Mersey Tunnels Tolls
(CX/28/11)

Report of the Chief Executive

1 Introduction

1.1 The Integrated Transport Authority ("the Authority") is responsible for determining the level of tolls ("the tolls") payable for use of the Mersey Tunnels ("the Tunnels").

1.2 This report is intended to assist the Authority at its 3 February 2011 meeting by:

(a) outlining the legal procedure for revising the level of the tolls;

(b) summarising how the current level of tolls was arrived at; and

(c) making proposals for the level of tolls payable in 2011/12.

2 The Procedure for Revising Tolls

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

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

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

(a) taking the "base" toll amounts set out in section 91(6) of the 1980 Act for each class;

(b) increasing them by the same percentage increase as the rise in the Retail Prices Index ("RPI") from November 1999 ("the base month") to the November immediately preceding the making of the section 91 order; and then

(c) rounding the new value up or down to the nearest ten pence.

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

2.4 Every time it makes a section 91 order (in February of each year) the Authority must consider whether to exercise the section 92C general discretion to charge sub-inflationary tolls. However the circumstances in which it may allow (or continue to allow) a reduction in tolls set by a section 91 order are limited. It must be "necessary or appropriate" having regard to matters of an economic or social nature in the County of Merseyside that the Authority considers to be relevant.

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

(a) the relative costs of using the Mersey Tunnels must keep pace with other transport alternatives. This is important for demand management reasons. In common with road use throughout the UK, it is recognised that the Mersey Tunnels have experienced steady long term growth in use and at peak times operate close to capacity. That growth can be expected to continue in the long run. If the tolls do not keep pace with other transport alternatives, the Mersey Tunnels will become progressively cheaper, encouraging increased use and thus increased congestion, thereby compromising the benefit the Mersey Tunnels provide for their users;

(b) it ensures that sufficient funds are recouped to cover the costs of operating and maintaining the Mersey Tunnels; and

(c) it ensures that the Authority continues to receive a valuable surplus from the tolls which is then invested into public transport alternatives across Merseyside.

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

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

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

3 Authorised Tolls – 2011/12

The RPI in November 2010 dictates the following levels of “authorised tolls” for the Mersey Tunnels from 1 April 2011:

Vehicle Class	1 April 2010 (RPI Linked Rates)
1	£1.60
2	£3.30
3	£4.90
4	£6.50

4 Actual Tolls – 2011/12

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

Review of Tolls Since 2005

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

Class	Toll	Nov ‘99	Apr ‘05	Apr ‘06	Apr ’07	Apr ‘08	Apr ‘09	Apr ‘10	Apr ‘11
1	Authorised	£1.20	£1.40	£1.40	£1.40	£1.50	£1.60	£1.60	£1.60
	Cash	£1.20	£1.30	£1.30	£1.30	£1.40	£1.40	£1.40	
	Fast Tag	£1.10	£1.15	£1.15	£1.15	£1.25	£1.25	£1.25	
2	Authorised	£2.40	£2.70	£2.80	£2.90	£3.00	£3.10	£3.10	£3.30
	Cash	£2.40	£1.30	£1.30	£1.30	£2.80	£2.80	£2.80	
	Fast Tag	£2.20	£1.15	£1.15	£1.15	£2.50	£2.50	£2.50	
3	Authorised	£3.60	£4.10	£4.20	£4.30	£4.50	£4.70	£4.70	£4.90
	Cash	£3.60	£3.90	£3.90	£3.90	£4.20	£4.20	£4.20	
	Fast Tag	£3.30	£3.45	£3.45	£3.45	£3.75	£3.75	£3.75	
4	Authorised	£4.80	£5.40	£5.60	£5.80	£6.00	£6.20	£6.20	£6.50
	Cash	£4.80	£3.90	£5.20	£5.20	£5.60	£5.60	£5.60	
	Fast Tag	£4.40	£3.45	£4.60	£4.60	£5.00	£5.00	£5.00	

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

4.4 Actual cash and AVI tolls have remained static since 1 April 2008. There has been a marked increase in the level of the discounts across all classes since 1 April 2009 because authorised tolls increased in that year while actual tolls remained the same. The level of the Class 1 "actual" cash toll discount is now higher than at any time since the 2004 Act came into force.

