial year, each Lead Officer shall prepare a commissioning and procurement plan setting out the Authority's contracts within the scope of their delegation to be procured during that financial year and where possible for forthcoming years. A copy shall be supplied to the Treasurer. The Treasurer shall, from the individual service procurement plans, prepare the annual commissioning and procurement plan for the Authority.

3. Who has authority to carry out procurement on behalf of the Authority?

- 3.1 Any procurement carried out on behalf of the Authority may only be undertaken by officers within the scope of their delegated authority under the Authority's Constitution. Officers with delegated authority may only sub-delegate to other officers who have the skills and knowledge appropriate to the task. Officers shall be informed by his/her Lead Officer of the extent of any delegated authority and any applicable financial thresholds for each procurement. Lead Officers shall supply the Treasurer with a list of the sub-delegations which have been made and shall review and update this list on a regular basis.
- 3.2 Lead Officers may authorise their officers to place orders against framework agreements which have been entered into by the Authority or which the Authority has the benefit of using the provisions of Contract Procedure Rule 33.

4. What contracts do not require compliance with the Authority's Contract Procedure Rules?

- 4.1 These Contract Procedure Rules do not apply to the seeking of offers in relation to a public contract, framework agreement or dynamic purchasing system which is exempt under the provisions of the EU Regulations including the following:
- (a) employment or other contracts of service; and
 - (b) for the disposal (see Land Procedure Rules) or acquisition of an interest in land (including buildings or other immovable property or concerning rights thereon).
- 4.2 Contracts procured by Merseytravel or Constituent Councils on behalf of the Authority under delegated powers, do not require compliance with the Authority's Contract Procedure Rules. In such circumstances, the Contract Procedure Rules of Merseytravel or the Constituent Council (as appropriate) shall be complied with.

5. What is the pre-procurement procedure?

- 5.1 Before commencing a procurement exercise, it is essential that the Lead Officer leading the procurement has identified the need and fully assessed any options for meeting those needs and, where proportionate to the value and risks of the procurement, the Lead Officer shall complete a procurement approach & initiation document and a risk assessment. The risk assessment shall be updated at regular intervals both during the

procurement phase and also after contract award. Consideration shall be given to the Authority's Procurement Strategy, procurement plans, and the duty to consider social, economic, and environmental well-being under the terms of the Public Services (Social Value) Act 2012.

- 5.2 Before undertaking a procurement exercise the Lead Officer shall:
- (a) consider all other means of satisfying the need (including recycling and reuse where appropriate);
 - (b) consider whether there is an appropriate standing list (see Contract Procedure Rule 31 below) or a framework agreement (see Contract Procedure Rule 33 below) that should be used;
 - (c) ensure that resources have been identified to fund the potential cost of the procurement; and,
 - (d) establish a business case for the procurement.
- 5.3 The Treasurer shall maintain a full list of framework agreements for use by Lead Officers. Any appropriate framework agreements in place shall be used by Lead Officers regardless of the potential value of a contract.

6. How does the Authority estimate the contract value?

- 6.1 The Authority should make the best use of its purchasing power by aggregating purchases wherever possible. Particular supplies, services, or works shall not be split in an attempt to avoid the applicability of these Contract Procedure Rules or the EU Regulations.
- 6.2 The choice of method used to calculate the estimated value of a contract may not be made with the intention of excluding it from the scope of the EU Regulations.

7. Low value procurements

- 7.1 Procurements that are valued below £10,000 shall be classed as low value. The Treasurer shall issue guidance to Lead Officers recommending the preferred method of procurement required in order to demonstrate the Most Economically Advantageous Offer for the Authority.

8. Intermediate and high value procurements

- 8.1 Procurements that are valued between £10,000 and the prevailing EU threshold for supplies and services, or between £10,000 and £1,000,000 in respect of works, shall be classed as intermediate value procurements.
- 8.2 These procurements shall be conducted by the Treasurer with a minimum of three quotations invited via the Authority's electronic quotation and tendering system.
- 8.3 Procurements that are valued above the prevailing EU threshold for supplies and services, or above £1,000,000 in respect of works, or which may involve a transfer of staff, shall be classed as high value procurements, and shall be conducted by the Treasurer in accordance with one of the four contract award procedures set out in Contract

Procedure Rules 13, 14, 15, and 16 as appropriate for the particular procurement, i.e. open, restricted, negotiated, or competitive dialogue.

9. Joint procurement

- 9.1 These Contract Procedure Rules shall apply to any procurement where tenders are invited by the Authority on behalf of any partnership, consortium, association or similar body of which the Authority is a member, unless such tenders are invited in accordance with the method prescribed by such consortium, association or body and where necessary with the requirements of the EU Regulations.

10. Contract terms and conditions

- 10.1 Contracts at or above £50,000 shall be entered into on the Authority's terms and conditions, which shall be included with each purchase order and Invitation to Tender, Invitation to Negotiate or Invitation to take part in Competitive Dialogue. For framework agreements (see Contract Procedure Rule 33), contracts shall be entered into on the terms and conditions of the central government agency, other local authority, or other public body that procured the framework. Exceptions to this rule must be approved in advance by the Treasurer.

- 10.2 Where contracts are subject to the EU Regulations, the rules relating to technical specifications shall be followed and any reference to a technical standard, make or type shall be prefaced with the words "or equivalent". This requirement applies to both Part A and Part B Services.

- 10.3 Every formal contract in writing within the meaning of Contract Procedure Rule 10 shall specify or contain (as a minimum):

- (a) the services, supplies, or works to be provided;
- (b) the price to be paid, with a statement of discounts or other deductions;
- (c) the time or times within which the contract is to be performed;
- (d) that all relevant health and safety legislation and codes of practice must be complied with and that any specific health and safety requirements set out in the Invitation to Tender or Invitation to Negotiate required prior to contract award have been satisfied;
- (e) a clause to secure that, should the Supplier fail to deliver the services, supplies or works within the time or times specified in the contract, the Authority shall be entitled to terminate the contract either wholly or in part and recover from the Supplier any additional costs arising from the obtaining of any suitable replacement;
- (f) a clause empowering the Authority to cancel the contract and recover from the Supplier the amount of any loss resulting from such cancellation, if the Supplier or any person acting on their behalf, in relation to the obtaining or execution of the contract or any other contract with the Authority, have committed any offence under the Bribery Act 2010, or shall have given any fee or reward the receipt of which is an offence under Section 117(2) and (3) of

the Local Government Act 1972;

- (g) a clause requiring the Supplier to provide information to the Authority in order for the Authority to fulfil its obligations under the Freedom of Information Act 2000 and/or the Environmental Information Regulations 2004; and
 - (h) how, in respect of a service contract to which the Public Services (Social Value) Act 2012 applies, the Authority's social value duty will be achieved by the Supplier.
- 10.4 Contracts for the execution of construction, maintenance and repair work which exceed £50,000 (excluding VAT) in value or amount shall, except where otherwise agreed by the Treasurer, provide for liquidated damages to be paid to the Authority in case the terms of the contract are not duly performed.
- 10.5 Where an appropriate British Standard Specification or British Standard Code of Practice issued by the British Standards Institution or an equivalent European or International Standard is current at the date of the tender, every contract shall require that services supplies or works used or supplied and all workmanship shall be of a standard at least in accordance with the standard, or such higher standard as may be specified in the contract.