4.5 The annual rate of inflation as at November 2010 was 4.7%, resulting in an increase in the authorised toll in classes 2, 3 and 4 this year (the class 1 authorised toll remains at £1.60 when rounding is taken into account). If actual tolls went unchanged for a fourth year running then it follows that the discount on actual tolls for classes 2, 3, and 4 would increase further.

<u>Mersey Economic Review</u>

4.6 In previous years the Authority, as part of its deliberations in whether to discount the authorised tolls, has taken into consideration the annual Merseyside Economic Reviews produced by the Mersey Partnership. The Mersey Partnership Economic Review 2009 ("the 2009 Review") remains the most recent publication, as it appears that no review has been published in 2010.

4.7 As reported to Members in February 2010, the 2009 Review found that, following a period of above average growth on Merseyside up to 2007, recent statistical data showed that:

(a) between October 2007 and April 2009 unemployment increased by 21,000, while the reduction in job vacancies saw the ratio of claimants to unfilled vacancies widen (27:2 in April 2009, up from 7:2 in October 2007);

(b) Liverpool City Region's working age population reduced between 2006 and 2008 from 908,500 people to 907,100 (whilst this is only a slight reduction, it follows a trend of a 10 year increase in previous years);

(c) the number of Job Seeker Allowance claimants increased between mid 2008 and mid 2009, rising from 3.3% to 5.5%; and

(d) most sectors reported falling sales and orders.

4.8 While these findings were in line with the national trends, they demonstrated the adverse effect that the economic downturn was having on the Merseyside economy, particularly on employment.

<u>Tunnels Tolls Impact – Report</u>

4.9 Transport consultancy Colin Buchanan's report, "*Mersey Tunnels Tolls – Evaluating the Impacts*" ("the report"), was commissioned by the Authority in 2009 and published in January 2010. The report was appended as a background paper to the Chief Executive's report CX/28/10. It was commissioned to update a similar study undertaken by consultants Steer Davies Gleave in 2002-03.

4.10 The study focused on the socio-economic impacts of the Tunnels tolls, by profiling the current socio-economic conditions and Tunnels usage, and imputing the relationship between the two. This included:

(a) an assessment of Merseyside's economic profile, the operation of the Mersey Tunnels (e.g. traffic flows, congestion, origin and destination data, toll levels), and the trips to Liverpool City Centre from different boroughs on Merseyside;
(b) retail analysis, including an assessment of the distribution of retail spend across Merseyside, to understand how this is influenced by the tolls; and
(c) a business survey, to learn how businesses perceive their location and tolls in relation to their business.

4.11 The report stands as up-to-date evidence on economic and social matters which is relevant to the Authority's decision as to whether it is necessary or appropriate to apply a discount to the authorised tolls. The findings of the report are as follows:

(a) In recent years the real cost of the tolls has fallen relative to the RPI because of regular discounting, while the real cost of using alternative forms of transport has risen significantly. Taking the data from 2001, the level of Tunnels' tolls has risen by approximately 17%, while the RPI has increased by 23%. Meanwhile the average rail and bus fare for a cross-river journey increased by a respective 44% and 59% over the same period.

(b) Volumes of traffic using the Tunnels have grown steadily over the decades, reaching a peak in 2005 and a small decline since, which mirrors the trend on urban roads nationally and the recent economic downturn. Nevertheless congestion remains a problem, with 6 out of 10 Tunnels' users queuing during the morning and evening rush hours. These users experience delays of around 7 minutes in both directions.

(c) Were the tolls to be removed, the traffic demand could increase by up to 40%; if all the additional Tunnels users were actually to travel during the morning peak, the average delay would increase to approximately 20 minutes for both directions and be experienced by approximately 8 out of 10 Tunnels users. In practice a proportion of existing Tunnels users would travel at different times or divert to alternative routes or modes of transport or not make the trip, meaning in reality that the actual increase in traffic without the tolls would be less than 40%. The cost of the additional congestion to the economy, based on a 40% increase in tunnels demand, would be in the region of £12m per annum.