11. Bonds, guarantees and insurance

- 11.1 For high value procurements, the Lead Officer, in consultation with the Treasurer, shall consider, as part of its pre-qualification assessment and evaluation process, whether security, and if so of what form, shall be required from the preferred Supplier. The Lead Officer responsible for the procurement shall consult with the Treasurer as to the acceptability of the form of security agreed with the preferred Supplier.
- 11.2 The Authority shall require and take sufficient security for the due performance of every such contract with an estimated value in excess of £500,000 (excluding VAT), unless the Treasurer considers it is in the interests of the Authority not to do so.
- 11.3 The Lead Officer shall consider the appropriate type (employee liability, public liability, professional indemnity, product liability etc.) and level of insurance requirements for each contract. The evaluation team shall consult with the Treasurer when determining the appropriate levels of insurance.

12. Contracts subject to the EU Regulations

- 12.1 Where an estimated value of a contract exceeds the current EU threshold, the contract shall be tendered in accordance with the EU Regulations. Under the EU Regulations, the contract may be tendered under the open, restricted, competitive dialogue or, in exceptional circumstances exhaustively set out in the EU Regulations, the negotiated procedure. A contract notice in the prescribed form shall be published by the Lead Officer in the OJEU in order to invite tenders or expressions of interest for Part A services contracts, supplies, and works contracts subject to the EU Regulations. Contracts for Part B services do not need

to be advertised in OJEU.

- 12.2 The OJEU thresholds are revised by the EU every two years. The Treasurer will inform Lead Officers of the new OJEU thresholds when they are revised.
- 12.3 The EU Regulations set out the minimum timescales for receipt of expressions of interest and tenders (bids for the negotiated procedure). Where the Authority has published a Prior Information Notice announcing its forthcoming contracts for the year ahead, it may rely on reduced timescales if appropriate.
- 12.4 A copy of the OJEU notice published in accordance with 12.1 above shall be supplied to the Treasurer by the Lead Officer responsible for the procurement.
- 12.5 The EU Regulations only partly apply to works concessions and do not currently apply to service concessions (a concession contract is an agreement with a contractor/supplier for the right to exploit works or services whereby it receives some or all of the consideration from third parties). It is proposed by the European Commission that a concessions directive should apply to concession contracts (as at November 2013). Specific legal advice should therefore be obtained as to the appropriate procurement process to be followed in compliance with any applicable legislation and regulations in force at the time and following these Contract Procedure Rules where appropriate and applicable to any such process.

13. Open procedure

- 13.1 All Suppliers applying are invited to tender. If publication of a notice in the OJEU is not required then a notice shall be published in:
 - (a) the Authority's electronic tendering system; and,
 - (b) where appropriate local newspapers and/or trade journals in order to target the appropriate market for the particular contract.
- 13.2 The notice shall contain details of the proposed contract and specify a deadline within which interested parties may apply. The Invitation to Tender shall specify the return date for tenders.

14. Restricted procedure

- 14.1 All Suppliers applying are invited to submit a pre-qualification questionnaire. Suppliers that meet the published pre-qualification criteria related to those matters set out in Contract Procedure Rule 17 shall be invited to tender.
- 14.2 If publication of a notice in the OJEU is not required then the notice requirements are the same as in the open procedure (see Contract Procedure Rule 13 above) except that the notice shall state that the restricted procedure is being used.
- 14.3 If the EU Regulations apply, a minimum of five Suppliers shall be invited to tender, or, where less than five Suppliers meet the selection criteria,

such number as do meet the selection criteria.

- 14.4 Where the EU Regulations do not apply, a minimum of four Suppliers shall be invited to tender, or, where less than four Suppliers meet the selection criteria, such number as do meet the selection criteria.

15. Negotiated procedure

- 15.1 Negotiated procedures should only to be used in exceptional circumstances. Only those Suppliers selected by the Authority are invited to negotiate. Suppliers are selected on the basis of published pre-qualification criteria relating to those matters set out in Contract Procedure Rule 17.
- 15.2 If a publication of a notice in the OJEU is not required, the notice requirements are the same as in the open procedure (see Contract Procedure Rule 13 above). Any notice shall state that the negotiated procedure is being used.
- 15.3 A minimum of three Suppliers should be invited to negotiate following publication of a notice, or, where less than three Suppliers meet the selection criteria, such number as do meet the selection criteria.
- 15.4 At least two officers, at least one of whom shall be the Lead Officer responsible for the procurement or a person authorised by him/her, shall be present at all times during the negotiations.
- 15.5 The Lead Officer responsible for the procurement shall keep proper written records of all negotiations and, where appropriate, these shall be signed and/or approved as such by all participants.

16 Competitive dialogue

- 16.1 Competitive dialogue can be used where a procurement is particularly complex in technical terms or the project is not able to be specified clearly or is of legal or financial complexity.
- 16.2 A contract notice should be placed and selection should be made of those who will be invited to take part in the dialogue.
- 16.3 The dialogue may embrace all aspects of the contract for the purpose of identifying one or more solutions to the purchasers needs before seeking bids from those remaining in the dialogue.
- 16.4 A minimum of three Suppliers should be invited to the dialogue.
- 16.5 Competitive dialogue is used to help define the means of achieving broad objectives and allows bidders to produce innovative solutions.
- 16.6 The award criteria may not be changed during the award procedure so that all parties are treated equally.
- 16.7 During the dialogue the Authority shall ask participants to specify their proposals in writing. The Authority can continue the dialogue until it can identify the solution or solutions which are capable of meeting its needs.
- 16.8 At the appropriate time the Authority declares the dialogue concluded and informs the participants. The Authority then asks the participants to

submit their final tenders on the basis of the solution or solutions presented and specified during the dialogue.

17. Pre-qualification

17.1 The Authority shall only invite to tender or enter into a contract with a Supplier if it is satisfied as to the Supplier's:

- (a) personal situation/eligibility;
- (b) economic and financial standing; and,
- (c) technical and/or professional ability.

17.2 Technical and/or professional ability includes:

- (a) the Supplier's performance in respect of recent contracts providing similar works, services and supplies;
- (b) the educational and professional qualifications of the Supplier and/or its managerial staff or those providing the services or managing the work; and
- (c) quality management systems including human resources, health and safety, and environmental management systems, where relevant to the performance of the contract. This is in relation to the tools, plant or technical equipment available to the Supplier for carrying out the contract and the proportion of the contract which the Supplier intends possibly to sub-contract.

18. The Invitation to Tender or Invitation to Negotiate

18.1 The Invitation to Tender or Invitation to Negotiate shall include details of the Authority's requirements for the particular contract including:

- (a) a description of the services, supplies, or works being procured;
- (b) the procurement timetable including the tender return date and time, which shall allow a reasonable period for the applicants to prepare their tenders;
- (c) a specification and instructions on whether any variants are permissible;
- (d) the Authority's terms and conditions of contract;
- (e) the evaluation criteria including any relative or range of weightings assigned to each;
- (f) pricing mechanism and instructions for completion;
- (g) where appropriate, whether the Authority has determined that the Transfer of Undertakings (Protection of Employment) Regulations 1981 or any succeeding legislation may apply;
- (h) form and content of method statements to be provided;
- (i) rules for submitting of tenders; and

- (j) any further information which will inform or assist tenderers in preparing tenders.

19. Submission and opening of tenders

- 19.1 Tenders shall be submitted in accordance with requirements set out in the Invitation to Tender or Invitation to Negotiate, and via the Authority's electronic tendering system in accordance with Contract Procedure Rule 20. The deadline for the return of tenders is to be a Friday at 9.30am unless otherwise agreed by the Lead Officer responsible for the procurement and the Treasurer.
- 19.2 The Treasurer shall be notified by the Lead Officer responsible for the procurement immediately tenders are invited of:
 - (a) the time and date (or of any revision thereof) by which tenders should be received by the Treasurer; and
 - (b) the names of the persons invited to tender where tenders have been invited following public notice pursuant to Contract Procedure Rule 14 or from a standing list pursuant to Contract Procedure Rule 31.
- 19.3 Tenders shall be opened in the presence of the Treasurer, the Lead Officer responsible for the procurement or their respective designated representatives. Such opening shall commence at 9.30 am on the Friday morning immediately following the expiration of the time for receipt of tenders, or such other time as may be determined by the Treasurer.
- 19.4 The Treasurer, or his/her designated representative, shall unlock the secure system for the receipt of electronic tenders and record them on a form provided for the purpose.
- 19.5 The Lead Officer responsible for the procurement and the Treasurer, or their respective designated representatives, will verify that the tenders are opened and recorded correctly.
- 19.6 No tender shall be opened which is received after the deadline for that contract or which in any way contravenes the requirements of Contract Procedure Rule 19.1. Any such tender which is not considered will remain unopened. This will remain unopened by the Lead Officer responsible for the procurement until a tender is accepted, subject only to the preparation of any formal contract. The Lead Officer responsible for the procurement shall then inform the sender accordingly.

20. Electronic tendering and quotations

- 20.1 All documents required for procurement under these Contract Procedure Rules including Invitation for Quotation, Invitations to Tender/Negotiate shall be made available on the Authority's electronic tendering system.
- 20.2 Responses to an Invitation for Quotation, an Invitation to Tender or an Invitation to Negotiate shall be submitted onto the Authority's electronic tendering system, recorded, kept securely, and not opened until the deadline has passed for receipt of the quotation or tender.

21. Tender evaluation and the use of electronic auctions

21.1 Tenders subject to the EU Regulations shall be evaluated in accordance with the relevant regulations and the evaluation criteria set out in the Invitation to Tender or Invitation to Negotiate. All other tenders shall be evaluated in accordance with the evaluation criteria notified to tenderers in the contract notice and/or Invitation to Tender or Invitation to Negotiate. All contracts, except where lowest price was predetermined to be the appropriate contract award criterion, shall be awarded on the basis of the offer which represents the most economically advantageous offer to the Authority. The evaluation criteria shall be predetermined and listed in the Invitation to Tender or Invitation to Negotiate. In addition, the evaluation criteria shall be strictly observed at all times throughout the contract award procedure by any person involved in the tender evaluation.

21.2 It may be appropriate to evaluate tenders by use of an electronic auction provided that:

- (a) where the EU Regulations apply, the Lead Officer responsible for the procurement shall comply with the requirements set out those regulations;
- (b) the means and procedures for carrying out the electronic auction have been agreed in advance of the issuing of the notice required by Contract Procedure Rule 13;
- (c) before proceeding with an electronic auction, the Lead Officer responsible for the procurement shall make a full initial evaluation of the tenders in accordance with the agreed contract award criterion/evaluation criteria and with the weighting fixed for them to determine which are admissible tenders;
- (d) all tenderers who submit admissible tenders shall be invited simultaneously by electronic means to offer new prices and/or new values;
- (e) the invitation shall contain all relevant information concerning individual connection to the system being used, stating the date and time of the start of the electronic auction. The electronic auction may take place in a number of successive phases. The electronic auction may not start sooner than two working days after the date on which invitations are sent out;
- (f) when the contract is to be awarded on the basis of the Most Economically Advantageous Offer, the invitation shall be accompanied by the outcome of a full evaluation of the relevant tenderer, carried out in accordance with Contract Procedure Rule 21.2.(c);
- (g) the invitation shall also state the mathematical formula to be used in the electronic auction to determine automatic re-rankings on the basis of the new prices and/or new values submitted. That formula shall incorporate the weighting of all the evaluation criteria fixed to determine the Most Economically Advantageous Offer, as indicated in the contract notice or in the tender documents;
- (h) the invitation shall specify the manner in which the electronic auction is to close; and

- (i) after closing an electronic auction the Lead Officer responsible for the procurement shall award the contract on the basis of the results of the electronic auction.

22. Post-tender negotiation

- 22.1 Where procurement is conducted using either the open or restricted procedures, no post tender negotiations are permitted. However, to avoid confusion, the Authority is entitled to seek clarification from Suppliers where appropriate.

23. Evaluation team

- 23.1 For each high value procurement, the Lead Officer responsible for the procurement undertaking the procurement shall form an evaluation team with responsibility for evaluating tenders with representation from other services as s/he considers appropriate in the circumstances.

24. Awarding contracts

- 24.1 Subject to Contract Procedure Rule 24.2, the Authority shall only award a contract where at the time of contract award this represents the Most Economically Advantageous Offer or is the lowest price depending on contract award criterion chosen by the Lead Officer responsible for the procurement.
- 24.2 This Contract Procedure Rule sets out the procedures that shall apply to the acceptance of tenders and quotations. The Lead Officer responsible for the procurement shall have authority to accept (as appropriate):
 - (a) the lowest tender if payment is to be made by the Authority;
 - (b) the highest tender if payment is to be received by the Authority; or
 - (c) the tender which represents the Most Economically Advantageous Offer to the Authority

This is provided that the amount of the tender does not exceed or fall short as the case may be of an estimate approved by the Authority, or Treasurer as the case may be, in accordance with the procedure set out in Contract Procedure Rule 6.

- 24.3 Where the value of the tender selected by the Lead Officer responsible for the procurement exceeds or falls short of the approved estimate by no more than 5% or £50,000 (excluding VAT) (whichever is the lower), the Lead Officer responsible for the procurement, in consultation with the Treasurer, shall have authority to accept the selected tender following a report submitted to Treasurer, which identifies and addresses the financial implications.
- 24.4 Where the value of the tender selected by the Lead Officer responsible for the procurement exceeds or falls short of the approved estimate by more than 5% or £50,000 (excluding VAT) (whichever is the lower), a report must be submitted by the Lead Officer responsible for the procurement to the Treasurer, which addresses the financial implications arising from approving the selected tender. The Lead Officer responsible for the procurement shall only have authority to accept the selected

tender if approval is given by the Treasurer.