(d) The Tunnels are used almost exclusively by those living in Merseyside, with about nine in every ten trips made by residents of Merseyside. While regular users of the Tunnels can benefit from a discount by using the Fast Tag system, the implication of a more substantial blanket toll discount or exemption for local residents is that it would be expected to have similar impacts to the hypothetical “no tolls” scenario considered by the report, by reason of it applying to the overwhelming majority of vehicle trips through the tunnels. It would also adversely impact the economics of Tunnels’ operations.

(e) The clear effect of the tolls is to protect the Wirral retail economy. Half of retail spending by Wirral residents stays within Wirral, with a quarter in Birkenhead itself. Were the tolls to be removed, it is estimated that a net £80m of retail spending would be lost from the Wirral, equivalent to some 600 retail jobs (full time equivalent). Up to 85% of these job losses would occur within the less affluent East Wirral wards, which already suffer from higher levels of unemployment.

(f) A survey of businesses both in the Wirral and the rest of Merseyside indicates that the tolls are not a barrier to doing business in the Wirral: Wirral businesses do not perceive location issues any differently from other Merseyside businesses; accessibility to customers and clients is slightly less significant for Wirral businesses; less than 1 in 5 of Wirral businesses view the tolls as a barrier to doing business across the river; and more than 3 in 5 perceive no transport barriers at all.

Cuts in Public Sector Spending

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

4.13 This is relevant to the Authority’s decision in respect of any discounts on the 2011/12 tolls in two opposing ways.

4.14 First, there is now less Central Government funding available for local transport, and this is expected to remain a feature for the current Parliament and possibly beyond. In the face of this, the Tunnels tolls offer a valuable source of local funding for transport projects, as the 1980 Act allows the ITA to spend surplus tolls on the facilitation of local transport plan public transport policies. Therefore in deciding whether matters of an economic and social nature on Merseyside make toll discounts necessary or appropriate, the Authority will need to consider whether toll discounts can be justified if, as they would, they reduce surplus toll revenue that would otherwise be available for supporting Local Transport Plan projects. Surplus toll revenue can only be used for these projects.

4.15 Secondly, while "hard" data is yet to emerge, Central Government spending cuts are expected to lead to job losses in the public sector, with a knock-on effect on other sectors of the economy (e.g. less work for industries supporting the public sector, reduced consumer spending, etc.). Thus a consideration for the ITA is whether the predicted negative impacts of public sector spending cuts makes continued toll discounts necessary or appropriate.

Conclusions / Recommended Actual Tolls for 2011/12

4.16 Whilst at the time of writing there is no 2010 Merseyside Economic Review available, it is to be expected that the trends reported in the 2009 Review are still applicable, despite the UK moving out of recession. Further, the reductions in public spending by Central Government are expected to have an adverse impact on regional economies such as Merseyside. These are factors that might be seen as weighing in favour of continuing to apply discounts to the authorised tolls, although it must be said that they rely on an assumed relationship between the level of the tolls and their impact on the Merseyside economy – e.g. it is necessary/appropriate to discount the tolls in order to support Merseyside's economy.

4.17 Colin Buchanan's report allows the Authority to take an evidence-based view of the relationship between the tolls and the Merseyside economy. It is evident from the report that there are a number of factors that weigh in favour of having no toll discounts, and levying tolls at their "authorised levels":

(a) the tolls are becoming increasingly cheaper in real terms and in comparison to alternative modes of cross-river transport, which is steadily eroding the case presented by the Authority and accepted by Parliament as to why the 2004 Act (i.e. the mechanism for linking tolls to the rate of inflation) was needed, namely to provide a check on congestion at peak times, and to provide necessary funds for operating the Mersey Tunnels and for contributing to important public transport measures;

(b) the tolls are structurally important for Merseyside's regional economy, by reason of the protection they afford to the economy of the Wirral, which includes some of the most economically fragile parts of the region; and

(c) evidence from the survey of businesses suggests that businesses do not perceive the tolls as being a barrier to success for businesses on the Wirral.

4.18 Colin Buchanan's report therefore challenges the common assumption that toll discounts are "necessary" and "appropriate" in view of economic and social matters.