- 24.5 Any significant error made by a tenderer in arithmetic, pricing or other matter relating to the performance of the proposed contract, discovered in a tender or accompanying documents before a contract has been executed, shall be reported by the Lead Officer responsible for the procurement concerned to the Treasurer. The Lead Officer responsible for the procurement in consultation with the Treasurer, shall then decide whether or not the tenderer shall be given the opportunity of confirming his offer/tender or of amending it to take account of any such error before any tender for the contract is unconditionally accepted.

25. Debriefing

- 25.1 The Lead Officer responsible for the procurement shall provide a debriefing to tenderers.

26. Contract award notice

- 26.1 Where a contract has been tendered pursuant to the EU Regulations, the Lead Officer responsible for the procurement shall publish a contract award notice in the OJEU no later than 48 days after the date of award of the contract. Contract award notices are required for Part B Services. In addition, notice of the contract award shall be given by the Lead Officer responsible for the procurement undertaking the procurement via the Contracts Register on the Authority's website.
- 26.2 Where the EU Regulations do not apply, in respect of any high value procurement, notice of the contract award shall be given by the Lead Officer responsible for the procurement undertaking the procurement via the Contracts Register on the Authority's website.

27. Execution of contracts

- 27.1 Any contracts valued at or above £50,000 shall be formal, made in writing and executed as a deed by the affixing of the Authority's common seal or signed by the Monitoring Officer or other person duly authorised in this regard (as considered appropriate). The exception is where the Monitoring Officer and the Lead Officer responsible for the procurement agree beforehand that such a formal contract can be dispensed with. All other contracts may be signed by the Lead Officer responsible for the procurement.
- 27.2 All payments and or variations shall be made in accordance with the terms of the executed contract and also the requirements of the Financial Procedure Rules.

28. Contract extension

- 28.1 Any contract may be extended in accordance with its terms.
- 28.2 Where the terms do not expressly provide for extension, and in exceptional circumstances and where it is necessary in order to comply with these Contract Procedure Rules, the Lead Officer, with approval of the Treasurer, may extend the contract for such period and on such terms as shall be agreed with the Supplier provided that the Lead Officer

shall always be satisfied that any extension will achieve value for money for the Authority and is reasonable in all the relevant circumstances.

- 28.3 No extension shall be entered into by a Lead Officer with the specific intention of avoiding the application of the EU Regulations to the procurement or where such extension would be in contravention of the EU Regulations. The Lead Officer shall take legal advice before entering into any extension under Contract Procedure Rule 28.2.

29. Termination of contract

- 29.1 For any contract resulting from high value procurement, termination shall be approved by the Lead Officer with approval of the Treasurer. Contracts of a lesser value may be terminated early by agreement prior to the expiry date or in accordance with the termination provisions set out in the contract. Legal advice should be sought as appropriate.

30. Records of tenders and contracts

- 30.1 The Treasurer shall maintain a list of all tenders received.
- 30.2 A Contracts Register of all contracts awarded, of whatever value, shall be maintained by Lead Officers in conjunction with the Treasurer. Information contained in the Contracts Register will be available publicly on the internet.
- 30.3 For every individual contract, of whatever value, a contracts file shall be maintained by the appropriate Lead Officer responsible for the procurement.

31. Standing lists of contractors

- 31.1 The Authority may maintain standing lists of Suppliers that meet its pre-qualification requirements. Lead Officers may use such standing list or a nationally procured and recognised alternative list. Quotations and tenders for contracts that are not subject to the EU Regulations may be invited from Suppliers included on such standing list or a nationally procured and recognised alternative list.
- 31.2 Each standing list shall:
- (a) be compiled and maintained by the relevant Lead Officer;
 - (b) contain the names of all Suppliers who wish to be included in it and who after appropriate enquiries have been made by the Lead Officer concerned and the Treasurer, are approved by the Authority or Lead Officer as provided for in the Scheme of Delegation; and,
 - (c) indicate whether a Supplier whose name is included in it is approved for contracts for all, or only some, of the specified values or amounts or categories.
- 31.3 At least four weeks before each standing list is first compiled, notice inviting applications for inclusion on it shall be published in accordance with Contract Procedure Rule 13 if a notice in OJEU is not required.

- 31.4 Each standing list shall be amended as required from time to time to include new applications for inclusion and to delete any Suppliers no longer thought fit to be included. Each standing list shall be formally reviewed in the manner set out below by the appropriate Lead Officer in consultation with the Treasurer at intervals not exceeding three years. At least four weeks before each review, each Supplier whose name appears in the standing list shall be asked whether it wishes its name to remain there. Notices inviting applications for inclusion in the list shall be published in the manner provided by Contract Procedure Rule 31.3 above.
- 31.5 Where an invitation to tender for a contract is limited to Suppliers named on the standing list maintained under this Contract Procedure Rule, an invitation to tender for that contract shall be sent to at least four of the Suppliers on the list. These Suppliers will be approved for a contract for that value or amount or of that category, or, if there are fewer than four such Suppliers, to all such Suppliers. If there are more than four Suppliers, the Lead Officer responsible for the procurement in consultation with the Treasurer, will select the Suppliers who will receive invitations, and the manner in which they are sent. This will be either generally or in relation to a particular contract or to a category of contracts provided that the manner of selection shall include a system of rotation from Suppliers appearing on the standing list.
- 31.6 Where the Lead Officer responsible for the procurement invites tenders from a nationally procured and recognised alternative list of Suppliers, s/he shall comply with any terms requiring a mini competition between those Suppliers specified by the organisation who procured the list. In the absence of such terms, so far as is reasonably possible, the Lead Officer responsible for the procurement shall comply with Contract Procedure Rule 31.5 above.

32. Nominated and named sub-contractors

- 32.1 If a sub-contractor, Supplier or sub-consultant is to be nominated or named to a main contractor, quotations or tenders must be invited in accordance with these Contract Procedure Rules and the terms of the invitation shall be compatible with the main contract.

33. Framework agreements and dynamic purchasing systems

- 33.1 Framework agreements are used where the Authority wishes to contract for the supply of supplies, services or works without conducting a new procurement exercise. However, the framework agreement may include within its terms a requirement for a mini competitive exercise between those Suppliers who are parties to the framework agreements. Any framework agreement shall be tendered in accordance with these Contract Procedure Rules. Where the Authority has entered into a framework agreement through procurement or is able to place orders from existing framework agreements procured by central government agencies, other local authorities, or other public bodies, then the Authority may benefit from using those contracts without entering into a separate procurement. A framework agreement shall not last for more than four years. Legal advice should be sought before considering the award of a contract using a framework agreement not procured directly by the

Authority.