4.19 The availability of surplus tolls for spending on LTP projects gives added support to the removal of any discount, since it is clear that local sources of funding are likely to become increasingly important as Central Government funding for local transport is constricted.

4.20 Lastly, from a legal perspective it should be remembered that there is an overriding presumption in the legislation that the tolls will increase each year in line with inflation. Exercising the discounting power under section 92C(2)-(3) is conditional upon discounts being "necessary" or "appropriate" in light of the evidence. If the Authority applies discounts where the evidence suggests they are not necessary or appropriate, then the Authority will be acting in an *ultra vires* (i.e. unlawful) manner and contrary to the basis on which the 2004 Act was made.

4.21 Weighing up these factors, officers have come to the conclusion that discounts on cash tolls are still appropriate. It is therefore recommended that from 1 April 2011 a discount should be applied to cash tolls, in comparison to the "authorised" levels.

4.22 Further, it is recommended that Fast Tag customers should continue to receive a discount, but that the current Fast Tag tolls payable are increased by the same amount that cash tolls would be. This would mean that Fast Tag tolls for 2011/12 would be approximately 10% cheaper than the proposed 2011/12 cash tolls.

4.23 The table below shows the tolls that would result from the implementation of these recommendations, and how these change from those tolls currently payable.

Vehicle Class	**Toll Type**	**Existing 2010/11 Toll**	**Recommended 2011/12 Toll**	**Change on 2010/11**

1	Cash	£1.40	£1.50	10p
	Fast Tag	£1.25	£1.35	
2	Cash	£2.80	£3.00	20p
	Fast Tag	£2.50	£2.70	
3	Cash	£4.20	£4.50	30p
	Fast Tag	£3.75	£4.05	
4	Cash	£5.60	£6.00	40p
	Fast Tag	£5.00	£5.40	

4.24 Finally, Members will be aware Merseytravel provides a number of concessionary fast-tag to disabled people for within the county of Merseyside but also outside the county of Merseyside. In view of the obvious harsh economic climate officers recommend that the various existing toll concessions for Merseyside and non-Merseyside residents should be reviewed to determine whether they are still justified and appropriate in the circumstances. A further report will be prepared in due course, on the options open to the ITA

5 Financial implications

5.1 The projected yield from the proposed toll increase would be as follows:-

(i)	Expected increase in cash income	£1.19m
(ii)	Increase in AVI income	£0.67m
		£1.86m

5.2 The ITA Budget papers later on this agenda anticipate a £1.86m yield from this toll increase. Consequently, the revenue from Tolls will increase to £37.4m from the base of £35.5m. This additional revenue yield will allow the ITA to make a Tunnel Act Transfer of £4.1m in 2011/12. This will provide a direct contribution to the Capital Investment Programme for the Authority.

6 Equality Impact Assessment

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

7 Recommendations

7.1 The Authority is recommended to:

(a) note the contents of this report;

(b) instruct officers to examine the existing toll concessions for Merseyside and non-Merseyside residents to determine whether they are still justified and appropriate in the circumstances;

(c) to authorise the making of a legal order by the Authority setting the following levels of “authorised tolls” for the Mersey Tunnels from 1 April 2011:

Vehicle Class	1 April 2010 (RPI Linked Rates)
1	£1.60
2	£3.30
3	£4.90
4	£6.50

(d) continue discounts on authorised tolls for cash tolls, while reducing the level of the discount in respect of Fast Tag tolls, resulting in the following toll levels from 1 April 2011:

Vehicle Class	2011/12 Cash Toll	2011/12 Fast Tag Toll
1	£1.50	£1.30
2	£3.00	£2.60
3	£4.50	£3.90
4	£6.00	£5.20

8 Background Papers

Mersey Tunnels Tolls – Evaluating the Impacts, Colin Buchanan, January 2010

Merseyside Economic Review 2009, The Mersey Partnership

Merseyside Business Survey, Report, Steer Davies Gleave, January 2003

9 Report Prepared By

Neil Scales, Chief Executive

10 Contact for Media and Public Enquiries

Ian Kenyon