- 33.2 A dynamic purchasing system shall be tendered in accordance with Contract Procedure Rule 13 for an open procedure. Where a dynamic purchasing system is established, the Authority must offer unrestricted, direct and full access to the specification and to any additional documents by electronic means from the date of publication of the contract notice to the date when the dynamic purchasing system ceases. A dynamic purchasing system shall not last for more than four years.
- 33.3 Any Supplier interested in joining a dynamic purchasing system, and which meets the selection criteria, can submit an indicative tender setting out terms for supplying the requirements. The Treasurer shall evaluate the indicative tender within 15 days of the date of its submission and must admit to the dynamic purchasing system any Supplier if the indicative tender complies with the specification and any additional documents. Once admitted to the dynamic purchasing system a Supplier may improve an indicative tender at any time.
- 33.4 Any appropriate framework agreements or dynamic purchasing systems in place shall be used regardless of value.

34. Letters of intent

- 34.1 Letters of intent shall only be used in exceptional circumstances as follows:
- (a) where a Supplier is required to provide services, supplies, or works prior to formal written acceptance by the Authority; or
 - (b) where the Authority's form of tender does not include a statement that until such time as a formal contract is executed, the Authority's written acceptance of a tender or quotation shall bind the parties into a contractual relationship.
- 34.2 Any such letters of intent shall be issued by the Treasurer, which may allow a start upon the works or the ordering of services or supplies but shall not permit any payments to be made thereunder except where such payment shall not exceed a sum of £10,000 and that such payment shall only be payable if the formal contract is not entered into. Where the formal contract is entered into any such payment made under the letter of intent shall be treated as a payment made under the formal contract.

35. Appointment and Role of consultants

- 35.1 Any consultants used by the Authority shall be appointed in accordance with these Contract Procedure Rules. Where the Authority uses consultants to act on its behalf in relation to any procurement, then the Lead Officer responsible for the procurement shall ensure that the consultants carry out any procurement in accordance with these Contract Procedure Rules. No consultant shall make any decision on whether to award a contract or who a contract should be awarded to. A consultant may however form part of the Authority's evaluation team and may score tenders and/or quotations as if s/he were an officer of the Authority. The Lead Officer responsible for the procurement shall ensure that the

consultant's performance is monitored and appropriate records are kept.

36. Statistical returns

- 36.1 The Authority shall make any statistical returns to government departments for onward transmission to the European Commission concerning the contracts awarded during the year under the EU Regulations.
- 36.2 The Treasurer is responsible for these statistical returns and will make the necessary arrangements for information to be collected annually. Lead Officers shall provide all information which the Treasurer requires in order to make such statistical return.

37. Damage to Authority property

- 37.1 In the event of Authority property being damaged by fire or other insured peril and it is expedient in the Authority's interests not to proceed to effect reinstatement of the property using normal procedures under these Contract Procedure Rules, then upon the approval of the loss adjuster acting for the Authority's insurers, the appropriate Lead Officer, in consultation with the Treasurer, shall be authorised to accept the tender of a person, being one of at least four persons who have been invited to tender from the standing list of approved contractors under Contract Procedure Rule 31.

38. Emergency procedures

- 38.1 In the event of circumstances rendering emergency measures necessary which cannot expediently be approved through normal Authority procedures, the appropriate Lead Officer and the Treasurer are authorised, notwithstanding anything contained in the Authority's Contract Procedure Rules or Financial Procedure Rules, to carry out or contract for the immediate carrying out any necessary works or do anything else necessary on behalf of the Authority.
- 38.2 In a continuing emergency any action taken or contract entered into shall be reported to a Special Authority Meeting which shall take such action as necessary to deal with the situation.
- 38.3 Prior to reference to the Authority, such exercise of emergency measures shall be subject to a total limit of expenditure of £100,000 (excluding VAT).

39. Waivers of Contract Procedure Rules

- 39.1 Waivers of any of these Contract Procedure Rules shall only be given in exceptional circumstances. Waivers may not be made retrospectively. A Lead Officer empowered to let a particular contract shall consult with the Treasurer upon any proposal to waive these Contract Procedure Rules. Waivers shall be reported in writing by the Lead Officer to the Treasurer and the written report shall specify why the waiver was justified. A waiver of these Contract Procedure Rules shall be approved by the Treasurer.

40. Non compliance and ratification

- 40.1 If it comes to notice of a Lead Officer that there has been non compliance

with these Contract Procedure Rules in respect of any contract for which s/he is responsible as the Lead Officer with responsibility for the procurement, s/he shall without delay notify the Treasurer, who shall take such action as s/he deems necessary.

- 40.2 Where these Contract Procedure Rules have not been complied with, the decision to award a contract may be ratified by the Treasurer. Requests for ratification shall be reported in writing by the Lead Officer to the Treasurer and the report shall specify the circumstances relating to the non compliance with these Contract Procedure Rules and why ratification is requested. The Authority's auditor shall be supplied with a copy of any report seeking ratification.

Definitions

“Annual Procurement Plan”

A plan identifying procurements (see Contract Procedure Rule 8.1) and other major projects proposed by the Authority so that appropriate resources can be identified and procured. It also provides a basis for Prior Information Notices and other information provided to suppliers to give advance notice of bidding opportunities.

“Contracts Register”

A register held and maintained by the Treasurer containing details of contracts entered into by the Authority of whatever value.

“Dynamic Purchasing System”

A dynamic purchasing system is a completely electronic process for making commonly used purchases, the characteristics of which are generally available on the market and meet the requirements of the Authority. They are limited in duration to four years. Throughout its validity it is open to any Supplier which satisfies the selection criteria and has submitted an indicative tender that complies with the specification.

“Electronic Auction”

A process involving an online auction presenting new prices, revised downwards, and/or new values concerning certain elements of tenders, which occur after an initial full evaluation of the tenders, enabling them to be ranked using automatic evaluation methods.

“EU Regulations”

The UK regulations implementing the EU public procurement directives from time to time.

“Framework Agreement”

An agreement which allows the Authority to place orders with a Supplier to provide supplies, services, or works in accordance with the terms of the agreement. The framework agreement itself usually constitutes a non-binding offer with no obligations on the Authority to place orders with the Supplier. If the Authority places an order with the Supplier a binding contract comes into being. A framework agreement can be a binding agreement where it is executed as a deed.

“Most Economically Advantageous Offer”

From the Authority’s perspective the most economically advantageous offer from a Supplier assessed by reference to relevant evaluation criteria linked to the subject matter of the contract in question for example, quality, price, technical merit, aesthetic and functional characteristics, running costs, cost effectiveness, after sales service and technical assistance, delivery date and delivery period or period of completion, and social value.

“Supplier”

Any person or body of persons providing, or seeking to provide, supplies, services, or works to the Authority.

C. Land Procedure Rules

1. Application

1.1 These Land Procedure Rules apply where there is a land transaction.

1.2 The terms used within these rules, along with their meanings, are listed below:-

- (a) “land transaction” means the acquisition, disposal of, or other dealing with land, whether or not buildings, plant and equipment, fixtures and fittings or other assets are included in that transaction. A transaction concerning only plant and equipment, fixtures and fittings or other assets is not a land transaction;
- (b) “major disposal” means a land transaction which consists of either a disposal of the freehold where the consideration exceeds £250,000 or the grant of a lease or licence where the rent exceeds £50,000 per annum or where the premium exceeds £250,000;
- (c) “the property procedures” means the procedures adopted by the Authority from time to time (if any) in respect of the Authority’s property; and
- (d) “best consideration” means the obligation to achieve a consideration which is the best that can reasonably be obtained.

The Authority’s codes and protocols, and Contract Procedure Rules, shall continue to apply to major disposals unless otherwise stated in, or inconsistent with, the Land Procedure Rules. In these circumstances, the Land Procedure Rules shall prevail. The Contract Procedure Rules are:

Rule 10 (Contracts Terms and Conditions)
Rule 11 (Bonds, Guarantees and Insurance)
Rule 19 (Submission and Opening of Tenders)
Rule 20 (Electronic Tendering and Quotations)
Rule 21 (Tender Evaluation and the Use of Electronic Auctions)
Rule 23 (Evaluation Team)
Rule 25 (Debriefing)
Rule 27 (Execution of Contracts)
Rule 30 (Records of Tenders and Contracts)
Rule 40 (Non-Compliance and Ratification)

2. Approval of Major Disposals

2.1 The principle and method of each major disposal must be approved by the Authority, except that in the case of land held for transport functions, the principle and method shall be approved by Merseytravel Committee. When determining such matters, the Authority or Merseytravel Committee (as appropriate) shall consider a report which:-

- (a) specifies the land to be disposed of;

- (b) confirms whether the land has been declared surplus to the Authority's requirements;
- (c) advises upon the proposed method of disposal, and provides the reasons for selecting that method;
- (d) confirms whether or not the proposed method of disposal is likely to achieve best consideration and, where other than open competition is recommended, describes how this will be satisfied/evidence; and
- (e) in matters where it is proposed that the disposal should be for less than best consideration, gives reasons for and against seeking best consideration and specifies the relevant legal powers of the Authority to accept less than best consideration.

2.2 In major disposals, where the approved method of disposal is the inviting of formal tenders or informal offers, the disposal must be advertised in at least one local newspaper circulating in the district and on the Authority's website. For major disposals, where the value of the land is estimated to be greater than £500,000, it must also be advertised in at least one specialist journal or publication circulating among people who are likely to be interested in acquiring that land, as determined by the Authority.

3. Alteration to/errors in or late Formal Tenders and Informal Offers

3.1 Where

- (a) there are alterations/errors in a tender; or
- (b) where a tender or offer is received late, or otherwise fails to comply with the procedural requirements of these Land Procedure Rules; and
- (c) the Treasurer believes it is in the Authority's best interests to recommend acceptance of such alterations/errors, or to consider a tender or offer which is received late or otherwise fails to comply with the procedural requirements of these Land Procedure Rules, and where in the opinion of the Treasurer it is possible that other tenderers/offerors will otherwise be prejudiced,

then all tenderers/offerors shall be given the opportunity to re-submit their tenders/offers within a timescale specified by the Treasurer.

3.2 Where, in accordance with Rule 3.1 above, the decision is made to ask tenderers/offerors to re-submit their tenders/offers, the Treasurer shall explain why the decision was made, supplying such additional information as may be necessary (if any) to assist tenderers/offerors with their re-submission.

4. Approval of Land Transactions other than Major Disposals

- 4.1 The principal terms of land transactions other than major disposals (except where the approved method of disposal is by formal tender or auction), must be approved by the Treasurer. When determining such matters, the Treasurer shall confirm either that the consideration agreed represents best consideration, specify the reasons for accepting less than best consideration and the relevant legal powers of the Authority to do so.
- 4.2 The Treasurer may:
- (a) negotiate rent reviews for leases of land/premises and take appropriate action to protect the Authority's interest;
 - (b) terminate licences, leases or tenancies of land or property taken by the Authority which are no longer required;
 - (c) consent to Land and Tenant protected renewals, the assignment, underletting or change of use requests of leases granted by the Authority and accept surrenders thereof;
 - (d) appoint specialist valuers, where necessary, as provided within the budget, provided that the total expenditure does not exceed £50,000 in total;
 - (e) grant or approve the entering into of any licences, tenancies and leases provided that the term is not in excess of seven years less one day duration and provided that no statutory protection attaches;
 - (f) grant appropriate licences to commercial advertisers for the display of advertisements on the Authority properties;
 - (g) accept display copy in accordance with the approved code of advertising practice;
 - (h) grant easements of a minor nature over Authority land;
 - (i) serve notice of termination of tenancy under Part II of the Landlord and Tenant Act 1954 (as amended by the Law of Property Act 1969) and to apply to the County Court under Section 24(A) of the 1954 Act, in those cases where the Authority is prepared to grant a new tenancy or lease and the service of such notice will expedite negotiations; and
 - (j) grant wayleaves for the laying of services under, on or through land and premises owned by the Authority up to a maximum premium of £50,000

5. Application of the Property Procedures

All land transactions must be conducted in accordance with the property procedures.

6. The Treasurer shall keep a record of all land and buildings owned by the Authority and shall be responsible for the safekeeping and retention of all property deeds.

7. In relation to land and buildings, the Treasurer shall
 - (a) ensure that lessees and other prospective occupiers of the Authority land are not allowed to take possession or enter the land until a lease or agreement, in a form approved by the Monitoring Officer, has been established as appropriate;
 - (b) ensure the proper security of all buildings and other assets under their control and take the appropriate action in any case where security is thought to be defective or where it is considered that special security arrangements may be needed;
 - (c) identify land or buildings which are surplus to requirements;
 - (d) ensure that no Authority-owned land or building is subject to personal use or any other use other than in pursuance of approved service delivery without proper authority and, where appropriate, documentation identifying terms, responsibilities and duration of use;
 - (e) arrange for the valuation of assets for accounting purposes; and
 - (f) not dispose of any land or property without the involvement of the Monitoring Officer.

8. Contractual Formalities

All contracts and other documentation for land transactions shall be in writing, signed or sealed, as appropriate, as determined by the Authority.

PART 7

Code of Conduct for Members

Part 1 General provisions

1. Introduction and interpretation

- 1.1 This Code applies to you as a Member of the Combined Authority (“the Authority”).
- 1.2 It is your responsibility to comply with this Code. Failure to do so may result in a sanction being applied by the Authority. Failure to take appropriate action in respect of a Disclosable Pecuniary Interest may result in a criminal conviction and a fine of up to £5,000 and /or disqualification from office for a period of up to 5 years. In this Code - “meeting” means any meeting of:
- (a) the Authority; and
 - (b) any of the Authority’s Committees or Sub-Committees, Joint Committees or Joint Sub-Committees;
- 1.3 “Member” includes a Member and a Substitute Member of the Authority and a Co-opted Member.

2. Scope

- 2.1 Subject to sub-paragraphs 2.2 and 2.3, you must comply with this Code whenever you are acting as a Member of the Authority and references to your official capacity are construed accordingly.
- 2.2 This Code does not have effect in relation to your conduct other than where it is in your official capacity.
- 2.3 Where you act as a representative of the Authority on any other body, you must, when acting for that other body, comply with this Code, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

3. General obligations

- 3.1 You must not:
- (a) do anything which may knowingly cause the Authority to breach the Equality Act 2010;
 - (b) bully or be abusive to any person;
 - (c) intimidate or attempt to intimidate any person who is or is likely to be:

- (i) a complainant,
- (ii) a witness, or
- (iii) involved in the administration of any investigation or proceedings,

in relation to an allegation that a Member (including yourself) has failed to comply with the Authority's Code of Conduct; or

- (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Authority.

4. You must not:

- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:

- (i) you have the consent of a person authorised to give it;

- (ii) you are required by law to do so;

- (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or

- (iv) the disclosure is:

- (a) reasonable and in the public interest; and

- (b) made in good faith and in compliance with the reasonable requirements of the Authority; or

- (b) prevent another person from gaining access to information to which that person is entitled by law.

5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Authority into disrepute.

6. You:

- (a) must not use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and

- (b) must, when using or authorising the use by others of the resources of the Authority:

- (i) act in accordance with the Authority's reasonable requirements; and

- (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and

- (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986
7. (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by
- (a) The Authority's Treasurer; or
 - (b) The Authority's Monitoring Officer
- where that officer is acting pursuant to his or her personal statutory duties
- (2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the Authority.

Part 2 - Disclosable pecuniary interests

8. Notification of disclosable pecuniary interests

- 8.1 Within 28 days of becoming a Member of the Authority, you must notify the Authority's Monitoring Officer of any 'disclosable pecuniary interests'.
- 8.2 A 'disclosable pecuniary interest' is an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in the table below.
- 8.3 "Partner" means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain
Sponsorship	Any payment or provision of any other financial benefit (other than from the Authority) made or provided within the 12 month period prior to notification of the interest in respect of any expenses incurred by you in carrying out duties as a Member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation Act) 1992 (a)
Contracts	Any contract which is made between you or your partner (or a body in which you or your partner has a beneficial interest) and the Authority –

Subject	Description
Land	<p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p> <p>Any beneficial interest in land which is within the area of the Authority</p>
Licences	Any licence (alone or jointly with others) to occupy land in the area of the Authority for a month or longer
Corporate Tenancies	<p>Any tenancy where (to your knowledge) -</p> <p>(a) the landlord is the Authority; and</p> <p>(b) the tenant is a body in which you or your partner has a beneficial interest</p>
Securities	<p>Any beneficial interest in securities of a body where –</p> <p>(a) that body (to your knowledge) has a place of business or land in the area of the Authority; and</p> <p>(b) either –</p> <p>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you or your partner has a beneficial interest exceeds one hundredth of the total issued share capital of that class</p>

8.4 For the purpose of the above –

- (a) “a body in which you or your partner has a beneficial interest” means a firm in which you or your partner is a partner or a body corporate of which you or your partner is a director, or in the securities of which you or your partner has a beneficial interest;
- (b) "director" includes a member of the committee of management of an industrial and provident society;

- (c) "land" excludes an easement, interest or right in or over land which does not carry with it a right for you or your partner (alone or jointly) to occupy the land or receive income; and
- (d) "securities" means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

9 Non participation in case of disclosable pecuniary interest

9.1 If you are present at a meeting of the Authority, or any Committee or Sub-Committee of the Authority, and you have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting,

1. You must not participate in any discussion of the matter at the meeting.
2. You must not participate in any vote taken on the matter at the meeting.
3. If the interest is not registered, you must disclose the interest to the meeting.
4. If the interest is registered you are also required by Authority Procedure Rule 17 to disclose the interest to the meeting.
5. If the interest is not registered and is not the subject of a pending notification, you must notify the Authority's Monitoring Officer of the interest within 28 days.
6. You are also required by Authority Procedure Rule 17.4 to withdraw from the room of the meeting while the matter is being considered.

10 Offences

10.1 It is a criminal offence to

- Fail to notify the Authority's Monitoring Officer of any disclosable pecuniary interest within 28 days of appointment as a Member of the Authority;
- Fail to disclose a disclosable pecuniary interest at a meeting if it is not on the Authority's Register;
- Fail to notify the Authority's Monitoring Officer within 28 days of a disclosable pecuniary interest that is not on the Authority Register that you have disclosed to a meeting;
- Participate in any discussion or vote on a matter in which you

have a disclosable pecuniary interest;

- Knowingly or recklessly provide information that is false or misleading in notifying the Authority's Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting.

10.2 The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.

Part 3 - Other interests

11 Notification of personal interests

11.1 In addition to the disclosable pecuniary interests notifiable under the Localism Act 2011, you must -

- (a) within 2 months of your appointment as a Member of the Authority (where that is later), notify the Authority's Monitoring Officer in writing of the details of your other personal interests, where they fall within the categories set out in paragraph 11(2) below for inclusion in the register of interests.

11.2 You have a personal interest in any business of the Authority where it relates to or is likely to affect -

- (a) any body of which you are in a position of general control or management and to which you are appointed or nominated by the Authority;
- (b) any body -
 - (i) exercising functions of a public nature;
 - (ii) directed to charitable purposes; or
 - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;
- (c) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £100.

12 Disclosure of interests

12.1 Subject to paragraphs 12.4 to 12.7, where you have a personal interest described in paragraph 11.2 above or in paragraph 12.2 below in any business of the LCRCA, and where you are aware or ought reasonably to be aware of the existence of the personal interest, and you attend a meeting of the Authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when

the interest becomes apparent.

- 12.2 You also have a personal interest in any business of the Authority where a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral ward(s) affected by the decision.
- 12.3 In paragraph 12.2, a relevant person is -
- (a) a member of your family or any person with whom you have a close association;
 - (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
 - (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
 - (d) any body of a type described in paragraph 11.2(a) or (b).
- 12.4 Where you have a personal interest in any business of the Authority which relates, to or is likely to affect, a body described in paragraph 11.2(a) or 11.2(b)(i), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- 12.5 Where you have a personal interest in any business of the Authority of the type mentioned in paragraph 11.2(c) (gifts and hospitality), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- 12.6 Where you have a personal interest but, by virtue of paragraph 16, sensitive information relating to it is not registered in the Authority's Register of Members' Interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
- 12.7 Where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

13 Non participation in case of prejudicial interest

- 13.1 Where you have a personal interest in any business of the Authority you also have a prejudicial interest in that business where the

interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest and where that business –

- (a) affects your financial position or the financial position of a person or body described in paragraph 12.3; or
- (b) relates to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 12.3.

13.2 Subject to paragraphs 13.3 and 13.4, where you have a prejudicial interest in any business of the Authority –

- (a) You must not participate in any discussion of the matter at the meeting.
- (b) You must not participate in any vote taken on the matter at the meeting.
- (c) If the interest is not registered, you must disclose the interest to the meeting.
- (d) If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.
- (e) You are also required by Authority Procedure Rule 17.4 to withdraw from the room of the meeting while the matter is being considered.

13.3 Where you have a prejudicial interest in any business of the Authority, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise and you leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

13.4 Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have a prejudicial interest that relates to the functions of the Authority in respect of -

- (a) school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
- (b) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay; and

(c) any ceremonial honour given to Members.

14 Interests arising in relation to Scrutiny Panel

In any business before the Scrutiny Panel of the Authority where –

- (a) that business relates to a decision made (whether implemented or not) or action taken by the Authority or another of the Authority's Committees or Sub-Committees; and
- (b) at the time the decision was made or action was taken, you were a Member of the Authority, Committee or Sub-Committee mentioned in paragraph (a) and you were present when that decision was made or action was taken,

you may attend the meeting of the Scrutiny Panel for the purpose of explaining the reasons for the decision, or answering questions or giving evidence relating to the business, but you cannot participate otherwise in the discussion or in any vote on the matter.

Part 4 - General Matters relating to Parts 2 and 3

15 Register of interests

Subject to paragraph 16 any disclosable pecuniary interests or personal interests notified to the Authority's Monitoring Officer will be included in the Authority's Register of interests. A copy of the Register will be available for public inspection.

16 Sensitive interests

This paragraph applies where you consider that disclosure of the details of a disclosable pecuniary interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Authority Monitoring Officer agrees. In these circumstances, if the interest is entered on the Authority's Register of interests, copies of the Register that are made available for inspection and any published version of the Register will exclude details of the interest, but may state that you have a disclosable pecuniary interest, the details of which are withheld under Section 32(2) of the Localism Act 2011.

17 Dispensations

The Authority may grant you a dispensation to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest or a prejudicial interest. Any requests for a dispensation must be made in writing to the Monitoring Officer.

GIFTS AND HOSPITALITY GUIDANCE FOR MEMBERS

General Introduction

The Code of Conduct requires Members to notify the Monitoring Officer in writing of any gift or hospitality he/she receives which may be to the value of one hundred pounds or more (Part 3 11(c)). It is also a breach of the Code to act in such a way as to bring the Authority into disrepute or for a member to use his/her position as a member of the Authority improperly to confer on or secure for him/herself or any other person advantage or disadvantage.

The following guidance aims to assist Members in complying with the Code of Conduct for Members but it also goes beyond these basic provisions and seeks to provide wider guidance so Members can avoid any situation where their integrity may be brought into question as a result of gifts and hospitality.

Legal position

The Bribery Act 2010 provides that it is a criminal offence for a Member to request, agree to receive, promise, offer or give any gift, loan, fee, reward or advantage for doing anything or showing favour or disfavour to any person in their official capacity. It is for the Member to demonstrate that any such rewards have not been corruptly obtained.

Gifts and hospitality

Members are advised to treat with extreme caution any offer or gift, favour or hospitality that is made personally to them. The person or organisation making the offer may be doing business or seeking to do business with the Authority or may be applying to the Authority for some sort of decision in respect of which it is imperative that the member's independence should not be compromised.

The following rules should be applied:

A Member should refuse any gift offered to them or to an immediate relative of the Member, by any person who has or may seek to have dealings with the Authority. It is recommended that Members should notify the Monitoring Officer of all such refusals as soon as reasonably practicable regardless of the value of the offered gift (unless the gift falls within I or II below). The Monitoring Officer will maintain the register for this purpose.

The exceptions where it may be appropriate to accept a gift are set out below. Members should note that the Code of Conduct for Members requires all gifts and hospitality of one hundred pounds or more to be notified to the Monitoring Officer, who will maintain a register for this purpose.

- I. The gift is of purely token, advertising value given to a wide range of people, e.g. pens, key rings and other promotional items. As such promotional gifts will usually be less than one hundred pounds in value generally there will be no need to register but in cases of doubt Members should err on the side of caution and register the gift.
- II. A small gift where refusal would cause needless offence and the giver is not currently seeking a decision or business from the Authority. Again because such gifts would be of a small value generally there will be no need to register but in cases of doubt members should err on the side of caution and register the gift.

Cash or monetary gifts should always be refused without exception and the refusal notified to the Monitoring Officer as set out above.

Gifts given as prizes at exhibitions, conferences, seminars etc. as part of a free raffle or draw may be accepted but they belong to the Authority and should be registered with the Monitoring Officer as soon as reasonably practicable (notwithstanding that their value may be less than the one hundred pounds specified in the Code). The Monitoring Officer will determine whether it is appropriate to retain the gift in question.

Whilst it may be acceptable to accept a token or small gift on one occasion members should refuse repeated gifts, even if these are individually not of a significant value.

Hospitality

It is increasingly the case that private companies offer hospitality e.g. free drinks, tickets to shows or hotel accommodation to persons with whom they do business or with whom they hope to do business in the future. Such hospitality could convey the impression that Members' judgment would be influenced. It would however be too rigid to say that no hospitality can be accepted. Members are reminded that any hospitality of one hundred pounds or more is required by the Code of Conduct to be registered. However Members may wish to notify the Monitoring Officer of hospitality offered but refused and hospitality which is less than the one hundred pounds limit specified in the Code.

Some examples of hospitality which may be acceptable follow but much may depend on the particular circumstances, for example who is providing the hospitality, why the Member is there and the nature of the dealings between the Authority, the Member and the provider of the hospitality:

- A working meal provided to allow parties to discuss or continue to discuss business.
- An invitation to attend a dinner or function of a Society, Institute or other non commercial body with whom the Authority has contact.
- Invitations to attend functions where the member represents the Authority (opening ceremonies, public speaking events, conferences).

Unacceptable hospitality

The following are examples of unacceptable hospitality:

- Holidays, including accommodation and travel arrangements.
- Offers of theatre tickets for the Member and his family or free travel.
- Personal invitations for evenings out with representatives from a company or firm who have dealings with the Authority or who are likely to have dealings in the future.

Members are again urged to err on the side of caution and if in any doubt as to the integrity of the offer/invite, the Member should consult the Monitoring Officer or refuse.

Notifications

Notifications of gifts and hospitality should be sent to the Monitoring Officer. A form for this purpose is available from the Monitoring Officer.

The Register

The Register referred to in this protocol will be subject to scrutiny by the Standards Committee and regular inspection by the Monitoring Officer. The Register of Gifts and Hospitality of one hundred pounds or more should be available for public inspection. For consistency, registrations as regards gifts and hospitality offered and refused, or gifts and hospitality of a value less than one hundred pounds, will also be available for public inspection.

Gifts which cannot be retained

Where the Monitoring Officer determines that it would not be appropriate for a Member to retain a gift, that gift will be returned, utilised by the Authority or otherwise donated to an appropriate charitable organisation as determined appropriate by the Monitoring Officer.

Conclusion

Members are advised to seek the advice of the Monitoring Officer in cases where their position is unclear. Breaches of this guidance may result in a breach of the Code of Conduct for Members. Breaches of this guidance which do not result in a breach of the Code of Conduct will be reported by the Monitoring Officer to the Standards Committee.